

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

In the Matter of)
)
Amendment of Section 73.622(j),) MB Docket No. 23-406
Table of Allotments, Television Broadcast) RM-11969
Stations (Greenville, South Carolina))

REPORT AND ORDER
(Proceeding Terminated)

Adopted: March 4, 2024

Released: March 4, 2024

By the Chief, Video Division, Media Bureau:

1. The Video Division, Media Bureau (Bureau), has before it a Notice of Proposed Rulemaking issued in response to a Petition for Rulemaking filed by Carolina Christian Broadcasting, Inc. (Petitioner), the licensee of WGGG-TV (Station or WGGG), channel 2, Greenville, South Carolina (Greenville). The Petitioner requests the substitution of channel 29 for channel 2 at Greenville in the Table of TV Allotments, and filed comments in support of the Petition, as required by the Commission's rules (rules), reaffirming its interest in the proposed channel substitution and that it will promptly file an application to construct the facility and operate on channel 29 at Greenville if allotted. No other comments were received.

2. We conclude that the public interest would be served by substituting channel 29 for channel 2 at Greenville. Petitioner states that its proposed channel substitution would serve the public interest by resolving reception challenges currently experienced by viewers in the WGGG service area, and substantially improving access to the Station's programming. The Petitioner notes that the Commission has recognized that VHF channels have certain characteristics that pose challenges for their use in providing digital television service, including a large variability in the performance of indoor

1 Amendment of Section 73.622(j), Table of Allotments, Television Stations (Greenville, South Carolina), MB Docket No. 23-406, Notice of Proposed Rulemaking, DA 23-1107 (rel. Nov. 27, 2023) (NPRM).

2 Petition of Carolina Christian Broadcasting, Inc. for Rulemaking (filed Sept. 27, 2023), LMS File No. 0000221497 (Petition).

3 47 CFR § 73.622(j).

4 47 CFR §§ 1.415, 1.419; see also Buffalo, Iola, Normangee, and Madisonville, Texas, MB Docket No. 07-279, Report and Order, 24 FCC Rcd 8192, 8194, para. 9 (MB 2009).

5 Comments of Carolina Christian Broadcasting, Inc. in MB Docket No. 23-406 (filed Jan. 4, 2024) (Comments).

6 In its Comments, the Petitioner notes that "a one-word comment was filed December 13, 2023 by Michelle Henderson using the Express Comment function of ECFS" and that sole word in that comment was the word "diversity." Id. at n.6. This one word comment was filed under this docket's rulemaking number, RM-11969, and there is no indication that it was served on the Petitioner as required by 47 CFR § 1.420(c) ("Comments and reply comments shall be accompanied by a certificate of service."). We agree with the Petitioner that the meaning or purpose of the one-word comment in the context of this rulemaking proceeding to substitute channel 29 for channel 2 at Greenville in the Table of TV Allotments cannot be determined and thus, we give it no consideration.

7 NPRM at para. 2. According to the Petitioner, the Station regularly receives phone calls and emails from viewers no longer able to receive the Station's signal, id., and submitted a number of complaints from viewers regarding reception issues. Petition at Exhibit A.

antennas available to viewers, with most antennas performing very poorly on VHF channels.⁸ The Petitioner proposes to operate the Station on channel 29 with a 3-node Distributed Transmission System (DTS) facility, and all viewers within the Station's community of license will continue to be served by the Station.⁹ An analysis using the Commission's *TVStudy* software indicates that the Station's move to channel 29 would result in a loss of service to 946,964 persons, mostly located around the edge of the channel 2 noise limited service contour (NLSC).¹⁰ All but 417 persons of those persons, however, would remain well-served by continuing to receive at least five full power or Class A stations,¹¹ and those 417 persons would continue to receive service from at least four such stations, a number of persons that the Commission has found to be *de minimis*.¹²

3. As proposed, channel 29 can be substituted for channel 2 at Greenville in compliance with the principal community coverage requirements of section 73.625(a) of the rules,¹³ at coordinates 34° 56' 26.4" N. and 82° 24' 40.4" W. Although the Petitioner's proposal would result in a loss of programming to a number of viewers on the fringes of the Station's NLSC, all but a *de minimis* number of viewers will remain well-served and we conclude that the overall benefits of the proposed channel change in resolving reception issues outweighs any possible harm to the public interest.¹⁴ 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:¹⁵

⁸ *NPRM* at para. 2.

⁹ *Id.* at para. 3. The proposed DTS-1 transmitter site is the Station's presently authorized site, *id.* at 2, and the other two proposed sites are located near Hartwell and Hollingsworth, Georgia. *Id.* at n.6.

¹⁰ *Id.* at para. 3. We also note that many viewers who are predicted to lose service as a result of the proposed channel substitution are unlikely to be receiving service from the Station's current channel 2 facility due to known viewer reception issues with low-VHF signals.

¹¹ *Id.*, citing *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 or Class A over-the-air signals).

¹² *NPRM* at para. 4, n.11, citing *WSET, Inc.*, 80 FCC 2d 233, 246 (1980) (finding that loss of service to approximately 550 persons is *de minimis*).

¹³ 47 CFR § 73.625(a). The Commission recently amended its rules to create a new section 73.618 (Antenna location and principal community coverage), which relocates, verbatim, the language from section 73.625(a) (DTV coverage of principal community and antenna system). See *Part 73 Amendment R&O* at para. 37. The amended rule is not effective as of the date of release of this *Report and Order*, and, as such, we continue to make reference to the rule as currently numbered. See 89 Fed. Reg. 7224 (Feb. 1, 2024).

¹⁴ In reaching this conclusion, we give no weight to the Petitioner's arguments concerning ATSC 3.0 reception. The Bureau has consistently refused to consider this as a factor in channel substitution rulemaking proceedings since ATSC 3.0 is still in the early stages of deployment and the availability of consumer devices remains limited. See *NPRM* at n.5, citing *Amendment of Section 73.622(j), Table of Allotments, Television Broadcast Stations (Las Vegas, Nevada)*, MB Docket No. 21-221, Report and Order, DA 23-990 (MB rel. Oct. 18, 2023); *Amendment of Section 73.622(j), Table of Allotments, Television Broadcast Stations (Kalispell, Montana)*, MB Docket No. 23-79, Report and Order, DA 23-583 (MB rel. July 5, 2023).

¹⁵ 47 CFR §§ 73.616, 73.623. The Commission also recently amended its rules, including combining parts of sections 73.616(a) (Post-transition DTV station interference protection), 73.622(a), and 73.623(a) into one rule that includes all requirements for modifying a television allotment, modified section 73.622(a) (Table of TV allotments). *Part 73 Amendment R&O* at para. 38. The adopted order also relocated section 73.616(c), specifying the protected facilities of TV allotments, to new section 73.619(d). *Part 73 Amendment R&O* at para. 37. The amended rules are not effective as of the date of release of this *Report and Order*, and, as such, we continue to make reference to the rules as currently numbered. See 89 Fed. Reg. 7224 (Feb. 1, 2024).

<u>City and State</u>	<u>Channel</u>	<u>Power (kW)</u>	<u>Antenna HAAT (m)</u>	<u>Service Pop.</u>
Greenville, South Carolina	29	125	354	1,802,843

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.¹⁶ An expedited effective date is necessary in this case to ensure that WGGG-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 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>
Greenville, South Carolina	*8, 17, 29, 30

6. **IT IS FURTHER ORDERED**, That within 10 days of the effective date of this *Report and Order*, Carolina Christian Broadcasting, Inc. shall submit to the Commission a minor change application for a construction permit (Form 2100, Schedule A) specifying channel 29.

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 *Report and 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. 23-406 and RM-11969 **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.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

¹⁶ 5 U.S.C. § 553(d)(3).