

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

In the Matter of AMENDMENT OF SECTION 73.606, TABLE OF ASSIGNMENTS, TELEVISION BROADCAST STA- TIONS (DALLAS AND TYLER, TEX., AND LAW- TON, OKLA.)	}	Docket No. 16763 RM-980
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REPORT AND ORDER

(Adopted December 15, 1966)

BY THE COMMISSION: COMMISSIONER COX CONCURRING IN THE RESULT.

1. On July 14, 1966, the Commission released a notice of proposed rulemaking (FCC 66-638) in the above-entitled matter proposing changes in the Table of Assignments for television broadcast channels in order to resolve geographic separation problems involving two applicants for channel 29 at Dallas, which contemplated the use of sites that would not meet the required minimum separations to the transmitter site of station KWFT, channel 21, Fort Worth, Tex., and to the standard reference point for channel 44 at Waco, Tex. In addition to replacing channel 29 with a channel that would meet the separation requirements, it was also proposed to add another channel to avoid a comparative hearing issue of mutual exclusivity. These changes were requested by the competing applicants for channel 29 at Dallas, D. H. Overmyer Communications Co., Inc., and Maxwell Electronics Corp. Changes in the channel assignments to Tyler, Tex., and Lawton, Okla., are necessary in order to maintain maximum efficiency in the overall assignment plan, and these changes were set forth in the notice of proposed rulemaking. Interested parties were invited to comment.

2. Comments were received from Maxwell Electronics Corp., D. H. Overmyer Communications Co., Inc., and Trigg-Vaughn Stations, Inc., the latter being the permittee of station KDTV, channel 39, Dallas, Tex.¹ Maxwell requested that it be ordered to amend to channel 33 and remain in hearing status to prevent the filing of additional competing applications. Overmyer stated that it would amend to channel 27 and would not request the protection of hearing status. A stipulation to that effect entered into by Maxwell and Overmyer was filed with the Maxwell comment.

3. Trigg-Vaughn opposed the proposed amendment on the grounds that there is no need for an additional UHF channel in Dallas; that it would not be in the public interest to add the channel; that the

¹ Trigg-Vaughn has recently tendered an application to assign its permit to Doubleday Broadcasting Co., Inc.

proposal was advanced solely in the private interests of the two competing applicants for channel 29; and that adoption of the proposal would adversely affect the future use of UHF television channels in numerous small communities in the Dallas-Fort Worth area. Trigg-Vaughn failed to address itself to the stated purpose of the proposed amendment, i.e., to avoid a hearing issue of mutual exclusivity and perhaps thereby to shorten the delay in bringing additional television service to the public in the Dallas area. Trigg-Vaughn goes on to say that Dallas would have more commercial channels than other large markets if the proposal is adopted, and that it should be denied as was done when the Commission refused to assign an additional channel to Birmingham, Ala.

4. Maxwell replied to the Trigg-Vaughn comments, maintaining that there is a need for the additional channel as evidenced by the pending applications and the stated intention of the applicants to both build and operate stations; that the current Table of Assignments does not represent the maximum objective of the Commission in providing television assignments; that there will be no adverse impact on the eight communities named by Trigg-Vaughn for the reasons that they all receive service from the Dallas-Fort Worth TV stations and will receive service from the proposed new stations and, in view of the unsaturated condition of the UHF television broadcast band in that area, may secure assignments if a need arises; and that this case is entirely dissimilar to the Birmingham matter because the petitioner in that case provided no engineering to show that an additional assignment could be made, and that Birmingham is in an area where additional assignments are extremely scarce.

5. The problem of short spacing between channel 21 in Fort Worth and channel 29 in Dallas became moot when, on October 24, 1966, the Commission authorized KWFT, channel 21, Fort Worth, Tex., to move its site to the former location of WBAP-TV. This site is approximately 4 miles southwest of the present site of KWFT and is more than the necessary 20 miles from the site proposed by the channel 29 applicants in Dallas. However, there still remains the problem of the short separation to channel 44 in Waco, Tex., and the assignment of a second channel to eliminate the need for a comparative hearing. Therefore, in order to clear the way for a more orderly and expeditious disposition of the pending applications for new UHF television broadcast stations in Dallas, channel 33 will be substituted for channel 29, currently assigned to Dallas, and channel 27 will be added. We believe the efforts by both applicants to obtain another channel demonstrate a need for an additional assignment, and we point out that this will not give the Dallas-Fort Worth market an inordinately large number of channels (for example, eight commercial channels are assigned to the smaller market of Miami). As Maxwell points out, the additional assignment will not preclude needed future assignments in the area.

6. Accordingly, pursuant to the authority contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended, *It is ordered*, That, effective January 23, 1967, the Table of Assignments in section 73.606(b) of the Commission's rules *is amended*, insofar as the cities listed below are concerned, to read as follows:

City:	Channels
Lawton, Okla.....	7+, 16, *36
Dallas, Tex.....	4+, 8, *13+, 27, 33, 39
Tyler, Tex.....	7, 14, *38

Note.—Offsets will be supplied for UHF channels in a subsequent order.

7. *It is further ordered*, That Maxwell Electronics Corp. or D. H. Overmyer Communications Co., Inc., or both, *May amend* their pending applications to specify channel 33 instead of channel 29 and remain in hearing status; or either may amend to specify channel 27 and by doing so surrender hearing status protection.²

8. *It is further ordered*, That this proceeding *Is terminated*.

FEDERAL COMMUNICATIONS COMMISSION,
BEN F. WAPLE, *Secretary*.

²The respective applications and docket numbers are: Maxwell Electronics Corp., BPCT-3487, docket No. 16389; D. H. Overmyer Communications Co., Inc., BPCT-3463, docket No. 16388.