

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of )
)
Amendment of Section 73.622(i), Post-Transition ) MB Docket No. 21-9
Table of DTV Allotments, Television Broadcast ) RM-11872
Stations (Tulsa, Oklahoma) )

NOTICE OF PROPOSED RULEMAKING

Adopted: January 12, 2021

Released: January 12, 2021

Comment Date: [30 days after date of publication in the Federal Register]
Reply Comment Date: [45 days after date of publication in the Federal Register]

By the Chief, Video Division, Media Bureau:

1. The Commission has before it a petition for rulemaking filed November 27, 2020 (Petition) by KTUL Licensee, LLC (Licensee), the licensee of KTUL, channel 10 (ABC), Tulsa, Oklahoma. The Licensee requests the substitution of channel 14 for channel 10 at Tulsa in the DTV Table of Allotments.<sup>1</sup>

2. Background. In support of its channel substitution request, the Licensee states that the Commission has recognized that VHF channels have certain propagation characteristics which may cause reception issues for some viewers, and also that reception of VHF signals require larger antennas that “are generally not well suited to the mobile applications expected under flexible use, relative to UHF channels.”<sup>2</sup> According to the Licensee, “KTUL has a long history of dealing with severe reception problems . . . exacerbated by the analog to digital conversion,”<sup>3</sup> and that “KTUL has received numerous complaints from viewers unable to receive the Station’s over-the-air signal, despite being able to receive signals from other stations.”<sup>4</sup>

1 On April 13, 2017, the Commission completed the incentive auction and broadcast television spectrum repacking authorized by the Spectrum Act. See Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §§ 6402 (codified at 47 U.S.C. § 309(j)(8)(G)), 6403 (codified at 47 U.S.C. § 1452), 126 Stat. 156 (2012) (Spectrum Act); Incentive Auction Closing and Channel Reassignment Public Notice: The Broadcast Television Incentive Auction Closes; Reverse Auction and Forward Auction Results Announced; Final Television Band Channel Assignments Announced; Post-Auction Deadlines Announced, GN Docket No. 12-268, Public Notice, 32 FCC Rcd 2786 (2017). The post-incentive auction transition period ended on July 13, 2020. The Media Bureau will amend the rules to reflect all new full power channel assignments in a revised Table of Allotments. Because the Table has not yet been amended, the Division will continue to refer to the Post-Transition Table of DTV Allotments, 47 CFR § 73.622(i) (2018), for the purpose of this proceeding.

2 Petition at 2, citing Innovation in the Broadcast Television Bands: Allocations, Channel Sharing and Improvements to VHF, ET Docket No. 10-235, Notice of Proposed Rulemaking, 25 FCC Rcd 16498, 16511, para. 42 (2010) and Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations, MB Docket No. 03-185, Second Report and Order, 25 FCC Rcd 10732, 10750, para. 37 (2011). See also Petition at 3 regarding dipole antenna lengths needed to receive VHF and UHF signals on mobile devices using ATSC 3.0 technology, and Engineering Exhibit at 3-4, indicating that KTUL will likely be precluded from using ATSC 3.0 technology on channel 10.

3 Petition at 1-2.

4 Id. at 2 and Engineering Exhibit at 2-3.

3. The Licensee further states that with respect to operations on channel 14 and nearby land mobile services, it has determined that it can install the appropriate mask filter and antenna needed to avoid interference to land mobile operations.<sup>5</sup> In addition, operation on channel 14 will not result in any predicted loss of service, and would result in a substantial increase in signal receivability for KTUL viewers.<sup>6</sup>

4. *Discussion.* We believe that the Licensee’s channel substitution proposal warrants consideration. Channel 14 can be substituted for channel 10 at Tulsa, Oklahoma as proposed, in compliance with the principal community coverage requirements of section 73.625(a) of the Commission’s rules,<sup>7</sup> at coordinates 35-58-08.0 N and 95-36-56.0 W. In addition, we find that this channel change meets the technical requirements set forth in sections 73.616 and 73.623 of the Commission’s rules.<sup>8</sup> We propose to substitute channel 14 for channel 10 for station KTUL with the following specifications:

| <u>City and State</u> | <u>DTV Channel</u> | <u>DTV Power (kW)</u> | <u>Antenna HAAT (m)</u> |
|-----------------------|--------------------|-----------------------|-------------------------|
| Tulsa, Oklahoma       | 14                 | 1000                  | 578                     |

5. Accordingly, we seek comment on the proposed amendment of the Post-Transition Table of DTV Allotments, section 73.622(i) of the Commission’s rules,<sup>9</sup> for the community listed below, to read as follows:

| <u>City and State</u> | <u>Channel No.</u>         |                            |
|-----------------------|----------------------------|----------------------------|
|                       | <u>Present</u>             | <u>Proposed</u>            |
| Tulsa, Oklahoma       | 8, 10, *11, 22, 45, 47, 49 | 8, *11, 14, 22, 45, 47, 49 |

6. Pursuant to sections 1.415 and 1.419 of the Commission’s rules,<sup>10</sup> interested parties may file comments with the Commission on or before [30 days after publication in the Federal Register] and reply comments on or before [45 days after publication in the Federal Register], and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on counsel for petitioner, as follows:

Paul A. Cicelski, Esq.  
 Lerman Senter PLLC  
 2001 L Street, NW  
 Suite 400  
 Washington, D.C. 20036

Parties must file an original and one copy of each filing.<sup>11</sup> Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, D.C. 20554.

<sup>5</sup> Petition at 3; *see also* Engineering Exhibit at 6.

<sup>6</sup> Petition at 4; *see also* Engineering Exhibit at 4.

<sup>7</sup> 47 CFR § 73.625(a).

<sup>8</sup> 47 CFR §§ 73.616 and 73.623.

<sup>9</sup> 47 CFR § 73.622(i).

<sup>10</sup> 47 CFR §§ 1.415, 1.419.

<sup>11</sup> *See Amendment of Certain of the Commission’s Part 1 Rules of Practice and Procedure and Part 0 Rules of Commission Reorganization*, GC Docket No. 10-44, Report and Order, 26 FCC Rcd 1594, 1602, para. 21 (2011).

**Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.<sup>12</sup> During the time the Commission's building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.** Alternatively, parties may submit the filing electronically at <http://apps.fcc.gov/ecfs>. Online filing is optional. Participants that file comments and replies in electronic form need only submit one copy of those comments, so long as the submission conforms to any procedural or filing requirements established for formal electronic comments.<sup>13</sup> All filings must be addressed to Marlene H. Dortch, Secretary, Federal Communications Commission, Office of the Secretary. Any paper filing that is not addressed to the Office of the Secretary will be treated as filed on the day it is received in the Office of the Secretary.<sup>14</sup> Accordingly, failure to follow the specified requirements may result in the treatment of a filing as untimely.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980, as amended,<sup>15</sup> do not apply to a rulemaking proceeding to amend the DTV Table of Allotments, section 73.622(i).<sup>16</sup> This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13, 44 U.S.C. §§ 3501-3520. In addition, therefore, it does not contain any proposed information collection burden “for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, 44 U.S.C. § 3506(c)(4).

8. For further information concerning the proceeding listed above, contact Joyce L. Bernstein, Video Division, Media Bureau, (202) 418-1647, [Joyce.Bernstein@fcc.gov](mailto:Joyce.Bernstein@fcc.gov). The proceeding this Notice initiates shall be treated as a “restricted” proceeding in accordance with the Commission’s *ex parte* rules.<sup>17</sup> For purposes of this restricted notice and comment rulemaking proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a Notice of Proposed Rulemaking until the proceeding has been decided and such decision in the applicable docket is no longer subject to reconsideration by the Commission or review by any court. An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or any summary of any new information shall be served by the person making the presentation upon the other parties to the proceeding in a particular docket unless the Commission specifically waives this service requirement. Any comment that has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment

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<sup>12</sup> See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (2020).

<sup>13</sup> 47 CFR § 1.419(d).

<sup>14</sup> See 47 CFR § 1.7.

<sup>15</sup> See 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 *et seq.*, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996). The SBREFA was enacted as Title II of the Contract with America Advancement Act of 1996 (CWAAA).

<sup>16</sup> 47 CFR § 73.622(i).

<sup>17</sup> 47 CFR §§ 1.1200 *et seq.*

which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

## APPENDIX

1. Pursuant to authority found in 47 U.S.C. sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and 47 CFR sections 0.61, 0.204(b) and 0.283, **IT IS PROPOSED TO AMEND** the Post-Transition Table of DTV Allotments, 47 CFR section 73.622(i), as set forth in the Notice of Proposed Rulemaking to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off protection.* The following procedures will govern the consideration of the filings in this proceeding:

- (a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments (*see* 47 CFR section 1.420(d)). Because the Commission has now lifted its freeze on the filing of petitions for rulemaking to establish new DTV channel allotments,<sup>1</sup> we will consider counterproposals which propose new allotments.
- (b) With respect to petitions for rulemaking which conflict with the proposal in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.
- (c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in 47 CFR sections 1.415 and 1.420, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rulemaking to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. The person filing the comments shall serve comments on the petitioners. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. A certificate of service shall accompany such comments and reply comments. Comments should be filed with the Federal Communications Commission, Office of the Secretary, 45 L St., NE, Washington, D.C. 20554. Alternatively, parties may submit the filing electronically at <http://apps.fcc.gov/ecfs>. Online filing is optional.

5. *Number of Copies.* In accordance with the provisions of 47 CFR section 1.419(b), an original and one copy of all comments, reply comments, pleadings, briefs, or other documents shall be furnished to the Commission. Participants that file comments and replies in electronic form need only submit one copy of those comments, so long as the submission conforms to any procedural or filing requirements established for formal electronic comments (*see* 47 CFR section 1.419(d)). An electronic copy should also be sent to [Joyce.Bernstein@fcc.gov](mailto:Joyce.Bernstein@fcc.gov).

6. *Public Inspection of Files.* All filings will be available at <http://apps.fcc.gov/ecfs/> by searching the docket number of this proceeding.

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<sup>1</sup> *See Media Bureau Lifts Freeze on the Filing of Television Station Minor Modification Applications and Rulemaking Petitions Effective Fifteen Days After Publication in the Federal Register*, Public Notice, 35 FCC Rcd 11993 (MB 2020). This action was effective on November 27, 2020. *See* 85 FR 73706 (Nov. 19, 2020).