

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

In the Matter of)	
)	
Amendment of Section 73.622(i),)	MB Docket No. 21-185
Post-Transition Table of DTV Allotments,)	RM-11906
Television Broadcast Stations)	
(Butte, 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 KTVM-TV (NBC), channel 6, Butte, Montana. The Petitioner has requested the substitution of UHF channel 20 for VHF channel 6 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 20.⁴ REC Networks (REC), which states it is an advocate for Low Power FM (LPFM) stations, as well as noncommercial educational (NCE) and small "mom and pop" commercial stations, also filed comments supporting the proposed channel substitution.⁵

3. We believe the public interest would be served by substituting channel 20 for channel 6 at Butte, Montana. The Petitioner states that the Commission has recognized that VHF channels have certain propagation characteristics which may cause reception issues for some viewers.⁶ In addition, according to the Petitioner, KTVM-TV has received numerous complaints from viewers unable to receive

¹Amendment of Section 73.73.622(i), *Post-Transition Table of DTV Allotments, Television Stations (Butte, Montana)*, MB Docket No. 21-185, Notice of Proposed Rulemaking, DA 21-475 (rel. Apr. 26, 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 Comments of Sinclair Media Licensee, LLC (filed June 7, 2021) (KTVM-TV Comments).

⁵ REC Networks' Comments at para. 1 (filed May 17, 2021) (REC Comments).

⁶ *NPRM* at para. 2. While the Petitioner contends that the channel substitution would benefit ATSC 3.0 reception, *id.* at n.3 and KTVM-TV 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.

the Station's over-the-air signal, despite being able to receive signals from other stations.⁷ While the proposed channel 20 noise limited contour does not completely encompass the relevant channel 6 noise limited contour,⁸ KTVM-TV is an NBC affiliate and there are two other NBC affiliated stations that serve some portion of the loss area. In addition, the Petitioner submitted an analysis, using the Commission's *TVStudy* software analysis program, demonstrating that after taking into account service provided by other NBC stations, all of the population located within KTVM-TV's original post-DTV transition channel 6 noise limited contour will continue to receive NBC service, except for 66 people.⁹

4. REC states that it generally supports rulemaking proceedings seeking to amend the DTV Table of Allotments to substitute a high-VHF band or UHF channel in lieu of channels 5 and 6.¹⁰ REC believes clearing these channels serves to provide additional flexibility to NCE and LPFM stations operating in the reserved FM band pursuant to sections 73.525 and 73.825 of the Commission's rules (rules).¹¹ REC also recognizes the propagation characteristics of digital channel 6 operations which can cause viewer reception issues.¹²

5. As proposed, channel 20 can be substituted for channel 6 at Butte, Montana, in compliance with the principal community coverage requirements of section 73.625(a) of the Commission's rules,¹³ at coordinates 46-00-27.0 N and 112-26-33.0 W. Although the Petitioner's proposal would result in a loss of CBS service to approximately 66 people, we find such a loss to be *de minimis*.¹⁴ 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:¹⁵

<u>City and State</u>	<u>DTV Channel</u>	<u>DTV Power (kW)</u>	<u>Antenna HAAT (m)</u>	<u>DTV Service Population</u>
Butte, Montana	20	1000	591.3	251,470

6. 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

⁷ *NPRM* at para. 2.

⁸ As the Bureau explained in the *NPRM*, it used the technical parameters of KTVM-TV's original post-transition digital channel 6 facility (File Nos. BPCDT-20080314ADF; BLCDT-20090622ADT) in determining any predicted loss which may occur from the proposed channel substitution. *NPRM* at n.6.

⁹ *Id.* at para. 3.

¹⁰ REC Comments at para. 2.

¹¹ *Id.*; 47 CFR §§ 73.525, 73.825. REC also states that "full-service TV clearance from Channels 6 and 5 could increase the potential for a long-term plan to reallocate 76-88 MHz (or at least 82-88 MHz) for a well needed expansion of the FM broadcast band providing a potential migration path for struggling AM broadcast stations nationwide as well as increase community radio opportunities, especially to minority and other niche communities." REC Comments at para. 2. This argument is outside the scope of this proceeding and thus, we give it no consideration here.

¹² REC Comments at para. 3.

¹³ 47 CFR § 73.625(a).

¹⁴ See *WSET, Inc.*, 80 FCC 2d 233, 246 (1980) (finding that population loss of less than 500 persons is *de minimis*). See also Engineering Statement at 2 and Exhibit.

¹⁵ 47 CFR §§ 73.616, 73.623.

Procedure Act.¹⁶ An expedited effective date is necessary in this case to ensure that KTVM-TV can operate with improved service to its viewers as quickly as possible.

7. 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>
Butte, Montana	5, 19, 20, 24

8. **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 6.

9. **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.

10. **IT IS FURTHER ORDERED**, That should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket No. 21-185 and RM-11906 **SHALL BE TERMINATED** and its docket closed.

11. 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

¹⁶ 5 U.S.C. § 553(d)(3).