

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

In the Matter of
Amendment of Section 73.622(j),
Table of Allotments, Television Broadcast
Stations (Winnemucca, Nevada)
MB Docket No. 23-286
RM-11960

REPORT AND ORDER
(Proceeding Terminated)

Adopted: November 7, 2023

Released: November 7, 2023

By the Chief, Video Division, Media Bureau:

1. The Video Division, Media Bureau (Bureau), has before it a Notice of Proposed Rulemaking issued in response to a Petition for Rulemaking filed by Gray Television Licensee, LLC (Petitioner or Gray), the licensee of unbuilt television station KWNV(DT) (KWNV or Station), channel 7, Winnemucca, Nevada (Winnemucca). The Petitioner has requested the substitution of UHF channel 16 for VHF channel 7 in the Table of TV Allotments. The Petitioner filed comments in support of the petition, as required by the Commission's rules, reaffirming its commitment to apply for channel 16. No other comments were received.

2. We conclude that the public interest would be served by substituting channel 16 for channel 7 at Winnemucca. In support of its channel substitution request, Gray states that building out its new station on a UHF channel will avoid well-documented issues with indoor digital VHF reception. Gray observes that the Commission has recognized the deleterious effects manmade noise has on the reception of VHF channel signals, and the large variability in the performance of indoor antennas receiving UHF and VHF signals, with the substantial majority poorly receiving high-VHF channel signals compared to UHF channel signals.

3. We also find that the proposal complies with all relevant technical requirements for amendment of the Table of TV Allotments, including the interference protection requirements of section 73.616 of the rules, and further demonstrates that the proposed channel 16 facility will provide full

1 Amendment of Section 73.622(j), Table of Allotments, Television Stations (Winnemucca, Nevada), MB Docket No. 23-286, Notice of Proposed Rulemaking, DA 23-749 (rel. Aug. 22, 2023) (NPRM).

2 Petition of Gray Television Licensee, LLC for Rulemaking (filed June 15, 2023 and amended on Aug. 8, 2023 to include a portion of the filing which was inadvertently omitted) on file at LMS File No. 0000195678 (Petition).

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 NPRM at para. 2.

6 Id. Gray was granted a construction permit for this station on September 13, 2022 (LMS File No. 0000195678).

7 NPRM at para. 2.

8 47 CFR § 73.616. The Commission 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). See

principal community coverage to Winnemucca.⁹ In addition, proposed channel 16 noise limited service contour (NLSC) almost entirely encompasses the authorized channel 7 NLSC, and Gray does not propose a change in transmitter location.¹⁰ We also note that no viewers will lose any existing service because as a permittee, Gray has not commenced operations in Winnemucca.

4. As proposed, channel 16 can be substituted for channel 7 at Winnemucca in compliance with the principal community coverage requirements of section 73.625(a) of the rules,¹¹ at coordinates 41° 00' 31.0" N and 117° 46' 13.0" 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:¹²

<u>City and State</u>	<u>Channel</u>	<u>Power (kW)</u>	<u>Antenna HAAT (m)</u>	<u>Service Pop.</u>
Winnemucca, Nevada	16	20	651	21,494

5. 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.¹³ An expedited effective date is necessary in this case to ensure that KWNV 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 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>
Winnemucca, Nevada	16

7. **IT IS FURTHER ORDERED**, That within 10 days of the effective date of this Order, Gray Television Licensee, LLC shall submit to the Commission a minor change application for a construction permit (Form 2100, Schedule A) specifying channel 16.

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

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. 38 (rel. Sept. 19, 2023) (*Part 73 Amendment R&O*). The *Part 73 Amendment R&O* 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. 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 the rules as currently numbered.

⁹ See 47 CFR § 73.625(a). The Commission also 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). *Part 73 Amendment R&O* at para. 37. As the amended rules are not yet effective, we continue to make reference to 47 CFR § 73.625(a).

¹⁰ *NPRM* at para. 2; Petition, Engineering Statement at 1-2. Gray proposes an increase in ERP from one kW to 20 kW and in HAAT from 649 to 651 meters. Petition, Engineering Statement at 1-2.

¹¹ 47 CFR § 73.625(a).

¹² 47 CFR §§ 73.616, 73.623.

¹³ 5 U.S.C. § 553(d)(3).

for judicial review be timely filed, MB Docket No. 23-286 and RM-11960 **SHALL BE TERMINATED** and its docket closed.

10. For further information concerning the proceeding listed above, contact Joyce L. Bernstein, Video Division, Media Bureau, Joyce.Bernstein@fcc.gov.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau