

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

In the Matter of
Amendment of Section 73.622(j),
Table of Allotments, Television Broadcast
Stations (Hampton, Virginia)
MB Docket No. 22-151
RM-11927

REPORT AND ORDER

(Proceeding Terminated)

Adopted: March 16, 2023

Released: March 16, 2023

By the Chief, Video Division, Media Bureau:

1. The Video Division, Media Bureau (Bureau), has before it a Notice of Proposed Rulemaking issued in response to a Petition for Rulemaking filed by WVEC Television, LLC (Petitioner), the licensee of television station WVEC(TV) (WVEC or Station), channel 11, Hampton, Virginia. The Petitioner has requested the substitution of UHF channel 35 for VHF channel 11 in the Table of TV Allotments. The Petitioner, filed comments in support of the petition, as required by the Commission's rules, reaffirming its commitment to apply for channel 35. No other comments were received.

2. We believe the public interest would be served by substituting channel 35 for channel 11 at Hampton, Virginia. The Petitioner states that the Commission has recognized that VHF channels have certain characteristics that pose challenges for their use in providing digital television service, including propagation characteristics that allow undesired signals and noise to be receivable at relatively far distances. According to the Petitioner, it has received many complaints from viewers unable to receive a reliable signal on channel 11, despite being able to receive the NBC, CBS, and FOX network affiliates in

1 Amendment of Section 73.622(j), Table of Allotments, Television Broadcast Stations (Hampton, Virginia), MB Docket No. 22-151, Notice of Proposed Rulemaking, DA 22-404 (rel. Apr. 13, 2022) (NPRM).

2 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).

3 As noted in the NPRM, the proposed channel 35 facility causes 1.38 percent interference to WFMY-TV, Greensboro, North Carolina, in excess of the 0.5 percent interference allowed in the Commission's rules. See 47 CFR § 73.616(d) ("An application will not be accepted if it is predicted to cause interference to more than an additional 0.5 percent of the population served by another post-transition DTV station."). The Petitioner owns both WFMY-TV and WVEC, and provides an Interference Acceptance Consent letter from WFMY-TV, LLC agreeing to accept the interference from the proposed channel 35 facility. Petition, Exhibit C. In addition, the proposed facility was predicted to cause prohibited interference to WYSJ-CD, Yorktown, Virginia (WYSJ-CD). An application for minor modification application to co-locate WYSJ-CD with WVEC's proposed channel 35 facility (LMS File No. 0000188559), thus eliminating the adjacent-channel interference, will be granted simultaneously with the issuance of this Order. See NPRM at para. 3, n.7.

4 Id. at para. 2.

the Norfolk, Virginia market, all of which operate on UHF channels.<sup>5</sup> The proposed channel change would not cause any loss of service to viewers of WVEC's existing coverage area.<sup>6</sup>

3. As proposed, channel 35 can be substituted for channel 11 at Hampton, Virginia, in compliance with the principal community coverage requirements of section 73.625(a) of the Commission's rules,<sup>7</sup> at coordinates 36° 49' 00.0" N and 76° 28' 05.0" W. 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:

<u>City and State</u>	<u>Channel</u>	<u>Power (kW)</u>	<u>Antenna HAAT (m)</u>	<u>Service Pop.</u>
Hampton, Virginia	35	1000	363.9	2,127,491

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.<sup>8</sup> An expedited effective date is necessary in this case to ensure that WVEC 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>
Hampton, Virginia	35

6. **IT IS FURTHER ORDERED**, That within 30 days of the effective date of this Order, WVEC Television, LLC shall submit to the Commission a minor change application for a construction permit (Form 2100, Schedule A) specifying channel 35 in lieu of channel 11.

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. 22-151 and RM-11927 **SHALL BE TERMINATED** and its docket closed.

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

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

<sup>6</sup> *Id.*

<sup>7</sup> 47 CFR § 73.625(a).

<sup>8</sup> 5 U.S.C. § 553(d)(3).