

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 (Roanoke, Virginia)
MB Docket No. 23-14
RM-11943

REPORT AND ORDER

(Proceeding Terminated)

Adopted: March 15, 2023

Released: March 15, 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 Blue Ridge Public Television, Inc. (Blue Ridge PBS or Petitioner), the licensee of noncommercial educational television PBS member station WBRA-TV (WBRA-TV or Station), channel *3, Roanoke, Virginia. The Petitioner has requested the substitution of high-band VHF channel *13 in place of low-band VHF channel *3 in the Table of TV Allotments. The Petitioner filed comments in support of the petition, as required by the Commission's rules (rules), reaffirming its commitment to apply for channel *13. No other comments were received.

2. We believe the public interest would be served by substituting channel *13 in place of channel *3 at Roanoke, Virginia. The proposed channel substitution will improve viewers' access to the Station's PBS and other public television programming by improving reception and resolving low-VHF reception issues. The Petitioner further states that the Commission has recognized that although VHF reception issues are not universal, "environmental noise blockages affecting [VHF] signal strength and reception exist" and "[vary] widely from service area to service area." According to the Petitioner, WBRA-TV's move from channel *3 to channel *13 is predicted to create an area where 64,309 persons are predicted to lose service without considering the service from other PBS stations. When taking into

1 Amendment of Section 73.622(j), Table of Allotments, Television Broadcast Stations (Roanoke, Virginia), MB Docket No. 23-14, Notice of Proposed Rulemaking, DA 23-23 (rel. Jan. 11, 2023) (NPRM).

2 Petition of Blue Ridge Public Television, Inc. for Rulemaking (filed Nov. 18, 2022, LMS File No. 0000203784) (Petition). We note that Petitioner amended its Petition on January 9, 2023 (Amended Engineering Statement) to include further analysis of the population that may lose predicted service as a result of the proposed channel substitution. Amended Engineering Statement at 1.

3 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).

4 47 CFR § 73.622(j).

5 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 (Aud. Div. 2009).

6 NPRM at para. 2.

7 Id.

account service from other PBS stations,⁸ only 94 persons are predicted to lose PBS service, a number which the Petitioner asserts the Commission has found to be *de minimis*.⁹

3. As proposed, channel *13 can be substituted in place of channel *3 at Roanoke, Virginia, in compliance with the principal community coverage requirements of section 73.625(a) of the rules,¹⁰ at coordinates 37° 11' 46.0" N and 80° 09' 16.0" W. Although the Petitioner's proposal would result in a loss of PBS network programming to a limited number of viewers, we find that the overall benefits of the proposed channel change by resolving low-VHF band reception issues outweighs any possible harm to the public interest. When taking into account the service provided by noncommercial educational stations WUNC-TV and WUNL-TV to the WBRA-TV noise limited service contour area, only 94 persons are predicted to lose access to PBS network programming, which is *de minimis*.¹¹ 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> |
|-----------------------|----------------|-------------------|-------------------------|---------------------|
| Roanoke, Virginia | *13 | 66 | 630.6 | 1,691,961 |

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.¹³ An expedited effective date is necessary in this case to ensure that WBRA-TV 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> |
|-----------------------|---------------------|
| Roanoke, Virginia | *13, 27, 30, 34, 36 |

6. **IT IS FURTHER ORDERED**, That within 10 days of the effective date of this Order, Blue Ridge Public Television, Inc. shall submit to the Commission a minor change application for a construction permit (Form 2100, Schedule A) specifying channel *13.¹⁴

⁸ The vast majority of viewers that will no longer receive WBRA-TV are located in North Carolina and continue to be served by WUNL-TV and WUNC-TV, which are both North Carolina PBS affiliates. *NPRM* at n.9.

⁹ *Id.* See also *WSET, Inc.*, Memorandum Opinion and Order, 80 FCC 2d 233, 246 (1980) (finding that loss of service to approximately 550 persons is *de minimis*).

¹⁰ 47 CFR § 73.625(a).

¹¹ *Supra* para. 2 and n.9.

¹² 47 CFR §§ 73.616, 73.623.

¹³ 5 U.S.C. § 553(d)(3).

¹⁴ Upon grant, the construction permit will include a condition that program test authority will be conditioned on WVPT, Staunton, Virginia, vacating channel *12. In September 2022, the Media Bureau issued an Order substituting channel *12 for *15 at Staunton, Virginia for WVPT. See *Amendment of Section 73.622(j), Table of Allotments, Television Broadcast Stations (Staunton, Virginia)*, MB Docket No. 21-248, Report and Order, DA 22-919 (rel. Sept. 1, 2022). WVPT continues to operate on channel *12 under STA (LMS File No. 0000199189), but holds a construction permit to relocate to channel *15 consistent with the Order. See LMS File No. 0000201196.

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. 23-14 and RM-11943 **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 or Emily B.V. Harrison, Video Division, Media Bureau, Emily.Harrison@fcc.gov.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
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