

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 (Lufkin, Texas)
MB Docket No. 22-436
RM-11941

REPORT AND ORDER

(Proceeding Terminated)

Adopted: March 3, 2023

Released: March 3, 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 (Gray or Petitioner), the licensee of television station KTRE (KTRE or Station), channel 9, Lufkin, Texas. The Petitioner has requested the substitution of UHF channel 24 for VHF channel 9 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 24. No other comments were received.

2. We believe the public interest would be served by substituting channel 24 for channel 9 at Lufkin, Texas. The proposed channel substitution will resolve significant over-the-air reception problems in KTRE's existing service area, reception issues which the Commission has recognized results from the propagation characteristics of digital VHF signals and the deleterious effects manmade noise has on the reception of digital VHF signals. Furthermore, the existing KTRE tower has significantly deteriorated and cannot be reasonably repaired, and thus the Petitioner proposes to relocate the proposed KTRE facility on channel 24 to an adjacent, shorter tower. Although that facility would result in a slight reduction in KTRE's predicted population served, once terrain-limited coverage predications and

1 Amendment of Section 73.622(j), Table of Allotments, Television Stations (Lufkin, Texas), MB Docket No. 22-436, Notice of Proposed Rulemaking, DA 22-1281 (rel. Dec. 9, 2022) (NPRM).

2 Petition of Gray Television Licensee, LLC for Rulemaking, (filed Dec. 6, 2021, LMS File No. 0000176843) (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. 07-729, Report and Order, 24 FCC Rcd 8192, 8194, para. 9 (Aud. Div. 2009).

5 NPRM at para. 2. See 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, para. 42 (2010).

6 Petition at 3-4.

coverage of same-network (ABC) alternative stations are taken into account, only 448 persons will lose ABC network service, a number which the Commission considers *de minimis*.⁷

3. As proposed, channel 24 can be substituted for channel 9 at Lufkin, Texas, in compliance with the principal community coverage requirements of section 73.625(a) of the rules,⁸ at coordinates 31° 25' 10.3" N and 94° 48' 04.0" 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 ABC programming from another 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:⁹

<u>City and State</u>	<u>Channel</u>	<u>Power (kW)</u>	<u>Antenna HAAT (m)</u>	<u>Service Pop.</u>
Lufkin, Texas	24	300	139.6	249,571

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.¹⁰ An expedited effective date is necessary in this case to ensure that KTRE 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 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>
Lufkin, Texas	24

6. **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 24.

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. 22-436 and RM-11941 **SHALL BE TERMINATED** and its docket closed.

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

FEDERAL COMMUNICATIONS COMMISSION

⁷ *Id.* According to the Engineering Statement submitted with the Petition, other ABC affiliates with noise limited contours which overlap the KTRE loss area are KTBS, Shreveport, Louisiana; KBMT, Beaumont, Texas; and KTRK, Houston, Texas. See also *WSET, Inc.*, 80 FCC 2d 233, 246 (1980) (finding that loss of service to approximately 550 persons is *de minimis*).

⁸ 47 CFR § 73.625(a).

⁹ 47 CFR §§ 73.616, 73.623.

¹⁰ 5 U.S.C. § 553(d)(3).

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