

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

In the Matter of)	
)	
Amendment of Section 73.622(i),)	MB Docket No. 21-176
Post-Transition Table of DTV Allotments,)	RM-11903
Television Broadcast Stations)	
(Missoula, Montana))	

REPORT AND ORDER

(Proceeding Terminated)

Adopted: July 15, 2021

Released: July 16, 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 Sinclair Media Licensee, LLC (Petitioner), the licensee of KECI-TV (NBC), channel 13, Missoula, Montana. The Petitioner has requested the substitution of UHF channel 20 for VHF channel 13 in the DTV Table of Allotments.²

2. The Petitioner filed comments in support of the petition, as required by the Commission’s rules,³ reaffirming its commitment to apply for channel 20. No other comments were filed. We believe the public interest would be served by substituting channel 20 for channel 13 at Missoula, Montana. The Petitioner states that the Commission has recognized that VHF channels have certain propagation characteristics which may cause reception issues for some viewers, and that the reception of VHF signals requires larger antennas generally not well suited to the mobile applications relative to UHF channels.⁴ In addition, according to the Petitioner, KECI-TV 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. While the proposed channel 20 noise limited contour does not completely encompass the relevant channel 13 noise limited contour,⁵ Petitioner demonstrated there would be a loss of service to only 65 people, a

¹Amendment of Section 73.73.622(i), Post-Transition Table of DTV Allotments, Television Stations (Missoula, Montana), MB Docket No. 21-176, Notice of Proposed Rulemaking, DA 21-459 (rel. Apr. 21, 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*, MB Docket No. 07-729, Report and Order, 24 FCC Rcd 8192, 8194, para. 9 (Aud. Div. 2009).

⁴ NPRM at para. 2. While the Petitioner contends that the channel substitution would benefit ATSC 3.0 reception in addition to ATSC 1.0 reception, *id.* and Petitioner’s May 28, 2021 Comments at 1-2, we do not find the Petitioner’s arguments concerning ATSC 3.0 reception to be a controlling factor in our decision, especially given the early stages of deployment and limited availability of consumer devices.

⁵ As the Bureau explained in the NPRM, it used the technical parameters of KECI-TV’s original post-transition digital channel 13 facility (File No. BPCDT-20080327AFR) in determining any predicted loss which may occur from the proposed channel substitution. NPRM at n.6.

number the Commission considers *de minimis*.⁶ In addition, KECI-TV's proposed channel 20 facility is predicted to serve a total of 252,689 persons, a net gain of 38,879 potential viewers over the existing KECI-TV channel 13 facility.⁷

3. As proposed, channel 20 can be substituted for channel 13 at Missoula, Montana, in compliance with the principal community coverage requirements of section 73.625(a) of the Commission's rules (rules),⁸ at coordinates 47-01-04.0 N and 114-00-50.0 W. In addition, we find that this channel change meets the technical requirements set forth in sections 73.616 and 73.623 of the rules with the following specifications:⁹

<u>City and State</u>	<u>DTV Channel</u>	<u>DTV Power (kW)</u>	<u>Antenna HAAT (m)</u>	<u>DTV Service Pop.</u>
Missoula, Montana	20	925	610	227,295

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.¹⁰ An expedited effective date is necessary in this case to ensure that KECI-TV 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), (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>
Missoula, Montana	7, *11, 17, 20, 23

6. **IT IS FURTHER ORDERED**, That within 30 days of the effective date of this Order, Sinclair Media Licensee, LLC shall submit to the Commission a minor change application for a construction permit (Form 2100, Schedule A) specifying channel 20 in lieu of channel 13.

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. 21-176 and RM-11903 **SHALL BE TERMINATED** and its docket closed.

⁶ *Id.* at para. 3, citing *WSET, Inc.*, 80 FCC 2d 233, 246 (1980) (finding that population loss of less than 500 persons is *de minimis*).

⁷ *NPRM* at para. 3.

⁸ 47 CFR § 73.625(a).

⁹ 47 CFR §§ 73.616, 73.623.

¹⁰ 5 U.S.C. § 553(d)(3).

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