

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

In the Matter of)
)
 Amendment of Section 73.622(i),) MB Docket No. 21-61
 Post-Transition Table of DTV Allotments,) RM-11885
 Television Broadcast Stations)
 (Lubbock, Texas))

REPORT AND ORDER

(Proceeding Terminated)

Adopted: April 26, 2021

Released: April 26, 2021

By the Chief, Video Division, Media Bureau:

1. The Video Division, Media Bureau (Bureau), has before it a Notice of Proposed Rulemaking¹ issued in response to a Petition for Rulemaking filed by Gray Television Licensee, Inc. (Gray), the licensee of KCBD (NBC), channel 11, Lubbock, Texas. Gray has requested the substitution of UHF channel 36 for VHF channel 11 in the DTV Table of Allotments.²

2. Gray filed comments in support of the petition, as required by the Commission’s rules,³ reaffirming its commitment to applying for channel 36. No other comments were filed. We believe the public interest would be served by substituting channel 36 for channel 11 at Lubbock. As stated by Gray in its channel substitution request, the Commission has recognized that VHF channels have certain propagation characteristics which may cause reception issues for some viewers, and also that the reception of VHF signals requires larger antennas relative to UHF channels. Gray reports that many of its viewers experience significant difficulty receiving KCBD’s signal.⁴ Gray has demonstrated that while there is a small terrain limited predicted loss area when comparing the licensed channel 11 and the proposed channel 36 facilities, all but 350 of the 414,091 persons currently served by KCBD will continue to be well served by at least five other stations, a number which the Commission has recognized as *de minimis*.⁵

3. As proposed, channel 36 can be substituted for channel 11 at Lubbock, Texas, in compliance with the principal community coverage requirements of section 73.625(a) of the Commission’s rules

¹*Amendment of Section 73.73.622(i), Post-Transition Table of DTV Allotments, Television Stations (Lubbock, Texas)*, MB Docket No. 21-61, Notice of Proposed Rulemaking, DA 21-204 (rel. Feb. 22, 2021) (*NPRM*).

² As noted in the *NPRM*, on April 13, 2017, the Commission completed the incentive auction and broadcast television spectrum repacking authorized by the Spectrum Act, and the post-incentive auction transition period ended on July 13, 2020. The Bureau will amend the rules to reflect all new full power channel assignments in a revised Table of Allotments, but because the Table has not yet been amended, the Bureau has continued to refer to the Post-Transition Table of DTV Allotments, 47 CFR § 73.622(i) (2018), for the purpose of this proceeding. See *NPRM* at n.2.

³ 47 CFR §§ 1.415, 1.419; see also *Buffalo, Iola, Normangee, and Madisonville, Texas*, Report and Order, MB Docket No. 07-729, 24 FCC Rcd 8192, 8194, para. 9 (Aud. Div. 2009).

⁴ *Id.* at para. 2.

⁵ *Id.*, citing *WSET, Inc.*, 80 FCC 2d 233, 246 (1980) (Population loss of less than 500 persons can be disregarded as *de minimis*.)

(rules),⁶ at coordinates 33-30-08.3 N and 101-52-21.3 W. In addition, we find that this channel change meets the technical requirements set forth in sections 73.616 and 73.623 of the rules with the following specifications:⁷

<u>City and State</u>	<u>DTV Channel</u>	<u>DTV Power (kW)</u>	<u>Antenna HAAT (m)</u>	<u>DTV Service Pop.</u>
Lubbock, Texas	36	1000	282.1	406,239

4. We also conclude that good cause exists to make this channel change effective immediately upon publication in the Federal Register, pursuant to section 553(d)(3) of the Administrative Procedure Act.⁸ An expedited effective date is necessary in this case to ensure that KCBD can operate with improved service to its viewers as quickly as possible.

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155(c)(1), 303(g), (r), and 307(b), and sections 0.61, 0.204(b) and 0.283 of the Commission's rules, 47 CFR §§ 0.61, 0.204(b), and 0.283, **IT IS ORDERED**, That effective immediately upon the date of publication in the Federal Register, the DTV Table of Allotments, section 73.622(i) of the Commission's rules, 47 CFR § 73.622(i), **IS AMENDED**, with respect to the community listed below, to read as follows:

<u>City and State</u>	<u>Channel No.</u>
Lubbock, Texas	16, 27, 35, 36, *39, 40

6. **IT IS FURTHER ORDERED**, That within 30 days of the effective date of this Order, Gray Television Licensee, LLC shall submit to the Commission a minor change application for a construction permit (Form 2100, Schedule A) specifying channel 36 in lieu of channel 11.

7. **IT IS FURTHER ORDERED**, That pursuant to section 801(a)(1)(A) of the Congressional Review Act, 5 U.S.C. § 801(a)(1)(A), the Commission **SHALL SEND** a copy of the Order to Congress and to the Government Accountability Office.

8. **IT IS FURTHER ORDERED**, That should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket No. 21-61, RM-11885 **SHALL BE TERMINATED** and its docket closed.

9. For further information concerning the proceeding listed above, contact Joyce L. Bernstein, Video Division, Media Bureau, (202) 418-1647, Joyce.Bernstein@fcc.gov.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

⁶ 47 CFR § 73.625(a).

⁷ 47 CFR §§ 73.616, 73.623.

⁸ 5 U.S.C. § 553(d)(3).