

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

In the Matter of)
)
Amendment of Section 73.622(j),) MB Docket No. 22-118
Table of Allotments, Television Broadcast) RM-11924
Stations (Helena, Montana))
)

REPORT AND ORDER

(Proceeding Terminated)

Adopted: November 29, 2022

Released: November 29, 2022

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 Scripps Broadcasting Holdings LLC (Petitioner), the licensee of full power television station KTVH-DT, Helena, Montana (Station or KTVH-DT). The Petitioner has requested the substitution of UHF channel 31 for VHF channel 12 in the Table of TV Allotments. The Petitioner filed comments in support of the petition, as required by the Commission’s rules (rules),² reaffirming its commitment to apply for channel 31. No other comments were received.

2. We believe the public interest would be served by substituting channel 31 for channel 12 at Helena, Montana.³ According to the Petitioner, it has received many complaints from viewers unable to receive a reliable signal on VHF channel 12, and the Commission has recognized that VHF channels have certain characteristics that pose challenges for their use in providing digital television service.⁴ The Engineering Statement provided with the Petition confirmed that the proposed channel 31 contour would continue to reach virtually all of the population within the Station’s current service area and fully cover the city of Helena.⁵ An analysis using the Commission’s TVStudy software tool indicates that KTVH-DT’s move from channel 12 to channel 31 is predicted to create an area where 2,168 persons are predicted to lose service.⁶ The loss area, however, is partially overlapped by the noise limited contour of other NBC affiliated stations and reduces the number of people who are predicted to lose NBC network service to 226 persons.⁷ Once those other sources of NBC programming are factored into the loss

¹ Amendment of Section 73.622(j), Table of Allotments, Television Stations (Helena, Montana), MB Docket No. 22-118, Notice of Proposed Rulemaking, DA 22-252 (rel. Mar. 10, 2022) (NPRM).

² 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).

³ In this Report and Order, the Bureau is amending the Table of TV Allotments, 47 CFR § 73.622(j), adopted in Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auction, Docket No. 12-268, Order, 36 FCC Rcd 15891 (2021). See NPRM at n.2.

⁴ Id. at para. 2.

⁵ Id.

⁶ Id.

⁷ Id.

analysis, the new loss area that would be created by the proposed channel substitution would contain only 226 persons, which is a level of service loss the Commission considers to be *de minimis*.⁸

3. As proposed, channel 31 can be substituted for channel 12 at Helena, Montana, in compliance with the principal community coverage requirements of section 73.625(a) of the rules,⁹ at coordinates 46° 49' 29.4" N and 111° 42' 15.6" W. Although the Petitioner's proposal would result in a loss for a limited number of viewers, we find that the overall benefits of the proposed channel change outweighs any possible harm to the public interest when taking into account the ability of all but a *de minimis* number of viewers to access NBC network programming from another over-the-air television source. 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:¹⁰

<u>City and State</u>	<u>Channel</u>	<u>Power (kW)</u>	<u>Antenna HAAT (m)</u>	<u>Service Pop.</u>
Helena, Montana	31	530	671.2	226,826

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.¹¹ An expedited effective date is necessary in this case to ensure that KTVH-DT 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 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 Table of Allotments, section 73.622(j) of the rules, 47 CFR § 73.622(j), **IS AMENDED**, with respect to the community listed below, to read as follows:

<u>City and State</u>	<u>Channel No.</u>
Helena, Montana	29, 31

6. **IT IS FURTHER ORDERED**, That within 10 days of the effective date of this Order, Scripps Broadcasting Holdings LLC shall submit to the Commission a minor change application for a construction permit (Form 2100, Schedule A) specifying channel 31 in lieu of channel 12.

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. 22-118 and RM-11924 **SHALL BE TERMINATED**

⁸ *Id.* See *WSET, Inc.*, 80 FCC 2d 233, 246 (1980) (finding that loss of service to approximately 550 persons is *de minimis*). In its calculation of viewer loss, Scripps relies on the NBC network service provided by two station also owned by Scripps: (1) Class A television station KDBZ-CD, Bozeman, Montana and (2) low power television (LPTV) station KTGF-LD, Great Falls, Montana, which is the NBC network affiliate in Great Falls. While the LPTV station is secondary and can be displaced, we believe given the rural nature of Montana and neighboring states it is unlikely the LPTV station would be displaced, and if it was, Scripps would easily be able to find a displacement channel for it. As noted in the *NPRM*, the loss area will also be served by a number of other full power major network stations. *NPRM* at para. 3 and n.13.

⁹ 47 CFR § 73.625(a).

¹⁰ 47 CFR §§ 73.616, 73.623. Since the proposed facility is located within the Canadian coordination zone, concurrence from the Canadian government was required and has subsequently been obtained. See *NPRM* at n.10.

¹¹ 5 U.S.C. § 553(d)(3).

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

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