

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

In the Matter of	)	
	)	
Amendment of Section 73.622(j), Table of TV	)	MB Docket No. 25-139
Allotments, Television Broadcast Stations	)	RM-12001
(Las Vegas, Nevada)	)	

**REPORT AND ORDER  
(Proceeding Terminated)**

**Adopted: July 8, 2025**

**Released: July 8, 2025**

By the Chief, Video Division, Media Bureau:

**I. INTRODUCTION**

1. The Video Division, Media Bureau (Bureau), has before it a *Notice of Proposed Rulemaking (NPRM)*<sup>1</sup> issued in response to a Petition for Rulemaking filed by CHANNEL 33, INC. (Channel 33 or Petitioner), the licensee of full power television station KHSV(TV) (Station or KHSV), Las Vegas, Nevada (Las Vegas).<sup>2</sup> Channel 33 requests that the Bureau substitute channel 23 for channel 2 at Las Vegas in the Table of TV Allotments (Table) of the Commission's rules (Rules),<sup>3</sup> with the technical parameters specified in the Petition. Channel 33 filed comments in support of the Petition restating its intention to apply for a construction permit for channel 23, and if authorized, to promptly construct the facility.<sup>4</sup> No other comments were received. For the reasons below, we conclude that the public interest would be served by substituting channel 23 for channel 2 at Las Vegas.

**II. BACKGROUND**

2. Channel 33 asserts in its Petition that the proposed channel substitution of UHF channel 23 for low-VHF channel 2 serves the public interest because it would result in a substantial increase in signal receivability for the Station's viewers and resolve longstanding indoor digital VHF reception problems experienced by Station viewers.<sup>5</sup> In this regard, Channel 33 states that the Commission has

<sup>1</sup> *Amendment of Section 73.622(j), Table of TV Allotments, Television Broadcast Stations (Las Vegas, Nevada)*, MB Docket No. 25-139, Notice of Proposed Rulemaking, DA 25-228 (MB Mar. 14, 2025) (*NPRM*).

<sup>2</sup> Petition for Rulemaking filed by CHANNEL 33, INC., LMS File No. 0000127675 (as amended Mar. 13, 2025) (Petition). Petitioner initially filed the Petition on November 27, 2020, requesting the substitution of channel 21 for channel 2 at Las Vegas. The Petition was amended on July 12, 2022 to provide an updated RF study, but Petitioner subsequently withdrew that amendment on June 5, 2024. On June 7, 2024, Petitioner filed an amendment to request to move to channel 23 instead of channel 21. On November 25, 2024, Petitioner filed a further amendment "to update, correct, replace and add to the engineering narrative and exhibits . . . , and to amend and restate the petition to reflect such changes." Finally, on March 13, 2025, the Petitioner filed a further amendment to demonstrate that there are multiple low power and television translator stations, as well as at least one full power television station, that cover potential viewer loss areas as a result of Petitioner's proposal. When we cite to the Petition, we are referring to the Petition as amended on March 13, 2025.

<sup>3</sup> 47 CFR § 73.622(j).

<sup>4</sup> Channel 33 Comments at 1-2.

<sup>5</sup> *NPRM* at para. 2; Petition at 1-2. In comments, the Licensee also notes that "the channel substitution of KHSV serves the public interest because it will allow for a more efficient allocation of UHF television channels and will resolve significant over-the-air reception problems in KHSV's service area." Channel 33 Comments at 1.

recognized that VHF channels have certain characteristics that pose challenges for their use in providing digital television service, including propagation characteristics that allow undesired signals and noise to be receivable at relatively far distances.<sup>6</sup> According to Channel 33, radiation by the illumination devices in Las Vegas and its casinos are known to interfere with low-VHF channels.<sup>7</sup> In order to demonstrate that many persons within the channel 2 noise limited service contour (NLSC) currently are not receiving a viewable signal, Petitioner submits examples of complaints from over 200 viewers within the Las Vegas city boundaries and immediate surrounding areas, where KHSV's signal strength is the strongest, reporting that they cannot reliably receive a viewable signal.<sup>8</sup>

3. Channel 33 further asserts that while the proposed channel 23 predicted NLSC does not reach 41,840 persons who currently reside within the channel 2 predicted NLSC, this population number is not representative of the actual loss area.<sup>9</sup> Petitioner explains that in addition to the Station operating on a low VHF channel, there are unique factors in Las Vegas which support a deviation from the Commission's general policy to only accept *de minimis* loss of population in connection with channel substitution requests.<sup>10</sup> According to an analysis provided by Petitioner, most of the predicted loss area is on the fringe of the Station's protected NLSC, which extends more than 80 miles from the Station's antenna site as calculated by section 73.619(b)(4) of the Rules.<sup>11</sup> Petitioner explains that Las Vegas is unique in that it sits in a "topographical bowl" surrounded by "extremely tall walls of rock" which block the Station's signal from areas at the edge of the Station's NLSC, such as Mesquite, Nevada; Bullhead City, Arizona; and Kingman, Arizona (Fringe Localities).<sup>12</sup> Included with its Petition are terrain maps of the Las Vegas area which show the extreme terrain that blocks the Station's signal from reaching the Fringe Localities because they do not have line-of-site to the KHSV antenna and, thus, cannot reliably receive the Station's signal.<sup>13</sup> Petitioner also provides field measurements which it states show that KHSV's signal is largely not present in the Fringe Localities and in those limited locations that have a signal, it is "barely useable" or the signal is in largely undeveloped or underdeveloped areas away from significant residential and industrial electronic noise.<sup>14</sup> Based on this analysis, Petitioner concludes that changing the Station's channel "will not create more than a *de minimus* population loss (since there is a *de minimus* number of viewers to start with) in these distant communities."<sup>15</sup>

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<sup>6</sup> NPRM at para. 2; Petition at 2, citing *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) (*Channel Sharing NPRM*). While the Petitioner contends that UHF channels are superior to VHF channels "to the mobile applications expected under flexible use," we do not find such arguments to be a controlling factor in our channel substitution decisions, especially given the early stages of deployment and limited availability of consumer devices able to utilize such applications. See Petition at 2; see, e.g., *Amendment of Section 73.622(i), Post-Transition Table of DTV Allotments, Television Broadcast Stations (Redding, California)*, MB Docket No. 21-177, Report and Order, 36 FCC Rcd 11186, 11186, para. 2, n.4 (MB 2021).

<sup>7</sup> NPRM at para. 2; Petition, Engineering Statement at 3 (Engineering Statement).

<sup>8</sup> NPRM at para. 2; Engineering Statement at 3; Petition at Exhs. C1 and C2.

<sup>9</sup> NPRM at para. 3; Petition at 3-4; Engineering Statement at 2.

<sup>10</sup> NPRM at para. 3; see Petition at 3-4, citing *WSET, Inc.*, 80 FCC 2d 233, 246 (1980) (finding population loss of approximately 556 persons to be *de minimis*); Engineering Statement at 2-5 (Special Circumstances).

<sup>11</sup> NPRM at para. 3; Engineering Statement at 3; 47 CFR § 73.619(b)(4) (when calculating the field strength contour of a station, "the elevations between 3.2-16.1 kilometers (2-10 miles) from the antenna site are employed. Path profiles shall be determined for 8 radials beginning at the antenna site and extending 16.1 kilometers (10 miles) therefrom.").

<sup>12</sup> NPRM at para. 3; Petition at 4; Engineering Statement at 4.

<sup>13</sup> NPRM at para. 3; Engineering Statement at 4; Petition at Exhs. D1-D3.

<sup>14</sup> NPRM at para. 3; Engineering Statement at 4-5; Petition at Exhs. A2-A7.

<sup>15</sup> NPRM at para. 3; Engineering Statement at 5.

### III. DISCUSSION

4. We find that channel 23 can be substituted for channel 2 at Las Vegas, as proposed, in compliance with the principal community coverage requirements of section 73.618 of the Rules,<sup>16</sup> at coordinates 36-00'-31.0" N. and 115-00'-20.0" W. In addition, we find that this channel substitution meets the technical requirements set forth in section 73.622(a) of the Rules.<sup>17</sup> Further, we find the unique facts presented by this case, when taken together, support grant of Channel 33's request. Although total viewer loss is more than what the Commission has previously determined to be *de minimis*,<sup>18</sup> we conclude that based on the topography of the Las Vegas area, the inclusion of over 200 viewer complaints confirming the Station's current VHF reception issues (likely due to significant levels of interference from the numerous illumination devices in Las Vegas), and the measured lack of reception today in the loss areas (due to terrain), the benefits of the proposal to the public outweigh the potential harms.<sup>19</sup> Ultimately, grant of this channel change will enhance service to viewers, especially in and around Las Vegas – the Station's community of license.

5. Accordingly, we conclude it is in the public interest to substitute channel 23 for channel 2 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>
Las Vegas, Nevada	23	1000	386	2,302,493

6. 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>20</sup> An expedited effective date is necessary in this case to ensure that KHSV can operate with optimized service to its viewers as quickly as possible.

<sup>16</sup> 47 CFR § 73.618.

<sup>17</sup> 47 CFR § 73.622(a).

<sup>18</sup> See *supra* note 10.

<sup>19</sup> According to the Petitioner, 86,424 persons will fall outside of the Station's current channel 2 NLSC. However, when using Longley-Rice, which takes into account terrain loss, the loss population in the Fringe Localities is predicted to be less than half that – 41,840 persons. Approximately 44,584 persons in the Fringe Localities should continue to receive KHSV despite being outside the Station's new channel 23 NLSC contour. See Petition at Exh. G. An analysis included by the Petitioner also confirms that most of the remaining loss area is served by translators for other stations and low power television (LPTV) stations. For example, nine such LPTV/translator stations exist in the Kingman, Arizona area. See NPRM at n.16; Petition at Exh. L. In addition, an analysis by Bureau staff supports the Petitioner's assertion that some viewers in the Fringe Localities will continue to be covered by other full power stations. For example, KMOH-TV, Kingman, AZ (Facility ID No. 24753) and KMCC(TV), Laughlin, NV (Facility ID No. 41237) cover portions of the Fringe Localities. Even though a staff analysis does not indicate that the Fringe Localities will be well-served, this is not a dispositive factor in our determination given the unique facts and overarching public interest benefits presented in this case. Compare *Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, MB Docket No. 07-91, Notice of Proposed Rulemaking, 22 FCC Rcd 9478, 9493, para. 38 (2007) (concluding that the Commission is generally most concerned where the loss results in an area becoming less than well served, i.e., served by fewer than five full-power over-the-air signals) with *Amendment of Section 73.622(j), Post-Transition Table of DTV Allotments, Television Broadcast Stations (Toledo, Ohio)*, MB Docket No. 21-73, Report and Order, 37 FCC Rcd 2377, 2378, paras. 2-3 (MB 2022) (highlighting viewer complaints received regarding reception issues within the station's community of license and other core portions of its service area). See also NPRM at n.16.

<sup>20</sup> 5 U.S.C. § 553(d)(3). See, e.g., *Amendment of Section 73.622(j), Table of Allotments, Television Broadcast Stations (Winnemucca, Nevada)*, MB Docket No. 23-286, Report and Order, 38 FCC Rcd 10430, 10431, para. 5 (MB 2023).

#### IV. PROCEDURAL MATTERS

7. 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 Commission's 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 TV 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>
Las Vegas, Nevada	7, *11, 16, 22, 23, 26, 29

8. **IT IS FURTHER ORDERED** that, within 10 days of the effective date of this Report and Order, CHANNEL 33, INC. shall submit to the Commission a minor change application for a construction permit (Form 2100, Schedule A) specifying channel 23.

9. **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 Report and Order to Congress and to the Government Accountability Office.

10. **IT IS FURTHER ORDERED** that, should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket No. 25-139 and RM-12001 **SHALL BE TERMINATED** and the dockets closed.

11. For further information concerning the proceeding listed above, contact Emily Harrison, Video Division, Media Bureau, at [Emily.Harrison@fcc.gov](mailto:Emily.Harrison@fcc.gov) (legal) or Mark Colombo, Video Division, Media Bureau, at [Mark.Colombo@fcc.gov](mailto:Mark.Colombo@fcc.gov) (technical).

FEDERAL COMMUNICATIONS COMMISSION

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