

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

In the Matter of	)	
	)	
Amendment of Section 73.622(j),	)	MB Docket No. 23-78
Table of Allotments, Television Broadcast	)	RM-11946
Stations (Elko, Nevada)	)	
	)	

**REPORT AND ORDER**

**(Proceeding Terminated)**

**Adopted: July 19, 2023**

**Released: July 19, 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 Reno (KENV-TV) Licensee, Inc. (Reno Licensee or Petitioner),<sup>2</sup> the licensee of television station KENV-DT (KENV-DT or Station), channel 10, Elko, Nevada. The Petitioner has requested the substitution of UHF channel 20 for VHF channel 10 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 20.<sup>5</sup> No other comments were received.

2. We believe the public interest would be served by substituting channel 20 for channel 10 at Elko, Nevada. In support of its channel substitution request, the Petitioner states that the Commission has recognized that VHF poses 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>6</sup> According to the Petitioner, the Station "has received numerous complaints from local viewers who can receive signals from other local stations but are unable to receive the Station's over-the-air signal on Channel 10."<sup>7</sup> Thus, the Petitioner asserts that its channel substitution proposal will serve the public by resolving the over-the-air reception problems and enhancing viewer reception in the Station's service area.<sup>8</sup> An analysis conducted using the Commission's *TVStudy* software tool indicates that no persons within the Station's current noise

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<sup>1</sup> *Amendment of Section 73.622(j), Table of Allotments, Television Stations (Elko, Nevada)*, MB Docket No. 23-78, Notice of Proposed Rulemaking, DA 23-159 (rel. Mar. 1, 2023) (*NPRM*).

<sup>2</sup> Petition of Reno (KENV-TV) Licensee, Inc. for Rulemaking, (filed Jan. 9, 2023, LMS File No. 0000206515).

<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> Reno (KENV-TV) Licensee, Inc.. Comments at 1 (rec. Apr. 17, 2023) (Reno Licensee Comments).

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

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

<sup>8</sup> Reno Licensee Comments at 1-2.

limited contour will lose service and an additional 1,367 persons are predicted to gain service from the Station.<sup>9</sup>

3. As proposed, channel 20 can be substituted for channel 10 at Elko, Nevada, in compliance with the principal community coverage requirements of section 73.625(a) of the rules,<sup>10</sup> at coordinates 40° 41' 58.8" N and 115° 54' 10.9" W. The Petitioner's proposal will serve the public interest as there is no loss of service. The channel substitution will resolve the over-the-air reception problems, enhance viewer reception in KENV-DT's service area, and provide new service to 1,367 persons not currently able to receive the Station.<sup>11</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:

<u>City and State</u>	<u>Channel</u>	<u>Power (kW)</u>	<u>Antenna HAAT (m)</u>	<u>Service Pop.</u>
Elko, Nevada	20	75	562.2	47,372

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>12</sup> An expedited effective date is necessary in this case to ensure that KENV-DT 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>
Elko, Nevada	20

6. **IT IS FURTHER ORDERED**, That within 10 days of the effective date of this Order, Elko (KENV-TV) Licensee, Inc. shall submit to the Commission a minor change application for a construction permit (Form 2100, Schedule A) specifying channel 20.

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. 23-78 and RM-11946 **SHALL BE TERMINATED** and its docket closed.

<sup>9</sup> *Id.*

<sup>10</sup> 47 CFR § 73.625(a).

<sup>11</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; Reno Licensee Comments at 2.

<sup>12</sup> 5 U.S.C. § 553(d)(3).

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

Barbara A. Kreisman  
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