



FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 23-336; RM-11967; DA 24-70; FR ID 199273]

Television Broadcasting Services Wittenberg and Shawano, Wisconsin

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Video Division, Media Bureau (Bureau), has before it a notice of proposed rulemaking issued in response to a petition for rulemaking filed by TV 49, Inc. (TV-49 or Petitioner), the permittee of an unbuilt television station on channel 31 allotted to Wittenberg, Wisconsin. The Petitioner has requested that the Commission delete channel 31 from Wittenberg and allot it to Shawano, Wisconsin in the Table of TV Allotments and modify its construction permit to specify Shawano as its community of license. TV-49 filed comments in support of the petition, as required by the rules, reaffirming its commitment to file for channel 31 at Shawano.

DATES: Effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, Media Bureau, at (202) 418-1647 or Joyce.Bernstein@fcc.gov.

SUPPLEMENTARY INFORMATION: The proposed rule was published at 88 FR 72417 on October 20, 2023. The Petitioner filed comments in support of the petition reaffirming its commitment to apply for channel 31. No other comments were filed.

The Bureau believes the public interest would be served by reallocating channel 31 from Wittenberg to Shawano in the Table of TV Allotments consistent with the technical parameters set forth in the Amended Petition. The Technical Exhibit submitted with TV-49's Amended Petition demonstrates that the proposed allotment of channel 31 at Shawano is short-spaced to the current allotment at Wittenberg and thus, is mutually exclusive. We also conclude that the reallocation of

channel 31 from Wittenberg to Shawano will result in a preferential arrangement of allotments in accordance with the Commission's second television allotment priority – to provide each community with at least one television broadcast station. Shawano is the seat of Shawano County, in which both communities are located, and is nine times larger than Wittenberg. As TV-49 has demonstrated, Shawano has the population and public services indicative of a community deserving of its own television station. For example, the Shawano school district operates five public schools and Northeast Wisconsin Technical College operates a Regional Learning Campus in Shawano. Shawano is governed by a mayor and six alderpersons, who collectively comprise its Common Council. Shawano also provides a number of municipal services, including but not limited to those provided through the Shawano-Bonduel Municipal Court, the Shawano Department of Public Works, the Shawano Police Department, and the Shawano Municipal Utilities.

While based on the facts above we find that TV-49's proposal represents a preferential arrangement of allotments pursuant to the Commission's second allotment priority, grant of the proposed reallocation will remove Wittenberg's only local service, which the Commission generally prohibits. After reviewing the record, we find on balance that the public would benefit from grant of a waiver of our general prohibition on the removal of a community's first local service. Not only is Shawano a significantly more populated community, but the channel 31 facility has not yet been constructed, and thus no viewers have come to rely on any existing service, a factor the Commission has found to be mitigating in the context of whether it would remove the sole channel allotted to a community. Of equal significance is the fact that six licensed full power television stations currently provide noise-limited service to all of Wittenberg and TV-49 demonstrates that once the Station commences operations it will also provide noise-limited service to Wittenberg. In addition, the proposed allotment at Shawano is otherwise in compliance with all of our technical rules. As proposed, channel 31 can be allotted to Shawano in compliance with the principal community coverage requirements of § 73.625(a) of the rules, at

coordinates 44° 46' 56.0" N and 88° 36' 32.0" N. Furthermore, we find that the proposed change in community of license meets the technical requirements set forth in §§ 73.616 and 73.623 of the rules.

This is a synopsis of the Commission's *Report and Order*, MB Docket No. 23-336; RM-11967; DA 24-70, adopted January 24, 2024, and released January 24, 2024. The full text of the document is available for download at <https://www.fcc.gov/edocs>. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

This document does not contain 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, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601-612, do not apply to this proceeding.

The Commission will send a copy of the *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television.

FEDERAL COMMUNICATIONS COMMISSION.

Thomas Horan
Chief of Staff
Media Bureau.

Final Rule

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73 -- RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

2. In § 73.622(j), amend the Table of TV Allotments, under Wisconsin, by:

a. Adding an entry in alphabetical order for “Shawano”; and

b. Removing the entry for “Wittenberg”.

The addition reads as follows:

§ 73.622 Digital television table of allotments.

(j) ***

Community	Channel No.

Wisconsin	

Shawano	31
