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

In the Matter of	)	
Amendment of Section 73.622(i), Post-Transition Table of DTV Allotments, Television Broadcast Stations (Tolleson, Arizona)	)	MB Docket No. 16-93 RM-11764

NOTICE OF PROPOSED RULEMAKING

Adopted: April 14, 2016 **Released: April 14, 2016**

Comment Date: [30 days after date of publication in the Federal Register]
Reply Comment Date: [45 days after date of publication in the Federal Register]

By the Chief, Video Division, Media Bureau:

1. The Commission has before it a petition for rulemaking filed by America 51, L.P. (America 51), the licensee of KPPX-TV, channel 51, Tolleson, Arizona. America 51 requests the substitution of channel 31 for channel 51 at Tolleson.

2. America 51 states that grant of the petition would serve the public interest. While the Commission instituted a freeze on the acceptance of rulemaking petitions by full power television stations requesting channel substitutions in May 2011,[1] it subsequently announced that it would lift the freeze to accept petitions for rulemaking filed by full power television stations seeking to relocate from channel 51 pursuant to a voluntary relocation agreement with Lower 700 MHz A Block licensees.[2] America 51 has entered into such a voluntary relocation agreement with T-Mobile and states that operation on channel 31 would remove any potential interference with authorized wireless operations in the Lower 700 MHz A Block adjacent to channel 51 in the Phoenix, Arizona market and permit those operations to expand to additional consumers sooner than would otherwise be possible.[3]

3. We believe that the America 51's proposal warrants consideration.[4] KPPX-TV agrees that it will be protected in the incentive auction at its channel 51 operating parameters even after its move to channel 31.[5] Accordingly, there will be no impact on repacking flexibility. KPPX-TV also recognizes

[1] Public Notice, "Freeze on the Filing of Petitions for Digital Channel Substitutions, Effective Immediately," 26 FCC Rcd 7721 (MB 2011).

[2] Public Notice, "General Freeze on the Filing and Processing of Applications for Channel 51 Effective Immediately and Sixty (60) Day Amendment Window for Pending Channel 51 Low Power Television, TV Translator and Class A Applications," 26 FCC Rcd 11409 (MB 2011).

[3] America 51 Petition for Rulemaking, Technical Exhibit at 1-2.

[4] In determining whether to grant a rulemaking petition to relocate from channel 51, the Media Bureau must assess the extent to which grant of the petition will affect repacking flexibility in connection with the broadcast television spectrum incentive auction. *See In the Matter of Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268, Report and Order, 29 FCC Rcd 6567, 6658-59, para. 203 & n.658 (2014) (*"Incentive Auction Report and Order"*).

[5] America 51 Further Supplement to Petition for Rulemaking at 1-2.

that as a result of repacking during the incentive auction, it may be required to move from channel 31.[6] Based on the foregoing representations, channel 31 can be substituted for channel 51 at Tolleson, Arizona as proposed, in compliance with the principal community coverage requirements of Section 73.625(a) of the Commission's rules,[7] at coordinates 33-20-03 N. and 112-03-38 W.[8] In addition, we find that this channel change meets the technical requirements set forth in Sections 73.616 and 73.623 of the Commission's rules.[9] We propose to substitute channel 31 for channel 51 for station KPPX-TV with the following specifications:

City and State	DTV Channel	DTV Power (kW)	Antenna HAAT (m)
Tolleson, Arizona	31	645	548

4. Accordingly, we seek comments on the proposed amendment of the Post-Transition Table of DTV Allotments, Section 73.622(i) of the Commission's rules,[10] for the community listed below, to read as follows:

	Channel No.	
City and State	Present	Proposed
Tolleson, Arizona	51	31

5. The Commission's authority to institute rulemaking proceedings, showings required, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. Pursuant to Sections 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before [30 days after publication in the Federal Register] and reply comments on or before [45 days after publication in the Federal Register], and are advised to read the Appendix for the proper procedures. Comments should be filed with the Federal Communications Commission, Office of the Secretary, 445 12th Street, S.W., Washington, D.C. 20554. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

John R. Feore, Esq.
Cooley LLP
1299 Pennsylvania Avenue, N.W.
Suite 700
Washington, D.C. 20004

6. Parties must file an original and one copy of each filing.[11] Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the

[6] America 51 Supplement to Petition for Rulemaking at 1-2. Should KPPX-TV be reassigned to a new channel in the re-packing process, the station will be notified by a public notice that sets forth the channel reassignments. *Incentive Auction Report and Order* at 6579, para. 34.

[7] 47 C.F.R. § 73.625(a).

[8] The proposed facility is located within the Mexican coordination zone, and concurrence from the Mexican government has already been obtained for this allotment in connection with the upcoming incentive auction.

[9] 47 C.F.R. §§ 73.616, 73.623.

[10] 47 C.F.R. § 73.622(i).

[11] *See Amendment of Certain of the Commission's Part 1 Rules of Practice and Procedure and Part 0 Rules of Commission Reorganization*, GC Docket No. 10-44, Report and Order, 26 FCC Rcd 1594, 1602, para. 21 (2011).

Commission's Secretary at the FCC Headquarters Building located at 445 12th Street, S.W., Room TW-A325, Washington, D.C. 20554. The filing hours at this location are Monday through Friday, 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail or Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, Maryland 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to FCC Headquarters at 445 12th Street, S.W., Washington, D.C. 20554. Alternatively, parties may submit the filing electronically at http://apps.fcc.gov/ecfs. Online filing is optional. Participants that file comments and replies in electronic form need only submit one copy of those comments, so long as the submission conforms to any procedural or filing requirements established for formal electronic comments.[12] All filings must be addressed to Marlene H. Dortch, Secretary, Federal Communications Commission, Office of the Secretary. Any paper filing that is not addressed to the Office of the Secretary will be treated as filed on the day it is received in the Office of the Secretary.[13] Accordingly, failure to follow the specified requirements may result in the treatment of a filing as untimely.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to a rulemaking proceeding to amend the DTV Table of Allotments, Section 73.622(i). This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, § 3506(c)(4).

8. For further information concerning the proceeding listed above, contact Joyce L. Bernstein, Video Division, Media Bureau, (202) 418-1647. For purposes of this restricted notice and comment rulemaking proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a Notice of Proposed Rulemaking until the proceeding has been decided and such decision in the applicable docket is no longer subject to reconsideration by the Commission or review by any court. An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or any summary of any new information shall be served by the person making the presentation upon the other parties to the proceeding in a particular docket unless the Commission specifically waives this service requirement. Any comment that has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION



Barbara A. Kreisman
Chief, Video Division
Media Bureau

[12] 47 C.F.R. § 1.419(d).

[13] *See* 47 C.F.R. § 1.7.

APPENDIX

1. Pursuant to authority found in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and 47 C.F.R. Sections 0.61, 0.204(b) and 0.283, IT IS PROPOSED TO AMEND the Post-Transition Table of DTV Allotments, 47 C.F.R. Section 73.622(i), as set forth in the *Notice of Proposed Rulemaking* to which this *Appendix* is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rulemaking* to which this *Appendix* is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in 47 C.F.R. Sections 1.415 and 1.420, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rulemaking* to which this *Appendix* is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. The person filing the comments shall serve comments on the petitioners. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. A certificate of service shall accompany such comments and reply comments (a), (b) and (c)). Comments should be filed with the Federal Communications Commission, Office of the Secretary, 445 12th Street, S.W., Washington, D.C. 20554. Alternatively, parties may submit the filing electronically at http://apps.fcc.gov/ecfs. Online filing is optional.

4. Number of Copies. In accordance with the provisions of 47 C.F.R. Section 1.419(b), an original and one copy of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission. Participants that file comments and replies in electronic form need only submit one copy of those comments, so long as the submission conforms to any procedural or filing requirements established for formal electronic comments (*see* 47 C.F.R. Section 1.419(d)). An electronic copy should also be sent to joyce.bernstein@fcc.gov.

5. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Reference Information Center, at its headquarters, 445 12th Street, S.W., Washington, D.C. 20554.