

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

In the Matter of)	
)	
Amendment of Section 73.622(j),)	MB Docket No. 23-380
Table of Allotments, Television Broadcast)	RM-11968
Stations (Missoula, Montana))	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: April 23, 2024

Released: April 23, 2024

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 Sinclair Media Licensee, LLC (Petitioner or Sinclair), the licensee of KECI-TV (Station or KECI-TV), channel 13, Missoula, Montana (Missoula).² The Station is currently operating on channel 13, and in 2021, the Bureau granted Sinclair's request to substitute UHF channel 20 for VHF channel 13 at Missoula in the Table of TV Allotments (Table).³ Sinclair currently holds a construction permit to modify its facility to operate on channel 20,⁴ and has petitioned for the substitution of channel 21 for channel 20 at Missoula in the Table. Sinclair filed comments in support of the petition, as required by the Commission's rules (rules),⁵ reaffirming its present intention to apply for a construction permit to build the Station's facilities on channel 21 and to promptly construct such facilities. No other comments were received.

2. We conclude that the public interest would be served by substituting channel 21 for channel 20 at Missoula. As explained in the Petition, at the same time Sinclair requested and was granted the substitution of channel 20 for channel 13 at Missoula, it also requested and was granted the substitution of UHF channel 20 for VHF channel 6 for co-owned station KTVM-TV, Butte, Montana (Butte).⁶ As a result, both KTVM-TV and KECI-TV would operate on a co-channel basis, and Sinclair

¹ *Amendment of Section 73.622(j), Table of Allotments, Television Broadcast Stations (Missoula, Montana)*, MB Docket No. 23-380, Notice of Proposed Rulemaking, DA 23-1053 (MB Nov. 7, 2023) (*NPRM*).

² Petition of Sinclair Media Licensee, LLC for Rulemaking (filed Aug. 16, 2023), LMS File No. 0000219405 (Petition).

³ *Amendment of Section 73.622(i), Post-Transition Table of DTV Allotments, Television Broadcast Stations (Missoula, Montana)*, MB Docket No. 21-176, Report and Order, 36 FCC Rcd 11180 (MB 2021) (*Channel 20 R&O*). On April 13, 2017, the Commission completed the incentive auction and broadcast television spectrum repacking authorized by the Spectrum Act, and the post-incentive auction transition period ended on July 13, 2020. At the time the *Channel 20 R&O* 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 *Channel 20 R&O* referred to the Post-Transition Table of DTV Allotments, 47 CFR § 73.622(i) (2018). The Commission has now adopted the new Table of TV 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*, GN Docket No. 12-268, Order, 36 FCC Rcd 15891 (Oct. 25, 2021).

⁴ LMS File No. 0000156965, granted Mar. 21, 2022.

⁵ 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).

⁶ *NPRM* at para. 3.

had determined that predicted interference from both stations operating on channel 20 would affect less than 1 percent of the populations within the noise limited service contours (NLSC) of each station.⁷ When the Bureau granted the substitution of channel 20 for channel 13 at Missoula, it also found that the proposed channel 20 facility had a predicted service population of 227,295 persons, a net gain of potential viewers over the existing KECI-TV channel 13 facility.⁸

3. Sinclair now explains, however, that in preparing to construct the new facilities on channel 20 for both stations, its local engineering staff determined that despite the predictions, the actual interference consequences of both stations operating on channel 20 at Missoula and Butte would result in a more significant number of persons receiving interference, and that the interference would not be localized but spread throughout large portions of the KTVM-TV and KECI-TV service areas.⁹ An analysis provided by the Petitioner indicates that operation of KECI-TV on channel 21 instead of channel 13 would result in a net gain in persons within the Station's NLSC receiving interference-free service,¹⁰ as well as an increase in the population that would receive interference-free service if the Station were to remain on the currently-allotted channel 20.¹¹

4. We also find that the proposal complies with all relevant technical requirements for amendment of the Table of TV Allotments, including the interference protection requirements of section 73.622(a) of the rules, and further demonstrates that the proposed channel 21 facility will provide full principal community coverage to Missoula as required by section 73.618 of the rules.¹² Moreover, the proposed channel substitution would not cause any additional loss of service, which we have already found to be *de minimis*,¹³ will increase the population within both KECI-TV's and KTVM-TV's NLSCs that will receive interference-free service, and resolve co-channel interference issues caused by the stations' approved co-channel operation.¹⁴

5. As proposed, channel 21 can be substituted for channel 20 at Missoula in compliance with the principal community coverage requirements of section 73.618(a) of the rules,¹⁵ at coordinates 47-01'-04.0"

⁷ *Id.*

⁸ *Channel 20 R&O*, 36 FCC Rcd at 11181, para. 3. We also found that there would be a loss of service to approximately 65 persons, a number the Commission considers *de minimis*. *Id.*; see *WSET, Inc.*, 80 FCC 2d 233, 246 (1980) (finding that population loss of approximately 556 persons is *de minimis*).

⁹ *NPRM* at para. 4.

¹⁰ Likewise, the analysis predicts that additional persons within the KTVM-TV NLSC would be able to receive interference-free service on channel 20 as a result of KECI-TV changing to channel 21 instead of channel 20. *Id.* at n.11.

¹¹ *Id.* at para. 4.

¹² See 47 CFR §§ 73.622(a) and 73.618 (formerly §§ 73.616(a) and 73.625(a), respectively). The Commission recently amended its television rules to reflect the transition from analog to digital-only operations and the completion of the post-incentive auction transition, and to reorganize a portion of the part 73 rules to make them easier to find and more practical for users. See *Media Bureau Announces March 4, 2024 Effective Date for All Revisions to Part 73 Commission Rules for Full Power and Class A Television Stations*, MB Docket No. 22-227, Public Notice, DA 24-196 (MB Mar. 4, 2024); *Amendment of Part 73 of the Commission's Rules to Update Television and Class A Television Broadcast Station Rules, and Rules Applicable to All Broadcast Stations*, MB Docket No. 22-227, Report and Order, FCC 23-72 at para. 40 (Sept. 19, 2023) (*Part 73 Amendment R&O*).

¹³ *Channel 20 R&O*, 36 FCC Rcd at 11181, para. 3.

¹⁴ A staff evaluation determined the net gain in service population between the channel 20 and channel 21 facilities would be approximately 5,510 persons.

¹⁵ 47 CFR § 73.618(a).

N. and 114-00'-50.0" W.¹⁶ In addition, we find that this channel change meets the technical requirements set forth in section 73.622(a) of the rules with the following specifications:¹⁷

<u>City and State</u>	<u>Channel</u>	<u>Power (kW)</u>	<u>Antenna HAAT (m)</u>	<u>Service Pop.</u>
Missoula, Montana	21	950	610	232,805

6. 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.¹⁸ An expedited effective date is necessary in this case to ensure that KECI-TV can operate with improved service to its viewers as quickly as possible.

7. 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>
Missoula, Montana	*11, 21, 23, 25

8. **IT IS FURTHER ORDERED**, That within 10 days of the effective date of this Order, Sinclair Media Licensee, LLC shall submit to the Commission a minor change application for a construction permit (Form 2100, Schedule A) specifying channel 21.

9. **IT IS FURTHER ORDERED**, That upon the filing of the minor change application specifying channel 21, the construction permit held by Sinclair Media Licensee, LLC for channel 20 (LMS File No. 0000156965) **SHALL BE CANCELLED**.

10. **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.

11. **IT IS FURTHER ORDERED**, That should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket No. 23-380 and RM-11968 **SHALL BE TERMINATED** and its docket closed.

12. For further information concerning the proceeding listed above, contact Joyce Bernstein, Video Division, Media Bureau, Joyce.Bernstein@fcc.gov or Mark Colombo, Video Division, Media Bureau, Mark.Colombo@fcc.gov.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

¹⁶ The proposed facility is located within the Canadian coordination zone and concurrence from the Canadian government has been obtained for this allotment.

¹⁷ 47 CFR §§ 73.622(a) (formerly §§ 73.616 and 73.623). See *supra* n.12 and *Part 73 Amendment R&O* at para. 40.

¹⁸ 5 U.S.C. § 553(d)(3).