

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

In the Matter of)	
)	
Amendment of Section 73.622(b),)	MM Docket No. 99-346
Table of Allotments,)	RM-9763
Digital Television Broadcast Stations.)	
(Evansville, Indiana))	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: January 30, 2001

Released: January 31, 2001

By the Chief, Video Services Division:

1. At the request of Tri-State Public Teleplex, Inc. ("Tri-State"), licensee of noncommercial educational station WNIN(TV), NTSC Channel *9, Evansville, Indiana, the Commission has before it the Notice of Proposed Rule Making, 14 FCC Rcd 20733 (1999), proposing the substitution of DTV channel *12 for station WNIN(TV)'s assigned DTV channel *54. Tri-State filed comments. Gilmore Broadcasting Corporation, licensee of WEHT(TV), DTV channel 59, Evansville, Indiana, filed comments styled as an "alternate proposal".¹ Tri-State filed responsive comments to Gilmore's proposal.

2. We believe the public interest would be served by substituting DTV channel *12 for DTV channel *54 since it permit station WNIN(TV), a noncommercial station, to preserve its limited resources. DTV channel *12 can be allotted to Evansville, Indiana, as proposed, in compliance with the principle community coverage requirements of Section 73.625(a) at coordinates (38-01-27 N. and 87-21-43 W.). In addition, we find that this channel is acceptable under the 2 percent criterion for *de minimis* impact that is applied in evaluating requests for modification of initial DTV allotments under Section 73.623(c)(2) for Station WNIN(TV) with the following specifications:

<u>State & City</u>	<u>DTV Channel</u>	<u>DTV power (kW)</u>	<u>Antenna HAAT (m)</u>	<u>DTV Service Pop. (thous.)</u>
IN Evansville	*12	15.0	177	599

¹ Gilmore supports Tri-State's request to substitute DTV channel *12 for DTV channel *54 at Evansville and further proposes the reallocation of WEHT-TV, Evansville, Indiana, from DTV channel 59 to DTV channel 54 which Tri-State proposes to vacate. Gilmore states that the reallocation of DTV channel 54 to WEHT-TV will permit the station to increase its authorized ERP from 56.5 kW to the maximum 1000 kW.

Gilmore's request is not a counterproposal nor does it fall within the scope of this *Notice*. There is no mutually exclusivity between the allotment of DTV channel *12 and DTV channel *54 to Evansville and Gilmore's request is a proposal to substitute a different channel for station WEHT-TV's assigned DTV channel. However, Gilmore is free to file an appropriate DTV channel substitution petition for rule making which will be considered in due course.

3. Accordingly, pursuant to the authority contained 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 ORDERED, That effective March 19, 2001, the DTV able of Allotments, Section 73.622(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Evansville, Indiana	*12, 28, 45c, 58, 59

4. IT IS FURTHER ORDERED, That within 45 days of the effective date of this *Order*, Tri-State Public Teleplex, Inc. shall submit to the Commission a minor change application for a construction permit (FCC Form 301) specifying DTV Channel *12 in lieu of DTV Channel *54 for station.

5. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

6. For further information concerning this proceeding, contact Pam Blumenthal, Mass Media Bureau, (202) 418-1600.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Services Division
Mass Media Bureau