



FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 25-84; RM-11995; DA 25-122; FR ID 280225]

Television Broadcasting Stations, Silver City and Truth or Consequences, New Mexico

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Video Division, Media Bureau (Bureau) of the Federal Communications Commission (Commission), has before it a petition for rulemaking filed by TV-49, Inc. (TV-49 or Petitioner), the permittee of an unbuild full power television station KKAB, channel 12, Silver City, New Mexico (Station or KKAB). Petitioner requests an amendment of the Table of TV Allotments (table) to delete channel 12 at Silver City and substitute channel 12 at Truth or Consequences, New Mexico (Truth or Consequences), consistent with the technical parameters set forth in the Petition, as amended. The Petitioner further requests modification of its construction permit to specify Truth or Consequences as its community of license.

DATES: Comments must be filed on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], and reply comments on or before [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit comments, identified by MB Docket No. 25-84, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs>.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
 - Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. All filings must be addressed to the Secretary, Federal Communications Commission.

- Hand-delivered or messenger-delivered paper filings for the Commission’s Secretary are accepted between 8 a.m. and 4 p.m. by the FCC’s mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.
- *People with Disabilities:* 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.

In addition to filing comments with the FCC, interested parties should serve counsel for the Petitioner as follows: Matthew DelNero, Esq., Covington & Burling LLP, 850 Tenth Street NW, Washington, D.C. 20001.

FOR FURTHER INFORMATION CONTACT: Emily Harrison, Media Bureau, at Emily.Harrison@fcc.gov, (202) 418-1665, or Mark Colombo, Media Bureau, at Mark.Colombo@fcc.gov, (202) 418-7611.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission’s *Notice of Proposed Rulemaking*, MB Docket No. 25-84; RM-11995; DA 25-122, adopted February 11, 2025, and released February 11, 2025. The full text of this document is available for download at <https://www.fcc.gov/edocs>. To request materials in accessible formats (braille, large print, computer diskettes, or audio recordings), please send an email to FCC504@fcc.gov or call the Consumer & Government 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.

Members of the public should note that all *ex parte* contacts are prohibited from the time a notice of proposed rulemaking is issued to the time the matter is no longer subject to Commission consideration or court review, *see* 47 CFR 1.1208. There are, however, exceptions to this prohibition, which can be found in § 1.1204(a) of the Commission's rules, 47 CFR 1.1204(a). *See* §§ 1.415 and 1.420 of the Commission's rules for information regarding the proper filing procedures for comments, 47 CFR 1.415 and 1.420.

Providing Accountability Through Transparency Act: The Providing Accountability Through Transparency Act, Public Law 118-9, requires each agency, in providing notice of a rulemaking, to post online a brief plain-language summary of the proposed rule. The required summary of the notice of proposed rulemaking is available at <https://www.fcc.gov/proposed-rulemakings>.

Synopsis

Section 1.420(i) of the rules provides that the Commission, during a rulemaking proceeding to amend the table, may also modify a station's license or permit to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest. The Commission has stated that it will apply the modification procedure in § 1.420(i) of the rules in the limited circumstances in which: (1) the new allotment will be mutually exclusive with a station's existing allotment; (2) the new allotment will result in a preferential arrangement of the allotments according to the Commission's television allotment priorities; and (3) the new allotment will not deprive a community of its sole local transmission outlet.

The Technical Exhibit submitted with the Petition demonstrates that the proposed allotment of channel 12 at Truth or Consequences is mutually exclusive with the current allotment at Silver City, and is otherwise in compliance with all of the Commission's technical rules. The Petitioner emphasizes that Silver City will not lose any existing service because as a permittee, TV-49 has not commenced operations in Silver City, 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 a proposal to modify a station's community of license would deprive viewers of existing service. Moreover, the Petitioner states that

Silver City will continue to be served by KKAB's sister station KKAD, which is also licensed to Silver City.

The Petitioner asserts that Truth or Consequences, the county seat of Sierra County, with a 2020 Census population of 6,053 people, is a community deserving of an allotment. Truth or Consequences does not presently have a television broadcast allotment and thus the allotment would deliver a first reception service to Truth or Consequences and provide service to over 10,000 people who currently reside within a broadcast television white area (*i.e.*, persons who do not have access to any over-the-air broadcast television signals). Truth or Consequences is governed by an elected City Commission which consists of a set of commissioners who select a Commission member to act as Mayor. In addition, Petitioner states that Truth or Consequences Municipal Schools operates three elementary, one middle, and one high school serving the entirety of Sierra County. Located approximately twenty miles southeast of Truth or Consequences, is the "world's first purpose-built commercial spaceport," Spaceport America. Petitioner also notes that Truth or Consequences offers a range of municipal services, including a police department, public utilities, a public library, an animal shelter, and a municipal airport. Petitioner states that given the foregoing, it is clear that Truth or Consequences has the population and public services indicative of a community deserving of its own television station allotment. In comparison, Silver City has a 2020 Census population of 9,704 persons. Like Truth or Consequences, Silver City is also a County seat (Grant County) and the local government provides a range of municipal services, including a fire department, police department, schools (four elementary, one middle, and two high schools) and public works. Silver City is also home of the Western New Mexico University.

We believe that the Petitioner's proposal warrants consideration. Based on an analysis by Bureau staff it appears channel 12 can be allotted to Truth or Consequences, as proposed, in compliance with the principal community coverage requirements of § 73.618 of the rules at coordinates 33-19-38.0 N and 107-18-49.0 W. The change in community of license from Silver City to Truth or Consequences would add a first local service to Truth or Consequences, including first service to over 10,000 people that currently reside in areas without any full power over-the-air television service. This meets the first and second criteria under the Commission's allotment priorities. While it would remove a second allotted service from Silver City, Silver City would continue to be served by KKAD, which is allotted to the community.

In addition, since KKAB has yet to commence operation, no viewers would lose existing service as a result of this proposal. Although the population of Truth or Consequences (6,053) is less than that of Silver City (9,704), it has numerous community elements, including public services and being the home of the County seat for Sierra County, that warrant consideration. Accordingly, we seek comment on whether Petitioner's proposal to amend the table in § 73.622(j) of the rules from channel 12 at Silver City to Truth or Consequences, as shown below, is consistent with the public interest.

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Thomas Horan,

Chief of Staff,

Media Bureau.

Proposed Rule

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 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. Amend § 73.622, in the table in paragraph (j), under New Mexico, by revising the entry for “Silver City” and adding the entry “Truth or Consequences” in alphabetical order to read as follows:

§ 73.622 Digital television table of allotments.

* * * * *

(j) * * *

Community	Channel No.
* * * * *	
New Mexico	
* * * * *	
Silver City	10
Truth or Consequences	12
* * * * *	

* * * * *