

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

In the Matter of	)	
	)	
WVEC Television, LLC	)	MB Docket No. 22-____
	)	RM-_____
Petition for Rulemaking to Amend the	)	
DTV Table of Allotments for	)	
Station WVEC, Hampton, VA	)	
(Facility ID 74167)	)	

**PETITION FOR RULEMAKING**

WVEC Television, LLC (“Licensee”), the licensee of television station WVEC, Hampton, Virginia (“WVEC”), hereby petitions the Commission to commence a rulemaking pursuant to Section 1.401 of the Commission’s rules<sup>1</sup> to amend the digital television Table of Allotments by allotting Channel 35 to WVEC in lieu of Channel 11. Moving from VHF to UHF would allow WVEC to dramatically improve over-the-air service to viewers in the Norfolk-Portsmouth-Newport News market (the “Norfolk Market”), where a substantial portion of television households – about 13.7 percent – view local broadcast stations over-the-air rather than through a traditional cable or satellite service.<sup>2</sup>

The proposed channel substitution would serve the public interest by addressing years of reception complaints WVEC has received from viewers and by putting WVEC on a level playing field with its Big Four<sup>3</sup> network-affiliated competitors, all of whom provide over-the-air coverage in the Norfolk Market on UHF channels. The proposed channel substitution would

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<sup>1</sup> 47 C.F.R. § 1.401.

<sup>2</sup> Nielsen: Norfolk DMA, February 2022. 2021-2022 Universe Estimates, Media Related TV Households and Penetrations by DMA.

<sup>3</sup> As used herein, the term “Big Four network” refers to the ABC, CBS, Fox and NBC broadcast television networks.

better serve the community by substantially improving its access to important and highly valued local news, emergency, ABC network and other programming.

## **I. Market Background**

WVEC, an ABC affiliate, is licensed to Hampton, Virginia, and broadcasts on Channel 11. The Commission has long recognized that “VHF channels have certain characteristics that have posed challenges for their use in providing digital television service,” including “propagation characteristics of these channels [that] allow undesired signals and noise to be receivable at relatively farther distances,” the tendency of “nearby electrical devices ... to emit noise in this band that can cause interference,” and the fact that “reception of VHF signals requires physically larger antennas that are generally not well suited to the mobile applications expected under flexible use, relative to UHF channels.”<sup>4</sup> The Commission further noted that independent studies by a private engineering firm and the Commission’s own staff both found “large variability in the performance (especially intrinsic gain) of indoor antennas available to consumers, with most antennas receiving fairly well at UHF and the substantial majority not so well to very poor at high-VHF.”<sup>5</sup> The Commission continues to recognize that, although VHF reception issues are not universal, “environmental noise blockages affecting [VHF] signal strength and reception exist” and “[vary] widely from service area to service area.”<sup>6</sup>

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<sup>4</sup> *Innovation in the Broadcast Television Bands: Allocations, Channel Sharing and Improvements to VHF*, NPRM, 25 FCC Rcd 16498, 16511 ¶ 42 (2010) (“*VHF Improvements NPRM*”).

<sup>5</sup> *Id.* at 16512 ¶ 44. See also *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*, Second R&O, 25 FCC Rcd 10732, 10750 ¶ 37 (2011) (“As a result of the full power digital television transition, some full power stations on VHF channels have experienced reception problems and such problems have not been alleviated even by allowing these stations to operate with the maximum power permitted under the full power television rules.”).

<sup>6</sup> *Assessment and Collection of Regulatory Fees for Fiscal Year 2020*, MD Docket No. 20-105, FCC 20-64, at ¶ 52 (rel. May 13, 2020).

These findings are borne out by WVEC's experience. In particular, the since the station was repacked from Channel 13 to Channel 11 in May 2020, the station has received persistent comments from viewers unable to receive WVEC's signal despite being able to receive signals from other local stations.<sup>7</sup> The competing CBS, Fox, and NBC affiliates in the Norfolk Market all broadcast on UHF channels.<sup>8</sup>

## **II. The Proposed Channel Substitution Would Improve Service to Local Viewers**

Over-the-air coverage is increasingly important as more American households cut the cord on traditional cable and satellite services.<sup>9</sup> Many of these households are choosing instead to rely on free local broadcast signals, often (though not always) in combination with online streaming services. According to Nielsen, nationwide "[t]he percent of homes without traditional cable (wired or satellite) that receive local broadcast stations on a TV set via some form of digital antenna has increased 48%" between May 2010 and May 2018, rising from 11 million such homes (representing 9 percent of TV homes) to 16 million such homes (representing 14 percent of TV homes).<sup>10</sup> About 6.6 million of these homes do not subscribe to any online streaming services, thus relying entirely on over-the-air broadcasts for video service.<sup>11</sup> The ongoing COVID-19 pandemic drove a dramatic surge in viewership of local and national broadcast television newscasts, only underscoring the key role free, over-the-air broadcast TV

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<sup>7</sup> See generally Exhibit A, which provides a sampling of the feedback WVEC has received.

<sup>8</sup> See File No. 0000118339 (license to cover Channel 16 facility of CBS affiliate WTKR); File No. 0000125111 (license authorizing Fox affiliate WVBT to continue broadcasting in ATSC 1.0 on Channel 21 and to establish an ATSC 3.0 guest stream hosted by WNLO-CD); File No. 0000125371 (license authorizing NBC affiliate WAVY-TV to continue broadcasting in ATSC 1.0 on Channel 19 and to establish an ATSC 3.0 guest stream hosted by WNLO-CD).

<sup>9</sup> Jon Lafayette, "Cord-Cutting Hit Record Levels in First Quarter," *Broadcasting + Cable*, <https://www.broadcastingcable.com/news/cord-cutting-hit-record-levels-in-first-quarter> (May 8, 2020); Aaron Pressman, "Cord cutting is speeding up as the coronavirus pandemic squeezes consumers," *Fortune*, <https://fortune.com/2020/05/05/cord-cutting-coronavirus-cable-satellite-tv-comcast-verizon-charter-altice-att-dish/> (May 5, 2020).

<sup>10</sup> Nielsen OTA Report at 4.

<sup>11</sup> *Id.* at 5.

coverage plays in making crucial information broadly accessible to communities.<sup>12</sup> Nor is the importance of broadcast reception limited to broadcast-only homes. Horowitz Research studies have found that “two in five (40%) TV content viewers 18+ report owning an antenna, up from 29% year over year,”<sup>13</sup> and that even “10% of MVPD subscribers use an antenna,”<sup>14</sup> spending about 18% of their time consuming antenna-delivered content.<sup>15</sup>

Over-the-air coverage is essential in the Norfolk Market, where about 13.7 percent of TV households are broadcast-only homes as of February 2022, according to Nielsen.<sup>16</sup> The channel substitution proposed herein would allow WVEC to better serve these viewers with a more robust and reliable UHF signal. In addition, moving to UHF would improve the station’s future ability to offer robust ATSC 3.0 service over the air.<sup>17</sup>

The station’s engineering study, attached hereto as Exhibit B (the “Engineering Statement”), confirms that with WVEC’s proposed parameters, including a 1,000 kW ERP,

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<sup>12</sup> See Ted Johnson, “As Viewers Flock Back To Evening Newscasts During Coronavirus Crisis, ‘World News Tonight’ Reaches Ratings Milestone,” Deadline, <https://deadline.com/2020/05/abc-world-news-tonight-david-muir-ratings-coronavirus-1202926423/> (May 5, 2020); “Comscore figures reveal surging levels of Coronavirus TV coverage driven by diverse audience,” Comscore, <https://www.comscore.com/Insights/Press-Releases/2020/4/Surging-levels-of-Coronavirus-local-TV-coverage> (April 7, 2020); Stephen Battaglio, “A hunger for information is driving TV news to peak levels,” Los Angeles Times, <https://www.latimes.com/entertainment-arts/business/story/2020-03-25/tv-news-audiences-are-surging-thanks-to-coronavirus-pandemic> (March 25, 2020).

<sup>13</sup> Horowitz Research, “Antenna Penetration Across U.S. Grows 38% Year-Over-Year and Now Reaches 40% of all TV Content Viewers 18+,” <https://www.horowitzresearch.com/press/antenna-penetration-across-us-grows-38-year-over-year/> (Feb. 9, 2021).

<sup>14</sup> Horowitz Research, “Diverse Content a Driver of Antenna Use, Horowitz Study Finds” [https://www.horowitzresearch.com/press/diverse-content-a-driver-of-antenna-use-horowitz-study-finds/?utm\\_content=198041115&utm\\_medium=social&utm\\_source=facebook&hss\\_channel=fbp-61698042500](https://www.horowitzresearch.com/press/diverse-content-a-driver-of-antenna-use-horowitz-study-finds/?utm_content=198041115&utm_medium=social&utm_source=facebook&hss_channel=fbp-61698042500) (Feb. 15, 2022).

<sup>15</sup> *Id.*

<sup>16</sup> Nielsen: Norfolk DMA, February 2022. 2021-2022 Universe Estimates, Media Related TV Households and Penetrations by DMA.

<sup>17</sup> See National Association of Broadcasters, *Next Generation Television (ATSC 3.0) Station Transition Guide*, at 8 (April 2019), available at [https://nabpilot.org/wp-content/uploads/2019/04/NAB-ATSC-3.0-Guide\\_Final.pdf](https://nabpilot.org/wp-content/uploads/2019/04/NAB-ATSC-3.0-Guide_Final.pdf) (“Performance of VHF channels 7 through 13 is better than low-band VHF, but the longer wavelength of VHF reduces the chances of successful reception for many portable use cases, due to utilization of built-in antennas in these devices,” while “[d]ue to the short wavelengths and resulting reception advantages in this part of the TV spectrum, UHF is suitable for all anticipated ATSC 3.0 service models.”).

Channel 35 can be substituted for Channel 11 at Hampton, Virginia. The proposed facility would continue to provide a principal community contour completely covering WVEC's community of license.<sup>18</sup> The proposed facility would cause otherwise impermissible interference to two stations,<sup>19</sup> which Licensee would resolve as follows:

- The proposed facility is predicted to cause 1.38% prohibited interference to WFMY-TV, Greensboro, NC. Both WFMY-TV and WVEC are ultimately owned by TEGNA Inc. The predicted interference occurs at the fringe of WFMY-TV's viewing area, and WFMY-TV accordingly hereby accepts the interference predicted to be caused by WVEC's proposed facility.<sup>20</sup>
- The proposed facility is predicted to cause prohibited interference to WYSJ-CD, Yorktown, VA, which is licensed to Jacobs Broadcasting System, Inc. ("JBS"). An application to assign WYSJ-CD's license from JBS to Licensee is pending,<sup>21</sup> along with a contingent minor-modification application to relocate WYSJ-CD to be co-located with WVEC's proposed facility,<sup>22</sup> thus eliminating the adjacent-channel interference.

Except as described above, WVEC's proposed facility would not cause impermissible interference to any station. In addition, the station's engineering study demonstrates that the

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<sup>18</sup> Engineering Statement at 3.

<sup>19</sup> Engineering Statement at 2-3.

<sup>20</sup> Attached hereto as Exhibit C is an interference acceptance letter executed on behalf of WFMY Television, LLC, licensee of WFMY-TV.

<sup>21</sup> LMS File No. 0000187977.

<sup>22</sup> LMS File No. 0000188559.

proposed channel change would not cause any loss of service to viewers within WVEC's existing coverage area.<sup>23</sup>

Accordingly, the public interest would be best served by promptly granting WVEC's request to move from Channel 11 to Channel 35 with the specifications set forth below, so that Norfolk-area viewers may benefit from substantially improved over-the-air broadcast television service as soon as possible:

<u>City and State</u>	<u>Channel</u>	<u>DTV Power (kW)</u>	<u>Antenna HAAT (m)</u>
Hampton, VA	35	1000	363.9

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<sup>23</sup> Engineering Statement at 3-4.

# Exhibit A

## **WVEC Viewer Complaints**

G. Bird Lives in Hampton VA, We are not able to receive your station.

J. McCarson I live in Newport News VA, and have 2 different antennas with 2 TV's and can't receive WVEC with either one.

S. Cominski Lives in Currituck NC, and never had any problems receiving the signal before you changed channels on 5/1/20. Signal is not watchable now.

P. Wycoff Has not been able to receive the signal after rescanning multiple times. Able to receive all other channels except for 13.

T. Mulherin Unable to watch channel 13 on any of the 4 TV's in the house. I live in Smithfield so I am close enough that I should be able to receive the signal with an amplified antenna.

R. Jones I live in Hampton VA, and use an antenna to watch your station. After rescanning I can no longer watch WVEC channel 13. It worked flawlessly before May 1<sup>st</sup> 2020.

D. Powell Norfolk, VA I seem to be experiencing major trouble receiving WVEC-13 over-the-air broadcast of Channel 13... I have re-scanned my TV many times, tried several types of powered rabbit-ears and other types of inside rated antennas... Nothing I have tried will receive WVEC Channel 13.1 to 13.4... All other local TV channels always come in very clear and strong with my rabbit ears antenna... I live in the Easterbrook section of Norfolk near the Five-Points area.

G. Dean Chesapeake, VA I live about 8 miles from your transmitter site but receive no signal.

A. Sweeny I have rescanned my channels 3 days in a row and still can't pick up WVEC.

L. Burns Norfolk Longtime WVEC viewer and have repositioned my antenna and rescanned multiple times without any success. The other local channels work fine.

G. Green Williamsburg VA, Have rescanned for channels several times since May 1<sup>st</sup>, 2020 and still not able to receive the channels. Worked fine for years.

R. Mabie Hampton VA, Rescanned and now the signal is no longer watchable.

R. Valentine Virginia Beach VA, Been watching over the air for several years since cutting cable TV. However, since May 1<sup>st</sup> 2020, we have not been able to get your channel with a clear and continuous picture and sound. We have moved the antenna and rescanned without any luck.

V. Binkerd Gloucester VA, I have not been able to receive your signal since May 1<sup>st</sup> 2020. I have rescanned several times. Have you dropped signal strength?

R. Sikes Williamsburg VA, We have viewed WVEC 13.1 successfully for two years using an in-attic antenna (height 50feet above ground) with an in-line amplifier. Since the repack we can no longer receive your station. We have rescanned many times.

S. Kelly Virginia Beach VA, We are not able to watch WVEC since May 1<sup>st</sup> 2020. We have a VHF/UHF antenna and have rescanned many times. Worked great before.

J Shomier Virginia Beach VA, We purchased a new antenna March 5 2020 but have not been able to watch WVEC since May 1<sup>st</sup>. We have rescanned as recommend.



Charlie H. Norfolk VA, I used to get your over the air signals but since May 1<sup>st</sup> I can't get anything.

M. Clatterback Virginia Beach va, On May 1<sup>st</sup> we rescanned our television as notified by WVEC and am not able to pick up the station any longer. I use an amplified antenna.

M. Rousseau Chesapeake VA, Since May 1<sup>st</sup> the signal is intermittent. We can no longer watch your station.

Mr. Wood Virginia Beach VA, Tried rescanning and moving the antenna since you changed channels. We can't get your station any more.

L. Rice Virginia Beach VA, I have a rooftop antenna and since May 1<sup>st</sup> I have not been able to get channel 13. I have rescanned many times but 13 will not show up.

J. Jennings Virginia Beach VA, We are having problems getting a clear signal from your station now. We do not have any problems getting any of the other local channels.

L. Ewell Virginia Beach VA, Rescanned our 5 TV's as instructed from WVEC. Rotated the antenna and rescanned again without any success. We are loyal WVEC fans and most of the shows we watch are on your station. We receive over 50 other channels with our antenna.

E. Ashley Yorktown VA, We can only receive your station during the day, at night it comes in pixelated. Our antenna was professionally installed and had been working fine for years.

M. Frame Cobbs Creek, VA We were getting all of your channels before the beginning of May 2020 and now we can't receive any of your channels. Has the signal changed?

K. Queman Norfolk, VA I have had trouble watching your station since I had to rescan in May. I have moved the antenna to a couple of other locations and rescanned again without any success.

D. Bryce Virginia Beach I live in Virginia Beach and I have an over the air antenna to receive the local channels in our area but I am having an issue receiving your station. It was fine until May 1<sup>st</sup> when I saw the messages that I needed to rescan to receive the signal. Well I have done this on several occasions over the past month and have not received a signal from your station.

D. Southard Hampton, VA I am contacting you as I am no longer able to access channel 13 with my HD antenna. I have several antennas on 3 different TV's and none of them work any longer. I have always been able to get my local channels and still get CBS & NBC, just not your ABC station.

L. Radford Portsmouth, VA I can't get any of the Channel 13 stations in the Waterview section of Portsmouth. I am getting all of the other stations in the area. I rescanned 3 times. My outdoor antenna was professionally installed.

D. Yaconsi Portsmouth, VA I am not able to receive your station. I have rescanned many times.

T. Mitchell Norfolk, VA I followed the rescan instructions and still can't receive WVEC.

D. Kinsman Portsmouth, VA I have adjusted my antenna every direction. We receive all of the other channels including channels from North Carolina. We have been receiving your signal for years with our outdoor antenna.

A. Wallace Newport News, VA I rescanned after May 1<sup>st</sup>, 2020 and still can't receive your station. I had the station before May 1<sup>st</sup>. I get the other stations but no channel 13. Can you please boost the power on your antenna?

P. Whitesey Portsmouth, VA I am not able to receive channel 13 with a digital antenna.

D. Nichols Virginia Beach, VA Why is your station the only one with a poor signal. I live near the courthouse in Virginia Beach and the signal is always pixelated and buffering making it unwatchable. Yours is the ONLY channel in the area with that problem. ABC is losing viewers because of this.