

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

	)	
In the Matter of	)	
	)	
Amendment of Section 73.622(b),	)	MB Docket No. 05-52
Table of Allotments,	)	RM-10300 <sup>1</sup>
Digital Television Broadcast Stations.	)	
(Johnstown and Jeannette, Pennsylvania)	)	

**NOTICE OF PROPOSED RULE MAKING**

**Adopted: February 10, 2005**

**Released: February 17, 2005**

Comment Date: April 4, 2005  
Reply Comment Date: April 19, 2005

By the Chief, Video Services Division:

1. The Commission has before it a petition for rule making filed by Paramount Stations Group of Pittsburgh, Inc. ("Paramount"), licensee of Station WNPA-TV, NTSC Channel 19+, Jeannette, Pennsylvania. Paramount requests the substitution of DTV Channel 49 for station WNPA-TV's assigned DTV Channel 30 at Johnstown and the reallocation of DTV channel 49 from Johnstown to Jeannette, Pennsylvania.

2. Paramount states that prior to the release of the DTV Table of Allotments, the NTSC Channel 19 and the community of license for Station WNPA-TV (formerly WTWB-TV) were changed from Channel Johnstown, Pennsylvania to Jeannette, Pennsylvania.<sup>2</sup> However, Paramount notes that the DTV Table of Allotments was not updated to reflect the change in Station WNPA-TV's community of license. Specifically, the paired DTV Channel 30 was inadvertently allotted at Johnstown instead of Jeannette. Paramount is in effect requesting that we substitute paired DTV Channel 49 at Jeannette instead of DTV Channel 30 that should have been allotted to Jeannette. Paramount maintains that because of the first adjacent allotment of WWCP-DT on Channel 29 at Johnstown, Pennsylvania, Paramount is unable to relocate its facilities. Paramount submits that adoption of its proposal to specify a new site, change its effective radiated power (ERP) and HAAT

<sup>1</sup> The Commission adopted a *Notice of Proposed Rule Making* on October 18, 2001, proposing the substitution of DTV channel 49 for DTV channel 30 at Jeannette, Pennsylvania, however, due to the action taken herein that *Notice* is superseded by this new proposal.

<sup>2</sup> See *Report and Order*, 12 FCC Rcd 10300 (1997), *Johnstown and Jeannette, Pennsylvania*, MM Docket No. 97-96. Although the *Report and Order* reallocated NTSC Channel 19+ from Johnstown to Jeannette, Pennsylvania, the *Federal Register Summary* inadvertently did not request that the channel be removed from Johnstown, Pennsylvania. See 62 FR 39781, July 24, 1997.

will enable station WNPA-TV to improve its service to the community of Jeannette.

2. We believe Paramount's proposal warrants consideration. DTV Channel 49 can be allotted at Jeannette, Pennsylvania, as proposed, in compliance with the principle community coverage requirements of Section 73.625(a) at coordinates (40-23-34 NL and 79-46-54 WL). Since the community of Jeannette is located 400 kilometers from the U.S.-Canadian border, concurrence from the Canadian government was obtained for this allotment. In addition, we find that this channel change is acceptable under the two percent criterion for de minimis impact that is applied in evaluating requests for modification of initial DTV allotments under Section 73.623(c)(2). We propose to allot DTV Channel 49 at Jeannette with the following specifications:

State & City	DTV Channel	DTV power (kW)	Antenna HAAT (m)
PA Jeannette	49	437	301

3. Accordingly, we seek comments on the proposed amendment of the DTV Table of Allotments, Section 73.622(b) of the Commission's Rules, for the communities listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>	
	<u>Present</u>	<u>Proposed</u>
Jeannette, Pennsylvania	--	49
Johnstown, Pennsylvania	29, 30, 34	29, 34

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

5. Interested parties may file comments on or before April 4, 2005, and reply comments on or before April 19, 2005, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

Howard Jaeckel  
 CBS Broadcasting Inc.  
 1515 Broadway, 49<sup>th</sup> Floor  
 New York, New York 10036  
 (Counsel for Petitioner)

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Allotments, Section

73.606(b) and 73.622(b) of the Commission's Rules. See Certification That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, February 9, 1981. The Regulatory Flexibility Act of 1980 would also not apply to rule making proceedings to amend the DTV Table of Allotments, Section 73.622(b) of the Commission's Rules.

7. For further information concerning this proceeding, contact Pam Blumenthal, Mass Media Bureau, (202) 418-1600. 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 Rule Making until the proceeding has been decided and such decision 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 a summary of any new oral information shall be served by the person making the presentation upon the other parties to the proceeding 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.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman  
Chief, Video Division  
Mass Media Bureau

Attachment: Appendix

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the DTV Table of Allotments, Section 73.622(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making 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. Cut-off protection. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules).

(b) With respect to petitions for rule making which conflict with the proposals in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making 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. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments,

pleadings, briefs, or other documents shall be furnished the Commission.

6. 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 Center (Room CY-A257) at its headquarters, 445 12th Street, S.W., Washington, D.C.