

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

)	
In the Matter of)	
)	
Amendment of Section 73.622(i),)	MB Docket No. 09-178
Post-Transition Table of DTV Allotments,)	RM-11571
Television Broadcast Stations.)	
(Cincinnati, Ohio))	
)	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: December 8, 2009

Released: December 10, 2009

By the Chief, Video Division, Media Bureau:

1. The Commission has before it a Notice of Proposed Rulemaking¹ issued in response to a petition for rulemaking filed by Scripps Howard Broadcasting Company (“SHBC”), the licensee of WCPO-TV, channel 10, Cincinnati, Ohio. SHBC requests the substitution of channel 22 for channel 10 at Cincinnati. SHBC filed comments reaffirming its interest in the proposed channel substitution. Upper Cumberland Broadcast Council (“Upper Cumberland”), licensee of WCTE(TV), Cookeville, Tennessee, filed comments stating that it took “no position on the WCPO-TV channel substitution proposal, as amended.”² No other comments were received.

2. We believe the public interest would be served by substituting channel 22 for channel 10 at Cincinnati. “Upon completing the digital transition for [s]tation WCPO-TV on June 12, 2009,” SHBC explains, “The station received a large number of telephone calls and emails from viewers unable to receive the station’s new digital service.”³ According to SHBC, “the many local viewers with indoor antennas were particularly affected.”⁴ SHBC states that it first attempted to alleviate its service difficulties by increasing the station’s power to its maximum ERP of 28 kW.⁵ However, “further testing and follow-up contacts with viewers since the station raised its power show that the station is still unable to offer acceptable service throughout its former service area while operating on a VHF channel.”⁶ As a result, SHBC believes that this

¹ *Cincinnati, Ohio*, DA 09-2180 (released October 7, 2009).

² Upper Cumberland Comments at 1.

³ SHBC Petition for Rulemaking at 1.

⁴ *Id.*

⁵ *Id.* at 1-2. FCC File No. BPCDT-20090723ADV (granted August 17, 2009).

⁶ *Id.* at 2.

channel substitution is the next logical cure for its current service deficiencies.⁷ Finally, SHBC asserts that this channel substitution will restore ABC network coverage and other program services to Cincinnati-area viewers and also result in a predicted increase in population served as compared to the station's currently licensed facility.⁸

3. Channel 22 can be substituted for channel 10 at Cincinnati, Ohio, as proposed, in compliance with the principal community coverage requirements of Section 73.625(a) of the Commission's rules,⁹ at coordinates 39-07-30 N. and 84-29-56 W. In addition, we find that this channel change meets the technical requirements set forth in Sections 73.616 and 73.623 of the Commission's rules¹⁰ with the following specifications:

City and State	Channel	Power (kW)	Antenna (meters)	Service Pop. (thous.)
Cincinnati, Ohio	22	850	305	3195

4. We also conclude that good cause exists to make this channel change effective immediately upon publication in the Federal Register, pursuant to Section 553(d)(3) of the Administrative Procedures Act.¹¹ An expedited effective date is necessary in this case to ensure that station WCPO-TV can restore service to former viewers as quickly as possible.

5. 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 immediately upon publication of this Report and Order in the Federal Register, the Post-Transition of DTV Table of Allotments, Section 73.622(i) of the Commission's rules, IS AMENDED, with respect to the community listed below, to read as follows:

<u>City and State</u>	<u>Channel No.</u>
Cincinnati, Ohio	12, 22, 33, *34, 35

6. IT IS FURTHER ORDERED, That within 30 days of the effective date of this Order, Scripps Howard Broadcasting Company shall submit to the Commission a minor change application for a construction permit (FCC Form 301) specifying channel 22 in lieu of channel 10 at Cincinnati, Ohio.

7. The Commission will send a copy of this 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).

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

⁷*Id.*

⁸*Id.*

⁹ 47 C.F.R. § 73.625(a).

¹⁰ 47 C.F.R. §§ 73.616 and 73.623.

¹¹ 5 U.S.C. § 553(d)(3).

9. For further information concerning the proceeding listed above, contact Adrienne Y. Denysyk, Media Bureau, (202) 418-1600.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau