

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

In the Matter of)	
)	
Amendment of Section 73.622(j),)	MB Docket No. 23-296
Table of TV Allotments, Television Broadcast)	RM-11964
Stations (Des Moines, Iowa))	
)	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: November 1, 2023

Released: November 1, 2023

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 Iowa Public Broadcasting Board (Petitioner),² the licensee of noncommercial educational television PBS member station KDIN-TV (KDIN-TV or Station), channel *11, Des Moines, Iowa (Des Moines). The Petitioner has requested the substitution of channel *34 in place of channel *11 at Des Moines in the Table of TV Allotments,³ and requested that we delete vacant channel *34, Ames, Iowa (Ames) and substitute it with the allotment of vacant channel *21 to Ames. Petitioner filed comments in support of the petition, as required by the Commission's rules (rules),⁴ reaffirming its commitment to apply for channel *34.⁵ No other comments were received.

2. We find the public interest would be served by substituting channel *34 for channel *11 at Des Moines. Petitioner asserts that the channel substitution from a VHF to UHF channel would serve the public interest by resolving viewer reception challenges and significantly improving the Station's over-the-air service to the viewers in its existing service area.⁶ Petitioner includes with its Petition a number of viewer complaints highlighting current reception problems.⁷ Petitioner states that the Commission has recognized that VHF channels 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 large variability in the performance of indoor antennas available

¹ *Amendment of Section 73.622(j), Table of TV Allotments, Television Broadcast Stations (Des Moines, Iowa)*, MB Docket No. 23-296, Notice of Proposed Rulemaking, DA 23-774 (rel. Aug. 29, 2023) (*NPRM*).

² Petition of Iowa Public Broadcasting Board for Rulemaking, LMS File No. 0000210675 (filed Feb. 13, 2023), as amended Aug. 2, 2023 (Petition). Noncommercial educational television stations are identified in the Table of TV Allotments by an asterisk to indicate they are reserved for noncommercial educational use. 47 CFR §73.622(a).

³ 47 CFR § 73.622(j).

⁴ 47 CFR §§ 1.415, 1.419; *see also Buffalo, Iola, Normangee, and Madisonville, Texas*, MB Docket No. 07-279, Report and Order, 24 FCC Rcd 8192, 8194, para. 9 (MB 2009).

⁵ Comments of Iowa Public Broadcasting Board at 1 (filed Oct. 3, 2023) (IPBB Comments).

⁶ *NPRM* at para. 2.

⁷ *See id.* at para. 2; Petition at Exhibit B.

to viewers, with most antennas performing very poorly on high VHF channels.⁸ An engineering statement provided by the Petitioner confirms that the proposed channel *34 contour would provide full principal community coverage to Des Moines.⁹ The proposed move from channel *11 to channel *34 is also predicted not to create a loss of service to any viewers,¹⁰ and according to the engineering statement, “will actually increase the area covered while serving the population with higher signal levels.”¹¹

3. Petitioner acknowledges that the proposed channel substitution would not meet the distance separation requirements regarding the vacant channel *34 allotment at Ames.¹² As a result, Petitioner requests that simultaneously with the substitution of channel *34 at Des Moines, we delete the vacant channel *34 allotment at Ames and substitute it with the allotment of vacant channel *21 to Ames.¹³ As stated in its supplemental engineering statement, the proposed channel *21 is described as meeting the distance criteria found in section 73.623(d) of the rules, and an analysis using the Commission’s *TVStudy* software is provided showing no interference to any other station or allotment.¹⁴

4. As proposed, channel *34 can be substituted for channel *11 at Des Moines in compliance with the principal community coverage requirements of section 73.625(a) of the rules,¹⁵ at coordinates 41° 48’ 33.0” N and 93° 36’ 54.0” 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.¹⁶ The proposal also will not result in any loss of service to existing viewers. Thus, we substitute channel *34 in place of channel *11 for KDIN-TV

⁸ Petition at 3-4 (citing *Innovation in the Broadcast Television Bands: Allocations, Channel Sharing and Improvements to VHF*, ET Docket No. 10-235, Notice of Proposed Rulemaking, 25 FCC Rcd 16498, 16511-2, paras. 42, 44 (2010)).

⁹ Petition at Exhibit A.

¹⁰ *Id.* at 2 and Exhibit A.

¹¹ *Id.* at Exhibit A. Petitioner states that the proposed channel substitution is in the public interest because the Station’s operations on channel *34 would reach 10,904 people not currently served by the station’s channel *11 facilities. IPBB Comments at 1.

¹² *Id.* at 3. See 47 CFR § 73.623(d)(2).

¹³ Petition at 3.

¹⁴ *Id.* at 3, Exhibit A, and Exhibits at 21-30. Petitioner also asserts that channel *21 is a suitable allotment substitution for channel *34 at Ames because it is technically superior since the proposed allotment could serve almost twice the area and almost two hundred thousand additional persons. In arriving at this conclusion, Petitioner compared the proposed channel *21 allotment to the last-licensed facilities on channel *34 at Ames, Iowa in Appendix B of the *Advanced Television Systems and their Impact Upon the Existing Television Broadcast Service*, MM Docket No. 87-268, Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order, 13 FCC Rcd 7418 (1998). See Petition at 3 and n.6. Notwithstanding that we generally consider that service to more persons than fewer is in the public interest and agree that the showing indicates this is the case for the proposed allotment, we conclude that no weight should be given to the Petitioner’s assertions that the allotment would serve more people as we cannot know at this time what a potential applicant would ultimately construct at the proposed allotment.

¹⁵ 47 CFR § 73.625(a). The Commission recently amended its rules to create a new section 73.618 (Antenna location and principal community coverage), which relocates, verbatim, the language from section 73.625(a) (DTV coverage of principal community and antenna system). See *Amendment of Part 73 of the Commission’s Rules to Update Television and Class A Television Broadcast Station Rules, and Rules Applicable to All Broadcast Stations*, MB Docket No. 22-227, Report and Order, FCC 23-72 at para. 37 (rel. Sept. 19, 2023) (*Part 73 Amendment R&O*). The amended rules are not effective as of the date of release of this Report and Order, and, as such, we continue to make reference to 47 CFR § 73.625(a).

¹⁶ 47 CFR §§ 73.616, 73.623.

with the following specifications:¹⁷

<u>City and State</u>	<u>Channel</u>	<u>Power (kW)</u>	<u>Antenna HAAT (m)</u>	<u>Service Pop.</u>
Des Moines, Iowa	*34	1000	600	1,098,901

5. As proposed, we also delete vacant channel *34, Ames and substitute it with the allotment of vacant channel *21 to Ames. Channel *21 can be substituted in place of channel *34 at Ames, as proposed, in compliance with the principal community coverage requirements of section 73.625(a)¹⁸ of the rules, at coordinates 41° 58' 49.0" N and 93° 44' 24.0" W. We also find that this proposed channel change meets the technical requirements set forth in sections 73.616 and 73.623 of the rules.¹⁹ Thus, we allot vacant channel *21 in place of channel *34 with the following specifications:

<u>City and State</u>	<u>Channel</u>	<u>Power (kW)</u>	<u>Antenna HAAT (m)</u>
Ames, Iowa	*21	1000	365

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 Procedure Act.²⁰ An expedited effective date is necessary in this case to ensure that KDIN-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 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 communities listed below, to read as follows:

<u>City and State</u>	<u>Channel No.</u>
Ames, Iowa	5, *21, 23
Des Moines, Iowa	8, 13, 16, 19, *34

8. **IT IS FURTHER ORDERED**, That within 10 days of the effective date of this Report and Order, Iowa Public Broadcasting Board shall submit to the Commission a minor change application for a construction permit (Form 2100, Schedule A) specifying channel *34.

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. 23-296 and RM-11964 **SHALL BE TERMINATED** and its docket closed.

¹⁷ *Id.* The Commission also recently amended its rules, including combining parts of sections 73.616(a) (Post-transition DTV station interference protection), 73.622(a), and 73.623(a) into one rule that includes all requirements for modifying a television allotment, modified section 73.622(a) (Table of TV allotments). *Part 73 Amendment R&O* at para. 38. The adopted order also relocated section 73.616(c), specifying the protected facilities of TV allotments, to new section 73.619(d). *Part 73 Amendment R&O* at para. 37. As such, we continue to make reference to 47 CFR §§ 73.616 and 73.623.

¹⁸ 47 CFR § 73.625(a).

¹⁹ 47 CFR §§ 73.616, 73.623.

²⁰ 5 U.S.C. § 553(d)(3).

11. **IT IS FURTHER ORDERED**, That the newly allotted channel *21 at Ames, Iowa, **SHALL BE AUTHORIZED** pursuant to the Commission's application and selection procedures for reserved noncommercial educational television channels, 47 CFR §§ 73.7000 *et seq.*

12. For further information concerning the proceeding listed above, contact Emily Harrison, Video Division, Media Bureau, Emily.Harrison@fcc.gov.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau