

Act, 5 U.S.C. 804(2). The Commission will send a copy of the Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

8. *Effective Date.* The Commission concludes that good cause exists to make the Order effective immediately upon publication in the **Federal Register**, pursuant to section 553(d)(3) of the Administrative Procedure Act. Agencies determining whether there is good cause to make effective an order less than 30 days after **Federal Register** publication “should balance the necessity for immediate implementation against principles of fundamental fairness, which require that all affected persons be afforded reasonable time to prepare for the effective date of its ruling.” In this action, the Commission is deferring the commencement of the next deployment obligation term, which would commence on January 1, 2024, but for the action taken here. The Order therefore does not impose new rule obligations that would require preparation by legacy rate-of-return carriers but instead delays the commencement of existing requirements while the Commission considers rule changes in the ongoing rulemaking proceeding. Accordingly, given the timing of the next deployment obligation term and that deferment will not require advanced preparation by carriers, the Commission finds good cause exists to make the Order effective upon publication of a summary in the **Federal Register**.

9. *Final Regulatory Flexibility Certification.* The Regulatory Flexibility Act of 1980, as amended (RFA), requires an agency to prepare a regulatory flexibility analysis for notice-and-comment rulemakings, unless the agency certifies the proposed or final rule(s) “will not, if promulgated, have a significant economic impact on a substantial number of small entities.” The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concerns” under the Small Business Act. A “small business concern” is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

10. As required by the RFA, the Commission incorporated an Initial Regulatory Flexibility Analysis (IRFA) in the *NPRM*, released in July 2023. The Commission sought written public

comment on the proposals in the *NPRM*, including comment on the IRFA. No comments were filed addressing the IRFA. The two statutorily-mandated criteria to be applied in determining the need for RFA analysis are (1) whether the proposed rules, if adopted, would have a significant economic effect, and (2) if so, whether the economic effect would directly affect a substantial number of small entities. For the reasons discussed below, the Commission has determined that the rules and policy changes adopted in the Second Report and Order will not have a significant economic impact on a substantial number of small entities and has prepared this Final Regulatory Flexibility Certification (FRFC).

11. The Order defers the commencement of the next five-year deployment obligation term, until January 1, 2025, for those cost-based rate-of-return carriers receiving CAF BLS. Legacy carriers will remain subject to the Commission’s rules, requiring the offering of broadband service at actual speeds of at least 25 Mbps downstream/3 Mbps upstream to the previously determined number of unserved locations under the current five-year term that ends on December 31, 2023. This will maintain the *status quo* as the Commission considers general program reforms in the *NPRM* proceeding, including whether to modify deployment obligations for CAF BLS recipients going forward. Because this action delays the commencement of deployment obligations already provided for under the Commission’s rules, it will not cause any significant economic impact on providers, including those which are small entities.

12. Accordingly, based on the Commission’s application of the two statutorily-mandated criteria to the rules adopted in the Order, it concludes that the adopted rules and policy changes will not have a significant economic impact on a substantial number of small entities. The Commission therefore certifies that the rules and policy changes adopted in the Order will not have a significant economic impact on a substantial number of small entities.

13. The Commission will send a copy of the Order, including a copy of the FRFC, in a report to Congress pursuant to the Congressional Review Act. In addition, the Order and the FRFC will be sent to the Chief Counsel for Advocacy of the SBA and will be published in the **Federal Register**.

IV. Ordering Clauses

14. Accordingly, *it is ordered*, pursuant to the authority contained in

sections 4(i), 214, 218–220, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 214, 218–220, and 254, and §§ 1.1, 1.3, and 1.425 of the Commission’s rules, 47 CFR 1.1, 1.3, and 1.425 the Order *is adopted*. The Order *shall be effective* upon publication of the text or summary in the **Federal Register**.

Federal Communications Commission.

Marlene Dortch,
Secretary.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 23–336; RM–11967; DA 24–70; FR ID 199273]

Television Broadcasting Services Wittenberg and Shawano, Wisconsin

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Video Division, Media Bureau (Bureau), has before it a notice of proposed rulemaking issued in response to a petition for rulemaking filed by TV 49, Inc. (TV–49 or Petitioner), the permittee of an unbuilt television station on channel 31 allotted to Wittenberg, Wisconsin. The Petitioner has requested that the Commission delete channel 31 from Wittenberg and allot it to Shawano, Wisconsin in the Table of TV Allotments and modify its construction permit to specify Shawano as its community of license. TV–49 filed comments in support of the petition, as required by the rules, reaffirming its commitment to file for channel 31 at Shawano.

DATES: Effective March 1, 2024.

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, Media Bureau, at (202) 418–1647 or Joyce.Bernstein@fcc.gov.

SUPPLEMENTARY INFORMATION: The proposed rule was published at 88 FR 72417 on October 20, 2023. The Petitioner filed comments in support of the petition reaffirming its commitment to apply for channel 31. No other comments were filed.

The Bureau believes the public interest would be served by reallocating channel 31 from Wittenberg to Shawano in the Table of TV Allotments consistent with the technical parameters set forth in the Amended Petition. The Technical Exhibit submitted with TV–49’s Amended Petition demonstrates that the

proposed allotment of channel 31 at Shawano is short-spaced to the current allotment at Wittenberg and thus, is mutually exclusive. We also conclude that the reallocation of channel 31 from Wittenberg to Shawano will result in a preferential arrangement of allotments in accordance with the Commission’s second television allotment priority—to provide each community with at least one television broadcast station. Shawano is the seat of Shawano County, in which both communities are located, and is nine times larger than Wittenberg. As TV–49 has demonstrated, Shawano has the population and public services indicative of a community deserving of its own television station. For example, the Shawano school district operates five public schools and Northeast Wisconsin Technical College operates a Regional Learning Campus in Shawano. Shawano is governed by a mayor and six alderpersons, who collectively comprise its Common Council. Shawano also provides a number of municipal services, including but not limited to those provided through the Shawano-Bonduel Municipal Court, the Shawano Department of Public Works, the Shawano Police Department, and the Shawano Municipal Utilities.

While based on the facts above we find that TV–49’s proposal represents a preferential arrangement of allotments pursuant to the Commission’s second allotment priority, grant of the proposed reallocation will remove Wittenberg’s only local service, which the Commission generally prohibits. After reviewing the record, we find on balance that the public would benefit from grant of a waiver of our general prohibition on the removal of a community’s first local service. Not only is Shawano a significantly more populated community, but the channel 31 facility has not yet been constructed, 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 it would remove the sole channel allotted to a community. Of equal significance is the fact that six licensed full power television stations currently provide

noise-limited service to all of Wittenberg and TV–49 demonstrates that once the Station commences operations it will also provide noise-limited service to Wittenberg. In addition, the proposed allotment at Shawano is otherwise in compliance with all of our technical rules. As proposed, channel 31 can be allotted to Shawano in compliance with the principal community coverage requirements of § 73.625(a) of the rules, at coordinates 44°46’56.0” N and 88°36’32.0” N. Furthermore, we find that the proposed change in community of license meets the technical requirements set forth in §§ 73.616 and 73.623 of the rules.

This is a synopsis of the Commission’s *Report and Order*, MB Docket No. 23–336; RM–11967; DA 24–70, adopted January 24, 2024, and released January 24, 2024. The full text of the document is available for download at <https://www.fcc.gov/edocs>. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer & Governmental 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.

The Commission will send a copy of the *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.
Thomas Horan,
Chief of Staff, Media Bureau.

Final Rule

For the reasons discussed in the preamble, the Federal Communications Commission amends 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. In § 73.622(j), amend the Table of TV Allotments, under Wisconsin, by:

■ a. Adding an entry in alphabetical order for “Shawano”; and

■ b. Removing the entry for “Wittenberg”.

The addition reads as follows:

§ 73.622 Digital television table of allotments.

* * *	* * *
(j) * * *	
Community	Channel No.
* * *	* * *
Wisconsin	
* * *	* * *
Shawano	31
* * *	* * *

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