

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

In the Matter of
Amendment of Section 73.622(i),
Post-Transition Table of DTV Allotments,
Television Broadcast Stations
(Columbia, Missouri)
MB Docket No. 20-428
RM-11870

NOTICE OF PROPOSED RULEMAKING

Adopted: December 16, 2020

Released: December 16, 2020

Comment Date: [30 days after date of publication in the Federal Register]

Reply Comment Date: [45 days after date of publication in the Federal Register]

By the Chief, Video Division, Media Bureau:

1. The Commission has before it a petition for rulemaking filed October 27, 2020 (Petition) by The Curators of the University of Missouri (the University), the licensee of KOMU-TV, channel 8 (NBC/CW), Columbia, Missouri (KOMU-TV). The University requests the substitution of channel 27 for channel 8 at Columbia in the DTV Table of Allotments. The Media Bureau (the Bureau) instituted a freeze on the acceptance of rulemaking petitions by full power television stations requesting channel substitutions in May 2011, and the University asked that the Bureau waive the freeze to permit KOMU-TV to change from a VHF to a UHF channel to better serve its over-the-air

1 On April 13, 2017, the Commission completed the incentive auction and broadcast television spectrum repacking authorized by the Spectrum Act. See Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §§ 6402 (codified at 47 U.S.C. § 309(j)(8)(G)), 6403 (codified at 47 U.S.C. § 1452), 126 Stat. 156 (2012) (Spectrum Act); Incentive Auction Closing and Channel Reassignment Public Notice: The Broadcast Television Incentive Auction Closes; Reverse Auction and Forward Auction Results Announced; Final Television Band Channel Assignments Announced; Post-Auction Deadlines Announced, GN Docket No. 12-268, Public Notice, 32 FCC Rcd 2786 (2017). The post-incentive auction transition period ended on July 13, 2020. The Media Bureau will amend the rules to reflect all new full power channel assignments in a revised Table of Allotments. Because the Table has not yet been amended, the Division will continue to refer to the Post-Transition Table of DTV Allotments, 47 CFR § 73.622(i) (2018), for the purpose of this proceeding.

2 See Freeze on the Filing of Petitions for Digital Channel Substitutions, Effective Immediately, Public Notice, 26 FCC Rcd 7721 (MB 2011).

viewers. The Bureau has since lifted this freeze,<sup>3</sup> and accordingly, we do not need to consider the waiver request.

2. *Background.* In support of its channel substitution request, the University states that the Commission has recognized that VHF channels have certain propagation characteristics which may cause reception issues for some viewers.<sup>4</sup> According to the University, since the end of the DTV transition in 2009, “[t]he station regularly receives complaints from viewers who report being able to receive all other signals in the market, including a low power television station operating on a UHF channel, but not KOMU-TV.”<sup>5</sup>

3. The University also explains that KOMU-TV’s reception issues are further complicated by the fact that KOMU-TV operates its channel 8 facility from a site from the University’s campus to the southeast of Columbia, while most of the other stations in the market operate on UHF channels from sites southwest of Columbia.<sup>6</sup> In addition, KOMU-TV cannot increase its effective radiated power on channel 8 because it would cause interference to the maximized facilities of co-channel WSIU-TV at Carbondale, Illinois.<sup>7</sup> Finally, while KOMU-TV’s

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<sup>3</sup> See *Media Bureau Lifts Freeze on the Filing of Television Station Minor Modification Applications and Rulemaking Petitions Effective Fifteen Days After Publication in the Federal Register*, Public Notice, DA 20-1269 (rel. Oct. 29, 2020). This action was effective on November 27, 2020. See 85 FR 73706 (Nov. 19, 2020).

<sup>4</sup> Petition at 5, 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) and *Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations*, MB Docket No. 03-185, Second Report and Order, 25 FCC Rcd 10732, 10750, para. 37 (2011).

<sup>5</sup> Petition at 3. The University provides a sampling of complaints it has received from viewers that have experienced difficulty receiving KOMU-TV’s signal. *Id.* at Exhibit A. According to the University, these complaints “occupy the station’s engineering personnel trying to address these complaints, and too often sour the station’s relationship with its audience and community.” Petition at 4. The University further states that in many cases the cause of interference is hard to determine, “especially in a multiple dwelling unit, apartment complex, duplex, mobile home park, or senior’s facility where the source of interference may be a neighbor and completely invisible to the consumer.” *Id.* at 5.

<sup>6</sup> *Id.* at 6. The University further explains that its existing tower structure was built in 1953, and it has determined to erect a new tower some 183 meters away. According to the University, “[i]t makes little sense, however, to incur the expense of building a new tower structure designed for a channel 8 antenna and thereby perpetuate KOMU-TV’s reception problems when it could instead be designed to support a channel 27 antenna and overcome years of VHF reception complaints from the local community . . . [and especially] where the advent of ATSC 3.0 – a technology that clearly favors use of UHF frequencies – could open a plethora of opportunities for the University . . .” *Id.* at 8.

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

proposed channel 27 facility would result in a slight reduction of service to existing viewers,<sup>8</sup> the University demonstrates that only 401 people are predicted to live in portions of the loss area, and that all but seven of those persons will continue to be served by at least five full power television stations.<sup>9</sup>

4. *Discussion.* We believe that the University’s channel substitution proposal warrants consideration. Channel 27 can be substituted for channel 8 at Columbia, Missouri as proposed, in compliance with the principal community coverage requirements of section 73.625(a) of the Commission’s rules,<sup>10</sup> at coordinates 38-53-21.0 N and 92-15-43.2 W. Further, the Commission has found that population loss of less than 500 persons is *de minimis*,<sup>11</sup> and the predicted population loss as presented by the University is only 401 persons and virtually all of them will continue to be well-served by five other full power television stations.<sup>12</sup> In addition, we find that this channel change meets the technical requirements set forth in sections 73.616 and 73.623 of the Commission’s rules.<sup>13</sup> We propose to substitute channel 27 for channel 8 for station KOMU-TV with the following specifications:

| City and State     | DTV Channel | DTV Power (kW) | Antenna HAAT (m) |
|--------------------|-------------|----------------|------------------|
| Columbia, Missouri | 27          | 1000           | 266              |

5. Accordingly, we seek comment on the proposed amendment of the Post-Transition Table of DTV Allotments, section 73.622(i) of the Commission’s rules,<sup>14</sup> for the community listed below, to read as follows:

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<sup>8</sup> *Id.* at 10.

<sup>9</sup> Those seven persons will continue to receive service from four full power television stations. *Id.* at Engineering Statement at 2.

<sup>10</sup> 47 CFR § 73.625(a).

<sup>11</sup> *See WSET, Inc.*, 80 FCC 2d 233, 246 (1980).

<sup>12</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 area results in an area becoming less than well-served, i.e., served by fewer than five full-power over-the-air signals.”)(footnotes and citations omitted ).

<sup>13</sup> 47 CFR §§ 73.616, 73.623.

<sup>14</sup> 47 CFR § 73.622(i).

|                       | <u>Channel No.</u> |                 |
|-----------------------|--------------------|-----------------|
| <u>City and State</u> | <u>Present</u>     | <u>Proposed</u> |
| Columbia, Missouri    | 8, 17              | 17, 27          |

6. Pursuant to sections 1.415 and 1.419 of the Commission’s rules,<sup>15</sup> interested parties may file comments with the Commission on or before [30 days after publication in the Federal Register] and reply comments on or before [45 days after publication in the Federal Register], and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on counsel for petitioner, as follows:

Lauren Lynch Flick, Esq.  
Pillsbury Winthrop Shaw Pittman LLP  
1200 Seventeenth Street, NW  
Washington, D.C. 20036

Parties must file an original and one copy of each filing.<sup>16</sup> Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, D.C. 20554. **Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, 35 FCC Rcd 2788 (2020). During the time the Commission’s building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.** Alternatively, parties may submit the filing electronically at <http://apps.fcc.gov/ecfs>. Online filing is optional. Participants that file comments and replies in electronic form need only submit one copy of those comments, so long as the submission conforms to any procedural or filing requirements established for formal electronic comments.<sup>17</sup> All filings must be addressed to Marlene H. Dortch, Secretary, Federal Communications Commission, Office of the Secretary. Any paper filing that is not addressed to the Office of the Secretary will be treated as filed on the day it is

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<sup>15</sup> 47 CFR §§ 1.415, 1.419.

<sup>16</sup> See *Amendment of Certain of the Commission’s Part 1 Rules of Practice and Procedure and Part 0 Rules of Commission Reorganization*, GC Docket No. 10-44, Report and Order, 26 FCC Rcd 1594, 1602, para. 21 (2011).

<sup>17</sup> 47 CFR § 1.419(d).

received in the Office of the Secretary.<sup>18</sup> Accordingly, failure to follow the specified requirements may result in the treatment of a filing as untimely.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to a rulemaking proceeding to amend the DTV Table of Allotments, section 73.622(i). This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden “for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, § 3506(c)(4).

8. For further information concerning the proceeding listed above, contact Joyce L. Bernstein, Video Division, Media Bureau, (202) 418-1647, Joyce.Bernstein@fcc.gov. For purposes of this restricted notice and comment rulemaking proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a Notice of Proposed Rulemaking until the proceeding has been decided and such decision in the applicable docket is no longer subject to reconsideration by the Commission or review by any court. An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or any summary of any new information shall be served by the person making the presentation upon the other parties to the proceeding in a particular docket unless the Commission specifically waives this service requirement. Any comment that has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

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<sup>18</sup> See 47 CFR § 1.7.

## APPENDIX

1. Pursuant to authority found in 47 U.S.C. sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and 47 CFR sections 0.61, 0.204(b) and 0.283, IT IS PROPOSED TO AMEND the Post-Transition Table of DTV Allotments, 47 CFR section 73.622(i), as set forth in the *Notice of Proposed Rulemaking* to which this *Appendix* is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rulemaking* to which this *Appendix* is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off protection. The following procedures will govern the consideration of the filings in this proceeding:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments (*see* 47 CFR section 1.420(d)). Because the Commission has now lifted its freeze on the filing of petitions for rulemaking to establish new DTV channel allotments,<sup>19</sup> we will consider counterproposals which propose new allotments.

(b) With respect to petitions for rulemaking which conflict with the proposal in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in 47 CFR sections 1.415 and 1.420, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rulemaking* to which this *Appendix* is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. The person filing the comments shall serve comments on the petitioners. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. A certificate of service shall accompany such comments and reply comments ((a), (b) and (c)). Comments should be filed

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<sup>19</sup> *See Media Bureau Lifts Freeze on the Filing of Television Station Minor Modification Applications and Rulemaking Petitions Effective Fifteen Days After Publication in the Federal Register*, Public Notice, 35 FCC Rcd 11993 (MB 2020). This action was effective on November 27, 2020. *See* 85 FR 73706 (Nov. 19, 2020).

with the Federal Communications Commission, Office of the Secretary, 45 L St., NE, Washington, D.C. 20554. Alternatively, parties may submit the filing electronically at <http://apps.fcc.gov/ecfs>. Online filing is optional.

5. Number of Copies. In accordance with the provisions of 47 CFR section 1.419(b), an original and one copy of all comments, reply comments, pleadings, briefs, or other documents shall be furnished to the Commission. Participants that file comments and replies in electronic form need only submit one copy of those comments, so long as the submission conforms to any procedural or filing requirements established for formal electronic comments (*see* 47 CFR section 1.419(d)). An electronic copy should also be sent to [Joyce.Bernstein@fcc.gov](mailto:Joyce.Bernstein@fcc.gov).

6. Public Inspection of Files. All filings will be available at <http://apps.fcc.gov/ecfs/> by searching the docket number of this proceeding.