

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

In the Matter of)	
)	
Amendment of Section 73.622(i),)	MB Docket No. 21-54
Post-Transition Table of DTV Allotments,)	RM-11879
Television Broadcast Stations)	
(Peoria and Oswego, Illinois))	

REPORT AND ORDER

(Proceeding Terminated)

Adopted: June 16, 2021

Released: June 16, 2021

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 Four Seasons Peoria, LLC (the Petitioner). The Petitioner requests an amendment of the DTV Table of Allotments to delete channel 10 at Peoria, Illinois, and substitute channel 10 at Oswego, Illinois (Oswego).² Petitioner further requests modification of WAOE’s license to specify Oswego as its community of license pursuant to section 1.420(i) of the Commission’s rules (rules).³

2. The Petitioner filed comments in support of the *NPRM*, as required by the Commission’s rules,⁴ reaffirming its commitment to apply for channel 10. No other comments were filed. We believe the public interest would be served by allotting channel 10 at Oswego, Illinois. Oswego, with a population of 34,383 persons, is the largest community in Kendall County, Illinois. Oswego’s population has increased from 3,875 in 1990 to 34,383 today and is expected to double by the year 2040. Oswego has a fully autonomous municipal government led by a President and a seven-member Board of Trustees, as well as a professional management staff, led by a professional Village Administrator and a Village Clerk; police, several schools, a Public Library district, and Parks District.⁵ Accordingly, we find that

¹ *Amendment of Section 73.622(i), Post-Transition Table of DTV Allotments, Television Stations (Peoria and Oswego, Illinois)*, MB Docket No. 21-54, Notice of Proposed Rulemaking, 36 FCC Rcd 1579 (Vid. Div. 2021) (*NPRM*).

² As noted in the *NPRM*, 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. As a result of the Commission’s Incentive Auction and repacking process, WAOE was repacked from channel 39 to channel 10. The Bureau will amend the rules to reflect all new full power channel assignments in a revised Table of Allotments, but because the Table has not yet been amended, the Bureau has continued to refer to the Post-Transition Table of DTV Allotments, 47 CFR § 73.622(i) (2018). For the purpose of this proceeding, we shall refer to WAOE’s repacked channel 10. *See NPRM* at 1579, n.2.

³ 47 CFR § 1.420(i).

⁴ 47 CFR §§ 1.415, 1.419; *see also Buffalo, Iola, Normangee, and Madisonville, Texas*, Report and Order, MB Docket No. 07-729, 24 FCC Rcd 8192, 8194, para. 9 (Aud. Div. 2009).

⁵ *NPRM* at 1580, para. 4.

Oswego qualifies for community of license status for allotment purposes.⁶ In addition, the proposal would result in a first local service to Oswego under the Commission's second allotment priority.⁷

3. The Petitioner demonstrates, and a staff engineering analysis confirms, that channel 10 can be allotted to Oswego, Illinois, consistent with the minimum geographic spacing requirements for new DTV allotments in section 73.623(d) of the Commission's rules (rules).⁸ In addition, the Petitioner does not propose any changes in WAOE's authorized facilities, and the allotment point complies with section 73.625(a)(1) of the rules as the entire community of Oswego is encompassed by the 43 dBμ contour.⁹ Thus, the authorized and proposed facilities are mutually exclusive.¹⁰

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g) and (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), 0.283 and 1.420(i) of the Commission's rules, 47 CFR §§ 0.61, 0.204(b), 0.283, and 1.420(i) **IT IS ORDERED**, That effective immediately upon the date of publication in the Federal Register, channel 10 is deleted from Peoria, Illinois and allotted to Oswego, Illinois. **IT IS FURTHER ORDERED**, That WAOE **SHALL FILE** an application requesting a modification of its license, and pending the grant of aforementioned application, WAOE's community of license **SHALL BE MODIFIED** to Oswego, Illinois, and the DTV Table of Allotments, section 73.622(i) of the Commission's rules, 47 CFR § 73.622(i), **IS AMENDED**, with respect to the communities listed below, to read as follows:¹¹

<u>City and State</u>	<u>Channel No.</u>
Oswego, Illinois	10
Peoria, Illinois	19, 25, 30, *46

5. **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.

6. **IT IS FURTHER ORDERED**, That should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket No. 21-54, RM-11879 **SHALL BE TERMINATED** and its docket closed.

⁶ See *Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Willows and Dunnigan, California)*, MM Docket No. 94-29, Report and Order, 10 FCC Rcd 11522, 11523, paras. 7-10 (MMB 1995), *recon. denied on other grounds*, 15 FCC Rcd 23852 (MMB 2000) (outlining test for community of license status under section 307(b) of the Communications Act, as amended, 47 U.S.C § 307(b)).

⁷ The Commission determines a preferential arrangement of television allotments based on the following five priorities: (1) provide at least one television service to all parts of the United States; (2) provide each community with at least one television broadcast station; (3) provide a choice of at least two television services to all parts of the United States; (4) provide each community with at least two television broadcast stations; and (5) assign any remaining channels to communities based on population, geographic location, and the number of television services available to the community from stations located in other communities. *Amendment of Section 3.606 of the Commission's Rules and Regulations*, Sixth Report and Order, 41 F.C.C. 148, 167-173 (1952).

⁸ 47 CFR § 73.623(d).

⁹ 47 CFR § 73.625(a)(1); *NPRM* at 1580, para. 3.

¹⁰ See 47 CFR § 1.420(i).

¹¹ See *supra* n.2.

7. For further information concerning the proceeding listed above, contact Andrew Manley, Video Division, Media Bureau, (202) 418-0596, Andrew.Manley@fcc.gov.

FEDERAL COMMUNICATIONS COMMISSION

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