

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

In the Matter of	)	
	)	
	)	
Amendment of Section 73.606(b),	)	MM Docket No. 96-31
Table of Allotments,	)	RM-8761
TV Broadcast Stations.	)	
(Wittenberg, Wisconsin)	)	

**REPORT AND ORDER**  
(Proceeding Terminated)

**Adopted:** September 20, 1996

**Released:** September 27, 1996

By the Chief, Allocations Branch:

1. The Commission has before it for consideration the Notice of Proposed Rule Making, 11 FCC Rcd 2943 (1996), issued in response to a petition filed by David R. Magnum d/b/a Shawano County Television Company ("Magnum") proposing the allotment of UHF Television Channel 55 to Wittenberg, Wisconsin, as that community's first local television service. Magnum submitted comments in response to the Notice. No other comments were received.
2. Wittenberg (population 1,145)<sup>1</sup> in Shawano County (population 37,157) is located in northwestern Wisconsin approximately 100 kilometers (60 miles) northwest of Green Bay, Wisconsin.
3. Based upon Magnum's continuing expression of interest, we will allot Channel 55 to Wittenberg, Wisconsin, since it could provide a first local television broadcast service to the community. Magnum states that he intends to provide service to the residents of the village of Wittenberg, the city of Shawano and the residents of Menominee County. We find that Channel 55 can be allotted to Wittenberg consistent with the minimum distance separation requirements of Section 73.610 of the Commission's Rules with a site restriction 25.8 kilometers (16 miles) northwest of the community.<sup>2</sup> The Commission had imposed a temporary freeze on new television allotments. See Notice of Inquiry, 2 FCC Rcd 2125 (1987) and Order, 52 FR 28346, July 29, 1987. However, as indicated in the Notice in this proceeding, from the restricted site, Channel 55 will not conflict with the freeze on new

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<sup>1</sup>Population figures are from the 1990 U. S. Census.

<sup>2</sup>The coordinates for Channel 55 at Wittenberg are 45-01-56 and 89-18-44.

allotments. Since Wittenberg is located within 400 kilometers (250 miles) of the U.S.-Canadian border, concurrence of the Canadian government has been obtained for this allotment.

4. Upon adoption of the Sixth Further Notice of Proposed Rule Making in the digital television (DTV) proceeding (Sixth Further Notice), the Commission stated that it would no longer accept petitions for rule making proposing to amend the TV Table of Allotments to add an allotment for a new NTSC station after July 25, 1996. The Commission further stated that pending petitions and open allocation rule making proceedings as of that date would be considered.

on a case-by-case basis taking into account the impact on the draft DTV table. For those pending cases in which a new NTSC channel is allotted, we will make an exception to our decision to cease accepting applications for new NTSC stations, and the **accompanying allotment Report and Order will specify the period of time for filing applications.**  
(Emphasis supplied)

We have determined that a Channel 55 allotment in Wittenberg, Wisconsin, will have no impact on the draft DTV allotment table.

We are establishing a 30-day deadline, beginning on the effective date of this proceeding, for the filing of an initial application for television facilities for Channel 55 in Wittenberg, Wisconsin. If an application for a new station is filed within this time period, we will continue our normal process as provided in the Sixth Further Notice of issuing a Public Notice (cutoff list) that establishes an additional time period for the filing of competing, mutually-exclusive applications. If no acceptable application is filed by December 13, 1996, there will be no additional opportunity to file applications for this channel allotment.

6. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED. That effective November 12, 1996, the TV Table of Allotments, Section 73.606(b) of the Commission's Rules, IS AMENDED for the community listed below, as follows:

<u>Community</u>	<u>Channel No.</u>
Wittenberg, Wisconsin	55

7. The period for filing applications for Channel 55 at Wittenberg, Wisconsin, will open on November 12, 1996. If no acceptable applications are filed by December 13, 1996, there will be no additional opportunity to file applications for this channel allotment.

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning the above, contact Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Chief, Allocations branch  
Policy and Rules Division  
Mass Media Bureau