

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

In the Matter of	)	
	)	
Amendment of Section 73.622(j),	)	MB Docket No. 22-39
Table of Allotments, Television Broadcast	)	RM-11917
Stations (Billings, Montana)	)	
	)	

**REPORT AND ORDER**

**(Proceeding Terminated)**

**Adopted: April 4, 2022**

**Released: April 4, 2022**

By the Chief, Video Division, Media Bureau:

1. The Video Division, Media Bureau (Bureau), has before it a Notice of Proposed Rulemaking<sup>1</sup> issued in response to a Petition for Rulemaking filed by Scripps Broadcasting Holdings LLC (Petitioner or Scripps), the licensee of KTVQ(TV) (KTVQ or Station), channel 10, Billings, Montana. The Petitioner has requested the substitution of UHF channel 20 for VHF channel 10 in the Table of Allotments.<sup>2</sup> The Petitioner filed comments in support of the petition, as required by the Commission's rules,<sup>3</sup> reaffirming its commitment to apply for channel 20. No other comments were received.

2. We believe the public interest would be served by substituting channel 20 for channel 10 at Billings, Montana. The Petitioner states that the Commission has recognized that VHF channels have certain characteristics that pose challenges for their use in providing digital television service, including propagation characteristics that allow undesired signals and noise to be receivable at relatively far distances, and that the Station has received many complaints from viewers unable to receive a reliable signal on channel 10.<sup>4</sup>

3. An analysis using the Commission's *TVStudy* software tool indicates that KTVQ's move from channel 10 to channel 20 is predicted to create a small loss area with 3,624 persons. That loss area, however, is partially overlapped by the noise limited contours of other stations which carry the CBS network programming aired by KTVQ and reduces the number of people who are predicted to lose CBS network service to only 483 persons, a number which Petitioner argues is *de minimis*.<sup>5</sup> In addition, the loss area is partially overlapped by the noise limited contours of KSVI (ABC) and KULR (NBC),

<sup>1</sup> *Amendment of Section 73.622(j), Table of Allotments, Television Stations (Billings, Montana)*, MB Docket No. 22-39, Notice of Proposed Rulemaking, DA 22-27 (rel. Jan. 27, 2022) (*NPRM*).

<sup>2</sup> 47 CFR § 73.622(j).

<sup>3</sup> 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).

<sup>4</sup> *NPRM* at para. 2.

<sup>5</sup> *Id.* at para. 2 and n.7. The Division believes that due to VHF reception issues and terrain, most of the viewers in the loss area already receive their CBS service from these translators. We note that in its calculation of viewer loss, Scripps relies on the network service provided by Scripps owned and operated TV translator stations K15LB-D, Red Lodge, Montana, and K28ON-D, Castle Rock, Montana, both of which rebroadcast the programming aired by KTVQ. While TV translator stations are secondary and can be displaced, we believe given the rural nature of Montana and neighboring states, it is unlikely the translator stations would be displaced, and if they were, Scripps would easily be able to find displacement channels.

Billings, Montana; KHMT (FOX), Hardin, Montana; and KSGW (ABC/FOX), Sheridan, Wyoming.<sup>6</sup> Thus, viewers in the loss area will continue to have access to major network programming.

4. As proposed, channel 20 can be substituted for channel 10 at Billings, Montana, in compliance with the principal community coverage requirements of section 73.625(a) of the Commission's rules,<sup>7</sup> at coordinates 45° 46' 00.9" N and 108° 27' 28.8" W. Although the Petitioner's proposal would result in a loss of CBS service to 483 persons, we find the overall benefits of the proposed channel change outweigh any possible harm to the public interest, given the fact that the loss of CBS service is ultimately *de minimis*, and taking into account the ability of those viewers to access CBS network programming from other over-the-air television stations.<sup>8</sup> In addition, viewers in the loss area would continue to have access to other major network programming.<sup>9</sup> We also 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:<sup>10</sup>

<u>City and State</u>	<u>Channel</u>	<u>Power (kW)</u>	<u>Antenna HAAT (m)</u>	<u>Service Pop.</u>
Billings, Montana	20	1000	180	175,892

5. Finally, we 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.<sup>11</sup> An expedited effective date is necessary in this case to ensure that KTVQ can operate with improved service to its viewers as quickly as possible.

6. 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 Table of Allotments, section 73.622(j) of the Commission's 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>
Billings, Montana	11, *16, 18, 20

7. **IT IS FURTHER ORDERED**, That within 30 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 20 in lieu of channel 10.

8. **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.

9. **IT IS FURTHER ORDERED**, That should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket No. 22-39 and RM-11927 **SHALL BE TERMINATED** and its docket closed.

<sup>6</sup> *Id.* at para. 2.

<sup>7</sup> 47 CFR § 73.625(a).

<sup>8</sup> See *WSET, Inc.*, 80 FCC 2d 233, 246 (1980) (finding that population loss of less than 500 persons is *de minimis*).

<sup>9</sup> See *supra* para. 3.

<sup>10</sup> 47 CFR §§ 73.616, 73.623.

<sup>11</sup> 5 U.S.C. § 553(d)(3).

10. 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).

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau