

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

In the Matter of	)	
Amendment of Section 73.622(j),	)	
Table of Allotments, Television Broadcast	)	MB Docket No. 23-43
Stations (Coos Bay, Oregon)	)	RM-11944
	)	

**REPORT AND ORDER**

**(Proceeding Terminated)**

**Adopted: July 5, 2023**

**Released: July 5, 2023**

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 Sinclair Eugene Licensee, LLC (Petitioner),<sup>2</sup> the licensee of television station KCBY-TV (KCBY-TV or Station), channel 11, Coos Bay, Oregon. The Petitioner has requested the substitution of UHF channel 34 for VHF channel 11 in the Table of TV Allotments.<sup>3</sup> The Petitioner filed comments in support of the petition, as required by the Commission's rules (rules),<sup>4</sup> reaffirming its commitment to apply for channel 34.<sup>5</sup> No other comments were received.

2. We believe the public interest would be served by substituting channel 34 for channel 11 at Coos Bay, Oregon. In support of its channel substitution request, the Petitioner states that the Station has a long history of severe reception problems as a result of its operation on a VHF channel.<sup>6</sup> The Petitioner goes on to state that the Commission has recognized that VHF channels pose challenges for stations providing digital television service on those channels due to propagation characteristics that allow undesired signals and noise to be receivable at relatively far distances and result in large variability in the performance of indoor antennas available to viewers, with most antennas performing very poorly on high VHF channels.<sup>7</sup> According to the Petitioner, KCBY-TV "has received numerous complaints from viewers unable to receive that Station's over-the-air signal, despite being able to receive signals from other local stations."<sup>8</sup> Thus, Petitioner asserts that its channel substitution proposal will serve the public by resolving the over-the-air reception problems and enhancing viewer reception in KCBY-TV's service

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<sup>1</sup> *Amendment of Section 73.622(j), Table of Allotments, Television Stations (Coos Bay, Oregon)*, MB Docket No. 23-43, Notice of Proposed Rulemaking, DA 23-92 (rel. Feb. 1, 2023) (*NPRM*).

<sup>2</sup> Petition of Sinclair Eugene Licensee, LLC for Rulemaking, (filed Jan. 9, 2023, LMS File No. 0000206501) (Petition).

<sup>3</sup> 47 CFR § 73.622(j).

<sup>4</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>5</sup> Sinclair Eugene Licensee, LLC Comments (rec. Apr. 4, 2023) (Sinclair Comments).

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

<sup>7</sup> *Id.* at para. 2 and n.2.

<sup>8</sup> *Id.* at para. 2 citing Petition at 2.

area.<sup>9</sup> Moreover, an analysis conducted using the Commission's *TVStudy* software tool indicates that all but approximately 392 persons will continue to receive the Station's signal, and the proposed change to channel 34 will result in a predicted increase in service to more than 11,000 persons.<sup>10</sup>

3. As proposed, channel 34 can be substituted for channel 11 at Coos Bay, Oregon, in compliance with the principal community coverage requirements of section 73.625(a) of the rules,<sup>11</sup> at coordinates 43° 23' 25.4" N and 124° 07' 50.3" W. Although the Petitioner's proposal would result in a loss for a limited number of viewers (392 persons), we find that the overall benefits of the proposed channel change outweighs any possible harm to the public interest when taking into account the fact that the Commission consider such loss to be *de minimis*.<sup>12</sup> The channel substitution will also resolve the over-the-air reception problems for current viewers, enhance viewer reception in KCBY-TV's service area, and provide new service to more than 11,000 persons not currently able to receive the Station.<sup>13</sup> 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:<sup>14</sup>

<u>City and State</u>	<u>Channel</u>	<u>Power (kW)</u>	<u>Antenna HAAT (m)</u>	<u>Service Pop.</u>
Coos Bay, Oregon	34	450	192	126,757

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.<sup>15</sup> An expedited effective date is necessary in this case to ensure that KCBY-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>
Coos Bay, Oregon	22, 34

6. **IT IS FURTHER ORDERED**, That within 10 days of the effective date of this Order, Sinclair Eugene Licensee, LLC shall submit to the Commission a minor change application for a construction permit (Form 2100, Schedule A) specifying channel 34.

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

<sup>9</sup> *Id.* at para. 2.

<sup>10</sup> *Id.*

<sup>11</sup> 47 CFR § 73.625(a).

<sup>12</sup> See *WSET, Inc.*, 80 FCC 2d 233, 246 (1980) (finding that loss of service to approximately 550 persons is *de minimis*).

<sup>13</sup> We do not give any weight to the Petitioner's arguments concerning ATSC 3.0 reception given the prospective nature of its claims and limited availability of consumer devices. See *NPRM* at n.4; Sinclair Comments at 2.

<sup>14</sup> 47 CFR §§ 73.616, 73.623.

<sup>15</sup> 5 U.S.C. § 553(d)(3).

for judicial review be timely filed, MB Docket No. 23-43 and RM-11944 **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](mailto:Joyce.Bernstein@fcc.gov).

FEDERAL COMMUNICATIONS COMMISSION

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