

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington DC 20554**

In the Matter of)	
)	
Amendment of Section 73.622,)	MB Docket No. _____
Digital Television Table of Allotments)	
For WVPT(TV), Staunton, VA)	Rulemaking No. _____
(Facility 60111))	

To: Office of the Secretary, Federal Communications Commission
Attn: Chief, Media Bureau

PETITION FOR RULEMAKING

VPM Media Corporation (“VPM”), licensee of noncommercial educational television station WVPT(TV) (“WVPT” or “the Station”), Staunton, Virginia, hereby requests that the Commission institute a rulemaking proceeding for the purpose of amending the DTV Table of Allotments (the “DTV Table”) contained in Section 73.622(i) of the Commission’s rules.¹ VPM requests that the Commission amend the DTV Table to substitute UHF Channel 15 (reserved educational) for VHF Channel 11 (reserved educational)² with the technical parameters set forth in the attached Engineering Statement. As set forth herein, grant of this Petition will create a preferential

¹ See 47 C.F.R. §§ 1.401, 1.420, 73.622(i).

² In the Closing and Channel Reassignment Public Notice, the FCC assigned WVPT to transition from channel 11 to channel 12. *See 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 Red 2786 (WTB & MB 2017). VPM has a pending construction permit to relocate WVPT to channel 12, on which it is operating pursuant to special temporary authorization, but the Station is still licensed to operate on channel 11. *See File Nos. 0000028448 (construction permit); 0000129932 (tolling); BLEDT-20130214ACP (license).*

arrangement of allotments by expanding the availability of free over-the-air television service in this market.

The FCC has described the goal of the DTV Table as ensuring the provision of digital television service “to the American people in an expeditious and efficient manner.”³ In considering channel substitution requests, the Commission considers the petitioner’s public interest justification and whether the proposal would comply with the principal community coverage requirements of Section 73.625(a).⁴

This channel substitution serves the public interest in at least two ways.

First, it will resolve significant over-the-air (“OTA”) reception problems in WVPT’s existing service area.⁵ With viewers increasingly reliant on OTA signals to receive the most valued video content,⁶ providing a strong broadcast signal is more

³ See, e.g., *In the Matter of Amendment of Section 73.622(B), Table of Allotments, Digital Television Broadcast Stations (Nampa, Idaho)*, Report and Order, 19 FCC Rcd. 4491, 4493 (2004); *In the Matter of Amendment of Section 73.622(B), Table of Allotments, Digital Television Broadcast Stations (In the Matter of Amendment of Section 73.622(B), Table of Allotments, Digital Television Broadcast Stations (Albany, New York)*, 19 FCC Rcd. 4279, 4331 (2004); see also *In the Matter of Advanced Television Systems & Their Impact Upon the Existing Television Broadcast Service*, 12 FCC Rcd. 14588 ¶ 76 (1997).

⁴ See, e.g., *In Re Amendment of Section 73.622(i), Post-Transition Table of DTV Allotments, Television Broadcast Stations (Mesa, Arizona)*, Notice of Proposed Rulemaking, MB Docket No. 20-331, RM-11863, DA-20-1192 (rel. Oct. 13, 2020) (“*Mesa NPRM*”); *In Re Amendment of Section 73.622(b), Table of Allotments, Digital Television Broad. Stations, Ontario, CA*, Notice of Proposed Rulemaking, 16 FCC Rcd. 2276 (2001); *In Re Amendment of Section 73.606(b), Table of Allotments, Television Broad. Stations, Moscow, Idaho*, Notice of Proposed Rulemaking, 17 FCC Rcd. 19447 (2002).

⁵ See *Mesa NPRM* ¶ 6 (recognizing effect of “VHF propagation challenges”); *In Re Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations, Missoula, Mt*, Notice of Proposed Rulemaking, 16 FCC Rcd. 2227 (2001) (finding that proposal to substitute channels to improve signal coverage and eliminate interference “warrants consideration”).

⁶ See, e.g., *Parks Associates, TV Antenna Usage in US Broadband Households Jumped to 25% in 2019 and Is Expected to Grow More as COVID-19 Keeps Consumers*

important than it has been in decades. Yet, the challenges with digital reception of VHF signals are well-documented. Ten years ago, the Commission recognized the deleterious effects manmade noise has on the reception of VHF signals, finding that “the propagation characteristics of these channels allow undesired signals and noise to be receivable at relatively farther distances, nearby electrical devices tends to emit noise in this band that can cause interference, and reception of VHF signals requires physically larger antennas ... relative to UHF channels.”⁷ The Commission also observed the “large variability in the performance (especially intrinsic gain) of indoor antennas available to consumers, with most antennas receiving fairly well at UHF and the substantial majority not so well to very poor at high-VHF.”⁸

These observations are consistent with WVPT’s real-world experience. WVPT routinely receives calls from viewers with two different reception issues based on WVPT’s VHF channel. In the first instance, viewers located within WVPT’s predicted coverage area are unable to receive an OTA signal due to a deficient antenna system that can receive the UHF channels in the market, but not WVPT. The consumer confusion is magnified because WVPT’s virtual (PSIP) channel suggests that it should be a UHF

at Home (Mar. 26, 2020), <http://www.parksassociates.com/blog/article/pr-02762020> (finding that OTA viewing increased from 15% in 2018 to 25% in 2019); Phil Kurz, *New Research Reveals Resurgence in OTA Antenna Viewing*, TVTechnology (Apr. 29, 2019), available at <https://www.tvtechnology.com/news/new-research-reveals-resurgence-in-ota-antenna-viewing> (finding that viewers consume 19% of viewing time over the air); *The Evolving Over-the-Air Home*, Nielsen Local Watch Report (Jan. 14, 2019), available at <https://www.nielsen.com/wp-content/uploads/sites/3/2019/04/q2-2018-local-watch-report.pdf> (finding that more than 14% of TV households lack cable or satellite service).

⁷ See *Matter of Innovation in the Broadcast Television Bands: Allocations, Channel Sharing and Improvements to VHF*, Notice of Proposed Rulemaking, 25 FCC Rcd. 16498 ¶ 42 (2010) (recognizing that “VHF channels have certain characteristics that have posed challenges for their use in providing digital television service.”).

⁸ *Id.* ¶ 44.

station, not a VHF station. In the second instance, viewers who previously received WVPT's OTA signal either intermittently or permanently lose the signal due to interference from sources including LED lighting, CF lighting, electric motors, electric dryers, solar panels, kitchen appliances, a bird bath heater, Christmas lights, phone chargers, pool pumps, a wood stove blower, and electric utility pole insulator failure. Although some of these cases can be resolved, other times the sources of interference are outside the viewer's control. Furthermore, when there is lightning activity in the area, the VHF signal can be virtually unwatchable for hours at a time. Moving WVPT from channel 11/12 to channel 15 will solve the problems associated with VHF reception that make it difficult for viewers to receive WVPT's noncommercial educational programming without a subscription service.

Second, the proposed channel substitution will allow for a more efficient construction of WVPT's post-incentive auction facilities. VPM initially planned to retune WVPT's existing distributed transmission system ("DTS") transmitters from channel 11 to channel 12. After VPM placed its orders, however, the transmitter manufacturer declared bankruptcy and neither the transmitter manufacturer nor the antenna manufacturer were able to support the planned retuning effort. Meanwhile, in February 2020, the manufacturer of the existing tower, Valmont, performed a structural analysis which revealed that the existing tower at Elliott Knob cannot support a replacement antenna on channel 12.⁹ Not only is UHF equipment more readily available, but UHF antennas are lighter than VHF antennas. As a result, transitioning to channel 15 should

⁹ For a more detailed description of VPM's efforts, see VPM's Request for Tolling Waiver, File No. 0000129932.

obviate the need for VPM to construct a new tower for WVPT—saving both time and money.

Attached is an Engineering Statement of Doug Vernier Telecommunications Consultants,¹⁰ which sets forth in detail the proposed WVPT Channel 15 DTV Table specifications. This proposal is in compliance with all relevant technical requirements for amendment of the post-transition DTV Table, including the interference protection requirements of 47 C.F.R. §73.616 and the 0.5% de minimis interference standard with respect to all allotments and assignments, existing and proposed. The proposed Channel 15 facilities will provide full principal community coverage to Staunton, Virginia.

As further demonstrated by the attached Engineering Statement, when compared to WVPT’s existing service, the proposed Channel 15 facilities will cover 1,025,057 people, a net gain of 56,813 people. Although there is a small loss area that covers 27,033 people, as demonstrated by Exhibit 2 to the Engineering Statement, most of the loss area is at the southwest portion of WVPT’s contour, where 7-10 services will remain, including service from noncommercial educational television station WBRA-TV.¹¹ As demonstrated by Exhibit 4 to the Engineering Statement, the only areas that will receive fewer than five stations as a result of the proposed channel change do not receive noise-

¹⁰ See Attachment 1 (“Engineering Statement”).

¹¹ See *Third Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*, Notice of Proposed Rulemaking, 22 FCC Rcd. 9478, 9493, ¶ 38 (2007) (“The Commission is generally most concerned where there is a loss of an area’s only network or NCE TV service, or where the loss area results in an area becoming less than well-served, i.e., served by fewer than five full-power over-the-air signals.”) (footnotes and citations omitted); *In Re Amendment of Sections 73.606(b) & 73.622(b)*, Report and Order, 18 FCC Rcd. 15577, 15580 (2003) (explaining that areas that receive at least five other existing full power services are considered well-served).

limited coverage from WVPT today.¹² In practice, VPM expects few if any persons who are currently able to receive WVPT's OTA signal on Channel 12 would no longer be able to receive WVPT's OTA signal as a result of the transition to Channel 15. Meanwhile, any losses are offset by WVPT's increased coverage to the north, providing a second, third, fourth, and fifth service, and a first noncommercial educational service, to many viewers.

For the foregoing reasons, VPM respectfully requests that the Commission grant this Petition and immediately commence a rulemaking proceeding to change the digital allotment for WVPT from Channel 11 to Channel 15 as proposed herein.

Respectfully submitted,

VPM MEDIA CORPORATION

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¹² See *WSET, Inc.*, 80 FCC 2d 233, 246 (1980) (finding loss area population of 500 *de minimis*).

Attachment 1