

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

In the Matter of)	
)	
Amendment of Section 73.622(j),)	MB Docket No. 22-150
Table of Allotments, Television Broadcast)	RM-11926
Stations (Augusta, Maine))	
)	

REPORT AND ORDER

(Proceeding Terminated)

Adopted: August 29, 2022

Released: August 29, 2022

By the Chief, Video Division, Media Bureau:

1. The Video Division, Media Bureau (Bureau), has before it a Notice of Proposed Rulemaking¹ issued in response to a Petition for Rulemaking filed by Maine Public Broadcasting Corporation (Petitioner), the licensee of television station WCBB (WCCB or Station), channel *10, Augusta, Maine.² The Petitioner has requested the substitution of UHF channel *20 for VHF channel *10 in the Table of Allotments. The Petitioner filed comments in support of the petition, as required by the Commission's rules (rules),³ reaffirming its commitment to apply for channel *20. No other comments were received.

2. We find that the public interest would be served by substituting channel *20 for channel *10 at Augusta, Maine since it would improve access to WCBB's PBS and other public television programming by improving indoor reception.⁴ Although the proposed channel *20 facilities will result in a predicted loss of service to 3,785 persons, much of the predicted loss area is located outside the state of Maine and the "vast majority" is served by Petitioner's owned and operated stations WMEB-TV, Orono, Maine (WMEB-TV),⁵ and WMEA-TV, Biddeford, Maine, or by other PBS member stations WENH-TV, Durham, New Hampshire, WLED-TV, Littleton, New Hampshire, and WVTB, St. Johnsbury, Vermont.⁶ Once these other sources of PBS programming and terrain-limitations are factored into the loss analysis, the new loss area that would be created by the proposed channel substitution would contain 155 persons,

¹ *Amendment of Section 73.622(j), Amendment of Section 73.622(j), Table of Allotments, Television Broadcast Stations (Augusta, Maine)*, MB Docket No. 22-150, Notice of Proposed Rulemaking, DA 22-403 (rel. Apr. 13, 2022) (*NPRM*).

² NCE television stations are identified in the Table by an asterisk to indicate they are reserved for noncommercial educational use. 47 CFR § 73.622(a).

³ 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).

⁴ *NPRM* at para. 2.

⁵ Today we have also granted Petitioner's request to substitute channel *22 for channel *9 for WMEB-TV. *See Amendment of Section 73.622(j), Table of Allotments, Television Broadcast Stations (Orono, Maine)*, MB Docket No. 22-215, DA No. 22-899 (rel. Aug. 29, 2022). Petitioner used the proposed channels for both WMEB-TV and WCBB in its loss analysis. *See* Maine Public Broadcasting Corporation Petition for Rulemaking, Engineering Statement at Figure 2 (on file at LMS File No. 0000190367).

⁶ *NPRM* at para. 2.

which is within the level the Commission considers *de minimis* in the context of considering impermissible loss of service.⁷

3. As proposed, channel *20 can be substituted for channel *10 at Augusta, Maine, in compliance with the principal community coverage requirements of section 73.625(a) of the rules,⁸ at coordinates 44° 09' 15.0" N and 70° 00' 35" W. Although the Petitioner's proposal would result in a loss of PBS service for a limited number of viewers, we find that the overall benefits of the proposed channel change outweighs any possible harm to the public interest given that the loss of service is ultimately *de minimis* when taking into account the ability of viewers to access PBS programming from other stations. 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:⁹

<u>City and State</u>	<u>Channel</u>	<u>Power (kW)</u>	<u>Antenna HAAT (m)</u>	<u>Service Pop.</u>
Augusta, Maine	*20	1000	304	948,183

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.¹⁰ An expedited effective date is necessary in this case to ensure that WCBB 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>
Augusta, Maine	*20

6. **IT IS FURTHER ORDERED**, That within 10 days of the effective date of this Order, Maine Public Broadcasting Corporation shall submit to the Commission a minor change application for a construction permit (Form 2100, Schedule A) specifying channel *20 in lieu of channel *10.

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. 22-150 and RM-11926 **SHALL BE TERMINATED** and its docket closed.

⁷ See *WSET, Inc.*, 80 FCC 2d 233, 246, para. 27 (1980) (finding that loss of service to approximately 500 persons is *de minimis*).

⁸ 47 CFR § 73.625(a).

⁹ 47 CFR §§ 73.616, 73.623. Since the proposed facility is located within the Canadian coordination zone, concurrence from the Canadian government was required and has subsequently been obtained. See NPRM at n.7.

¹⁰ 5 U.S.C. § 553(d)(3).

9. For further information concerning the proceeding listed above, contact Joyce L. Bernstein, Video Division, Media Bureau, (202) 418-1647, Joyce.Bernstein@fcc.gov.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau