

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

In the Matter of	)	
	)	
Amendment of Section 73.622(j),	)	MB Docket No. 21-125
Table of Allotments,	)	RM-11892
Television Broadcast Stations	)	
(Hazard, Kentucky)	)	

**REPORT AND ORDER**

**(Proceeding Terminated)**

**Adopted: January 27, 2022**

**Released: January 27, 2022**

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 on September 1, 2021 by Gray Television Licensee, LLC (Petitioner), the licensee of WYMT-TV, channel 12, Hazard, Kentucky. The Petitioner has requested the substitution of UHF channel 20 for VHF channel 12 in the Table of Allotments.<sup>2</sup> The Petitioner filed comments in support of the petition, as required by the Commission's rules,<sup>3</sup> reaffirming its commitment to apply for channel 20. No other comments were received.

2. We believe the public interest would be served by substituting channel 20 for channel 12 at Hazard, Kentucky. In support of its channel substitution request, the Petitioner states that the Commission has recognized the deleterious effects manmade noise has on the reception of digital VHF signals, and that the propagation characteristics of these channels allow undesired signals and noise to be receivable at relatively farther distances compared to UHF channels, and also allow nearby electrical devices to cause interference.<sup>4</sup> While the proposed channel 20 facility is predicted to result in loss of service to 15,460 persons, all but approximately 100 of those persons would continue to receive service from at least five other television stations, and no persons would receive service from fewer than four other television stations. The Commission is generally most concerned where there is a loss of an area's only network or non-commercial educational (NCE) TV service, or where the loss area results in an area

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<sup>1</sup> *Amendment of Section 73.622(i), Post-Transition Table of DTV Allotments, Television Stations (Hazard, Kentucky)*, MB Docket No. 21-125, Notice of Proposed Rulemaking, DA 21-1189 (rel. Sept. 22, 2021) (*NPRM*).

<sup>2</sup> As noted in the *NPRM* at n.2, on April 13, 2017, the Commission completed the incentive auction and broadcast television spectrum repack authorized by the Spectrum Act, and the post-incentive auction transition period ended on July 13, 2020. At the time the *NPRM* was issued, the Commission had not yet amended its rules to reflect all new full power channel assignments in a revised Table of Allotments. Accordingly, the *NPRM* referred to the Post-Transition Table of DTV Allotments, 47 CFR § 73.622(i) (2018). The Commission has now adopted the new Table of Allotments, 47 CFR § 73.622(j), and this *Report and Order* amends the new rule. See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auction*, Gen. Docket No. 12-268, Order, FCC 21-111 (rel. Oct. 25, 2021).

<sup>3</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>4</sup> *NPRM* at para. 2.

becoming less than well-served, i.e., served by fewer than five full-power over-the-air signals.<sup>5</sup> As a result, the loss area will continue to remain well-served and the number of persons that will receive less than five signals (approximately 100 persons) is considered to be *de minimis*.<sup>6</sup>

3. As proposed, channel 20 can be substituted for channel 12 at Hazard, Kentucky, in compliance with the principal community coverage requirements of section 73.625(a) of the Commission's rules (rules),<sup>7</sup> at coordinates 37-11-38.0 N and 83-10-52.0 W. 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>8</sup>

<u>City and State</u>	<u>DTV Channel</u>	<u>DTV Power (kW)</u>	<u>Antenna HAAT (m)</u>	<u>DTV Service Pop.</u>
Hazard, Kentucky	20	710	478	1,180,690

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>9</sup> An expedited effective date is necessary in this case to ensure that WYMT-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 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 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>
Hazard, Kentucky	20, *33

6. **IT IS FURTHER ORDERED**, That within 30 days of the effective date of this Order, Gray Television Licensee, LLC shall submit to the Commission a minor change application for a construction permit (Form 2100, Schedule A) specifying channel 20 in lieu of channel 12.

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. 21-125 and RM-11892 **SHALL BE TERMINATED** and its docket closed.

<sup>5</sup> See *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) ("The Commission is generally most concerned where there is a loss of an area's only network or NCE TV service, or where the loss results in an area becoming less than well-served, i.e., served by fewer than five full-power stations.")

<sup>6</sup> *NPRM* at para. 2. The Commission considers such a loss to be *de minimis*. See *WSET, Inc.*, 80 FCC 2d 233, 246, para. 29 (1980) (finding that loss of network service to less than 500 persons is *de minimis*). Most of the loss area will continue to be served by some of the major network affiliates licensed in the Lexington, Kentucky; Charleston-Huntington, West Virginia; Knoxville, Tennessee; Tri-Cities, TN-VA; and Bluefield-Beckley-Oak Hill Designated Market Areas. See Engineering Exhibit at Table 2. In addition, the proposed facility would provide additional service to over 50,000 people who are currently underserved. Petition at 4.

<sup>7</sup> 47 CFR § 73.625(a).

<sup>8</sup> 47 CFR §§ 73.616, 73.623.

<sup>9</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

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