

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

In the Matter of the Application of)
)
Amendment of Section 73.622(i),) MB Docket No. 18-126
Digital Television Broadcast Stations) RM-11800
(Bridgeport and Stamford, Connecticut))

NOTICE OF PROPOSED RULEMAKING

Adopted: April 25, 2018

Released: April 26, 2018

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 (Petition) filed by Connecticut Public Broadcasting, Inc. (Petitioner or CPBI), licensee of noncommercial educational (NCE) television station WEDW, channel *49, Bridgeport, Connecticut (WEDW).¹ WEDW operates on channel *49 on a shared basis with commercial television station WZME, Bridgeport, Connecticut (WZME), licensed to NRJ TV NY License Co. (NRJ).² Prior to channel sharing, WZME was licensed on channel 42 at Bridgeport; NRJ has relinquished its channel 42 spectrum pursuant to a successful license relinquishment bid in the broadcast incentive auction and the spectrum is now being licensed to new 600 MHz Band flexible use licensees.³

2. CPBI requests an amendment of the DTV Table of Allotments,⁴ to change WEDW's community of license from Bridgeport to Stamford, Connecticut. Petitioner further requests modification of WEDW's license to specify Stamford as its community of license pursuant to Section 1.420(i) of the Rules.⁵ No change is proposed with respect to WZME, which would remain licensed to Bridgeport.

3. Section 1.420(i) of the Rules provides that the Commission, during a rulemaking

¹ Connecticut Public Broadcasting, Inc., Petition for Rulemaking, as amended (filed on Aug. 23, 2017) (Petition).

² See LMS File Nos. 0000029677 (WZME license to cover shared operation on channel 49) and 0000029810 (WEDW modification of license for shared operation on channel *49), granted Sept. 20, 2017.

³ See generally, *Incentive Auction Closing and Channel Reassignment Public Notice: The Broadcast Television Incentive Auction Closes; Reverse Auction and Forward Auction Results Announced; Final Television Band Channel Assignments Announced; Post-Auction Deadlines Announced*, Public Notice, 32 FCC Rcd 2786 (IATF/MB/WTB 2017).

⁴ 47 CFR § 73.622(i); *Modification of FM and TV Authorizations to Specify a New Community of License*, Report and Order, 4 FCC Rcd 4870, 4873 para. 22 (1989) (*Change in Community RO&O*), recon. granted in part, 5 FCC Rcd 7094 (1990) (*Recon MO&O*).

⁵ Petition at 1-2. Petitioner also requested a waiver of the Commission's freeze on the filing of petitions for digital channel substitutions. *Id.* at 5. However, such a request is no longer necessary because the Commission partially lifted the freeze on the filing of such petitions that do not involve technical changes on January 12, 2018. *Media Bureau Partially Lifts the Freeze on the Filing of Petitions for Rulemaking to Change Full Power Television Stations' Communities of License*, Public Notice, 33 FCC Rcd 151(MB 2018).

proceeding to amend the Table of Allotments, may modify a station's license to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest.⁶ The Commission will apply this procedure 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.⁷

4. CPBI claims that the proposed allotment satisfies all three of the above-listed criteria. First, CBPI states that the proposed reallocation is mutually exclusive with its existing allotment because it would not affect the technical specifications currently authorized for WEDW. Second, CBPI asserts that Stamford qualifies as a community for allotment purposes and that the proposed reallocation would represent a preferential allotment pursuant to the Commission's second allotment priority (Priority 2).⁸ It notes that Stamford, with a 2010 U.S. Census population of 122,643, is the third largest city in Connecticut, the seventh largest city in New England, and a city where numerous Fortune 500 companies have located their corporate headquarters.⁹ Stamford, however, despite its population size and importance to the Connecticut economy, does not currently have a full-power television station licensed to it.¹⁰ Finally, CBPI asserts that the proposed reallocation will not deprive Bridgeport of its sole broadcast station as it will continue to be served by shared station WZME on channel 49 at Bridgeport.¹¹

5. We believe that CBPI's proposal warrants consideration. CPBI does not propose to change WEDW's licensed facilities as part of its allotment request and its existing principal community contour¹² will cover the entire community of Stamford from the station's currently-licensed transmission facilities. Accordingly, we seek comments on the proposed amendment of the DTV Table of Allotments in Section 73.622(i) of the Rules as seen below:¹³

⁶ 47 CFR § 1.420(i).

⁷ *Change in Community RO&O*, 4 FCC Rcd at 4874, para. 28. The Commission determines a preferential arrangement of the allotments based on the following five priorities: (1) provide at least one television service to all parts of the United States; (2) provide each community with at least one television broadcast station; (3) provide a choice of at least two television services to all parts of the United States; (4) provide each community with at least two television broadcast stations; and (5) assign any remaining channels to communities based on population, geographic location, and the number of television services available to the community from stations located in other communities. *Amendment of Section 3.606 of the Commission's Rules and Regulations*, Sixth Report and Order, 41 F.C.C. 148, 167-173 (1952) (*Sixth Report and Order*). The Commission will entertain a request to waive the prohibition on the removal of local service in the rare circumstances where such a removal might serve the public interest by, for example, providing a first reception service to a significantly sized population. *Recon MO&O*, 5 FCC Rcd at 7096, para. 17.

⁸ Petition at 4.

⁹ *Id.*

¹⁰ *Id.* According to 47 CFR § 73.622(i), which lists the Post-Transition Table of DTV Allotments for each state, there are no stations currently licensed to Stamford, Connecticut.

¹¹ Petition at 3.

¹² 47 CFR § 73.625.

¹³ Because WZME has relinquished channel 42 at Bridgeport and is now operating on channel 49, we would also amend the rule to reflect its channel change.

	Channel No.	
City and State	Present	Proposed
Bridgeport, Connecticut	42, *49	49
Stamford, Connecticut	-	*49

6. 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. 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. 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 (*see* 47 CFR Section 1.420(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. Additionally, a copy of such comments should be served on the Petitioners' counsel as follows:

Connecticut Public Broadcasting, Inc.
c/o Garvey Schubert Barer
Steven C. Schaffer, Esq.
1000 Potomac Street, N.W., Suite 200
Washington, D.C. 20004

7. Parties must file an original and a copy of each filing.¹⁴ 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 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 9050 Junction Drive, Annapolis Junction, Maryland 20701. 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.¹⁵ **All filings must be addressed to Marlene H. Dortch, Secretary, Federal**

¹⁴ See Amendment of Certain of the Commission's Part 1 Rules of Practice and Procedure and Part 0 Rules of Commission Reorganization, Report and Order, 26 FCC Rcd 1594, para. 21 (2011).

¹⁵ 47 CFR § 1.419(d).

Communications Commission, Office of the Secretary. Any 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.¹⁶ Accordingly, failure to follow the specified requirements may result in the treatment of a filing as untimely.

8. 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. All filings are also available at <https://www.fcc.gov/ecfs/>.

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to a rule making 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).

10. For further information concerning the proceeding listed above, contact Darren Fernandez, Video Division, Media Bureau, at darren.fernandez@fcc.gov. For purposes of this restricted notice and comment rule making 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 which 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.

11. 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 CFR Sections 0.61, 0.204(b) and 0.283, IT IS PROPOSED TO AMEND the DTV Table of Allotments, 47 CFR Section 73.622(i).

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

¹⁶ See 47 CFR § 1.7.

