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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
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)
Amendment of Section 73.622(b))
Table of Allotments,)
Digital Television Broadcast Stations)
(Cheboygan, Michigan))
)

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

MB Docket No. 02-91
RM-10411

COMMENTS OF WPBN/WTOM LICENSE SUBSIDIARY, INC.

WPBN/WTOM License Subsidiary, Inc., licensee of television station WTOM-TV (NTSC Ch. 4, DTV Ch. 14), Cheboygan, Michigan, (Fac. Id. 21254) files these comments in support of the Commission's Notice of Proposed Rule Making¹ in the above-captioned proceeding to amend Section 73.622(b), the DTV Table of Allotments ("DTV Table"), to substitute Channel 35 for Channel 14 as the DTV channel allotted to Cheboygan, Michigan, and assigned to WTOM-DT.²

As the Commission states in the Notice, DTV Channel 35 can be substituted for WTOM-DT's existing Channel 14, allotted to Cheboygan, Michigan, and assigned to WTOM-DT, in compliance with the principal community coverage requirements of Section 73.625(a) at coordinates 45-39-01 N and 84-20-37 W. In addition, the channel change is acceptable under the

¹ *In re Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations. (Cheboygan, Michigan), Notice of Proposed Rule Making, DA 02-978 (2002) ("Notice").*

² WPBN/WTOM License Subsidiary, Inc., hereby incorporates by reference the arguments made in its Petition for Rulemaking in the above-captioned proceeding. See Petition for Rulemaking of WPBN/WTOM License Subsidiary, Inc., in RM-10411 (Feb. 13, 2002).

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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) of the Commission's rules.³

Changing the WTOM-DT allotment/assignment from Channel 14 to Channel 35 will serve the public interest for several reasons. It will protect the land-mobile communications of local emergency personnel from potential interference, permit coverage of the entire Cheboygan community, and comply with all applicable interference protection standards.

First, the allotment of Channel 35 is necessary to avoid the unintentional interference to Cheboygan's emergency services' land-mobile operations. Television Channel 14 is located adjacent to a band of frequencies used primarily for land-mobile operations. While the Commission may be aware of Channel 14's potential for interference with land-mobile communications due to spectrum proximity, the potential for interference in the Cheboygan community is higher than the Commission might anticipate because the land-mobile equipment used by emergency personnel in this municipality tends to be older and therefore more susceptible to interference from the Channel 14 digital signal. In light of this potential for interference, changing WTOM-DT's allotment/assignment to Channel 35 will enhance the public interest by protecting the integrity of emergency land-mobile communications.

Second, the proposed DTV reference coordinates for Channel 35 are the geographic coordinates of the licensed WTOM-TV NTSC facility, and they are the same coordinates as those the Commission allocated for the existing Channel 14 WTOM-DT

³ We recognize, as does the Commission, that because the community of Cheboygan is located within 400 kilometers of the U.S.-Canada border, concurrence of the Canadian government must be obtained for this allotment.

allotment. As shown in the Technical Exhibit,⁴ the proposed digital operations on Channel 35 will provide the requisite coverage to the entire Cheboygan community. (See Technical Exhibit, p. 1.)

Third, the proposed Channel 35 allotment/assignment meets all applicable interference criteria. The proposed Channel 35 DTV operations meet the Commission's *de minimis* interference requirements. (See Technical Exhibit, p. 2.) In addition, the station is located within the U.S./Canada border zone. The proposed Channel 35 DTV operations meet all of the minimum separation requirements to Canadian stations under the Canadian Letter of Understanding ("LOU"), except with respect to station CKCO-DT in Wiarton, Ontario. As shown in the Technical Exhibit, however, the proposed Channel 35 DTV operations would create new interference to only 814 people (0.6%) in the CKCO-DT service population of 129,135 people. (See Technical Exhibit at Figure 3, p. 1.) The LOU deems levels of interference that are not in excess of two percent (2%) to be acceptable. Therefore, the level of interference caused by WTOM-DT's proposed operations on Channel 35 complies with the LOU's interference requirements. Finally, the proposed allotment of Channel 35 will have no prohibited contour overlap with any Class A television station. (See Technical Exhibit, p. 2.)

Upon allotment and assignment of DTV Channel 35 to WTOM-DT, WTOM-DT will complete construction of its digital facilities and will begin digital operations in a timely manner.⁵

⁴ See *Technical Exhibit Prepared in Support of Petition for Rulemaking to Modify the DTV Allotment Table for Station WTOM-DT, Cheboygan, Michigan*, prepared by Jonathan N. Edwards of du Treil, Lundin & Rackley, Inc., for WTOM-DT ("Technical Exhibit"), submitted as an exhibit to the Petition for Rulemaking of WPBN/WTOM License Subsidiary, Inc., in RM-10411 (Feb. 13, 2002).

WHEREFORE, WPBN/WTOM License Subsidiary, Inc., hereby respectfully requests that the Commission adopt the proposed amendment to Section 73.622(b), the DTV Table of Allotments, by substituting Channel 35 for Channel 14 in Cheboygan, Michigan, as the DTV channel assigned to WTOM-DT.

Respectfully submitted,



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⁵ On March 6, 2002, the Commission granted WTOM-DT's request to extend its DTV build-out deadline to November 1, 2002 (File No. BEPCDT-20020228AAX).