

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

In the Matter of)
)
Advanced Television Systems and) MB Docket No. 87-268
Their Impact Upon the Existing)
Television Broadcast Service)
)

MEMORANDUM OPINION AND ORDER ON RECONSIDERATION
OF THE SEVENTH REPORT AND ORDER
AND
EIGHTH REPORT AND ORDER

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By the Commission:

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I. INTRODUCTION

1. On August 6, 2007, we adopted a new, and final, Table of Allotments for digital television (“DTV”) providing all eligible stations with channels for DTV operations after the DTV transition on February 17, 2009.¹ The final DTV Table accommodates all eligible broadcasters, reflects to the extent possible the channel elections made by broadcasters, and is consistent with efficient spectrum use. The final DTV Table also establishes the channels and facilities necessary to complete the digital transition and ultimately will replace the existing DTV Table at the end of the DTV transition.²

¹ *Seventh Report and Order and Eighth Further Notice of Proposed Rule Making, In the Matter of Advanced Television Systems and their Impact Upon the Existing Television Broadcast Service*, 22 FCC Rcd 15581 (2007) (“*Seventh Report and Order*” and “*Eighth Further Notice*”).

² The post-transition DTV Table will be codified at 47 C.F.R. § 73.622(i). The revisions to the post-transition table made herein are attached hereto in Appendix A. The current DTV Table, which is contained in 47 C.F.R. § 73.622(b), will become obsolete at the end of all authorized pre-transition DTV operations. The current NTSC Table, which is contained in 47 C.F.R. § 73.606(b), will become obsolete at the end of the transition, when all full- (continued....)

The existing DTV Table continues to govern stations' DTV operations until the end of the DTV transition. This *Memorandum Opinion and Order and Report and Order* resolves all petitions for reconsideration and related issues in connection with the final DTV Table of Allotments.

2. We received 124 timely filed petitions for reconsideration of the *Seventh Report and Order* reflecting 221 requests for action on individual stations.³ The vast majority of the petitions request specific changes to the DTV Table and/or Appendix B facilities.⁴ In this *Memorandum Opinion and Order on Reconsideration*, we address these specific requests as well as several more general issues raised by some petitioners. In general, we have accommodated the requests made by petitioners for changes to the DTV Table and/or Appendix B to the extent possible consistent with the interference and other standards outlined in the *Seventh Further Notice of Proposed Rule Making*⁵ and the *Seventh Report and Order* in this proceeding.⁶ A large number of the petitions requested changes to Appendix B

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power analog operations must cease. We will address any rule amendments necessitated by the end of analog service in a later proceeding.

³ There were several petitions for reconsideration and other requests filed after the 30-day statutory deadline. *See* 47 U.S.C. § 405 (requiring that petitions for reconsideration be filed within 30 days following public notice of the order complained of). To ensure that the Table is finalized sufficiently before the end of the transition so that all stations may file applications to construct their post-transition facilities, we treat late-filed petitions and other pleadings as requests for further rulemaking where these comments and requests seek minor adjustments and do not cause impermissible interference to other stations. In these circumstances, and given that the relief requested appears noncontroversial, we grant the adjustments requested. 5 U.S.C. § 553(b)(3)(B) (good cause exception to notice and comment). Where late-filed petitions request more significant changes that may affect other stations, those requests are denied herein. In addition, Media General Communications Holdings, LLC has withdrawn the petitions it filed for WSPA, Spartanburg, SC and WMBB, Panama City, FL; W. Russell Withers, Jr. has withdrawn the petition it filed for WDHS, Iron Mountain, MI; and Connecticut Public Broadcasting, Inc. has withdrawn its petition for WEDN, Norwich, CT. On February 14, 2008, Bahakel Communications LTD ("Bahakel") filed a Request for Partial Withdrawal of Petition for Rulemaking requesting that it be permitted to withdraw part of a petition it had previously filed for WBBJ, Jackson, TN. *See* Request for Partial Withdrawal of Petition for Rulemaking of Bahakel, filed Feb. 14, 2009; *see also* Petition for Partial Reconsideration of Bahakel, filed Oct. 26, 2007. With respect to WBBJ, Bahakel initially requested that Appendix B be changed to specify an ERP of 1000 instead of 920, an HAAT of 320m instead of 323m, a blank antenna ID specification instead of antenna ID number 74935, and a coordinate change from 35° 38' 15" latitude and 88° 41' 32" longitude to 35° 38' 16" latitude and 88° 41' 33" longitude. In its withdrawal filing, Bahakel withdrew the request for a change in ERP, HAAT and antenna ID for WBBJ, but maintained its request to change the coordinates for that station. We deny the change requested by WBBJ in its request for partial withdrawal because it was filed too late for full consideration in this proceeding. Moreover, WBBJ recently filed its application for post-transition facilities based on its current Appendix B facility, which was granted on February 27, 2008. Consequently, WBBJ has obtained the relief it seeks through the application process instead and no further action is needed.

⁴ The DTV Table specifies a channel for each eligible full power broadcast television station. Appendix B sets forth specific technical facilities – ERP, antenna HAAT, antenna radiation pattern, and geographic coordinates – at which stations will be allowed to operate. Appendix B also includes information on service area and population coverage. *See Seventh Report and Order*, 22 FCC Rcd at 15711, App. B.

⁵ *Seventh Further Notice of Proposed Rule Making, In the Matter of Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, 21 FCC Rcd 12100 (2006) ("Seventh Further Notice").

⁶ Of the 221 requests for action regarding individual stations, we grant, in whole or in part, 112 requests and wholly deny 19 requests, two of which are for unnecessary changes to Appendix B. *See infra* Section III.J. For the remaining 90 specific station requests, we find that, in light of the flexibility adopted in the *Third DTV Periodic Report and Order*, these stations should make their requests in their application for post-transition facilities, through (continued....)

facilities to permit the station to use an existing analog antenna when the station returns to its analog channel for post-transition digital operations.⁷ Where possible, we have made the revisions requested by these petitioners. We note, too, that the flexibility we recently adopted in the *Third DTV Periodic Review Report and Order* will provide many of the petitioners with the opportunity to request and receive the facilities they sought in this docket when the station files its application for authorization on its final, post-transition channel.⁸ We also reiterate that requests for revisions to Appendix B in this docket, or for modifications in the application process, that are attempts to maximize beyond authorized post-transition facilities will not be granted at this time. However, as provided in the *Third DTV Periodic Report and Order*, stations will have the opportunity to request expanded facilities later this year.⁹

3. The DTV transition deadline - February 17, 2009 - is less than 12 months away.¹⁰ In view of the short period of time remaining before this statutory deadline, our goal herein has been to finalize DTV channels and facilities as expeditiously as possible to provide stations with the certainty they need to complete their digital buildout. As we have emphasized repeatedly in this proceeding and in the Third DTV Periodic Review proceeding, the Commission has no discretion to waive or change this fast-approaching statutory transition deadline. Full-power television stations not already operating digitally or ready to commence digital service upon expiration of the deadline for the transition on February 17, 2009 must go dark and risk losing their authorizations to operate after the transition date.¹¹

4. The revisions we make to the DTV Table herein will help many broadcasters to meet the transition deadline. As discussed further below, broadcasters that filed petitions that are denied herein, and broadcasters that seek relief but failed to file a petition for reconsideration, may still be aided by the considerable regulatory flexibility we recently provided in the *Third DTV Periodic Report and Order*. Together, this *Memorandum Opinion and Order on Reconsideration* and the *Third DTV Periodic Report and Order* will enable stations to meet their obligations to provide digital service before analog transmissions must cease. The ball is now in the broadcasters' court. Those that have not finalized their post-transition facilities must now work with all speed to complete those facilities to ensure that the public continues to receive television service post-transition.¹²

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which process they may be able to obtain part, if not all, of the relief they requested in their petitions. See *infra* Sections III.D.1., n. 121, Section III.D.3., Section III.F., and Appendix D5.

⁷ We addressed and resolved 30 such requests that were raised during the comment period for the *Seventh Report and Order*.

⁸ See *Report and Order, Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, MB Docket No. 07-91, FCC 07-228 (rel. December 31, 2007) ("*Third DTV Periodic Report and Order*"). Reliance on the application process for modifying facilities is consistent with the requests and preferences of several petitioners, as described, *infra*. We also note that when stations filed their petitions for reconsideration, they were unaware of the flexibility we would provide in the application process, and many filed to preserve their rights, while advocating for revision through the application process rather than by reconsideration. See, e.g., Comments of Kopljar Communications International, Inc. filed Dec. 3, 2007; Petition for Reconsideration of Independent Communications, Inc. filed Oct. 26, 2007.

⁹ See *Third DTV Periodic Report and Order*, Section V.E., ¶ 148.

¹⁰ See Digital Television and Public Safety Act of 2005 ("DTV Act"), which is Title III of the Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4 (2006) (*codified at* 47 U.S.C. §§ 309(j)(14) and 337(e)).

¹¹ See *Third DTV Periodic Report and Order*, Section V.6., ¶ 85.

¹² The *Third DTV Periodic Report and Order* was published in the Federal Register on January 30, 2007. See 75 FR 5634-01 (Jan. 30, 2008). Stations that need to construct or modify post-transition facilities must file their applications promptly to receive construction permits. See Public Notice, "*Third DTV Periodic Report and Order* (continued....)

5. In addition, we are adopting an *Eighth Report and Order* herein addressing a number of revisions to the DTV Table and/or Appendix B proposed in the *Eighth Further Notice of Proposed Rule Making* (“*Eighth Further Notice*”). In the *Eighth Further Notice*, we sought comment on tentative channel designations (“TCDs”) for three new permittees and identified a number of other proposed revisions to the DTV Table and/or Appendix B advanced by commenters in either reply comments or late-filed comments to the *Seventh Further Notice*. In the *Eighth Report and Order*, we address comments received in response to the *Eighth Further Notice*.

II. BACKGROUND

A. The Channel Election Process and Development of the Final DTV Table of Allotments

6. Broadcast licensees selected their ultimate (*i.e.* post-transition) DTV channel inside the core spectrum (channels 2-51) through a channel election process established by the Commission in the *Report and Order* in the Second DTV Periodic Review proceeding.¹³ Under this process, licensees elected their preferred post-transition channel during one of three rounds. Channel elections that could be approved, as well as “best available” channels where appropriate, were locked in as tentative channel designations (“TCDs”) and protected against new interference from subsequent channel elections with a strong presumption that a station’s TCD would be its channel assignment proposed in the final DTV Table.¹⁴ In order to facilitate the channel election process and the development of a final, post-transition DTV Table, the Media Bureau announced a freeze on the filing of certain NTSC and DTV requests for allotment or service area changes.¹⁵

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Published in Federal Register Today; FCC Forms 301 and 340 Now Available for Filing for Post-Transition CP Applications; FCC Form 387, Transition Status Report, Available and Due February 19, 2008; Expedited Processing of CP Applications Available Until March 17,” DA No. 08-172 (rel. Jan. 30, 2008) (“*Third Periodic Forms Effective PN*”). Stations that need to construct their authorized post-transition facilities, or that need to modify their existing facilities to comply with the post-transition DTV Table Appendix B facilities, should file a CP application now. Stations must file their post-transition CP applications no later than March 17, 2008 if their construction deadline is August 18, 2008. If their construction deadline is February 17, 2009, stations must file no later than June 19, 2009. Extension requests pursuant to Section 73.624(d)(3) must be filed no earlier than 90 days, and no later than 60 days, before the relevant construction deadline. Stations must file their DTV Transition Status Reports using FCC Form 387 on or before February 19, 2008 and update these forms, as events warrant, by October 20, 2008.

¹³ *Report and Order, In the Matter of Second Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*, MB Docket 03-15, 19 FCC Rcd 18279 (2004) (“*Second DTV Periodic Report and Order*”)(recons. pending). The Commission received 11 petitions for reconsideration of the *Second DTV Periodic Report and Order*, raising a number of issues, most of which have been rendered moot by the completion of the channel election process.

¹⁴ *Id.* at 18298, ¶ 46 n. 96.

¹⁵ See Public Notice, “Freeze on the Filing of Certain TV and DTV Requests for Allotment or Service Area Changes,” 19 FCC Rcd 14810, 14810-11 (MB 2004) (“*August 2004 Filing Freeze PN*”). The freeze was imposed on August 3, 2004, prior to the commencement of the channel election process, in order to provide a stable database for developing the post-transition DTV Table. The freeze precludes parties from filing the following items: (i) petitions for rulemaking to change DTV channels within the current DTV Table, (ii) petitions for rulemaking to establish a new DTV channel allotment, (iii) petitions for rulemaking to swap in-core DTV and NTSC channels; (iv) applications to change DTV channel allotments among two or more licensees; (v) petitions for rulemaking by licensees/permittees to change NTSC channels or communities of license; (vi) applications to maximize DTV or analog TV facilities; and (vii) certain Class A television station applications. The freeze does not prevent the processing of pending applications. See *id.* See also 47 C.F.R. §§ 73.1690, 73.3533, 73.3538. In the *Second DTV Periodic Report and Order*, the Commission noted that it would continue to process rulemakings in which a Notice (continued....)

7. Prior to the first round of channel elections, the Commission required all licensees to file a certification (via FCC Form 381) by November 5, 2004 in order to define their post-transition facility.¹⁶ In these certifications, licensees had to decide whether they would (1) replicate their allotted DTV facilities, (2) maximize to their currently authorized DTV facilities,¹⁷ or (3) reduce to a currently authorized smaller DTV facility.¹⁸ In analyzing stations' channel elections, the Commission relied upon this "certification database" composed of TV station authorizations, including both analog and digital stations.¹⁹

8. In developing the final DTV Table and Appendix B, engineering evaluations were generated using computer analysis to determine station service coverage and interference.²⁰ During the channel election process, the Commission performed interference-conflict analyses in two circumstances: (1) where a station elected a channel that was different from its current DTV channel, and (2) to identify a "best available" channel. Values for the effective radiated power ("ERP") and the directional antenna radiation pattern were calculated to allow a station to match its coverage area based on its maximized or replication facilities as certified.²¹ For the purpose of these calculations, an interference conflict was found when it was predicted that more than 0.1 percent new interference would be caused to another station. That is, new interference was considered to constitute a conflict when that new interference affected more than 0.1 percent of the population predicted to be served by the station in the absence of

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of Proposed Rulemaking ("NPRM") had been issued prior to the adoption of the *Second DTV Periodic Report and Order*, but ordered the dismissal of all pending petitions to change the NTSC Table of Allotments ("NTSC Table") in which a NPRM had not yet been issued. *Second DTV Periodic Report and Order*, 19 FCC Rcd at 18308, ¶ 68.

¹⁶ Licensees were required to file their certifications (via FCC Form 381) by November 5, 2004. See Public Notice, "DTV Channel Election Information and Deadlines," 19 FCC Rcd 19569 (MB 2004). Stations that did not submit certification forms by the deadline were evaluated based on replication facilities. See *Second DTV Periodic Report and Order*, 19 FCC Rcd at 18296, ¶ 41.

¹⁷ Many stations have applied for and been granted authorization to operate at facilities that are different from the facilities that were specified for their operation in the initial DTV Table and Appendix B, as amended in 1998. In most cases, the facilities allowed under these new authorizations allow stations to "maximize" their service coverage to reach a larger population than the facilities specified in the initial DTV Table and Appendix B.

¹⁸ For a discussion of the steps involved in the channel election process, see *Seventh Report and Order*, 22 FCC Rcd. at 15585-87, ¶¶ 7-13.

¹⁹ The certification database was made available in tables attached to the Public Notice, "DTV Channel Election Information and First Round Election Filing Deadline," 19 FCC Rcd 24141 (MB 2004). This database was used to determine and evaluate existing DTV service populations, existing interference, and new interference. The Commission stated that this data best reflect current service to viewers while preserving the service areas of currently operational DTV stations. See *Second DTV Periodic Report and Order*, 19 FCC Rcd at 18294, ¶ 37.

²⁰ These evaluations were based on the technical standards and methods set forth in Sections 73.622(e) and 73.623(c) of the Commission's rules, which (1) define the geographic service area of DTV stations, and (2) provide interference technical criteria for modification of DTV allotments included in the initial DTV Table. See 47 C.F.R. §§ 73.622(e), 73.623(c).

²¹ Calculations of new ERP and antenna patterns for stations' elected channels were performed in the same manner as those performed by the Commission to match DTV facilities to analog facilities; see *Sixth Report and Order*, 12 FCC Rcd at 14693, App. B. Population data from the year 2000 census was used. See *Seventh Further Notice*, 21 FCC Rcd at 12107, ¶ 21. See also *Second DTV Periodic Report and Order*, 19 FCC Rcd 18294, 18302-03, ¶¶ 37-38, 56.

that new interference.²²

9. In the *Second DTV Periodic Report and Order*, the Commission recognized that a special accommodation was necessary if a station with an out-of-core DTV channel elected to operate its post-transition DTV station on its in-core analog channel.²³ Stations that were eligible to participate in the channel election process and that had either an out-of-core DTV channel or no DTV channel (*i.e.*, a singleton with only an in-core analog channel) were permitted to select their in-core NTSC channel for post-transition DTV operation if it would cause no more than 2.0 percent new interference to a protected DTV station.²⁴ Where post-transition use of its NTSC channel by such a station was predicted to cause interference to a protected station in excess of 2.0 percent of the protected station's population coverage, the electing station was then made subject to the normal conflict-resolution procedures.²⁵

10. In early 2006, while the channel election process was underway, Congress enacted significant statutory changes relating to the DTV transition. Most importantly, the DTV Act established February 17, 2009 as the new hard deadline for the end of the DTV transition and the end of analog transmissions by full power stations.²⁶ The DTV Act does not provide for waivers or extensions of this

²² See *Seventh Further Notice* at 12107, ¶ 21. See also, *Second DTV Periodic Report and Order*, 19 FCC Rcd at 18294, 18302-03, ¶¶ 37-38, 56. Here, new interference to post-transition DTV operations was considered interference beyond that caused by existing analog and DTV operations (as set forth in the certification database information). Service coverage and interference conflicts were based only on the populations determined to be receiving service and new interference.

²³ The Commission stated that the 0.1 percent additional interference limit could be exceeded on a limited basis in order to afford these stations an improved opportunity to select their own NTSC channel. The Commission indicated that such allowance is justified because these licensees have only one in-core option available (*i.e.*, their NTSC channel) and may need this additional accommodation to be able to operate on their in-core channel after the end of the transition. The Commission's goal was to facilitate a station's election of its in-core analog channel if the station did not have an in-core DTV channel. *Second DTV Periodic Report and Order*, 19 FCC Rcd at 18302-03, ¶ 56.

²⁴ See Public Notice, "DTV Channel Election: First Round Conflict Decision Extension and Guidelines For Interference Conflict Analysis," 20 FCC Rcd 13415 (MB 2005); *Second DTV Periodic Report and Order*, 19 FCC Rcd at 18301-04, ¶ 44, 53-57 (describing conflict analysis). Any such stations that certified to their maximized facilities, however, would be permitted to use the 2.0 percent standard only to the extent that the predicted new interference also would not exceed the amount of interference that would have been caused by replication facilities. *Id.*

²⁵ *Second DTV Periodic Report and Order*, 19 FCC Rcd at 18302-03, ¶ 56. Where a station in round one or round two elected and received a TCD for a DTV channel that was not its current NTSC or DTV channel, the interference potential of that new channel was included in the service coverage and interference evaluations of subsequent elections. That is, new channels elected and tentatively designated in round one under approved NCAs were included in the service coverage and interference evaluations of channels elected in rounds two and three. Similarly, channels elected and tentatively designated in round two were included in the service coverage and interference evaluations in round three. *Id.* at 18297-98, ¶ 45 (describing NCAs).

²⁶ Section 3002(a) of the DTV Act amends Section 309(j)(14) of the Communications Act to establish February 17, 2009 as the hard deadline for the end of analog transmissions by full-power stations. 47 U.S.C. § 309(j)(14)(A). DTV Act § 3002(b) directs the Commission to "take such actions as are necessary (1) to terminate all licenses for full-power television stations in the analog television service, and to require the cessation of broadcasting by full-power stations in the analog television service, by February 18, 2009; and (2) to require by February 18, 2009, ... all broadcasting by full-power stations in the digital television service, occur only on channels between channels 2 and 36, inclusive, or 38 and 51, inclusive (between frequencies 54 and 698 megahertz, inclusive)." 47 U.S.C.A. § 309 Note.

deadline for cessation of analog broadcasts.²⁷ The DTV Act also requires full power broadcast licensees to cease operations outside the core spectrum after February 17, 2009 in order to make that spectrum available for public safety and commercial wireless users.²⁸ Full-power TV broadcast stations must be operating inside the core TV spectrum and only in digital at the end of the transition on February 17, 2009.²⁹

11. Because the final channel allotments can be established only through a rulemaking proceeding, the Commission proposed the final DTV Table as an amendment to Section 73.622 in the *Seventh Further Notice* in this proceeding.³⁰ The Commission received more than 200 comments and reply comments in response to the *Seventh Further Notice*, the vast majority of which requested specific changes to the proposed DTV Table and/or proposed Appendix B facilities. In general, in an effort to expedite finalization of the DTV Table and Appendix B to permit stations to complete construction of their post-transition facilities, we granted commenters' requests for changes to the extent possible consistent with the standards outlined in the *Seventh Further Notice*, and particularly the 0.1 percent interference standard.³¹ Specifically, in developing the *Seventh Report and Order* DTV Table and Appendix B, where the proposed change requested by the commenter did not create new post-transition interference to a TCD of more than 0.1 percent, the request was granted. Where the interference standard was not met, and the affected station(s) did not agree to accept the interference, in general we denied the requested change except in limited circumstances. In addition, in circumstances where commenters requested changes prematurely or requested changes that should properly be considered in connection with an application for a construction permit or a modification of construction permit to build a facility identified in the new Table, we denied the request to change the DTV Table and/or Appendix B and directed that these requests be filed following adoption of the *Seventh Report and Order* and the *Report and Order* in the Third DTV Periodic Review proceeding.³²

²⁷ Congress originally established a flexible deadline of December 31, 2006 for completing the digital transition, which allowed for exceptions to the deadline. Specifically, prior to the DTV Act, the former 47 U.S.C. § 309(j)(14) provided an exception to the earlier December 31, 2006 transition deadline if the Commission determined that less than 85 percent of the television households in a licensee's market were capable of receiving the signals of DTV broadcast stations through various means (*i.e.*, via over-the-air reception, cable or satellite, or digital-to-analog conversion technology). 47 U.S.C. § 309(j)(14)(B)(iii) (2005). In the DTV Act, Congress eliminated the statutory provisions authorizing market-specific extensions of the DTV transition, including the 85 percent benchmark for DTV reception.

²⁸ See 47 U.S.C. § 337(e)(1).

²⁹ *Id.*

³⁰ In the *Seventh Further Notice*, the Commission noted that additional pending applications might be granted before an order finalizing the final DTV Table was adopted and stated that, to the extent possible, it would accommodate future new permittees in the proposed final DTV Table. See *Seventh Further Notice*, 21 FCC Rcd at 12118. Accordingly, the Media Bureau issued a related Public Notice announcing TCDs for six new permittees. Public Notice, "Revisions to Proposed New DTV Table of Allotments, Tentative Channel Designations To Be Added to the DTV Table of Allotments Proposed in the *Seventh Further Notice of Proposed Rule Making* in MB Docket No. 87-268," 22 FCC Rcd 102 (MB 2007) ("*New Permittees Public Notice*").

³¹ See *Seventh Report and Order*, 22 FCC Rcd at 15592, ¶ 25.

³² *Id.* at 15592, ¶ 26.

B. Third DTV Periodic Review

12. On December 22, 2007, the Commission adopted a *Report and Order* in the Third DTV Periodic Review proceeding.³³ In the *Third DTV Periodic Report and Order*, we adopted a number of procedures and rules changes designed to provide flexibility to broadcasters to ensure that they meet the statutory transition deadline and complete construction of their final, post-transition facilities. Among other things, we established construction deadlines for full-power television stations to construct their full, authorized post-transition (DTV Table Appendix B) facilities³⁴ and decided that stations moving to a different channel for post-transition operation would not be required to construct or complete a digital facility on their pre-transition DTV channel.³⁵ In addition, we announced our intent to lift the freeze on the filing of maximization applications on August 17, 2008, the date by which we expect to have completed processing stations' applications to build their post-transition facilities.³⁶ Until this date, we will maintain our freeze and, except as discussed below, will not accept maximization applications to expand facilities.

13. We also adopted several policies in the *Third DTV Periodic Report and Order* designed to accommodate stations that apply for facilities that deviate to some extent from the facilities set forth in the Appendix B adopted herein. For example, we adopted a waiver policy that will permit rapid approval of minor (*i.e.*, not exceeding 5 miles) expansion applications filed by stations that are moving to a different channel (*e.g.*, their analog channel) for post-transition operation.³⁷ This policy will allow added flexibility for stations that wish to use their existing analog channel antenna, and will help the transition process by reducing the demands on equipment suppliers and installation crews during a critical time as the transition deadline nears. As noted above, we received a number of petitions for reconsideration from stations seeking changes to the DTV Table and Appendix B to permit them to use their analog antenna

³³ See *Report and Order, Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, MB Docket No. 07-91, FCC 07-228 (rel. Dec. 31, 2007) ("*Third DTV Periodic Report and Order*").

³⁴ Specifically, the Commission established the following construction deadlines: (1) May 18, 2008 for stations that will use their pre-transition DTV channel for post-transition operations and already have a construction permit that matches their post-transition (DTV Table Appendix B) facilities; (2) August 18, 2008 for stations that will use their pre-transition DTV channel for post-transition operations, but which do not have a construction permit that matches their post-transition (DTV Table Appendix B) facilities; and (3) February 17, 2009 for stations building digital facilities based on a new channel allotment in the post-transition DTV Table and for stations facing a unique technical challenge, such as the need to reposition a side-mounted antenna, that prevents them from completing construction of their final DTV facilities before turning off their analog transmission. See *Third DTV Periodic Report and Order*, Section V.B.1. – 4.

³⁵ *Id.* at Section V.B.1.

³⁶ *Id.* at Section V.E.

³⁷ *Id.* Specifically, we will permit stations to expand beyond their authorized service area where the station demonstrates that such expansion: (1) would allow the station to use its analog antenna or a new antenna to avoid a significant reduction in post-transition service from its analog service area; (2) would be no more than five miles larger in any direction than their authorized service area, as defined by the post-transition DTV Table Appendix B; and (3) would not cause impermissible interference, *i.e.*, more than 0.5 percent new interference, to other stations. We also stated that, while we generally will not permit more than 0.5 percent new interference, we will consider on a case-by-case basis allowing stations to cause additional new interference if stations can demonstrate that they need this additional flexibility to serve their analog viewers. Consistent with our existing rules, we will also consider on a case-by-case basis stations' negotiated interference agreements provided these agreements are consistent with the public interest. *Id.*

when they return to their analog channel. The 5-mile waiver policy we adopted in the *Third DTV Periodic Report and Order*, in addition to the relief we grant herein, should provide significant relief to stations in this situation. In addition, with respect to evaluating interference in applications to construct post-transition facilities, we permitted stations a limit of 0.5 percent new interference in addition to that in the DTV Table Appendix B.³⁸ This approach provides more flexibility than the interference standard proposed in the *Third DTV Periodic Review NPRM*, which would have permitted a total of 0.5 percent interference post-transition, rather than 0.5 percent interference in addition to existing interference reflected in DTV Table Appendix B.³⁹ This added flexibility in the interference standard, together with the 5-mile waiver policy, should permit quick action on and approval of the vast majority of applications for the final DTV facilities adopted in the DTV Table and Appendix B herein.⁴⁰

III. DISCUSSION

A. General Issues

14. Most of the petitions for reconsideration filed in response to the *Seventh Report and Order* pertain to individual station situations. We will discuss these petitions in detail below, grouped according to the nature of the request. However, a number of petitioners raised general issues, and we begin by discussing these petitions.

1. MSTV Petition for Reconsideration and Clarification

15. We grant in part and deny in part the Association for Maximum Service Television, Inc. (“MSTV”) Petition for Reconsideration and Clarification, which, along with several *ex parte* letters, urges the Commission to afford regulatory flexibility to stations to permit them to build post-transition facilities that will serve current viewers.⁴¹ We agree with many of the points raised by MSTV and have taken a

³⁸ See *Third DTV Periodic Report and Order*, Section V.F.

³⁹ See *Notice of Proposed Rule Making, Third Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*, 22 FCC Rcd 9478, 9521-22, ¶¶ 104-106 (2007) (“*Third DTV Periodic Review NPRM*”).

⁴⁰ In the *Third DTV Periodic Report and Order*, we stated that stations should file their applications for post-transition facilities as soon as possible in order to have the maximum time to order equipment and build their facilities. We provided expedited processing (generally within 10 days) to stations whose applications demonstrate the following requirements: (1) the application does not seek to expand the station’s facilities beyond its final post-transition DTV Table Appendix B facilities; (2) the application specifies facilities that match or closely approximate the DTV Table Appendix B facilities (i.e., if the station is unable to build precisely the facilities specified in DTV Table Appendix B, then it must apply for facilities that are no more than five percent smaller than its facilities specified in Appendix B with respect to predicted population); and (3) the application is filed within 45 days of the effective date of the *Third DTV Periodic Report and Order*, which became effective January 30, 2008. See *Third DTV Periodic Report and Order*, Section V.D.1. Stations that filed a petition for reconsideration of the *Seventh Report and Order* may receive expedited processing provided they file their applications within 45 days of the Commission’s release of this *Memorandum Opinion and Order on Reconsideration* and otherwise qualify for expedited processing.

⁴¹ See Petition for Reconsideration and Clarification of MSTV, filed Oct. 26, 2007 (“MSTV Petition”). See also Letter from David L. Donovan, President, MSTV, to Marlene H. Dortch, Secretary, FCC, MB Docket No. 07-91 (Oct. 23, 2007) (“MSTV October 23 *Ex Parte* Letter”) and Letter from David L. Donovan, President, MSTV, to Marlene H. Dortch, Secretary, FCC (Dec. 19, 2007) (“MSTV December 19 *Ex Parte* Letter”). MSTV also submitted an *ex parte* letter which referenced both this docket and the docket in the Third DTV Periodic Review proceeding and discussed the issue of side-mount antennas. See Letter from David L. Donovan, President, MSTV, to Eloise Gore, Deputy Division Chief, Policy Division, Media Bureau (Dec. 19, 2007) (“Side-Mount *Ex Parte* Letter”). As the side-mount antenna issue was discussed in the Third DTV Periodic Review proceeding, the (continued....)

number of steps in this proceeding and in the Third DTV Periodic Review proceeding to address their concerns.

16. MSTV argued in both this docket and the Third DTV Periodic Review that the Commission should entertain and grant stations' requests as part of the applications process rather than through the allotment process based on petitions for reconsideration of the *Seventh Report and Order*.⁴² We agree and grant their petition to the extent that many of the requests made by specific broadcasters can be addressed at the application stage and do not require adjustments to Appendix B. However, we are taking a two-pronged approach by both revising Appendix B in response to petitions for reconsideration, where appropriate, and providing significant flexibility in the Third DTV Periodic Review proceeding for applications for post-transition facilities. These two approaches together will permit stations to apply for post-transition facilities that match as closely as possible the facilities that the station has requested, is authorized to serve, and that reach current analog viewers without causing interference to other stations or violating the freeze.

17. MSTV is particularly concerned that the Commission provide flexibility to stations that are not currently on their final, post-transition channels with respect to antenna patterns, particularly those stations that want to use their current analog antennas for post-transition operation. MSTV argues that, as a technical matter, it can be difficult and in some cases impossible to build DTV facilities to operate on a new channel that will replicate the interim DTV antenna pattern, which is the pattern the Commission tried to replicate in the DTV Table Appendix B.⁴³ In addition, MSTV states that many stations would like to use their analog antenna for their post-transition operations and this antenna may not be capable of replicating precisely the antenna pattern reflected in DTV Table Appendix B. MSTV also notes that, in light of these difficulties, many stations may have to reduce power significantly on the post-transition channel to shrink the station's service area in order to keep the service contour within the contour allotted on Appendix B.⁴⁴ This could result in a loss of service post-transition to many current viewers.⁴⁵ We shared MSTV's concern in this regard and therefore urged stations to file petitions for reconsideration, including stations that had not filed during the comment cycle following the *Seventh Further Notice*. These general concerns, as well as the specific circumstances portrayed in the individual petitions and comments, contributed to the Commission's decisions in the *Third DTV Periodic Review Report and Order* to provide procedures and policies affording greater flexibility in the application process.

18. MSTV notes that, in the Third DTV Periodic Review proceeding, broadcasters proposed a number of solutions to address these antenna pattern issues. Specifically, MSTV and the National Association of Broadcasters ("NAB") proposed that the Commission permit stations returning to their

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December 19 Side-Mount *Ex Parte* Letter was reviewed and discussed in the *Third DTV Periodic Report and Order*. See *Third DTV Periodic Report and Order*, Section V.E., ¶ 151. MSTV also filed several other brief *ex parte* letters in this docket summarizing contacts with the FCC staff.

⁴² See MSTV Petition at 5. See also Petition for Reconsideration of Schurz Communications, Inc., filed Oct. 26, 2007, at 1 and Petition for Reconsideration of Sunflower Broadcasting, Inc., filed Oct. 26, 2007, at 5, n. 4 (arguing that changes in antenna specification or corrections of geographic coordinates or other discrepancies between Appendix B and stations' actual operations would be more appropriately addressed in the licensing process).

⁴³ See MSTV Petition at 3. In its October 23 *ex parte* letter, MSTV noted that the antenna pattern issue is particularly problematic for DTV stations currently operating on a UHF channel that plan to go back to a VHF channel. See MSTV October 23 *Ex Parte* Letter at 1.

⁴⁴ Univision Communications makes similar arguments in its Petition for Partial Reconsideration. See Petition for Partial Reconsideration of Univision Communications Inc., filed Oct. 26, 2007, at 2-3.

⁴⁵ MSTV Petition at 4.

analog channel for post-transition operations and planning to use their existing analog antenna to exceed the Appendix B service contour by no more than five miles.⁴⁶ In addition, in its Petition for Reconsideration and Clarification in this proceeding, MSTV also proposed, as an alternative measure to address antenna pattern concerns, that the Commission apply a more relaxed interference standard to stations returning to their NTSC channel (*i.e.*, permit such stations to cause a maximum of 2 percent interference for 12 months after February 2009) to afford these stations the ability to replicate their NTSC coverage.⁴⁷ MSTV asserted that the Commission could resolve the antenna pattern issue by adopting these proposals in the Third DTV Periodic Review proceeding. However, MSTV also urges the Commission to grant individual stations' requests for relief if they have filed petitions for reconsideration of the *Seventh Report and Order* in this proceeding.⁴⁸

19. As noted above, in the *Third DTV Periodic Report and Order* we adopted a waiver policy that will permit rapid approval of minor (*i.e.*, not exceeding 5 miles) expansion applications filed by stations that are moving to a different channel (*e.g.*, their analog channel) for post-transition operation.⁴⁹ This 5-mile waiver policy will allow added flexibility for stations that wish to use their existing analog antenna and, by permitting more such stations to use existing antennas, should reduce the demand for new equipment and installers for the remainder of the transition period. While we declined in the *Third DTV Periodic Report and Order* to permit more than 0.5 percent new interference generally, we stated that we would consider on a case-by-case basis allowing stations to cause additional new interference if stations can demonstrate that they need this additional flexibility to serve their analog viewers.⁵⁰ We also stated that, consistent with our existing rules, we would consider on a case-by-case basis stations' negotiated interference agreements provided these agreements are consistent with the public interest.⁵¹ We decline to adopt any further relief proposed by MSTV in this proceeding. As we stated in the *Third DTV Periodic Report and Order*, we believe that the 5-mile waiver policy, together with other policies adopted in that Order, provide sufficient flexibility to stations, especially when combined with the changes to the DTV Table Appendix B we adopt herein for stations that filed petitions for reconsideration.

20. We received a total of 124 timely filed petitions reflecting 221 requests for changes to the DTV Table and/or Appendix B for individual stations. We grant, in whole or in part, 112 of these requests. For these stations, as discussed further below, we are changing Appendix B to either reflect the specific parameters requested by the station for post-transition operation or to otherwise provide the station with substantial relief. For stations for whom the revised Appendix B adopted herein has been changed to reflect the exact parameters sought by the station, these parameters either match a current authorization for the station or the station will presumably file an application for post-transition operation requesting these parameters that will be eligible for expedited processing pursuant to the procedures

⁴⁶ *Id.* at 5-6 (*citing* Joint Comments of MSTV and NAB in MB Docket 07-91(Third DTV Periodic Review proceeding), filed Aug. 15, 2007).

⁴⁷ *Id.* at 6. In its December 19 *ex parte*, MSTV clarified that, under its revised proposal, stations relying on either the 5-mile rule or the 2 percent temporary interference standard would not be required to meet the 0.5 percent interference standard proposed, and ultimately adopted, in the Third DTV Periodic Review proceeding until February 17, 2010. *See* MSTV December 19 *Ex Parte* Letter at 2.

⁴⁸ *See* MSTV Petition at 6-7.

⁴⁹ *See supra* Section II.B. and *Third DTV Periodic Report and Order*, Section V.E.

⁵⁰ *See Third DTV Periodic Report and Order*, Section V.E., ¶ 151.

⁵¹ *Id.*

adopted in the *Third DTV Periodic Report and Order*.⁵² Thus, for these stations there should be no antenna pattern issue left to resolve. With respect to stations for whom the revised Appendix B herein provides some but not all of the relief sought by the station, the flexibility adopted in the *Third DTV Periodic Report and Order* will permit these stations to file an application for post-transition operation that deviates to some extent from these Appendix B parameters. The combination of the relief provided herein and the flexibility adopted in the *Third DTV Periodic Report and Order* should be sufficient to address antenna pattern concerns for the vast majority of stations moving to a new channel post transition.

21. We grant MSTV's request that, where stations did not seek reconsideration of discrepancies between Appendix B and the facilities that DTV stations are using or intend to use post-transition,⁵³ they will not be deemed to have given up any rights to fix these discrepancies at the application or licensing stage.⁵⁴ We addressed the application process, as well as those applications that qualify for expedited processing, in the *Third DTV Periodic Report and Order*.⁵⁵ We emphasize that our goal in the Third DTV Periodic Review proceeding was to provide stations with regulatory flexibility to ensure that they meet the transition deadline. We believe that our actions in that proceeding will, for the vast majority of stations, address the type of minor discrepancies between Appendix B and post-transition facilities discussed by MSTV, even for stations that did not file petitions for reconsideration in this proceeding requesting a change to Appendix B.

22. It is worthwhile to clarify that the specific parameters listed on DTV Table Appendix B describe each station's service area based on its certification during the channel election process. In many cases this is a hypothetical facility.⁵⁶ When a station applies for the construction permit to build its facility, it may need to depart to some extent from the parameters listed on Appendix B to construct the actual facility, for example, to reflect an achievable directional antenna pattern or to locate the antenna at a height on the tower where mounting is possible. Station applications that cover the same area (or not more than five percent smaller) will be processed quickly. For such stations, no change to Appendix B will be necessary. For stations that wish to make a more significant adjustment, for example, to use their existing analog antenna, we will consider their petition for reconsideration, as described herein, as well as their forthcoming application for construction permit ("CP"). Stations that did not file a petition for reconsideration, or filed too late to be considered, may nevertheless apply for the facilities they want and we will consider their application consistent with the procedures and policies adopted in the *Third DTV Periodic Review Report and Order*.

2. Protection of DTV Allotments

23. We deny the request of several petitioners to abandon Appendix B and rely exclusively on the DTV Table of Allotments, specifying only communities and channel numbers and not the specific parameters for digital facilities.⁵⁷ According to these petitioners, flexibility for stations could be enhanced if the DTV Table of Allotments were similar to the analog Table of Allotments, which specifies

⁵² See *Third DTV Periodic Report and Order*, Section V.D.1., ¶ 140. See also *supra* note 37.

⁵³ See Petition for Reconsideration and Clarification of MSTV at 8-9.

⁵⁴ *Id.* at 9.

⁵⁵ See *Third DTV Periodic Report and Order* at Section D, ¶¶ 135-147.

⁵⁶ See *Seventh Report and Order*, 22 FCC Rcd at 15588-89, ¶¶ 17-18.

⁵⁷ See Petition for Reconsideration of Sunflower Broadcasting, Inc., filed Oct. 26, 2007, at 5, n. 4; Petition for Reconsideration of Mt. Mansfield Television, Inc., filed Oct. 26, 2007, at 2; and Petition for Reconsideration of Schurz Communications, Inc., filed Oct. 26, 2007, at 1-2.

only channels numbers and communities.⁵⁸ We disagree with the characterization of our process advanced by these petitioners. The DTV Table itself specifies communities and channel numbers. Appendix B specifies ERP, height above average terrain (“HAAT”), coordinates, and antenna identification numbers for stations in order to ensure that these station allotments are protected as digital stations construct their actual facilities. Contrary to these petitioners’ arguments, use of Appendix B is consistent with the Commission’s longstanding practice for analog and digital channel allotments. When channels are allotted to a community – either analog or digital - the Commission specifies parameters for the allotment and protects these parameters until the station receives an authorization for a specific facility, at which time the interference protection shifts to the specific facilities in the authorization. This is the same process we have followed for DTV allotments since the DTV Table of Allotments was adopted in 1997.⁵⁹ As we stated in the *Third DTV Periodic Report and Order*, once stations have a construction permit (“CP”) or license for their post-transition facility, we will limit interference protection to stations’ authorized coverage area.⁶⁰

3. TV Channels 5 and 6

24. Mullaney Engineering, Inc. (“MEI”) and EME Communications (“EME”) have filed petitions requesting that the Commission eliminate the requirement in Section 73.525 of the Commission’s rules that new FM stations protect channel 6 DTV allotments or, alternatively, that it altogether eliminate channel 6, and possibly channel 5, from the digital TV allotment process and allocate that corresponding spectrum to the FM service.⁶¹ Dan Priestley and Robert E. Lee’s comments supported MEI’s proposal to reallocate TV channels 5 and 6 to FM broadcasting.⁶² For the reasons discussed below, we deny these requests.

25. MSTV opposes the requests by EME, MEI and Robert E. Lee, and urges their denial on procedural and substantive grounds.⁶³ MSTV argues such proposals to reallocate channel 6, and possibly channel 5 as well, would harm viewers relying on the news and information provided over those

⁵⁸ *Id.* See also 47 C.F.R § 73.606.

⁵⁹ See *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, MM Docket No. 87-268, Sixth Report and Order, 12 FCC Rcd 14588 (1997) (“*Sixth Report and Order*”). The DTV Table adopted in 1997 specified an effective radiated power (“ERP”) and an antenna height above average terrain (“HAAT”) for each DTV allotment. The Commission explained that the “values for these parameters were chosen to describe initial DTV allotments that would allow existing broadcasters to provide DTV service to a geographic area that replicates, to the extent feasible, the service area of their existing NTSC station.” *Id.* at 14596-97, ¶13.

⁶⁰ See *Third DTV Periodic Report and Order*, Section V.F., ¶ 162. We also stated that, to avoid penalizing stations that apply for reduced facilities so as to not violate the freeze, we will continue to protect the DTV Table Appendix B facilities of stations until roughly one year after the date we intend to lift the filing freeze. *Id.*

⁶¹ Petition for Reconsideration and/or Comment by Mullaney Engineering, Inc., filed Oct. 26, 2007, at 1-2, 4-5 (“MEI Petition”); Petition for Reconsideration by EME Communications, filed Nov. 5, 2007, at 1 (“EME Petition”). Section 73.525 requires that applications for construction permits for new or modified facilities for a non-commercial educational (“NCE”) FM station on Channels 200-220 (88.1-91.9 MHz) protect affected TV stations operating on channel 6 unless the application is accompanied by a written agreement between the NCE-FM applicant and each affected TV Channel 6 broadcast station concurring with the proposed NCE-FM facilities. See 47 C.F.R. § 73.525. Affected stations are defined as TV Channel 6 stations located within specified distances of an NCE-FM station on FM channels 200-220. See *id.*

⁶² Brief Comment of Dan Priestley, filed Nov. 7, 2007; Comment of Robert E. Lee, filed Nov. 13, 2007, at 1-2.

⁶³ Opposition to Petitions for Reconsideration by MSTV, filed Dec. 3, 2007, at 1. See also Letter from Jonathan D. Blake and Eve R. Pogoriler, Counsel for MSTV, to Marlene H. Dortch, Secretary, FCC, at 1-2 (December 19, 2007).

channels.⁶⁴ MSTV states it is far too late in the allotment process to take one channel out of the pool of available assignments, given that more than 20 full-power television stations already have post-transition allotments on Channels 5 and 6,⁶⁵ and MSTV points out that these allotments represent the conclusion of a long, complex process involving years of coordination by broadcasters, the FCC, and Mexico and Canada to ensure that all television broadcasters have in-core allotments for their post-transition operations.⁶⁶ MSTV further argues that it would not be reasonable to remove two channels out of the available pool of channels for television broadcasting in light of the hundreds of low power television services using these channels and the requirement that the Commission create and protect 175 new DTV allotments pursuant to the Community Broadcasters Protection Act of 1999 (CBP Act).⁶⁷ Procedurally, MSTV argues that the Petitions should be denied as they are inappropriately filed either because they are late,⁶⁸ or because they cannot function as Reconsideration Petitions when the issues they raise were never fully presented for consideration in the *Seventh Report and Order*.⁶⁹

26. Petitioners' requests are beyond the scope of this Reconsideration of the *Seventh Report and Order*. Nevertheless, we address Petitioners' arguments only to reiterate the importance of maintaining the reciprocal system of protections we established between television stations using channel 6 and noncommercial educational ("NCE") FM radio stations, as well as the continuing allocation of channels 5 and 6 to the core spectrum for digital television service. In the *Reconsideration of the Sixth Report and Order*, the Commission determined that we would expand the core spectrum of channels available for digital television broadcasting to include all channels from 2 through 51, in order to remove uncertainties over the scope of spectrum available for DTV use and to facilitate the plans of stations considering future operations on channels 2-6 or 47-51.⁷⁰ In the *Reconsideration of the Sixth Report and*

⁶⁴ Opposition to Petitions for Reconsideration by MSTV, filed Dec. 3, 2002, at 1.

⁶⁵ *Id.* at 2.

⁶⁶ *Id.*

⁶⁷ *Id.* (citing Pub. L. No. 106-113, § 1000(a)(9), 113 Stat. 1536 (1999); see 47 U.S.C. § 336(f)(6)(B)). Consideration of these new allotments will be appropriate sometime after the current filing freeze is lifted.

⁶⁸ *Id.* (EME and Robert E. Lee filed petitions and comments after the filing deadline).

⁶⁹ *Id.* The Board of Trustees of The University of Alabama ("the University"), licensee of Television Station WUOA(TV), Channel 23, Tuscaloosa, Alabama, also opposes the MEI Petition on the grounds that the Commission had proposed allotting post-transition digital replication facilities on channel 6 to the University in the *Eighth Further Notice*, and because MEI's proposal seeks to alter the fundamental assumptions underlying the spectrum of channels available for television use. Opposition to Petition for Reconsideration by The Board of Trustees of The University of Alabama, filed Dec. 3, 2007, at 1-2 (citing *Eighth Further Notice*, 22 FCC Rcd at 15640-41, ¶ 148).

⁷⁰ *Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order, In the Matter of Advanced Television Systems and their Impact Upon the Existing Television Broadcast Service*, MM Docket No. 87-268, 13 FCC Rcd 7418, ¶¶ 41-42 (1998) ("*Reconsideration of the Sixth Report and Order*"). Particularly with respect to channels 2-6, the Commission considered the higher ambient noise levels on these channels as well as the possible interference between television and FM radio service in determining whether to appropriate this spectrum. *Id.* at ¶ 33. Furthermore, the Commission explicitly noted the objections of National Public Radio ("NPR") to the use of channel 6 for digital television in light of the significant potential interference such use posed to FM radio service, and it acknowledged NPR's concern that DTV operators bear the costs and burdens of protecting against interference in this spectrum instead of noncommercial educational radio interests. *Id.* at ¶ 40. Nevertheless, the Commission determined that expanding the core to channels 2-6 would reduce the number of out-of-core allotments, promote competition in the provision of DTV services, help alleviate overall adjacent DTV channel interference, and, importantly, reduce the impact on low power television stations and translators who occupied a significant number of low VHF positions and who would otherwise have been displaced or lost the opportunity to utilize that (continued....)

Order, the Commission maintained the protections afforded television stations operating on channel 6 by noncommercial FM radio stations operating on FM channels 200-220, and also established that it would be the initial responsibility of any new DTV licensee commencing operations to protect against or eliminate harmful interference to any FM radio stations already in operation.⁷¹ These rules protect existing DTV operations from new interference but do not protect unoccupied DTV allotments. They also require that new DTV operations protect existing FM operations from new interference.⁷² Because we continue to believe in the effectiveness of these protections established almost ten years ago, we deny requests such as those by EME and MEI that we eliminate the protections for channel 6 DTV stations given by NCE FM radio broadcasting stations on FM channels 200-220.

27. Likewise, we also will not reallocate TV channels 5 or 6 for use by FM radio broadcasting stations because these channels must continue to be available for use by stations in the television broadcasting service. In this regard, we stand by our now well-established determination that the additional opportunities for increasing FM noncommercial coverage do not outweigh the costs of eliminating channel 6 from TV service. For these reasons and various others⁷³ we have expressed in our rulemakings on these issues, we deny the petitioners' requests that we reallocate one or more TV channels to the FM radio broadcasting service.

B. Requests for Minor Adjustments

28. In the *Seventh Report and Order*, we made minor adjustments to the station's coordinates on Appendix B (e.g., three seconds or less latitude or longitude) based on requests from commenters.⁷⁴ In that Order, we made these adjustments both for stations whose pre- and post-transition DTV channels were the same and for stations moving to a different channel for post-transition operations. In this *Memorandum Opinion and Order on Reconsideration*, we grant five requests for minor adjustments to station coordinates for stations that are remaining on their pre-transition digital channel. At this stage in the allotment process, we need make such changes only for stations whose pre- and post-transition DTV channels are the same and that, therefore, generally need not file an application for construction or

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spectrum. *Id.* at ¶¶ 42-43. In the *Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders*, the Commission was again presented with a request to eliminate channel 6 from use for television, and we stated our continuing belief that channel 6 should stay available for television service and that the additional opportunities for noncommercial FM coverage through use of the channel were outweighed by the costs of eliminating it. *Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders, In the Matter of Advanced Television Systems and their Impact Upon the Existing Television Broadcast Service*, MM Docket No. 87-268, 14 FCC Rcd 1348, 1373, ¶ 54 and 1374, ¶ 57 (1998) ("1998 DTV *Second MO&O*").

⁷¹ *Reconsideration of the Sixth Report and Order*, 13 FCC Rcd at ¶ 45, n.30 (citing Section 73.525 of the Commission's Rules).

⁷² See 47 C.F.R. § 73.623(f). Section 73.623(f) provides that parties requesting new allotments on channel 6 be added to the DTV Table of Allotments must submit an engineering study demonstrating that no new interference would be caused to existing FM radio stations on FM channels 200-220.

⁷³ If the TV stations that elected channel 5 or 6 for their post-transition operation were now required to find new channels, the post-transition DTV Table of Allotments and the careful, complex process, including international coordination, that led to its construction would be significantly disrupted. Providing for the full availability of these channels for new TV stations will help enable the Commission to provide for the 175 DTV allotments for new TV stations required under the CBP Act. Maintaining channels 5 and 6 for TV service will also protect the service of the many Class A, low power TV, and TV translator stations that use the low VHF channels and are expected to continue to use those channels when they switch to digital operation.

⁷⁴ See *Seventh Report and Order*, 22 FCC Rcd at 15596-15597, ¶¶ 35-37.

modification. Where the station's pre- and post-transition DTV channels are the same, the corrected coordinates are specified on a station license or construction permit, and the requested change did not result in a change of more than three seconds latitude or longitude for the station, we are making the requested correction. As we noted in the *Seventh Report and Order*,⁷⁵ accepting corrections to Appendix B of three seconds or less is consistent with the Commission's rules, which do not require a construction permit for such a correction before it can be licensed.⁷⁶ The stations for which we make such a correction are listed in Appendix D1 hereto and the changes requested by those stations are reflected in DTV Table Appendix B adopted herein. We deny the requests for similar changes from nine stations that are moving to a different channel for post-transition operations and that may request such minor coordinate changes as part of the station's application for post-transition facilities.⁷⁷ Such minor changes will not prevent applications that otherwise qualify from receiving expedited processing.

29. Some of the stations listed on Appendix D1 requested modification of Appendix B to round a station's geographic coordinates to the nearest whole second rather than merely truncate the data. For such petitioners whose pre- and post-transition channels are the same, and that provided us with station coordinates expressed to the tenth of a second, we have revised DTV Table Appendix B herein to round the coordinates to the nearest whole second.⁷⁸ This is the approach that we used in the *Seventh Report and Order* in response to requests for greater precision in expressing station coordinates.⁷⁹

30. In addition, for five stations we deny the request to change station coordinates because the geographic coordinates as listed in Appendix B match the coordinates listed on the station's license or construction permit.⁸⁰ We are revising parameters in Appendix B to match a current license or CP, but any desired adjustment to a license or CP itself must be requested by application. For each of these five stations, the pre- and post-transition DTV channels are the same. Thus, these stations already have an authorization on their post-transition channel and should revise the coordinates on their license or CP by requesting such revisions on FCC Form 302.

⁷⁵ *Id.*

⁷⁶ See 47 C.F.R. § 73.1690(b)(2). Three seconds of latitude or longitude is approximately 200 to 300 feet.

⁷⁷ The stations for which we decline to make minor adjustments herein but which may request these adjustments in an application are: KDSE, Dickinson, ND; KFME, Fargo, ND; KUPK, Garden City, KS; WBKO, Bowling Green, KY; WEAU, Eau Claire, WI; WIBW, Topeka, KS; WJHG, Panama City, FL; WSAW, Wausau, WI; and KBSH, Hays, KS. See *infra* Section III.F.

⁷⁸ See *infra* Appendix D1.

⁷⁹ See *Seventh Report and Order*, 22 FCC Rcd at 15597, ¶36.

⁸⁰ The five stations are KSEE, Fresno, CA (Granite Broadcasting Corporation, allotted channel 38 for post-transition operation; FCC File No. BLCDDT - 20050914AAZ); WTAP, Parkersburg, WV (Gray Television, Inc., allotted channel 49 for post-transition operation; FCC File No. BLCDDT - 20040423ABG); WTVY, Dothan, AL, (Gray Television, Inc., allotted channel 36 for post-transition operation; FCC File No. BPCDDT - 19991029ADN); KKTU, Colorado Springs, CO (Gray Television, Inc., allotted channel 10 for post-transition operation; FCC File No. BLCDDT - 20030512ADQ); WOWT, Omaha, NE (Gray Television, Inc., allotted channel 22 for post-transition operation; FCC File No. BPCDDT - 20050706AAA). See Petition for Partial Reconsideration by Granite Broadcasting Corporation, filed Oct. 10, 2007, at 1-2; Gray Television, Inc. Petition for Reconsideration, filed Oct. 26, 2007, at 3 and Table A.

C. Requests to Make Changes to Certification

31. We grant 55 petitions consistent with our treatment in the *Seventh Report and Order*⁸¹ to permit changes to stations' facility certifications (FCC Form 381) based on appropriate demonstrations from these stations where such changes are consistent with the circumstances contemplated in the *Seventh Further Notice*. In paragraph 28 of the *Seventh Further Notice*, the Commission recognized that some stations have already constructed or received authorization to construct facilities on the station's TCD that provide service to areas that extend beyond that to which the station certified on FCC Form 381.⁸² Because the interference protection provided during the channel election process was limited to the facilities to which the station certified in FCC Form 381, the Commission noted that stations serving or authorized to serve areas beyond their certified area could become subject to interference in those areas.⁸³ The Commission stated that it would permit stations in this situation to propose to modify their certified facilities to match their authorized or constructed facilities.⁸⁴ Stations requesting such a change were required either to (1) submit an engineering analysis demonstrating that the proposed change to their certified facilities would not result in interference in excess of 0.1 percent to any licensee's existing TCD or (2) submit the signed, written consent of every affected licensee.⁸⁵ The Commission also stated in the *Seventh Further Notice* that stations in these circumstances seeking a change in their certification would be required to accept interference from any channel election already approved.⁸⁶

1. Requests That Meet the Interference Criteria

32. We grant 53 petitions, as we did in the *Seventh Report and Order*, to permit stations to change their facility certifications (FCC Form 381), and thus our post-transition DTV Table Appendix B, where such stations have demonstrated in a petition for reconsideration that such modification of their facilities will conform to licensed or authorized facilities and where the proposed change to the Appendix B facilities either meets the interference criterion discussed above (*i.e.*, the proposed change would not result in interference in excess of 0.1 percent to any licensee's existing TCD) or, as discussed further below, the station affected agreed to accept the interference. We have made the changes requested by these petitioners and the changes are reflected in the revised DTV Table Appendix B adopted herein. A list of the stations for which we made these changes is attached hereto in Appendix D2. To address the requests of those commenters in this group whose stations are moving to a different channel for post-transition service, we recalculated their post-transition DTV coverage area based on their authorized or licensed DTV facility, as indicated by the file number shown in Appendix D2. Only one of these stations requires special explanation, KPXC, due to its atypical circumstances.

33. KPXC, Denver, CO. As noted on Appendix D2, we grant the request from Paxson Denver License, Inc. ("Paxson"), licensee of station KPXC-TV, channel 59, and permittee of KPXC-DT, channel 43, Denver, CO, which was allotted channel 43 in the DTV Table in the *Seventh Report and Order*.⁸⁷ In its FCC Form 381, Paxson certified to replication facilities,⁸⁸ which were reflected in the

⁸¹ See *Seventh Report and Order*, 22 FCC Rcd at 15597, ¶ 38.

⁸² *Seventh Further Notice*, 21 FCC Rcd at 12110, ¶ 28.

⁸³ *Id.*

⁸⁴ *Id.* These changes, if approved, would be changes to the facilities reflected on DTV Table Appendix B.

⁸⁵ *Id.* at 12110, ¶ 29.

⁸⁶ *Id.*

⁸⁷ See *Seventh Report and Order*, 22 FCC Rcd at 15647, App. A.

Seventh Report and Order Appendix B parameters for KPXC-DT. Paxson requests that the KPXC certification and Appendix B allotment be made consistent with its DTV construction permit originally granted on November 29, 2005.⁸⁹ While our interference analysis shows that the change requested by KPXC would cause 2.2 percent interference to KOAA, Pueblo, CO (analog channel 5, digital channel 42 for both pre- and post-transition), KOAA has submitted a letter stating that it consents to the allotment change requested by KPXC.⁹⁰

34. As we noted in the *Seventh Report and Order*, KPXC has encountered zoning issues that have been the subject of litigation.⁹¹ In comments filed in response to the *Seventh Further Notice*, Paxson sought a change in KPXC's certified facilities to conform to those it requested in a January 2007 construction permit application, including a site change.⁹² Paxson stated that the would-be tower owner at the original KPXC-DT site received initial local zoning board approval from the Board of Commissioners of Jefferson County in 2003, which was affirmed by the Jefferson County District Court.⁹³ In 2006, however, the decision was overturned by the Colorado Appeals Court, which remanded the case to the Board of Commissioners.⁹⁴ The Board of Commissioners subsequently sought certiorari from the Colorado Supreme Court.⁹⁵ Paxson recently informed the Commission that the Colorado Supreme Court has remanded the zoning case back to Jefferson County where it remains pending.⁹⁶

35. As Paxson is still lacking zoning approval for its preferred site for KPXC, it has informed the Commission that it will be filing an application to move to a new site. According to Paxson, the combination of the changes to Appendix B for KPXC granted herein and the flexibility adopted in the *Third DTV Periodic Report and Order* will permit it to file an application to specify a new tower site for KPXC. We continue to request that Paxson keep us informed concerning any relevant progress and events in its zoning case.

2. Requests By Operating Stations That Do Not Meet Interference Criteria

36. We grant requests from two stations, consistent with our treatment in the *Seventh Report and Order*, to permit stations that are already operating their final, post-transition DTV facilities to change their facility certifications (FCC Form 381), and thus our post-transition DTV Table Appendix B, to reflect those facilities, even though such operations will exceed the 0.1 percent interference standard.

(Continued from previous page) _____

⁸⁸ See FCC File No. BCERCT-20041103AIF (KPXC FCC Form 381, filed Nov. 4, 2004).

⁸⁹ See Petition for Partial Reconsideration of Paxson Denver License, Inc. ("ION"), filed Oct. 26, 2007, at 1, n.1. See also CP file number BPCDT-1990923AAM extended by CP file number BEPCDT-20060330AKS.

⁹⁰ See Letter from David Whitaker, President and General Manager, KOAA-TV, to Marlene H. Dortch, Secretary, FCC, dated Dec. 21, 2007.

⁹¹ See *Seventh Report and Order*, 22 FCC Rcd at 15621-22, ¶¶ 98-99. See Letter from Scott S. Patrick, Counsel for Ion Media Networks, Inc., to Marlene H. Dortch, Secretary, FCC (Jan. 22, 2008) (Ion January 22 *Ex Parte* Letter). Paxson is continuing to pursue local approval for the original KPXC-DT tower site.

⁹² See Comments of Paxson Denver License, Inc. ("ION"), filed Jan. 8, 2007, at 1-2, n.3 (citing FCC File No. BMPCDT-20070104ACH).

⁹³ *Id.* at 2.

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ See Ion January 22 *Ex Parte* Letter at Attachment, *Board of County Comm'rs v. Canyon Area Residents for the Env't*, No. 06SC777, 2007 WL 4153502 (Colo. Nov. 26, 2007) (denying certiorari).

As described below, these stations requested changes to the proposed DTV Table Appendix B to reflect operating facilities where we have determined that the interference caused to the TCD of another licensee exceeds the 0.1 percent interference standard and there is no interference agreement with the affected station. While these stations are requesting changes to the parameters adopted in the *Seventh Report and Order* in situations where the level of interference exceeds the relevant standard, we find that they have met their burden of demonstrating that special circumstances justify a waiver⁹⁷ because they are already operating their final, post-transition DTV facilities. We believe it is unnecessary and unfair to require these already-operational facilities to reduce service. In addition, the stations receiving the interference have not filed an opposition to the stations requesting the change.

37. WBNX, Akron, OH. We grant the request of Winston Broadcasting Network, Inc. (“Winston”), licensee of station WBNX-TV, channel 55, and WBNX-DT, channel 30, Akron, OH, which was allotted channel 30 in the DTV Table in the *Seventh Report and Order*.⁹⁸ Winston requests that the parameters for WBNX in Appendix B be changed to conform the antenna ID number to the information reflected in the WBNX-DT license.⁹⁹ The Commission’s interference analysis shows that WBNX-DT’s licensed facility causes 0.16 percent interference to WEYI, Saginaw, MI (analog channel 25, digital channel 30 for both pre- and post-transition).¹⁰⁰

38. KALB, Alexandria, LA. We grant the request of Media General Communications Holdings, LLC (“Media General”), licensee of station KALB, channel 5, and KALB-DT, channel 35, Alexandria, LA, which was allotted channel 35 in the DTV Table in the *Seventh Report and Order*.¹⁰¹ Media General requests that the certification and Appendix B parameters for KALB be changed.¹⁰² The changes requested would make those parameters consistent with the KALB-DT license.¹⁰³ The Commission’s interference analysis shows that KALB-DT’s licensed facility causes 0.59 percent interference to KARD, West Monroe, LA (analog channel 14, digital channel 36 for both pre- and post-transition).

D. Requests for Modified Coverage Area

39. We grant the requests filed on behalf of 40 stations whose post-transition DTV channel is different from their pre-transition DTV channel to change the coverage area in the *Seventh Report and Order* DTV Table Appendix B.¹⁰⁴ In general, these petitioners argue that the facilities specified in the DTV Table Appendix B adopted in the *Seventh Report and Order* do not permit the station to provide

⁹⁷ The Commission may waive its rules when good cause is demonstrated. 47 C.F.R. § 1.3. *See also WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied* 409 U.S. 1027 (1972).

⁹⁸ *See Seventh Report and Order*, 22 FCC Rcd at 15647, App A.

⁹⁹ *See* Petition for Reconsideration by Winston Broadcasting Network, Inc., filed Oct. 25, 2007 at 1-2. *See also* FCC File No. BLCDDT-20070430AXX (WBNX-DT license).

¹⁰⁰ *See Seventh Report and Order*, 22 FCC Rcd at 15647, App. A.

¹⁰¹ *See Id.*

¹⁰² *See* Petition for Reconsideration of Media General Communications Holdings, LLC, filed Oct. 26, 2007, at 1-2.

¹⁰³ *See* BLCDDT-20060725ADI.

¹⁰⁴ The stations for which we are modifying the coverage area herein are listed in Appendix D3 and the modified parameters for those stations are reflected in Appendix B as modified herein.

service to the area served by the station's analog facility.¹⁰⁵ We deny the requests filed on behalf of 24 stations for which our adjustment would result in a smaller facility than that described by the parameters on Appendix B as adopted in the *Seventh Report and Order* or that would shift the station's service area in such a way that existing viewers would lose service post-transition.¹⁰⁶ In addition, we deny the requests filed by 13 stations for which our adjustment to Appendix B would result in impermissible interference.¹⁰⁷ Both groups of petitioners – those granted or denied – can apply for desired facilities in the application process.¹⁰⁸ Stations that are moving to a different channel for post-transition operation may also take advantage of the freeze waiver to expand up to five miles if needed to serve their analog viewers. Stations may also request further expansion when the freeze on maximizations is lifted later this year.

40. Many of these petitioners plan to return to their station's analog channel post-transition and request changes to the parameters specified on Appendix B to permit the station to use its existing analog antenna.¹⁰⁹ In general, these petitioners argue that it is difficult or impossible for the station to use their preferred antenna to serve the allotment specified on Appendix B. In many cases, in order to stay within this allotment, as required by the existing freeze on expansion of a station's contour, the station would be required to significantly reduce power, thereby potentially resulting in a loss of service post-transition to existing viewers. Other petitioners request changes to the power level or antenna specified in Appendix B in order to allow the station to continue to serve its analog viewers post-transition.¹¹⁰

¹⁰⁵ The Commission determined replication coverage based on the service provided by the station's DTV facilities established in Appendix B of the 1998 DTV *Second MO&O*, *supra* note 70. *See also Second DTV Periodic Report and Order*, 18314-15, ¶ 78; Instructions to FCC Form 381, Item 1(c).

¹⁰⁶ *See infra* ¶ 44 and note 119.

¹⁰⁷ *See infra* Section III.D.3.

¹⁰⁸ *See Third Periodic Forms Effective PN*, *supra* note 12. Stations that will be returning to their analog channel or moving to a new digital channel for post-transition operations, must file applications for a CP on their final, post-transition channel. Stations that apply for facilities that match (or are no more than five percent smaller than) those specified in the post-transition DTV Table Appendix B may qualify for expedited processing of their CP applications. Such stations that are applying for facilities that do not precisely match those specified in the post-transition DTV Table Appendix B may benefit from the filing freeze waiver policy offered in the *Third DTV Periodic Report and Order*. Stations that have a pending petition for reconsideration of the *Seventh Report and Order* may file their CP applications for post-transition facilities now and are encouraged to do so if they can obtain their desired post-transition facilities under the filing freeze waiver policy. Applications that contemplate such deviations do not qualify for expedited processing. *Id.* at Section A.1.

¹⁰⁹ *See, e.g.*, Petitions for Reconsideration of Belo Corp., filed Oct. 26, 2007 (relating to WHAS-DT, Louisville, KY and KTVB-DT, Boise, ID); CBS Corporation, filed Oct. 26, 2007 (relating to KSTW-DT, Tacoma, WA); Community Television of Southern California, filed Oct. 26, 2007 (relating to KCET-DT, Los Angeles, CA); Gannett Co., Inc., filed Oct. 25, 2007 (supplements filed November 15, 2007) (relating to KNAZ-DT, Flagstaff, AZ; KUSA-DT, Denver, CO; and WLBZ-DT, Bangor, ME); Hoak Media, LLC, filed Oct. 26, 2007 (relating to KABY-DT, Aberdeen, SD); and Hubbard Broadcasting, Inc., filed Oct. 26, 2007 (relating to KOBF-DT, Farmington, NM; WHEC-DT, Rochester, NY; and WDIO-DT, Hibbing, MN).

¹¹⁰ *See, e.g.*, Petitions for Reconsideration of Gray Television, Inc., filed Oct. 26, 2007 (relating to WTOK-DT, Meridian, MS; WILX-DT, Onondaga, MI; and WBKO-DT, Bowling Green, KY); Hearst-Argyle Television, Inc., filed Oct. 25, 2007 (relating to WYFF-DT, Greenville, SC); and Arkansas Educational Television Commission, filed Oct. 26, 2007 (supplement filed Nov. 9, 2007) (relating to KETS-DT, Little Rock, AR).

41. In the creation of the initial Table of Allotments, DTV channels were chosen to allow service to best match the Grade B service contour of the analog station with which it was paired.¹¹¹ Implementation of this replication goal required a combination of transmitter site, ERP, directional antenna characteristics, and antenna height that is adequate to cover at least the same area as was served by the analog station. On FCC Form 381, the Commission permitted stations the choice of certifying to operate their post-transition DTV station based on: 1) a current station authorization; 2) a pending application for maximization that had not been authorized due to a pending international coordination issue;¹¹² or 3) replication facilities.¹¹³

42. For some stations moving to a different channel for post transition operations, including those returning to their analog channel, the parameters specified in Appendix B in the *Seventh Report and Order* may not permit precise replication of the station's coverage area, thereby potentially leaving current viewers unserved after analog transmissions cease. In some cases, this discrepancy between the Appendix B parameters and the analog coverage area may be due to translation discrepancies that occurred over a series of engineering calculations used to determine replication.¹¹⁴ In addition, for stations returning to their analog channel and planning to use their existing analog antenna, this antenna may not be capable of replicating the theoretical antenna pattern specified in Appendix B. These stations face the possibility of having to replace their analog antenna in order to remain within the theoretical contour described by Appendix B, thereby incurring additional expense and contributing to the already considerable demand for equipment and installation crews as the transition deadline approaches. In order to remedy these valid concerns, the *Seventh Report and Order* modified the coverage area for stations that filed such requests during the comment cycle.¹¹⁵

43. In addition, in the *Sixth Report and Order* in this docket, the Commission determined that the maximum permissible power for all allotments in the initial DTV Table would be 1,000 kW.¹¹⁶ For some stations whose analog channel was in the VHF band and whose initial DTV channel was in the UHF band, an ERP of 1,000 kW was not sufficient to permit replication of the station's analog service.¹¹⁷

¹¹¹ See *Sixth Report and Order*, 12 FCC Rcd at 14605, ¶¶ 29-30.

¹¹² See *Second DTV Periodic Report and Order*, 18314-15, ¶ 78; Instructions to FCC Form 381, Item 1(c).

¹¹³ Stations certifying to replication facilities that had not changed their DTV channel since the 1998 DTV *Second MO&O* had their replication facilities based on the facilities established in Appendix B of the *Second MO&O*. See Instructions to FCC Form 381, Item 1(c). Stations that had changed their DTV channel since the DTV *Second MO&O* had their replication facilities based on the facilities established by the relevant Report and Order for that station. *Second DTV Periodic Report and Order*, 18314-15, ¶ 78. Eligible licensees and permittees without a DTV channel allotment were permitted to certify that they would operate their post-transition DTV station based on a currently authorized NTSC license or construction permit. See FCC Form 381, item 1(d).

¹¹⁴ Some of the discrepancies may also be due to the use of different propagation models for determining analog TV contours (F(50, 50) curves) and DTV contours (F(50, 90) curves). The variations may be enlarged when calculated facilities are in a different frequency band (low VHF, high VHF, or UHF) from the facility that is being replicated.

¹¹⁵ See *Seventh Report and Order*, 22 FCC Rcd 15607-10, ¶¶ 62-71.

¹¹⁶ See *Sixth Report and Order*, 12 FCC Rcd at 14605, ¶ 30.

¹¹⁷ In recognition of this problem, the Commission adopted a note to Section 73.622(e)(2) of its rules, which protects stations with a UHF DTV channel in the initial DTV Table whose assigned power is 1000 kW by defining the station's protected DTV service area as the Grade B contour of the associated analog television station. The note to that provision provides:

NOTE TO PARAGRAPH (e)(2): During the transition, in cases where the assigned power of a UHF DTV station in the initial DTV Table is 1000 kW, the Grade B contour of the associated analog television (continued....)

In developing Appendix B during the channel election process, the Commission based replication on the station's initial DTV facilities and, for UHF stations with a 1,000 kW cap, the Commission assigned a power level to match the 1,000 kW digital contour. Some petitioners argue that, because of the 1,000 kW cap, the power level specified in Appendix B does not permit the station to replicate its larger analog Grade B contour, thereby depriving current analog viewers of service post-transition.¹¹⁸ Other stations not subject to the 1,000 kW cap simply request an increase in power or a change to the station's antenna pattern to permit the station to serve more of the area served by the station's analog facilities.¹¹⁹

44. In response to the petitions filed on behalf of these stations, we have provided the same relief herein that we provided to similarly situated stations in the *Seventh Report and Order*.¹²⁰ Specifically, we have recalculated Appendix B facilities based on replicating the analog coverage that was used to determine the station's initial DTV table facilities. If the recalculation would result in a reduction in the Appendix B facilities or would result in an undesirable shift in the station's service area, we are retaining the Appendix B facilities that we adopted in the *Seventh Report and Order* without change.¹²¹ Although we are not revising Appendix B in these latter cases, we note that these stations may be able to obtain much, if not all, of the relief they seek when they file an application for their final post-

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station, as authorized on April 3, 1997, shall be used instead of the noise-limited contour of the DTV Station in determining the DTV station's service area. In such cases, the DTV service area is the geographic area within the station's analog Grade B contour where its DTV signal strength is predicted to exceed the noise-limited service level, *i.e.*, 41 dB, as determined using the Longley-Rice methodology.

47 C.F.R. § 73.622(e)(2).

¹¹⁸ See, *e.g.*, Petitions for Reconsideration of Gray Television, Inc., filed Oct. 26, 2007 (relating to WTOK-DT, Meridian, MS; WILX-DT, Onondaga, MI; and WBKO-DT, Bowling Green, KY) and Hearst-Argyle Television, Inc., filed Oct. 25, 2007 (relating to WYFF-DT, Greenville, SC).

¹¹⁹ See, *e.g.*, Petition for Reconsideration of CBS Corporation at 2-3 (relating to KSTW, Tacoma, WA) and Petition for Reconsideration of Gray Television filed Oct. 26, 2007 at 2-3 (relating to WTOK, Meridian, MS).

¹²⁰ See *Seventh Report and Order*, 22 FCC Rcd at 15607-10, ¶¶ 62-71.

¹²¹ The stations whose Appendix B facilities are not being changed for this reason are: KABY, Aberdeen, SD; KAIL, Wailuku, HI; KARE, Minneapolis, MN; KAZT, Prescott, AZ; KETA, Oklahoma City, OK; KFPH, Flagstaff, AZ; KHAW, Hilo, HI; KHET, Honolulu, HI; KMEB, Wailuku, HI; KPNX, Mesa, AZ; KSFY, Sioux Falls, SD; KUSA, Denver, CO; KUVI, Bakersfield, CA; KWEX, San Antonio, TX; WBIR, Knoxville, TN; WEEK, Peoria, IL; WIRT, Hibbing, MN; WMAE, Booneville, MS; WMAZ, Macon, GA; WMMP, Charleston, SC; WNAC, Providence, RI; WOTF, Melbourne, FL; WTVX, Fort Pierce, FL; and WZZM, Grand Rapids, MI.

KMEB, Wailuku, HI (analog channel 10, pre-transition digital channel 20, and post-transition digital channel 10), and KAIL, Wailuku, HI (analog channel 7, pre-transition digital channel 36, and post-transition digital channel 7), and other co-located broadcasters are being forced to move off their current tower site on the Haleakala Summit due to a Hawaii State Department of Land and Natural Resources prohibition on DTV facilities, land use concerns, and possible radio signal interference to observatories maintained by the University of Hawaii Institute for Astronomy and the U.S. Air Force Research Laboratory. See Petition for Reconsideration by Montecito Hawaii License, LLC, filed Oct. 26, 2007, at 1-2 and Engineering Statement; Petition for Reconsideration by Hawaii Public Television Foundation, filed Oct. 26, 2007, at 2; Supplement filed by Hawaii Public Television Foundation, filed Nov. 14, 2007, at 2. KMEB and KAIL have both requested new parameters in Appendix B to reflect their move to new facilities. However, as the Commission's analysis indicates that the requested adjustment would result in a reduction in the Appendix B facilities for these stations, we are adopting herein the larger Appendix B facilities that were reflected for these stations in the *Seventh Report and Order*. Nevertheless, we note that both KMEB and KAIL are returning to their analog channels for post-transition digital service, and we believe the flexibility provided by the *Third DTV Periodic Report and Order* will allow these stations to obtain the relief they seek through the application process.

transition DTV channel pursuant to the rules and procedures adopted in the *Third DTV Periodic Report and Order*. As discussed above, we adopted a number of policies in that Order designed to give substantial flexibility to stations moving to a different channel for post-transition digital service, including stations that are returning to their analog channel and that plan to use their analog antenna.¹²²

Specifically, the *Third DTV Periodic Report and Order* allowed for stations to expand up to five miles in any direction beyond their authorized service area where the station demonstrates that such expansion: (1) would allow the station to use its analog antenna or a new antenna to avoid a significant reduction in post-transition service from its analog service area; (2) would be no more than five miles larger in any direction than their authorized service area, as defined by the post-transition DTV Table Appendix B; and (3) would not cause impermissible interference, i.e., more than 0.5 percent new interference, to other stations. We also stated that, while we generally will not permit more than 0.5 percent new interference, we will consider on a case-by-case basis allowing stations to cause additional new interference if stations can demonstrate that they need this additional flexibility to serve their analog viewers.¹²³

45. If our recalculation of Appendix B based on replication of the station's initial DTV table facilities would result in a larger coverage area or a desirable coverage area shift, and our analysis indicates that the recalculated facilities (1) meet the 0.1 percent interference standard specified in the *Second DTV Periodic Report and Order*¹²⁴ or (2) would cause more than 0.1 percent new interference but the affected station(s) agree to accept the interference, we are granting the request to change DTV Appendix B to reflect the larger or shifted coverage area. These stations are listed in Appendix D3, and the revised parameters for these stations are reflected in the revised DTV Table Appendix B, *infra*. We believe that permitting these changes to Appendix B is consistent with our overall goal in the DTV transition of encouraging replication of analog service. One of the Commission's objectives throughout the transition has been to permit broadcasters to reach with digital service the audiences they have been serving with analog service so that viewers will continue to have access to the stations that they are accustomed to receiving over the air.¹²⁵ In the *Third DTV Periodic Report and Order*, we emphasized again our goal of ensuring that stations provide digital service to their current analog viewers by the transition deadline so that over-the-air viewers will not lose TV service.¹²⁶ We remain committed to ensuring that viewers maintain the best possible television service after the transition date. The revisions granted to the stations listed in Appendix D3 are consistent with this goal as they will permit these stations to provide digital service to more of their established analog viewers.

1. Granted Requests For Which an Opposition Was Filed

46. For three stations listed on Appendix D3, WUSA, Washington, D.C., WHAS, Louisville, KY, and WPBN, Traverse City, MI, there was an opposition filed to the station's petition for reconsideration. We briefly discuss these oppositions and related pleadings below. As described above, for all stations listed on Appendix D3, including WUSA, WHAS, and WPBN, our recalculation of Appendix B herein resulted in a larger coverage area consistent with our interference standards. Accordingly, we revised Appendix B for these stations to provide them with this larger coverage area.

¹²² See *supra* Section II.B. See also *supra* Section, III.A.1.

¹²³ See *supra* Section II.B.

¹²⁴ Stations that had either an out-of-core DTV channel pre-transition or no DTV channel (*i.e.*, a singleton with only an in-core analog channel) and that were moving to their analog channel for post-transition operation were permitted to cause up to 2.0 percent new interference to protected DTV stations. See *supra* ¶ 9.

¹²⁵ *Second DTV Periodic Report and Order*, 19 FCC Rcd at 18311, ¶ 72.

¹²⁶ See, e.g., *Third DTV Periodic Report and Order*, Section V.B.7.

While these revisions to Appendix B may not include the specific parameters requested by WUSA, WHAS, and WPBN in their petitions, the revised Appendix B parameters together with the flexibility adopted in the *Third DTV Periodic Report and Order* should provide to these stations some, if not all, the relief they seek when they file applications for post-transition facilities.

47. WUSA, Washington, D.C. We grant, in part, the request of Gannett Co. Inc. (“Gannett”), indirect owner of WUSA, channel 9, and WUSA-DT, channel 34, Washington, D.C., allotted channel 9 in the DTV Table in the *Seventh Report and Order*.¹²⁷ Gannett submitted a petition for reconsideration requesting to amend the Form 381 certification of WUSA-DT to specify the station’s replicated service area rather than the maximized service area in order to permit the station to use an existing combined analog antenna for its post-transition DTV operations.¹²⁸ Sonshine Family Television, Inc. (“Sonshine”) filed an opposition to the petition claiming that the proposed revised allotment for WUSA would cause interference to WBPH-DT, Bethlehem, PA (analog channel 60, post-transition digital channel 9) in excess of the applicable interference standard.¹²⁹ In response to a later pleading filed by Gannett, Sonshine revised its position to support the WUSA proposal if certain power limitations were met by the post-transition WUSA facilities.¹³⁰ The Commission recalculated Appendix B facilities for WUSA pursuant to the process described above and performed an interference analysis based on these recalculated Appendix B facilities. The Commission’s interference analysis shows no new interference from the revised Appendix B facilities for WUSA to WBPH or any other station and the revised WUSA parameters are reflected in the Appendix B adopted herein. While these revised parameters may not reflect all of the changes requested by Gannett, the changes to Appendix B when combined with the flexibility provided in the *Third DTV Periodic Report and Order* for the application process should provide all or much of the relief sought for WUSA.

48. WHAS, Louisville, KY. We grant, in part, the request of Belo Corp. (“Belo”), licensee of WHAS, channel 11, and WHAS-DT, channel 55, Louisville, KY, allotted channel 11 in the DTV Table in the *Seventh Report and Order*.¹³¹ Belo submitted a petition for reconsideration requesting that its Form 381 certification be amended to specify the WHAS replicated analog service area rather than its maximized service area and that Appendix B be modified to reflect an omni-directional antenna pattern that would permit WHAS to use its existing analog omni-directional antenna for post-transition operations.¹³² Primeland Television, Inc. filed an opposition arguing that the proposed changes to WHAS

¹²⁷ See *Seventh Report and Order*, 22 FCC Rcd at 15647, App A.

¹²⁸ See Petition for Reconsideration of Allbritton Communications Company and Gannett Co., Inc., filed Oct. 10, 2007 (supplement filed Oct. 26, 2007). See also Reply in Support of Petition for Reconsideration of Gannett Co. Inc., filed Nov. 16, 2007 (“Gannett Reply”). The petition was filed by Gannett on behalf of WUSA and by Allbritton on behalf of WJLA, Washington, D.C., to permit WUSA and WJLA to use their existing combined analog antenna for post-transition operations. Sonshine did not oppose the proposed revised WJLA allotment.

¹²⁹ See Opposition to Petition for Reconsideration of Sonshine, filed Nov. 6, 2007. Sonshine argued initially that the proposed revised WUSA allotment would cause new interference to WBPH of 3.744 percent. *Id.* at 3.

¹³⁰ In a pleading filed after the Gannett Reply, Sonshine states that it supports the Gannett proposal if the actual measured power on any and all azimuths pertinent to WBPH-DT does not exceed 8.7 kW. See Limited Opposition to Petition for Reconsideration and Supplement by Gannett Co., Inc., filed Dec. 3, 2007, at 4.

¹³¹ See *Seventh Report and Order*, 22 FCC Rcd at 15647, App A.

¹³² See Petition for Reconsideration of Belo Corp., filed Oct. 26, 2007, at 2-3. Specifically, Belo requests that Appendix B be modified to reflect operation of WHAS on channel 11 with an omni-directional antenna at a power level of 6kW and HAAT of 392 meters. *Id.* at 3. But see *id.* at Attachment 2 (engineering statement recommending that Appendix B for WHAS be amended to specify an ERP of 8.9 kW).

are premature and will cause substantial interference to the post-transition operations of WLFI, Lafayette, LA (analog channel 18, post-transition digital channel 11).¹³³ Belo acknowledges in its petition that its proposed changes to WHAS would cause interference to WLFI-DT, but argues that its proposal actually represents a reduction from the level of interference currently caused to WLFI-TV by WHAS-TV's analog facility.¹³⁴ In its opposition, Primeland argues that the facilities specified in the DTV Table concern post-transition operations and that any masking interference caused by WHAS's analog facilities should be disregarded.¹³⁵ In reply Belo argues that grant of its petition would best serve the public interest as the changes it requests for WHAS will permit existing analog viewers of that station to receive WHAS digital service, while those changes will not deprive any current analog viewers of WLFI of that station's digital service.¹³⁶ The Commission recalculated Appendix B facilities for WHAS pursuant to the process described above and performed an interference analysis based on these recalculated Appendix B facilities. The Commission's interference analysis shows no new interference from the revised Appendix B facilities for WHAS to WLFI or any other station and those revised WHAS parameters are reflected in the Appendix B adopted herein. While these revised parameters may not reflect all of the changes requested by Belo, the changes to Appendix B when combined with the flexibility provided in the *Third DTV Periodic Report and Order* should provide all or most of the relief sought for WHAS.

49. WPBN, Traverse City, MI. We grant, in part, the petition for reconsideration filed on behalf of WPBN. Barrington Traverse City License LLC, licensee of television station WPBN, channel 7, and WPBN-DT, channel 50, Traverse City, MI, was allotted channel 7 for post-transition operations in the *Seventh Report and Order*.¹³⁷ In its petition for reconsideration, Barrington seeks revised technical parameters for WPBN's post-transition operations in order to operate at the coordinates and height of its channel 7 analog operation, using its analog antenna.¹³⁸ Barrington states that its allotted post-transition facility will serve just over 50 percent of the population served by its analog grade B signal.¹³⁹

50. WOOD License Company, LLC, licensee of WOOD-TV/DT in Grand Rapids, Michigan, opposes Barrington's petition on the grounds that granting the requested change for WPBN would cause interference to WOOD's post-transition operations on DTV channel 7, resulting in loss of service to 11,868 persons or 0.52 percent of WOOD's service population.¹⁴⁰ In its reply, Barrington argues that WOOD is incorrect and that the requested allotment for WPBN would actually cause substantially less interference to WOOD-DT post-transition than is caused currently by the WPBN analog facility.¹⁴¹

51. The Commission recalculated Appendix B facilities for WPBN pursuant to the process

¹³³ See Partial Opposition of Primeland Television, Inc., filed Dec. 3, 2007. The Belo petition for reconsideration addressed two stations: WHAS and KTVB, Boise, ID. Primeland took no position with respect to the proposed changes to KTVB. Primeland also states that WLFI has declined to enter into an interference agreement with WHAS. See Opposition of Primeland at 2, note 5.

¹³⁴ See Belo Petition for Reconsideration filed Oct. 26, 2007, at 4.

¹³⁵ See Opposition of Primeland filed Dec. 3, 2007, at 4.

¹³⁶ See Reply to the Partial Opposition of Primeland Television, Inc., filed Dec. 13, 2007, at 4-7.

¹³⁷ See *Seventh Report and Order*, 22 FCC Rcd at 15647, App. A.

¹³⁸ See Petition for Reconsideration of Barrington, filed Oct. 26, 2007, at 1-2.

¹³⁹ *Id.* at 2.

¹⁴⁰ See WOOD License Company, LLC Opposition, filed Dec. 3, 2007, at 1-2.

¹⁴¹ Barrington Reply to Opposition, filed Dec. 21, 2007, at 1-2.

described above and performed an interference analysis based on these recalculated Appendix B facilities. The Commission's interference analysis shows no new interference from the revised Appendix B facilities for WPBN to WOOD or any other station and those revised WPBN parameters are reflected in the Appendix B adopted herein. While these revised parameters may not reflect all of the changes requested by Barrington, the changes to Appendix B when combined with the flexibility provided in the *Third DTV Periodic Report and Order* should permit Barrington to obtain at least some of the relief it seeks for WPBN.

2. Granted Requests Filed by Stations That Were Previously Addressed in the *Seventh Report and Order*

52. Petitions for reconsideration were filed on behalf of the following stations requesting reconsideration of the Commission's decisions in the *Seventh Report and Order* regarding the stations. The Commission has modified Appendix B herein for these stations and the stations appear on Appendix D3 herein. As these petitions relate to particular decisions made in the *Seventh Report and Order*, they are discussed individually below.

53. KCET, Los Angeles, CA. We grant, in part, the petition for reconsideration of Community Television of Southern California ("CTSC"), licensee of NCE station KCET, channel 28, and KCET-DT, channel 59, Los Angeles, CA, which received channel 28 for its TCD in the proposed DTV Table.¹⁴² In its comments filed in response to the *Seventh Further Notice*, CTSC requested that the Commission change DTV Table Appendix B to specify maximized parameters for KCET-DT. The Commission denied the CTSC request because the KCET maximized facilities would cause interference to the certified facilities of KEYT, Santa Barbara, CA (analog channel 3, post-transition digital channel 27) on its TCD in excess of the permissible 0.1 percent limit.¹⁴³ In its petition for reconsideration, CTSC states that it has determined that Appendix B specifies a different antenna than the current KCET analog antenna, which CTSC states is the antenna it has always intended to use for its post-transition facility.¹⁴⁴ CTSC requests that the Commission modify Appendix B to specify its current antenna, which will permit replication of KCET's current NTSC and DTV service areas.

54. The Commission has recalculated the Appendix B facilities for KCET pursuant to the process described above and performed an interference analysis based on these recalculated Appendix B facilities. The Commission's interference analysis shows no new interference to other stations from the revised Appendix B facilities for KCET and, accordingly, we have revised Appendix B herein to reflect these revised KCET parameters. While these revised parameters may not reflect all of the changes requested by CTSC, the changes we make herein to Appendix B when combined with the flexibility provided in the *Third DTV Periodic Report and Order* should provide all or most of the relief sought for KCET.

55. WGAL, Lancaster, PA. We grant, in part, the petition for reconsideration of Hearst-Argyle Television, Inc. ("Hearst"), parent company of the licensees of WGAL channel 8 and WGAL-DT channel 58, which was allotted channel 8 for post-transition operations in the *Seventh Report and Order*. Hearst seeks reconsideration of the Commission's denial of its request to change the certified technical parameters for its post-transition facilities to replicate analog service.¹⁴⁵ Specifically, it reiterates its

¹⁴² See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

¹⁴³ See *Seventh Report and Order*, 22 FCC Rcd at 15635-37, ¶¶ 135-138.

¹⁴⁴ See Petition for Reconsideration of Community Television of Southern California filed Oct. 26, 2007, at 3-4.

¹⁴⁵ See Petition for Reconsideration of Hearst-Argyle Television, Inc. filed Oct. 25, 2007, at 3-7.

comments filed in response to the *Seventh Further Notice* where it requested an increase in HAAT to 415 meters and a decrease in ERP to 5.36kW. In response to these comments, the Commission recalculated WGAL's Appendix B facilities based on replicating its analog coverage area and determined that the recalculation resulted in a reduction in the Appendix B facilities for WGAL. Accordingly, in the *Seventh Report and Order*, we retained the larger Appendix B facilities that we had initially proposed for WGAL.¹⁴⁶ Hearst argues in its petition that the Commission erred in its treatment of WGAL in the *Seventh Report and Order* because, in fact, the recalculated Appendix B facilities based on replication would result in a larger coverage area for WGAL.¹⁴⁷

56. As Hearst indicates in its petition that it would prefer a modified coverage area for WGAL even if that coverage area is smaller or shifted from the area on Appendix B, the Commission has recalculated the Appendix B facilities for WGAL pursuant to the process described above and performed an interference analysis based on these recalculated Appendix B facilities. The Commission's interference analysis shows no new interference to other stations from the revised Appendix B facilities for WGAL and, accordingly, we have revised Appendix B herein to reflect these revised parameters.

3. Requests That Do Not Meet the Interference Standard

57. As described in greater detail below, we deny the requests from 13 stations that filed petitions requesting changes to the DTV Table Appendix B adopted in the *Seventh Report and Order* to increase the station's coverage area, because our recalculations of the Appendix B facilities and interference analysis show that the requested change would result in interference that would exceed the 0.1 percent interference standard and the affected station has not agreed to accept this interference. None of these petitions request changes to reflect DTV facilities they are operating or are authorized to operate. Consistent with our decisions in the *Seventh Report and Order*, we decline to change the facilities specified in DTV Table Appendix B where the station requesting the change does not meet the applicable interference standard and is not yet providing service to the public.¹⁴⁸ We note, however, that many of these stations must file an application for authority to construct the station's post-transition facility.¹⁴⁹ As a result of the flexibility adopted in the *Third DTV Periodic Report and Order*, stations whose requests for modified coverage area are denied may be able to specify facilities in that application that more closely approach the parameters requested in the station's petition for reconsideration. All stations filing applications will be allowed to cause up to 0.5 percent new interference in addition to that in the DTV Table Appendix B as revised herein. In addition, stations moving to a new channel post-transition that are trying to serve their current analog viewers will be allowed to apply for a minor expansion of no more than 5 miles in any direction from the coverage area defined in Appendix B herein.

58. The following is a list of these stations and a description of their individual circumstances.

59. KEMV, Mountain View, AR. We deny the petition for reconsideration filed by Arkansas Educational Television Commission ("AETC"), licensee of noncommercial educational station KEMV,

¹⁴⁶ See *Seventh Report and Order*, 22 FCC Rcd at 15608-09, ¶ 66 and n.166.

¹⁴⁷ See Hearst-Argyle petition at 4.

¹⁴⁸ See *Seventh Report and Order*, 22 FCC Rcd at 15605-07, ¶¶ 58-61 (Requests By Non-Operational Stations That Do Not Meet Interference Criteria?) and 15609-10, ¶¶ 68-71 (denying requests for modified coverage area to three stations whose requested changes did not meet the interference criteria).

¹⁴⁹ KEMV, Mountain View, AR, WKRG, Mobile AL, and WRBL, Columbus, GA were allotted the same channel for pre- and post-transition operation. Although these stations are not moving to a new channel post-transition, they must file an application for a construction permit if they seek to modify their currently authorized DTV facility.

channel 6, and KEMV-DT, channel 13, Mountain View, AR, which was allotted channel 13 for post-transition operations in the DTV Table in the *Seventh Report and Order*.¹⁵⁰ The FCC Form 381 filed for this station certified that the station would operate post-transition consistent with an authorization for Special Temporary Authority, which defined a service area smaller than replication and smaller than a construction permit modification. AETC requests that the parameters for KEMV-DT in Appendix B be adjusted to include an omnidirectional antenna with an ERP of 6.9 kW.¹⁵¹ The Commission's interference analysis based on recalculated Appendix B facilities shows that KEMV would cause 0.6 percent interference to KTHV, Little Rock, AR (analog channel 11, digital channel 12 for both pre- and post-transition), 2.1 percent interference KETG, Arkadelphia, AR (analog channel 9, digital channel 13 for both pre- and post-transition), and 0.6 percent interference to WHBQ, Memphis, TN (analog channel 13, pre-transition digital channel 53, post-transition digital channel 13).

60. WBBM, Chicago, IL. We deny the petition for reconsideration filed by CBS Corporation ("CBS"), the ultimate owner of station WBBM, channel 2, and WBBM-DT, channel 3, Chicago, IL. The Commission initially proposed to allot channel 11 to WBBM for its post-transition channel¹⁵² but, in response to comments filed by CBS in response to the *Seventh Further Notice*, the Commission granted WBBM a change to channel 12 in the *Seventh Report and Order*.¹⁵³ CBS filed a petition for reconsideration of the *Seventh Report and Order* requesting that the parameters for WBBM-DT in Appendix B be adjusted to reflect operation with a directional antenna and an increase in ERP to 13.6 kW to nearly match the carried-over, maximized service contour of WBBM's channel 3 authorized operations.¹⁵⁴ The Commission's interference analysis based on recalculated Appendix B facilities shows that WBBM would cause 0.4 percent interference to WINM, Angola, IN (analog channel 63, digital channel 12 for both pre- and post-transition).

61. KTVU, Oakland, CA. We deny the petition for reconsideration filed by KTVU Partnership ("Cox"), licensee of KTVU, channel 2, and KTVU-DT, channel 56, Oakland, CA. KTVU was allotted channel 44 for post-transition operations in the DTV Table in the *Seventh Report and Order*.¹⁵⁵ Cox requests a change in certified facilities and a revision of KTVU-DT's allotment in Appendix B to reflect operation with a directional antenna, a decrease in ERP to 500 kW, and an increase in HAAT to 513 meters.¹⁵⁶ The Commission's interference analysis based on recalculated Appendix B facilities shows that KTVU would cause 0.6 percent interference to KCSM, San Mateo, CA (analog channel 60, digital channel 43 for both pre- and post-transition) and 0.4 percent interference to KBCW, San Francisco, CA (analog channel 44, digital channel 45 for both pre- and post-transition).

62. WTOV, Steubenville, OH. We deny the petition for reconsideration of WTOV, Inc. ("Cox"), licensee of WTOV, channel 9, and WTOV-DT, channel 57, Steubenville, Ohio. WTOV was

¹⁵⁰ See *Seventh Report and Order*, 22 FCC Rcd at 15647, App. A.

¹⁵¹ See Petition for Partial Reconsideration of Arkansas Educational Television Commission, filed Oct. 26, 2007, at 4-5; see also Supplement of Arkansas Educational Television Commission, filed Nov. 9, 2007, at Appendix C, Engineering Statement of Meintel, Sgrignoli, & Wallace, at 18-22.

¹⁵² See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

¹⁵³ See *Seventh Report and Order*, 22 FCC Rcd at 15647, App. A.

¹⁵⁴ See Petition of CBS Corporation for Reconsideration of Seventh Report and Order, filed Sept. 14, 2007, at 2-5.

¹⁵⁵ See *Seventh Report and Order*, 22 FCC Rcd at 15647, App. A.

¹⁵⁶ See Petition for Partial Reconsideration of KTVU Partnership, filed Oct. 26, 2007, at 1-3.

allotted channel 9 for post-transition operations in the DTV Table in the *Seventh Report and Order*.¹⁵⁷ Cox requests a change in certified facilities and a revision of WTOV-DT's allotment in Appendix B to reflect operation with a nondirectional antenna, an increase in ERP to 12 kW, and an increase in HAAT to 282 meters.¹⁵⁸ The Commission's interference analysis based on recalculated Appendix B facilities shows that WTOV would cause 2.9 percent interference to WWCP, Johnstown, PA (analog channel 8, pre-transition digital channel 29, and post-transition digital channel 8) and 0.6 percent interference to WVFX, Clarksburg, West Virginia (analog channel 46, digital channel 10 for both pre- and post-transition). As noted above, stations that were eligible to participate in the channel election process and that had an out-of-core DTV channel were permitted to select their in-core NTSC channel for post-transition DTV operation if it would cause no more than 2.0 percent new interference to a protected DTV station.¹⁵⁹ Because the requested change to WTOV would exceed this 2 percent interference limit with respect to WWCP, the Cox request is denied.

63. WKRG, Mobile, AL. We deny the petition for reconsideration of Media General Communications Holdings, LLC ("Media General"), licensee of WKRG, channel 5, and WKRG-DT, channel 27, Mobile, AL. WKRG was allotted channel 27 for post-transition operations in the DTV Table in the *Seventh Report and Order*.¹⁶⁰ Media General requests a change in the certification for WKRG and a revision of the station's allotment in Appendix B to reflect operation with a new antenna ID.¹⁶¹ The Commission's interference analysis based on recalculated Appendix B facilities shows that WKRG would cause 1.0 percent interference to WAIQ, Montgomery, AL (analog channel 26, digital channel 27 for both pre- and post-transition). During the channel election process, WKRG had certified to a DTV replication facility; however, with the parameter adjustments it is presently seeking, WKRG is attempting to replicate its larger 1998 analog grade B contour, resulting in the interference to WAIQ. Due to this interference, the Commission cannot grant the relief WKRG is seeking.

64. WRBL, Columbus, GA. We deny the petition for reconsideration Media General Communications Holdings, LLC ("Media General"), licensee of WRBL, channel 3, and WRBL-DT, channel 15, Columbus, GA. WRBL was allotted channel 15 for post-transition operations in the DTV Table in the *Seventh Report and Order*.¹⁶² Media General requests a change in the certification for WRBL and a revision of the station's allotment in Appendix B to reflect operation with an increased HAAT of 543 meters.¹⁶³ The Commission's interference analysis based upon the recalculated Appendix B facilities for WRBL shows that WRBL would cause 0.2 percent interference to WGXA, Macon, GA (analog channel 24, digital channel 16 for both pre- and post-transition).¹⁶⁴

¹⁵⁷ See *Seventh Report and Order*, 22 FCC Rcd at 15647, App. A.

¹⁵⁸ See Petition for Partial Reconsideration of WTOV, Inc., filed Oct. 26, 2007, at 1-3.

¹⁵⁹ See *supra* ¶ 9.

¹⁶⁰ See *Seventh Report and Order*, 22 FCC Rcd at 15647, App. A.

¹⁶¹ See Petition for Partial Reconsideration by Media General Communications Holdings, LLC, filed Oct. 26, 2007, at 1-2; see also Supplement to Petition for Partial Reconsideration of Media General Communications Holdings, LLC, filed Nov. 9, 2007, at 1-2.

¹⁶² See *Seventh Report and Order*, 22 FCC Rcd at 15647, App. A.

¹⁶³ See Petition for Partial Reconsideration by Media General Communications Holdings, LLC, filed Oct. 26, 2007, at 1-2; see also Supplement to Petition for Partial Reconsideration of Media General Communications Holdings, LLC, filed Nov. 9, 2007, at 1-2.

¹⁶⁴ The Commission based its analysis on the 1998 analog coverage area for WRBL (FCC File No. 19991015ABE).

65. WKMG, Orlando, FL. We deny the petition for reconsideration of Post-Newsweek Stations, Orlando, Inc. (“Post-Newsweek”), licensee of WKMG, channel 6, and WKMG-DT, channel 58, Orlando, FL. WKMG was allotted channel 26 for post-transition operations in the DTV Table in the *Seventh Report and Order*.¹⁶⁵ Post-Newsweek requests that its post transition DTV allotment parameters be modified to reflect use of a polarized dielectric antenna with an ERP of 866 kW.¹⁶⁶ The Commission’s interference analysis based on recalculated Appendix B facilities shows that WKMG would cause 0.9 percent interference to WVEA, Venice, FL (analog channel 62, digital channel 25 for both pre- and post-transition) and 0.2 percent interference to WRDQ, Orlando, FL (analog channel 27, pre-transition digital channel 14, post-transition digital channel 27).

66. WAFB, Baton Rouge, LA. We deny the petition for reconsideration of Raycom Media, Inc. (“Raycom”), licensee of WAFB, channel 9, and WAFB-DT, channel 46, Baton Rouge, LA. WAFB was allotted channel 9 for post-transition operations in the DTV Table in the *Seventh Report and Order*.¹⁶⁷ Raycom requests that Appendix B be revised to reflect use of WAFB’s existing analog omnidirectional antenna.¹⁶⁸ The Commission’s interference analysis based on recalculated Appendix B facilities shows that WAFB would cause 1.0 percent interference to WVUE, New Orleans, LA (analog channel 8, pre-transition digital channel 29, post-transition digital channel 8) and 12.9 percent interference to KLFY, Lafayette, LA (analog channel 10, pre-transition digital channel 56, post-transition digital channel 10).

67. WITV, Charleston, SC. We deny the petition for reconsideration filed by South Carolina Educational Television Commission (“SCETV”), licensee of WITV, channel 7, and WITV-DT, channel 49, Charleston, SC. WITV was allotted channel 7 for post-transition operations in the DTV Table in the *Seventh Report and Order*.¹⁶⁹ SCETV requests an increase in ERP to 20 kW to aid the station in replicating its analog coverage.¹⁷⁰ The Commission’s interference analysis based on recalculated Appendix B facilities shows that WITV would cause 0.2 percent interference to WOLO, Columbia, SC (analog channel 25, digital channel 8 for both pre- and post-transition).

68. WFUT, Newark, NJ. We deny the petition for reconsideration of Univision New York LLC (“Univision”), licensee of WFUT, channel 68, and WFUT-DT, channel 53, Newark, NJ, which was allotted channel 30 for post-transition operations in the DTV Table in the *Seventh Report and Order*.¹⁷¹ Although the Commission initially proposed channel 41 for WFUT for post-transition operations, Univision requested and was granted a change to channel 30 in the *Seventh Report and Order*.¹⁷² Univision states that while the Commission granted the channel change, Appendix B reflects the channel 41 antenna pattern and coverage rather than the antenna pattern and coverage requested for channel 30.¹⁷³

¹⁶⁵ See *Seventh Report and Order*, 22 FCC Rcd at 15647, App. A.

¹⁶⁶ See Petition for Reconsideration by Post-Newsweek Stations, Orlando, Inc., filed Oct. 26, 2007, at 1-2.

¹⁶⁷ See *Seventh Report and Order*, 22 FCC Rcd at 15647, App. A.

¹⁶⁸ See Petition for Clarification or Reconsideration by Raycom Media, Inc., filed Oct. 26, 2007, at 4-5.

¹⁶⁹ See *Seventh Report and Order*, 22 FCC Rcd at 15647, App. A.

¹⁷⁰ See Petition for Partial Reconsideration of South Carolina Educational Television Commission, filed Oct. 26, 2007, at 3.

¹⁷¹ See *Seventh Report and Order*, 22 FCC Rcd at 15647, App. A.

¹⁷² See *Seventh Further Notice*, 21 FCC Rcd at 12123; Comments of Univision, filed Jan. 25, 2007; *Seventh Report and Order*, 22 FCC Rcd at 15695 (Appendix D4 – Granted Requests for Alternative Channel Assignments).

¹⁷³ See Petition for Partial Reconsideration of Univision New York LLC, filed Oct. 26, 2007, at 1, 5.

In light of the channel change, Univision requests an increase in ERP and a change to the WFUT antenna radiation pattern to aid the station in replicating the WFUT-DT coverage area.¹⁷⁴ The Commission's interference analysis based on recalculated Appendix B facilities shows that WFUT would cause 0.2 percent interference to WFME, West Milford, NJ (analog channel 66, digital channel 29 for both pre- and post-transition).

69. WDEF, Chattanooga, TN. We deny the petition for reconsideration filed by WDEF-TV, Inc. ("WDEF"), licensee of WDEF, channel 12, and WDEF-DT, channel 47, Chattanooga, TN. WDEF was allotted channel 12 for post-transition operations in the DTV Table in the *Seventh Report and Order*.¹⁷⁵ WDEF requests use of its existing nondirectional antenna with a decrease in ERP to 13 kW.¹⁷⁶ The Commission's interference analysis based on recalculated Appendix B facilities shows that WDEF would cause 0.5 percent interference to WRCB, Chattanooga, TN (analog channel 3, digital channel 13 for both pre- and post-transition).

70. WWBT, Richmond, VA. We deny the petition for reconsideration filed by WWBT, Inc. ("WWBT"), licensee of WWBT, channel 12, and WWBT-DT, channel 54, Richmond, VA. WWBT was allotted channel 12 for post-transition operations in the DTV Table in the *Seventh Report and Order*.¹⁷⁷ WWBT requests an increase in ERP to 12.1 kW.¹⁷⁸ Although WWBT could cause up to 2 percent interference because it is a station with a pre-transition digital allotment out of core that is moving to its analog channel,¹⁷⁹ the Commission's interference analysis based on recalculated Appendix B facilities shows that WWBT would cause 3.0 percent interference to WVEC, Chattanooga, TN (analog channel 13, pre-transition digital channel 41, post-transition digital channel 13). Because this interference is in excess of the 2.0 permissible limit, the Commission cannot grant WWBT's request.

71. KAAL, Austin, MN. We deny the petition for reconsideration of Hubbard Broadcasting Inc. ("Hubbard"), licensee of station KAAL-TV, channel 6, and KAAL-DT, channel 33, Austin, MN. KAAL was allotted channel 36 for post-transition operations in the *Seventh Report and Order*.¹⁸⁰ In its petition for reconsideration, Hubbard requests that it be permitted to operate post-transition using the existing channel 36 facilities of station KTTC-DT, Rochester, MN (analog channel 10, pre-transition digital channel 36, post-transition digital channel 10).¹⁸¹ Hubbard describes several benefits associated with its operation of the former KTTC facilities.¹⁸² However, we find that KTTC's facilities are roughly 30 miles from KAAL's current tower and that KTTC is licensed to a different community (Rochester, MN instead of Austin, MN). Both findings indicate that it would be difficult for KAAL to properly serve Austin. In addition, Hubbard forecast that its proposed changes would cause interference in excess of 0.1 percent to WLEF-DT, Park Falls, WI (analog channel 36, pre-transition digital channel 47, post-transition

¹⁷⁴ *Id.* at Ex. 1, p.2.

¹⁷⁵ See *Seventh Report and Order*, 22 FCC Rcd at 15647, App. A.

¹⁷⁶ See Petition for Reconsideration of WDEF-TV, Inc., filed Oct. 26, 2007, at 2.

¹⁷⁷ See *Seventh Report and Order*, 22 FCC Rcd at 15647, App. A.

¹⁷⁸ See Petition for Reconsideration of WBBT, Inc., filed Oct. 26, 2007, at 3.

¹⁷⁹ See *supra* ¶ 9.

¹⁸⁰ See *Seventh Report and Order*, 22 FCC Rcd at 15647, App. A.

¹⁸¹ See Petition for Reconsideration of Hubbard Broadcasting, Inc., filed Oct. 26, 2007, at 2.

¹⁸² See *id.* (e.g., avoiding construction-related problems, particularly in light of the northern location of the facility, as well as reducing equipment related needs).

digital channel 36) and submitted evidence of WLEF's consent to this interference.¹⁸³ However, the Commission's interference analysis based on recalculated Appendix B facilities shows no impermissible interference to WLEF, but rather that KAAL would cause 0.40 percent interference to KWSD, Sioux Falls, SD (analog channel 36, pre-transition digital channel 51, and post-transition digital channel 36).

E. Requests for Alternative Channel Assignments

72. We received 13 requests for an alternative channel assignment. We grant herein eight of these requests and deny five requests, consistent with our treatment of such channel change requests in the *Seventh Report and Order*. A list of the stations for which we are granting a change appears in Appendix D4, *infra*,¹⁸⁴ and we have revised the DTV Table for these stations accordingly.¹⁸⁵ For each of these stations, we believe that the circumstances described by the station are consistent with one or more of the criteria for consideration of alternative channel assignments outlined in the *Seventh Further Notice*. Each of these requested channel changes granted herein and listed on Appendix D4 meets the 0.1 percent interference standard.¹⁸⁶

73. In paragraph 25 of the *Seventh Further Notice*, the Commission stated that it would consider requests for alternative channel assignments only from the following: (1) licensees unable to construct full, authorized DTV facilities¹⁸⁷ on the TCDs that they requested and received because, in order to avoid causing impermissible interference to other TCDs and still obtain their preferred channel, they had to agree to construct facilities on their TCD that are smaller than those to which they had certified on FCC Form 381; (2) licensees with international coordination issues which the Commission has been unable to resolve with the Canadian and Mexican governments;¹⁸⁸ (3) licensees with TCDs for low-VHF channels (channels 2-6); and (4) new licensees and permittees that attained such status after the start of

¹⁸³ See *id.* at 3; and Supplement to Petition for Reconsideration of Hubbard Broadcasting, Inc., filed Dec. 19, 2007, at 2.

¹⁸⁴ See *infra* Appendix D4.

¹⁸⁵ See *infra* Appendices A and B. With respect to KSCW, Wichita, KS, we grant the request filed by Sunflower Broadcasting, Inc. to change KSCW's post-transition channel to 19, but we deny Sunflower's request to also change the KSCW parameters to those of co-owned KWCH, Hutchinson, KS. See Petition for Reconsideration of Sunflower Broadcasting, Inc., filed Oct. 26, 2007. KWCH now operates its pre-transition DTV facility on channel 19, but will be moving to its analog channel for post-transition operations. Because the KSCW and KWCH antennas are located 22 miles apart and the two stations are licensed to different communities, we will not grant the KSCW request for the facilities of KWCH. However, when KSCW files its application for post-transition facilities on channel 19, it may take advantage of the 5-mile freeze waiver and the 0.5 percent additional interference policies adopted in the *Third DTV Periodic Report and Order*, and may thereby be able to obtain some of the relief sought for KSCW.

¹⁸⁶ In the petition for reconsideration filed on behalf of WKPT, Kingsport, TN, Holston Valley Broadcasting Corporation requested revised parameters on Appendix B and, in the alternative, requested a channel change. See Petition for Reconsideration to Seventh Report and Order of Holston Valley Broadcasting Corp., filed Oct. 11, 2007. Subsequently, Holston determined that the channel change was its preferred approach. See Letter from Dennis Kelly to Marlene H. Dortch, dated January 31, 2008; Second Supplement to Petition for Reconsideration to Seventh Report and Order of Holston Valley Broadcasting Corporation, filed Feb. 1, 2008. We have considered Holston's petition as a channel change request and that request is granted herein. See, *infra*, Appendix D4.

¹⁸⁷ The term "full, authorized DTV facilities" refers to the original facilities certified by the licensee in its FCC Form 381. *Seventh Further Notice*, 21 FCC Rcd at 12109, ¶ 25, n.49.

¹⁸⁸ See also *infra* Section III.I., ¶ 132.

the channel election process and to which we assigned a TCD for post-transition DTV operations because their assigned NTSC or DTV channel was determined to cause impermissible interference to existing licensees. The Commission stated that licensees that want to change their DTV allotment, but which are not in any of these categories (*e.g.*, are technically able to construct their full, authorized DTV facilities on their existing TCD) may request a change in allotment only after the DTV Table is finalized and must do so through the existing allotment procedures.¹⁸⁹

74. The Commission stated that any request for an alternative channel assignment must either meet the 0.1 percent additional interference standard or be accompanied by a request for a waiver of the 0.1 percent limit or the signed written consent of the affected licensee. The Commission stated that it would grant waivers of the 0.1 percent limit where doing so would promote overall spectrum efficiency and ensure the best possible service to the public, including service to local communities.¹⁹⁰

75. We deny the channel change requests of five stations. As discussed further below, for three of these stations the Commission's interference analysis shows that the new channel requested by the station would cause interference to one or more other stations in excess of the 0.1 percent standard, and there is no agreement with the affected station(s) accepting this interference. In one case where the interference standard is exceeded, that of KCWX, Fredericksburg, TX, the petition for reconsideration was opposed. As discussed below, we decline to waive our interference limit for these stations. In addition, we decline to grant the channel change request of two stations that filed their requests too late for consideration in this *Memorandum Opinion and Order on Reconsideration*. Following is a brief discussion of these stations and the relevant circumstances.

76. WCOV, Montgomery, AL. We deny the petition for reconsideration filed on behalf of WCOV. Woods Communications Corporation ("Woods"), licensee of station WCOV, channel 20, and WCOV-DT, channel 16, Montgomery, AL, elected and was allotted channel 16 for post-transition operations in the *Seventh Report and Order*.¹⁹¹ In its petition for reconsideration, Woods requests the substitution of channel 20 for its final, post-transition digital channel in the Table of Allotments.¹⁹² Woods asserts that it finds it more economically prudent to use its current analog channel, that the proposed facility on channel 20 would not cause more than 0.4 percent interference to any facility, and that none of the facilities impacted would receive interference to 10 percent or greater of their service populations.¹⁹³ It asserts this proposed change in allotment would comply with the Commission's rules and with expected changes to the Commission's rules limiting interference to 0.5 percent.¹⁹⁴

77. The Commission's interference analysis shows that the proposed operation of WCOV on channel 20 would cause 0.40 percent interference to WIIQ, Demopolis, AL (analog channel 41, digital channel 19 for both pre- and post-transition), 0.17 percent interference to WTBS, Atlanta, GA (analog channel 17, digital channel 20 for both pre- and post-transition), 0.45 percent interference to WMPV, Mobile, AL (analog channel 21, digital channel 20 for both pre- and post-transition), 0.31 percent interference to WYLE, Florence, AL (analog channel 26, digital channel 20 for both pre- and post-

¹⁸⁹ *Seventh Further Notice*, 21 FCC Rcd at 12109, ¶ 25 (citing 47 C.F.R. § 1.420).

¹⁹⁰ See *Second DTV Periodic Report and Order*, 19 FCC Rcd at 18307, ¶ 65 and *Seventh Further Notice*, 21 FCC Rcd at 12109, ¶ 26.

¹⁹¹ See *Seventh Report and Order*, 22 FCC Rcd at 15647, App. A.

¹⁹² See Petition for Reconsideration of Woods Communications Corporation, filed Oct. 25, 2007, at 1.

¹⁹³ *Id.* at 2 (citing Attachment D, Engineering Statement of D.L. Markley & Associates, Inc., at 2).

¹⁹⁴ *Id.*

transition), and 0.23 percent interference to WDHN, Dothan, AL (analog channel 18, digital channel 21 for both pre- and post-transition). Because the proposed channel substitution causes impermissible interference to five other stations, we deny Woods' request for channel change for WCOV. Woods has submitted neither evidence of agreement from the stations receiving the interference nor a request for waiver. The Commission's rules for channel changes, as stated in paragraphs 72-73 of the *Seventh Report and Order*, require that any such request must either meet the 0.1 percent additional interference standard or be accompanied by a request for a waiver of the 0.1 percent limit or the signed written consent of the affected licensee.¹⁹⁵ Contrary to Woods' assertion, the 0.5 percent interference standard proposed and adopted in the *Third DTV Periodic Review* applies to post-transition changes and not to the channel election process and changes to Appendix B. WCOV may file a request for a channel substitution when the Commission lifts the filing freeze. The 0.5 percent interference standard adopted in the *Third DTV Periodic Report and Order* will apply to such requests for channel substitution.

78. WWAZ, Fond du Lac, WI. We deny the channel change request of WWAZ because the basis it offers for the request, financial need, is not a basis for a channel change.¹⁹⁶ WWAZ License, LLC ("WWAZ"), licensee of station WWAZ, channel 68, and WWAZ-DT, channel 44, Fond du Lac, WI, was allotted channel 44 for post-transition operations in the *Seventh Report and Order*.¹⁹⁷ WWAZ requests the substitution of channel 9 for its final, post-transition digital channel in the Table of Allotments.¹⁹⁸ WWAZ asserts its analog and digital stations are not financially viable, that they have accumulated net operating losses of \$8,917,354 over the past 12½ years, and that WWAZ therefore meets the severe financial hardship requirements previously considered by the Commission for granting extensions in completing the construction of DTV facilities.¹⁹⁹ WWAZ asserts that a move to operations on channel 9 utilizing an existing antenna tower available on that channel and a conversion to Spanish language programming would allow it to more than double the Hispanic population reached with its proposed signal, affording it the opportunity to return to financial viability.²⁰⁰ It also asserts that approval of this channel change would serve the public interest by ensuring continuing provision of local service to WWAZ's city of license, Fond du Lac, WI, that such approval would encourage the development of new networks, and in particular, foreign-language, or Spanish-language programming, and that such a move would promote the provision of television service to minority viewers.²⁰¹ WWAZ does not offer a reason why remaining on its allotted channel 44 would not serve its city of license, and our analysis indicates that it will. WWAZ also fails to explain the relationship between moving to channel 9 and offering Spanish language programming.

¹⁹⁵ *Seventh Report and Order*, 22 FCC Rcd at 15611, ¶73.

¹⁹⁶ The Commission stated in the *Seventh Further Notice* that it would consider only engineering demonstrations in connection with requests for a channel change, and not requests based on financial or other reasons. *Id.* at n.50.

¹⁹⁷ *See Seventh Report and Order*, 22 FCC Rcd at 15647, App. A.

¹⁹⁸ *See* Petition for Reconsideration of WWAZ License, LLC, filed Oct. 26, 2007, at 1.

¹⁹⁹ *See id.* at 3-4 (citing *Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, Notice of Proposed Rulemaking, MB Docket No. 07-91, FCC 07-70 at paras. 81-82 (rel. May 18, 2007)).

²⁰⁰ *See id.* at 5-6.

²⁰¹ *See id.* at 6-8 and n.21.

79. WWAZ's petition acknowledges interference to one station and requests a waiver.²⁰² The Commission's interference analysis shows that the requested channel change would cause 1.45 percent interference to WMVS, Milwaukee, WI (analog channel 10, digital channel 8 for both pre- and post-transition), and 2.19 percent interference to WAOW, Wausau, WI (analog channel 9, pre-transition digital channel 29, and post-transition digital channel 9). In view of the impermissible interference caused by the proposed WWAZ channel substitution to two other stations, we deny its channel substitution request and decline to waive our interference standard. We do not believe that a waiver would promote overall spectrum efficiency or ensure the best possible television service to the public or the local community. WWAZ may request a channel substitution after the freeze is lifted.

80. KCWX, Fredericksburg, TX. We deny the petition for reconsideration filed on behalf of KCWX. Corridor Television, LLP is the licensee of KCWX-DT, Fredericksburg, Texas, a single channel analog station on Channel 2. In the *Seventh Report and Order*, the Commission denied Corridor's request to change its DTV channel from 5 to 8.²⁰³ Corridor acknowledged that this change required a waiver of the 0.1 percent interference standard, but argued that grant of a waiver would contribute to clearing the lower VHF band so that it can be used for other purposes, would result in fewer signal reception difficulties for rural viewers of its station and would reduce its operating costs.²⁰⁴

81. In the *Seventh Report and Order*, the Commission denied Corridor's request for a channel change and waiver finding that the change would cause 0.79 percent interference to KTBC, Austin, Texas (analog channel 7, post-transition digital channel 7) and 0.47 percent interference to NCE station KLRN, San Antonio, Texas (analog channel 9, post-transition digital channel 9). In pleadings filed in response to Corridor's channel change request following the *Seventh Further Notice*, KTBC License, Inc. (KTBC) licensee of KTBC, and Alamo Public Telecommunications Council (Alamo) licensee of KLRN, opposed Corridor's request.²⁰⁵ In the *Seventh Report and Order*, the Commission concluded that, "[I]n view of the significant level of impermissible interference caused by the proposed KCWX channel substitution, we decline to waive our interference limit in this situation. We do not believe that a waiver in these circumstances would promote overall spectrum efficiency or ensure the best possible television service to the public or the local community."²⁰⁶

82. In its petition for reconsideration, Corridor amended its request for channel change specifying a proposal with 15 kW non-directional ERP at 413 meters HAAT. Corridor notes that its original request was "without restrictions."²⁰⁷ Although Corridor acknowledges that its channel change would still result in greater than 0.1 percent interference, Corridor again requests a waiver pending adoption of the Commission's proposed 0.5 percent DTV interference standard in the Third DTV Periodic Review proceeding.²⁰⁸ Alamo and KTBC both oppose Corridor's revised request for channel change.

²⁰² See *id.* at 8-9.

²⁰³ See *Seventh Report and Order*, 22 FCC Rcd at 15612-13, ¶¶ 76-78.

²⁰⁴ See Comments and Waiver Request of Corridor Television LLP, filed Jan. 9, 2007 at 3.

²⁰⁵ See Opposition of KTBC License, Inc. to Comments and Waiver Request of Corridor Television, LLP, Licensee of KCWX, Fredericksburg, Texas to Change its TCD from Channel 5 to Channel 8, filed July 24, 2007; Informal Objection to Comments and Waiver Request and Further Comments and Engineering Statement of Corridor Television LLP, filed June 27, 2007.

²⁰⁶ *Seventh Report and Order* 22 FCC Rcd at 15613, ¶ 78.

²⁰⁷ Corridor Petition for Reconsideration, filed Oct. 5, 2007, at 4.

²⁰⁸ *Id.* at 2-4.

Both argue that the issue of a channel change was already considered in the *Seventh Report and Order* and was properly denied because the Commission found that it would cause impermissible interference to KLRN and KTBC.²⁰⁹ They point out that Corridor's new proposal also would cause impermissible interference to their stations. Alamo proposes that Corridor use another UHF channel that would not cause interference.²¹⁰

83. We note that Corridor does not challenge the denial of its original channel change proposal but rather it introduces a new proposal with revised technical parameters. The parameters requested by Corridor in its petition are not consistent with replication of its analog coverage contour, which is the coverage to which it certified on FCC Form 381. Accordingly, the revised channel change proposal cannot be considered in this proceeding. Once the freeze is lifted with respect to channel substitutions, Corridor may submit a petition for rulemaking and request that channel 8 be substituted for channel 5 for KCWX-DT. Corridor may request specific parameters for its proposed channel 8 operations at that time, and the channel substitution will be examined under the 0.5 percent interference standard. Corridor acknowledges that its revised channel change proposal does not comply with our 0.1 percent interference limit with respect to KTBC and KLRN.²¹¹ Corridor claims that its revised channel change proposal complies with the new 0.5 percent DTV interference standard recently adopted in the *Third DTV Periodic Review Report and Order*.²¹² However, the 0.5 percent interference proposal is not the standard for revisions to Appendix B. Rather, the 0.5 percent standard was adopted in the *Third DTV Periodic Review Report and Order* to apply to post-transition modifications.²¹³ Any channel change requested during this proceeding must be examined under the standard that has applied throughout the channel election process – the 0.1 percent interference standard. For these reasons, Corridor's petition for reconsideration is denied.

84. KMBC, Kansas City, MO. We deny the petition for reconsideration filed on behalf of KMBC. KMBC Hearst-Argyle Television, Inc. ("Hearst"), licensee of station KMBC, channel 9, and KMBC-DT, channel 7, Kansas City, MO, was allotted channel 9 for post-transition operations in the *Seventh Report and Order*.²¹⁴ Hearst requests the substitution of channel 29 for its assigned channel 9 in the DTV Table of Allotments.²¹⁵ Hearst's petition for reconsideration was filed after the applicable

²⁰⁹ Alamo Opposition filed Nov. 6, 2007, at 1; KTBC Opposition filed Oct. 18, 2007, at 2.

²¹⁰ Alamo Opposition filed Nov. 6, 2007, at 2.

²¹¹ See Corridor petition at 2 and exhibit 1. According to Corridor, its revised proposal would cause .44 percent new interference to KTBC and .35 percent new interference to KLRN. *Id.*

²¹² On January 15, 2008, Corridor filed a supplement to its petition for reconsideration reiterating its request for channel 8 under the revised parameters specified in its petition for reconsideration. See Supplement to Petition for Reconsideration of Corridor, filed Jan. 15, 2008, at 2. Corridor notes in its supplement that the 0.5 percent interference standard was adopted in the *Third DTV Periodic Report and Order* and argues that that standard should therefore be applied to Corridor's amended proposal for channel 8.

²¹³ See *Third DTV Periodic Report and Order*, Section V.F., ¶¶ 158-159.

²¹⁴ See *Seventh Report and Order*, 22 FCC Rcd at 15647, App. A.

²¹⁵ See Petition for Special Relief by KMBC Hearst-Argyle Television, Inc., filed Dec. 10, 2007, at 1. Alternatively, if KMBC's request cannot be accommodated, it wishes to operate on channel 9 with a non-directional antenna and 29 kW ERP. See *id.* at 5-7.

deadline for filing petitions in this proceeding.²¹⁶ Because Hearst's petition was filed after the statutory deadline, it cannot be considered in this *Memorandum Opinion and Order on Reconsideration*.

85. Though the deadlines for filing for reconsideration of the *Seventh Report and Order* had passed, Hearst argues that acceptance and consideration of its petition would be consistent with the Commission's treatment of other late-filed requests for changes to the Table of Allotments in this proceeding.²¹⁷ The Commission finds other parties must be afforded the opportunity to comment and reply to a request for a channel change or substitution. Therefore, although the Commission will not presently grant the relief petitioner seeks, Hearst is reminded that it may file a request for channel substitution after the freeze is lifted and when the 0.5 interference standard will apply.

86. WFXS, Wittenberg, WI. We deny the petition for reconsideration filed on behalf of WFXS. Davis Television Wausau, LLC ("Davis"), licensee of WFXS, channel 55, and WFXS-DT, post-transition channel 50, Wittenberg, WI, requested leave to file a late petition for reconsideration requesting the substitution of DTV channel 31 for DTV channel 50 due to excessive interference on its current DTV allotment resulting from expansive foliage and tree cover.²¹⁸ Davis' Petition was filed too late to be considered in this proceeding as other parties were not afforded the opportunity to comment and reply. Although the Commission will not presently grant the relief Davis seeks, the petitioner may file a request for channel substitution after the freeze is lifted.

F. Changes That Should Be Requested During the Application Process

87. We deny the petitions for reconsideration filed on behalf of 53 stations whose requests are not consistent with the types of allotment changes covered in the *Seventh Further Notice* for this DTV Table proceeding. These stations are listed on Appendix D5 herein.²¹⁹ The changes requested for these stations can be requested in an application filed pursuant to the policies and procedures adopted in the *Third DTV Periodic Report and Order*. These requests are not for modification of the coverage area defined by the DTV Table Appendix B to match authorized or licensed coverage.²²⁰ Instead, these stations generally state in their petitions that they do not want or may not be able to construct the precise

²¹⁶ The deadline for filing Petitions for Reconsideration in this proceeding was Oct. 26, 2007. See 47 U.S.C. § 405 (requiring that petitions for reconsideration be filed within 30 days following public notice of the order complained of).

²¹⁷ KMBC Hearst-Argyle Petition at n.1 (citing *Seventh Report and Order*, 22 FCC Rcd at 15638, ¶ 141). However, we note that paragraph 141 allowed late-filed requests for *minor* adjustments or changes necessary for the station to replicate where such requests were unopposed and caused no impermissible interference. In the *Seventh Report and Order* and *Eighth Further Notice of Proposed Rule Making*, we declined to act on other late-filed requests until others had had an opportunity to comment.

²¹⁸ See Petition for Leave and Reconsideration by Davis Television Wausau, LLC, filed Dec. 20, 2007, at 2.

²¹⁹ In addition, a petition for reconsideration was filed on behalf of the following stations indicating that the stations would file applications to make changes following adoption of the *Third DTV Periodic Report and Order*: KAIT, Jonesboro, AR; WSFA, Montgomery, AL; WALB, Albany, GA; WTOG, Savannah, GA; WLOX, Biloxi, MS; WTOL, Toledo, OH; and WIS, Columbia, SC. See Petition for Clarification or Reconsideration of Raycom Media, Inc., filed October 26, 2007, at 6-7. Accordingly, we make no changes to Appendix B herein for these stations. Also, Independent Communications, Inc. filed a petition for reconsideration on behalf of KTTW, Sioux Falls, SD notifying the Commission that it intends to move to a new tower site but stating that it does not yet know the ERP for KTTW at that site. See Petition for Reconsideration of Independent Communications, Inc., filed October 26, 2007, at 3. Once Independent knows all of the new parameters it proposes for KTTW, it should file an application for modification of the KTTW authorization requesting those parameters.

²²⁰ See *Seventh Further Notice*, 21 FCC Rcd at 12110, ¶ 28.

facilities specified in the proposed DTV Table Appendix B. Some of these stations seek to serve the same coverage area on the post-transition channel as defined by the facilities specified in Appendix B but the station prefers to operate with different equipment and/or other parameters on the channel than those specified in Appendix B. In other cases, stations returning to their analog channel request that the Commission revise Appendix B to reflect parameters consistent with use of the analog channel for digital service (such as the HAAT of the analog antenna). These stations filed their petitions before the *Third DTV Periodic Report and Order* was released and, therefore, before they knew of the flexibility afforded in the application process. We appreciate that these stations registered their preferences with us as petitions for reconsideration, but we conclude that the stations identified in Appendix D5 can use the application process to request the facility they seek to build. In addition, those seeking to expand their facilities beyond the service area described by the Appendix B parameters can file requests to maximize their facilities when the freeze on such filings is lifted later this year.²²¹

88. Stations listed in Appendix D5 should use Form 301 or 340 to apply to construct or modify their post-transition facilities, consistent with the procedures and standards for such applications adopted in the *Third DTV Periodic Report and Order*, including compliance with the interference standard and filing freeze.²²² As discussed above, the rules and procedures adopted in that Order provide significant regulatory flexibility to many stations, particularly stations moving to a different channel for post-transition operations, and permit all stations to file applications for facilities that differ to some extent from the parameters specified in DTV Table Appendix B.²²³

89. The regulatory flexibility we adopted in the *Third DTV Periodic Report and Order* is consistent with the approach recommended by MSTV and others to allow stations to correct discrepancies between Appendix B parameters and a station's post-transition digital facilities in the application process.²²⁴ Indeed, many of the stations that filed petitions for reconsideration noted their preference for seeking changes through the application process.²²⁵ MSTV advocated this regulatory flexibility, including the 5 mile freeze waiver for stations moving to a new channel post-transition,²²⁶ to help address the difficulties some broadcasters will face in building their post-transition facilities, relieve equipment shortages, promote more efficient construction efforts, and improve digital television service after the transition. We agree that the grant of this relief will facilitate the transition for many stations. We also believe that the regulatory flexibility we offered in the Third DTV Periodic proceeding will satisfy the needs of the vast majority of stations that will apply for facilities that differ to some extent from those specified in Appendix B. For stations that may need additional relief, we stated in the *Third DTV*

²²¹ See *Third DTV Periodic Report and Order*, Sections V.D. and V.E., ¶¶ 135-154.

²²² See *supra* Section II.B. See also *Third DTV Periodic Report and Order* at Section V.D. See also 47 C.F.R. §§ 73.1690(b), 73.3533(a), 73.3538.

²²³ See *supra* Section II.B.

²²⁴ See MSTV Petition for Reconsideration and Clarification, filed Oct. 26, 2007.

²²⁵ See, e.g. Schurz Communications, Inc. Petition for Reconsideration filed Oct. 26, 2007, at 1-2, Mt. Mansfield Petition for Reconsideration filed Oct. 26, 2007 at 2-3.

²²⁶ MSTV and NAB proposed that the 5-mile freeze waiver be provided to stations returning to their analog channel and planning to use their existing analog antenna for post-transition digital operations. See MSTV Petition for Reconsideration and Clarification at 5-6. See also Joint Comments of MSTV and NAB, filed Aug. 15, 2007, at 26-27. The Commission concluded that this relief should be made available to all stations moving to a new channel post-transition, and not limited to stations returning to their analog channel.

Periodic Report and Order that we will consider, on a case by case basis, requests for waiver of our rules and policies where a station can demonstrate that a waiver would serve the public interest.²²⁷

90. Stations have begun filing their applications for a CP on their final DTV channel now, and we encourage all stations to file their applications as soon as possible.²²⁸ In the *Third DTV Periodic Report and Order*, the Commission offered expedited processing to stations whose applications to build their post-transition facilities meet the following criteria: (1) the application does not seek to expand the station's facilities beyond its final DTV Table Appendix B facilities; (2) the application specifies facilities that are no more than five percent smaller than those specified in the post-transition DTV Table Appendix B (with respect to predicted population); and (3) the application is filed within 45 days of January 30, 2008, which is the effective date of the *Third DTV Periodic Report and Order*. Although stations that filed petitions for reconsideration are permitted to file their applications before their petitions are resolved, we recognize that many of these stations may have waited to see how the Commission would address their request. Therefore, stations that filed petitions for reconsideration may receive expedited processing provided they file no later than April 21, 2008, which is 45 days from the release of this *Memorandum Opinion and Order*. Stations that do not seek expedited processing or whose applications do not meet the criteria for expedited processing still must file their applications soon. As specified in the Public Notice issued on January 30, 2008, most stations filing an application for a construction permit must file the application by June 19, 2008 at the latest.²²⁹

91. The Commission permitted all stations that file applications for post-transition facilities to cause up to 0.5 percent new interference to another protected station in addition to that in the DTV Table Appendix B.²³⁰ In addition, the Commission provided additional flexibility for stations moving to a new channel post-transition by permitting these stations to specify facilities that are up to five miles larger in any direction than the station's authorized service area defined in Appendix B where the expansion would allow the station to use its analog antenna or a new antenna to avoid a significant reduction in post-transition service.²³¹

92. Stations listed on Appendix D5 fall into three categories. First, some stations that are moving to a different channel post-transition filed petitions requesting relatively minor adjustments to the station's parameters identified in Appendix B. For some stations, the requested change represents a change to the station's coordinates of three seconds or less latitude or longitude.²³² These kinds of requests for facilities that deviate only slightly the parameters reflected on Appendix B can be easily

²²⁷ See *Third DTV Periodic Report and Order*, Section V.E., ¶ 151.

²²⁸ See *Public Notice* (DA 08-172, rel. Jan. 30, 2008) announcing effective date of the rules and forms adopted in the *Third DTV Periodic Review Report and Order* and setting filing deadlines.

²²⁹ *Id.* However, stations with a construction deadline of August 18, 2008 must file by March 17, 2008 at the latest. *Id.*

²³⁰ See *Third DTV Periodic Report and Order*, Section V.F.

²³¹ *Id.* at Section V.E.

²³² See Joint Petition for Partial Reconsideration by Public Television Licensees, filed Oct. 26, 2007, at Exhibit A, pp. 15-16 (KDSE, Dickinson, ND and KFME, Fargo, ND); Gray Television, Inc. Petition for Reconsideration, filed Oct. 26, 2007, at Table A (KUPK, Garden City, KS; WBKO, Bowling Green, KY; WEAU, Eau Claire, WI; WIBW, Topeka, KS; WJHG, Panama City, FL; and WSAW, Wausau, WI); and Petition for Reconsideration of Sunflower Broadcasting, Inc., filed Oct. 26, 2007, at 5 (KBSH, Hays, KS).

accommodated during the application process.²³³ Other stations in this category request changes to the station's coordinates of slightly more than three seconds latitude or longitude or request relatively minor changes to other station parameters.²³⁴ These relatively minor deviations from Appendix B can also be accommodated as part of the license application process for these stations.

93. Second, many of the stations denied revisions to Appendix B requested changes that would violate the freeze on maximizations.²³⁵ Some of these stations, particularly those that are seeking to serve their current analog viewers, may be able increase their coverage area during the application process. Others will be able to apply for a larger coverage area when the Commission lifts its filing freeze later this year.²³⁶

94. Third, the petitions for reconsideration filed on behalf of KFNR, Rawlins, WY; KGWL, Lander, WY; and KTWO, Casper, WY request that the facilities described on Appendix B for these stations be revised to reduce the stations' coverage area.²³⁷ These stations must file an application requesting a modification of their CP. In the *Third DTV Periodic Report and Order*, the Commission stated that it would provide expedited processing to applications for facilities that are no more than five percent smaller than the facility specified in Appendix B with respect to predicted population, and that meet the other criteria for expedited processing.²³⁸

²³³ As discussed in Section III.B., above, while we made these kinds of minor adjustments on Appendix D1 herein for stations whose pre- and post-transition DTV channels are the same, we are requiring that stations moving to a different channel for post-transition operation make these requests for minor adjustments as part of their application for their post-transition channel.

²³⁴ See Gray Television, Inc. Petition for Reconsideration, filed Oct. 26, 2007, at Table B (KGIN, Grand Island, NE; KOLN, Lincoln, NE; KWTX, Waco, TX; and WRDW, Augusta, GA).

²³⁵ For example, WTAT requests an increase in ERP from 283 kW to 1000 kW. See Petition for Partial Reconsideration of WTAT Licensee, LLC, filed Oct. 26, 2007, at Exhibit 1, Statement of John E. Hidle, Jr., p. 3; Supplement to Petition for Partial Reconsideration of WTAT Licensee, LLC, filed Nov. 5, 2007, at 2. See also petitions for reconsideration filed by Rocky Mountain Public Broadcasting Network Inc. (on behalf of KRMJ, Grand Junction, CO and KTSC, Pueblo, CO), Long Communications LLC (on behalf of WHKY, Hickory, NC), NBC Telemundo License Co. (on behalf of KVEA, Corona, CA), Nexstar Broadcasting Inc. (on behalf of KBTB, Port Arthur, TX; KMID, Midland, TX; KQTV, St. Joseph, MO; and WFXV, Utica, NY), and Independence Television Co. (on behalf of WMYO, Salem, IN). WMYO, operating on channel 51 post-transition, states that it is requesting a change in facilities to ensure that it is protected from new wireless communications devices on adjacent channel 52. See Petition for Partial Reconsideration of Independence Television Co., filed Oct. 26, 2007, at 1-2. As we stated in the *Third DTV Periodic Report and Order*, it is our policy to protect television operations on channel 51 from interference, including interference from adjacent channel wireless operations. See *Third DTV Periodic Report and Order*, Section V.F., ¶ 169.

²³⁶ In the *Third DTV Periodic Report and Order*, the Commission announced its intent to lift the freeze on the filing of maximization applications on August 17, 2008, the date by which we expect to have completed processing stations' applications to build their post-transition facilities. See *Third DTV Periodic Report and Order*, Section V.E., ¶ 148. Until that date, we will maintain the freeze and will not accept maximization applications to expand facilities, except pursuant to the 5-mile waiver policy for stations that are moving to a different channel for post-transition operations.

²³⁷ See Petition for Reconsideration of Silverton Broadcasting Co., Inc., Mark III Media, Inc., & First National Broadcasting Corp., filed Oct. 26, 2007, at 2-3.

²³⁸ In addition to the stations listed on Appendix D5, we note that in Section III.D., *supra*, we declined to modify the coverage area for a number of stations that filed petitions requesting changes to the station's coverage area as defined in Appendix B. Stations for which we did not make changes to Appendix B in Section III.D. herein and that (continued....)

95. The petitions for reconsideration filed on behalf of the following stations require individual discussion. In some cases, the petition was opposed. In other cases, the petition requests reconsideration of a Commission decision in the *Seventh Report and Order* regarding the station, or requests changes to Appendix B in addition to those granted in the *Seventh Report and Order*.

96. WPVI, Philadelphia, PA. We deny the petition for reconsideration filed on behalf of WPVI. WPVI, which is licensed on analog channel 6 and pre-transition DTV channel 64, was allotted channel 6 for post-transition operations. In the *Seventh Report and Order*, the Commission modified WPVI's Appendix B facilities to help WPVI replicate its analog Grade B coverage area.²³⁹ The Walt Disney Company ("Disney") filed a petition for reconsideration of the *Seventh Report and Order* stating that the antenna pattern specified for WPVI in Appendix B would not permit the station to fully replicate using its existing omni-directional antenna.²⁴⁰ Disney states that it would have to reduce the ERP of its existing antenna in order to ensure that it does not exceed its theoretical pattern, which would result in a reduced coverage contour. Disney requests that the FCC permit WPVI to use its present analog antenna with parameters that meet the 0.1 percent interference standard applicable to Appendix B.²⁴¹

97. The parameters specified on Appendix B for WPVI (ERP of 6.22 kW and HAAT of 332 meters) were revised in the *Seventh Report and Order* to the maximum amount consistent with replication of the station's analog contour and the 0.1 percent interference standard. Disney is requesting further changes for WPVI that should be requested in that station's application for post-transition facilities. It appears that the requested changes can be accommodated at the application stage.

98. KHAS, Hastings, NE and KNOP, North Platte, NE. We deny the petition for reconsideration filed on behalf of KHAS and KNOP. KHAS, which is licensed on analog channel 5 and pre-transition DTV channel 21, was allotted channel 5 for post-transition operations. KNOP, which is licensed on analog channel 2 and pre-transition DTV channel 22, was allotted channel 2 for post-transition operations. In the *Seventh Report and Order*, the Commission modified the KHAS and KNOP Appendix B facilities to help these stations replicate their analog Grade B coverage area.²⁴² Hoak Media, LLC filed a petition for reconsideration of the *Seventh Report and Order* for these stations stating that, while the Appendix B facilities adopted in the Order may permit KHAS and KNOP to replicate, reconsideration is necessary because the Commission did not address Hoak's request for additional power for these stations.²⁴³ Hoak argues that the Commission should grant its petition because KHAS and KNOP were limited to an ERP of 1000 kW on their out-of-core pre-transition DTV channels and could not maximize beyond this power limit on those channels. According to Hoak, the Commission should remedy this disparate treatment of stations subject to the 1000 kW limit by granting higher power facilities for KHAS and KNOP for their final DTV allotments.

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are moving to a different channel for post-transition operations must file an application for post-transition facilities. As a result of the flexibility adopted in the *Third DTV Periodic Report and Order*, these stations may be able to obtain some or all of the relief they seek through the application process.

²³⁹ See *Seventh Report and Order*, 22 FCC Rcd at 15608-09, ¶¶ 65-67, n.162 and App. D3.

²⁴⁰ See Petition for Reconsideration of The Walt Disney Company, filed Oct. 26, 2007, at 3-4

²⁴¹ *Id.* Disney notes that, under the 0.5 percent interference standard applied during the application process, WPVI could operate with the full 6.22 KW specified for the station in the *Seventh Report and Order*.

²⁴² See *Seventh Report and Order*, 22 FCC Rcd at 15608-09, ¶¶ 65-67, n.162 and App. D3.

²⁴³ See Petition for Reconsideration of Hoak Media, LLC, filed Oct. 10, 2007, at 5. Specifically Hoak requests that KHAS be granted an ERP of 45 KW with an HAAT of 218 meters, and that KNOP be granted an ERP of 16 kW with an HAAT of 145 meters. *Id.*

99. The parameters specified on Appendix B for KHAS (ERP of 6.78 kW and HAAT of 223 meters) and KNOP (ERP of 6.75 kW and HAAT of 192 meters) were revised in the *Seventh Report and Order* to the maximum amount consistent with replication of the station's analog contour and the 0.1 percent interference standard. As a result of the flexibility adopted in the *Third DTV Periodic Report and Order*, Hoak will be able to apply for at least some of the changes it seeks when it files its application for post-transition facilities for these stations. To the extent that Hoak seeks additional relief for KHAS and KNOP that cannot be accommodated during the application process, Hoak may file an application for increased facilities once the Commission lifts its filing freeze.

100. WDSE, Duluth, MN. We deny the petition for reconsideration filed on behalf of WDSE. WDSE, which is licensed on analog channel 8 and pre-transition DTV channel 38, was allotted channel 8 for post-transition operations. In the *Seventh Report and Order*, the Commission modified the WDSE Appendix B facilities to help this station replicate its analog Grade B coverage area.²⁴⁴ Duluth-Superior Area Educational Television Corporation ("Duluth-Superior") filed a petition for reconsideration of the *Seventh Report and Order* stating that while the Commission purported to grant its request to change the coverage area of WDSE in that Order, the revised Appendix B does not reflect the requested operating parameters.²⁴⁵ Duluth-Superior requests that Appendix B be revised to reflect the HAAT, latitude, and Antenna ID of the existing WDSE analog channel 8 antenna, which the station intends to use post-transition.²⁴⁶ Duluth-Superior argues that requiring the station to employ the directional antenna specified in Appendix B would cause many current viewers to lose service after the transition, and would require the station to purchase another antenna which could jeopardize its ability to meet the transition.²⁴⁷

101. The parameters specified on Appendix B for WDSE (ERP of 17.4 kW and HAAT of 290 meters) were revised in the *Seventh Report and Order* to the maximum amount consistent with replication of the station's analog contour and the 0.1 percent interference standard. The further changes requested by WDSE should be requested in the station's application for post-transition facilities. It appears that the requested changes can be accommodated at the application stage, especially in view of the flexibility adopted in the *Third DTV Periodic Report and Order*.

102. KUAC, Fairbanks, AK. We deny the petition for reconsideration filed on behalf of KUAC. KUAC, which is licensed on analog channel 9 and pre-transition DTV channel 24, was allotted channel 9 for post-transition operations. In the *Seventh Report and Order*, the Commission modified the KUAC Appendix B facilities in order to help this station replicate its analog Grade B coverage area.²⁴⁸ The University of Alaska ("University") filed a petition for reconsideration of the *Seventh Report and Order* requesting that the Commission revise Appendix B to increase HAAT and ERP for KUAC and to

²⁴⁴ See *Seventh Report and Order*, 22 FCC Rcd at 15608-09, ¶¶ 65-67 and App. D3.

²⁴⁵ See Petition for Reconsideration of Duluth-Superior Area Educational Television Corporation, filed Oct. 25, 2007, at 1-2.

²⁴⁶ *Id.* Specifically Duluth-Superior requests that Appendix B for WDSE be changed to list the HAAT as 295 meters instead of 290 meters, to change the latitude to 46° 47' 30" instead of 46° 47' 31", and to change the antenna ID to 27904, the ID of the existing non-directional antenna. *Id.*

²⁴⁷ *Id.* at 2. Duluth-Superior agrees that its post-transition antenna pattern should match the contour of its analog station, but argues that its current omni-directional antenna will in fact produce this pattern when modified by terrain effects. *Id.* at 4.

²⁴⁸ See *Seventh Report and Order*, 22 FCC Rcd at 15608-09, ¶¶ 65-67, n.163 and App. D3.

change the antenna ID to permit use of the station's existing non-directional antenna.²⁴⁹ The University argues that these changes are necessary to permit KUAC to continue to provide a feed to the University's existing television translators, two of which provide the only off-air television signal available in their communities.²⁵⁰

103. The parameters specified on Appendix B for KUAC (ERP of 3.2 kW and HAAT of 152 meters) were revised in the *Seventh Report and Order* to the maximum amount consistent with replication of the station's analog contour and the 0.1 percent interference standard. As a result of the flexibility adopted in the *Third DTV Periodic Report and Order*, the University will be able to apply for at least some of the changes it seeks when it files its application for post-transition facilities for this station. To the extent that the University seeks additional relief for KUAC that cannot be accommodated during the application process, the University may file an application for increased facilities once the Commission lifts its filing freeze.

104. KUHT, Houston, TX. We deny the petition for reconsideration filed on behalf of KUHT. KUHT, which is licensed on analog channel 8 and pre-transition DTV channel 9, was allotted channel 8 for post-transition operations. In the *Seventh Report and Order*, the Commission modified the KUHT Appendix B facilities by increasing ERP to help this station replicate its analog Grade B coverage area.²⁵¹ The University of Houston System ("UHS") filed a petition for reconsideration of the *Seventh Report and Order* requesting that the Commission revise Appendix B to change the antenna ID for KUHT to permit use of the station's existing directional analog antenna.²⁵² UHS states that it is pleased that the Commission increased the ERP for KUHT in the *Seventh Report and Order*, but argues that unless the Commission also changes the antenna ID for the station UHS would be required either to acquire and install a new antenna at great expense or reduce ERP well below the level permitted on Appendix B in order to remain within the interference limit.²⁵³

105. The parameters specified on Appendix B for KUHT (ERP of 21.9 kW and HAAT of 564 meters) were revised in the *Seventh Report and Order* to the maximum amount consistent with replication of the station's analog contour and the 0.1 percent interference standard. As a result of the flexibility adopted in the *Third DTV Periodic Report and Order*, UHS will be able to apply for at least some of the changes it seeks when it files its application for post-transition facilities for KUHT. To the extent that UHS seeks additional relief that cannot be accommodated during the application process, it may file an application for increased facilities once the Commission lifts its filing freeze.

106. KNRR, Pembina, ND. We deny the petition for reconsideration filed on behalf of KNRR. KNRR, which is licensed on analog channel 12 and pre-transition DTV channel 15, was allotted channel 12 for post-transition operations. In the *Seventh Report and Order*, the Commission declined to modify the coverage area for KNRR on Appendix B because it determined that, if it recalculated

²⁴⁹ See Petition for Partial Reconsideration of the University of Alaska, filed Oct. 26, 2007, at 1-2. Specifically, the University requests that Appendix B for KUAC be changed to increase ERP from 3.2 to 148 kW, to increase HAAT from 152 to 163 meters, and to delete the antenna ID to permit use of the existing analog non-directional antenna. *Id.*

²⁵⁰ *Id.* at 2.

²⁵¹ See *Seventh Report and Order*, 22 FCC Rcd at 15608-09, ¶¶ 65-67 and App. D3.

²⁵² See Petition for Partial Reconsideration by the University of Houston System, filed Oct. 26, 2007, at 1-2. Specifically, the University requests that Appendix B for KUHT to specify an antenna ID of 18548 instead of 80228. *Id.* at 2.

²⁵³ *Id.* at 2.

Appendix B facilities for the station based on replicating the station's analog coverage that was used to determine their initial DTV facilities, the recalculated service area would be smaller than the Appendix B service area.²⁵⁴ Red River Broadcast Co., LLC ("Red River") filed a petition for reconsideration of the *Seventh Report and Order* requesting that the Commission revise Appendix B to reduce the facilities for KNRR by changing the ERP and HAAT.²⁵⁵ Red River states that it makes its request "due to Canadian coordination issues and changed financial circumstances."²⁵⁶ According to Red River, the requested parameters would permit KNRR to use its existing antenna and transmission line resulting in a significant savings for a station that serves a very small community. Red River also states that, if the changes it requests are not granted, it will be forced to surrender its analog and digital authorizations for KNRR.²⁵⁷

107. We decline to make the changes to Appendix B requested by KNRR because it can accomplish what it seeks when it files its application for post-transition facilities for KNRR. In addition, by retaining the larger Appendix B facilities for the station, KNRR will ultimately have more flexibility to make changes for KNRR in the future. When it files its application for post-transition facilities on channel 12, KNRR should make its request for new parameters at that time. In the *Third DTV Periodic Report and Order*, the Commission stated that it would provide expedited processing to applications for facilities that are no more than five percent smaller than the facility specified in Appendix B with respect to predicted population, and that meet the other criteria for expedited processing. Should KNRR's application specify facilities that are more than five percent smaller than Appendix B, in light of KNRR's international coordination and other concerns it is likely that the application will nonetheless be approved. By retaining herein the larger Appendix B facilities for the station, KNRR will have more flexibility to specify facilities at the application stage that fall within this larger Appendix B coverage area and may have the flexibility to increase facilities at a later date should that opportunity arise.

108. KBRR, Thief River Falls, MN. We deny the petition for reconsideration filed on behalf of KBRR. KBRR, a full-power satellite station, is licensed on analog channel 10 and has been issued a CP for channel 32 for pre-transition DTV facilities. KBRR was allotted channel 10 for post-transition operations. In the *Seventh Report and Order*, the Commission declined to modify the coverage area for KBRR on Appendix B because it determined that, if it recalculated Appendix B facilities for the station based on replicating the station's analog coverage that was used to determine their initial DTV facilities, the recalculated service area would be smaller than the Appendix B service area.²⁵⁸ Red River Broadcast Co., LLC ("Red River") filed a petition for reconsideration of the *Seventh Report and Order* requesting that the Commission revise Appendix B to change the ERP, HAAT, and antenna information for KBRR.²⁵⁹ Red River wants to replace its existing top-mounted analog antenna and replace it with a nondirectional antenna for use post-transition.

²⁵⁴ See *Seventh Report and Order*, 22 FCC Rcd at 15608-09, ¶ 66 and note 166.

²⁵⁵ See Petition for Reconsideration of DTV Seventh Report and Order by Red River Broadcast Co., LLC for KNRR-DT, filed Oct. 26, 2007, at Engineering Statement p. 1. Specifically, Red River requests that Appendix B for KNRR be changed to lower ERP from 28.7 to 4.44 kW and to increase HAAT from 413 to 427 meters. *Id.*

²⁵⁶ Petition for Reconsideration of KNRR, filed Oct. 26, 2007, at 2.

²⁵⁷ *Id.*

²⁵⁸ See *Seventh Report and Order*, 22 FCC Rcd at 15608-09, ¶ 66 and note 166.

²⁵⁹ See Petition for Reconsideration of DTV Seventh Report and Order by Red River Broadcast Co., LLC for KBRR-DT, filed Oct. 26, 2007, at Engineering Statement p. 2. Specifically, Red River requests that Appendix B for KBRR be changed to lower ERP from 9.7 to 5.9 kW, increase HAAT from 113 to 183 meters, and change the antenna ID to indicate use of a non-directional antenna. *Id.*

109. Red River is requesting changes for KBRR that should be requested in that station's application for post-transition facilities. The requested changes can be accommodated at the application stage to the extent they are consistent with the coverage expansion and interference criteria adopted in the *Third DTV Periodic Report and Order*.

110. WEDU, Tampa, FL. We deny the petition for reconsideration filed on behalf of noncommercial educational station WEDU. WEDU, which is licensed on analog channel 3 and pre-transition DTV channel 54, was allotted channel 13 for post-transition operations. In the *Seventh Report and Order*, the Commission declined to modify the coverage area for WEDU on Appendix B because our recalculation of the Appendix B facilities and subsequent interference analysis showed that the requested change would result in interference in excess of the 0.1 percent interference standard.²⁶⁰ Florida West Coast Public Broadcasting, Inc. ("FWCPB") filed a petition for reconsideration of the *Seventh Report and Order* requesting that the Commission change the antenna ID in Appendix B to specify an omnidirectional antenna.²⁶¹ FWCPB states that Appendix B currently specify a directional azimuth digital antenna which, according to FWCPB, would needlessly force it to purchase a custom antenna at a substantial cost as directionalization is not needed to protect other licensees.²⁶²

111. FWCPB is requesting changes for WEDU that should be requested in that station's application for post-transition facilities. The requested changes can be accommodated at the application stage to the extent they are consistent with the coverage expansion and interference criteria adopted in the *Third DTV Periodic Report and Order*.

112. KETZ, El Dorado, AR. We deny the petition for reconsideration filed on behalf of DTV singleton station KETZ. KETZ is licensed on pre-transition DTV channel 12 and was allotted channel 10 for post-transition operations. In the *Seventh Report and Order*, the Commission granted KETZ's request to change its TCD from 12 to 10.²⁶³ The Arkansas Educational Television Commission ("AETC") filed a petition for reconsideration requesting that Appendix B be revised to specify an omnidirectional antenna for KETZ.²⁶⁴ According to AETC, the current Appendix B parameters unnecessarily limit KETZ's coverage area.²⁶⁵

113. The parameters specified on Appendix B for KETZ (ERP of 6 kW, HAAT of 541 meters, and antenna ID 80186) were revised in the *Seventh Report and Order* to permit KETZ to change its TCD to 10 consistent with replication of the station's certified coverage area and the 0.1 percent interference standard. As a result of the flexibility adopted in the *Third DTV Periodic Report and Order*, AETC will be able to apply for at least some of the additional coverage area it seeks when it files its application for

²⁶⁰ See *Seventh Report and Order*, 22 FCC Rcd at 15609-10, ¶¶ 68-69. Specifically, the Commission's interference analysis based on recalculated Appendix B facilities showed that WEDU would cause 1.16 percent new interference to WTLV, Jacksonville, FL (analog channel 12, post-transition TCD 13). *Id.*

²⁶¹ See Petition for Reconsideration by Florida West Coast Public Broadcasting, Inc., filed Oct. 26, 2007, at 3. Specifically, FWCPB requests that the antenna ID in Appendix B be changed from 75058 to omnidirectional. *Id.* at Engineering Statement p. 3.

²⁶² *Id.* at 2. FWCPB also notes that it had requested higher power in its comments filed in response to the Seventh Further Notice even though there would be in excess of 0.1 percent interference because the Commission stated in the *Seventh Further Notice* that it would provide some flexibility in this area. *Id.*

²⁶³ See *Seventh Report and Order*, 22 FCC Rcd at 15610-12, ¶¶ 72-74 and App. D4.

²⁶⁴ See Petition for Partial Reconsideration of Arkansas Educational Television Commission, filed Oct. 26, 2007, at 3.

²⁶⁵ *Id.*

post-transition facilities for KETZ. To the extent that AETC seeks additional relief that cannot be accommodated during the application process, it may file an application for increased facilities once the Commission lifts its filing freeze.

114. KCBS, Los Angeles, CA. We deny the petition for reconsideration filed by KCBS. KCBS, which is licensed on analog channel 2 and pre-transition DTV channel 60, was allotted channel 43 for post-transition operations. CBS Corporation filed a petition for reconsideration of our decision in the *Seventh Report and Order* directing that the station should request the changes it seeks in an application to construct or modify post-transition facilities.²⁶⁶ CBS requests that the parameters in the DTV Table Appendix B for KCBS be changed to correspond to those specified in the co-owned KCAL construction permit.²⁶⁷ CBS argues that the Commission should have granted its request as the parameters it seeks for KCBS correspond to those already authorized for KCAL and the Commission has stated that it would entertain proposals for modification of certified facilities where a licensee can “demonstrate that the area served by its authorized or constructed facilities extends beyond the area to which it certified.”²⁶⁸ The parameters sought by CBS for KCBS are those authorized for another station, KCAL. While the two stations are co-owned, that relationship does not confer on KCBS the right to expand its coverage area beyond the area to which it certified in FCC Form 381.

115. We reaffirm our decision in the *Seventh Report and Order* that KCBS should use the application process to request the facility it wishes to operate post-transition.²⁶⁹ During the channel election process we found that KCBS would cause impermissible interference to KWHY-TV, Los Angeles.²⁷⁰ As a result, KCBS reduced its facility and we were able to give them a tentative channel designation on channel 43.²⁷¹ If we were to analyze their request to use the KCAL facilities using our recalculation of Appendix B based on replication of the station’s initial DTV table facilities, we would again find impermissible interference. Therefore, we reaffirm our decision in the *Seventh Report and Order* that KCBS should use the application process to request the facility it wishes to operate post-transition. As indicated above, as a result of the regulatory flexibility adopted in the *Third DTV Periodic Report and Order*, KCBS may be able to obtain part, if not all, of the relief it seeks through the application process. KCBS may request additional expansion when we lift the freeze on maximization requests later this year. Our decision does not prevent KCBS from using the KCAL site and equipment; rather, we are ensuring that KCBS does not use these facilities to expand beyond its authorization and thus step ahead of other stations that are waiting for the proper time to request to maximize.

116. KTCL, St. Paul, MN We deny the petition for reconsideration filed by Twin Cities Public Television (“Twin Cities”), licensee of KTCL, channel 17, and KTCL-DT, channel 16, St. Paul, MN, which was allotted channel 26 in the DTV Table in the *Seventh Report and Order*.²⁷² Although we deny the request to revise Appendix B, we generally agree with Twin Cities that KTCL-DT should be able to

²⁶⁶ See *Seventh Report and Order*, 22 FCC Rcd at 15615, note 207.

²⁶⁷ See Petition of CBS Corporation for Reconsideration of Seventh Report and Order, filed Sept. 17, 2007, at 5-6.

²⁶⁸ Id. at 5.

²⁶⁹ See *Seventh Report and Order*, 22 FCC Rcd at 15617 ¶ 87.

²⁷⁰ See Petition for Reconsideration of CBS Corporation, filed Sept. 14, 2007; See also File No. BFRCC-20050303AAH.

²⁷¹ See Public Notice, *Tentative Digital Channel Designations for Stations Participating in the First Round of DTV Channel Elections and Second Round Election Filing Deadline*, 20 FCC Rcd 15735 (MB, 2005).

²⁷² See *Seventh Report and Order*, 22 FCC Rcd at 15647, App. A.

operate using the KMSP-DT tower and antenna. Rather, we deny the petition because we continue to believe that Twin Cities will be able to achieve its goal of serving its current service area with the KMSP-DT antenna, albeit at a much lower power,²⁷³ through the CP application process. We do not find it necessary to revise Appendix B to reach this result. In its Form 381 Pre-Election Certification, Twin Cities certified that it would operate KTCI-DT based upon the station's allotted replication facilities for DTV Channel 16. However, during the channel election process, Twin Cities entered into a Negotiated Channel Election Arrangement with Fox Television Stations, Inc., the licensee of KMSP-DT, Minneapolis, MN, to use Channel 26 as KTCI-DT's post-transition DTV channel. That change was approved by the Commission and DTV Channel 26 was specified as the post-transition channel for KTCI-DT. In response to the *Seventh Further Notice*, Twin Cities requested that the Commission modify Appendix B to specify the pre-transition technical facilities of KMSP-DT including changing the location and height of the antenna of KTCI-DT to that of KMSP-DT. In the *Seventh Report and Order*, the Commission denied Twin Cities' request as premature or incomplete, and directed KTCI to, instead, request changes through the application process.²⁷⁴

117. In its petition for reconsideration, Twin Cities argues that the Commission should have permitted its proposed changes to the Appendix B facility of KTCI-DT. Twin Cities argues that requiring it to await Commission action on its application for a construction permit to modify Station KTCI-DT's facilities "will create unnecessary uncertainty in the transition process, contrary to the Commission's stated goals throughout the transition."²⁷⁵

118. The State of Wisconsin Educational Communications Board (State of Wisconsin), licensee of WHWC-DT, Menomonie, Wisconsin, opposes Twin Cities' petition for reconsideration. State of Wisconsin maintains that Twin Cities' proposed changes to the Appendix B facilities of KTCI-DT would result in prohibited 14.9 percent interference to WHWC-DT.²⁷⁶ State of Wisconsin argues that this post-transition interference to WHWC-DT is "vastly greater than the 0.1 percent interference limit."²⁷⁷

119. Twin Cities responds that its requested changes to the Appendix B facilities of KTCI-DT do not create new post-transition interference to WHWC-DT.²⁷⁸ Rather, Twin Cities maintains that WHWC-DT currently receives 22.5 percent interference from KMSP-DT, Channel 26. Twin Cities argues that its proposal, which seeks to use the same antenna and antenna pattern as KMSP-DT, will use less than 10 percent of the power and would decrease from 22.5 percent to 14.9 percent the amount of interference that WHWC-DT, Channel 27 receives from "existing analog and DTV operations."²⁷⁹ Accordingly, Twin Cities argues, grant of its petition for reconsideration is consistent with the Commission's articulation of the 0.1 percent standard.²⁸⁰

²⁷³ See Reply to Opposition of Twin Cities at 4 (noting that KTCI-DT would operate KMSP-DT's antenna at less than 10 percent of the ERP of KMSP-DT).

²⁷⁴ See *Seventh Report and Order* at 15615, ¶ 83.

²⁷⁵ Twin Cities Petition for Reconsideration, filed Oct. 26, 2007, at 3-4. Twin Cities also asserts that its operation in a northern climate warrants adjustments to its facilities prior to the application state. *Id.*

²⁷⁶ State of Wisconsin Opposition, filed Nov. 28, 2007, at 4.

²⁷⁷ *Id.*

²⁷⁸ Twin Cities Reply, filed Dec. 13, 2007, at 7.

²⁷⁹ *Id.*

²⁸⁰ *Id.*

120. While we do not disagree with Twin Cities' arguments with respect to interference to WHWC-DT, we are not persuaded that we should reverse our decision in the *Seventh Report and Order*. We allotted Twin Cities the channel it sought in the channel election proceeding for KTCI-DT – Channel 26 – based on the replicated facility to which it certified. We reaffirm that the appropriate next step would be for Twin Cities to submit an application for its post-transition Channel 26 based upon the facility described in Appendix B. In that application, Twin Cities may specify the pre-transition Channel 26 technical facilities of KMSP-DT and that proposal will be examined. Pursuant to the procedures recently adopted in the *Third DTV Periodic Review Report and Order*, Twin Cities, as a station whose post-transition channel is different from its pre-transition DTV channel, may avail itself of the “five mile” waiver policy and the 0.5 percent interference standard.

121. Twin Cities also argues that, if its petition for reconsideration is denied, any international coordination already undertaken with Canada regarding the facilities presently specified in Appendix B will not reflect the facilities KTCI will request at the application stage. Twin Cities argues that the Commission will be required to go through the coordination process again for KTCI for the facilities requested in its application for post-transition facilities.²⁸¹ We recognize that KTCI, like other stations in the Canadian border zone that are moving to a new channel post-transition, will be filing applications requesting flexibility under the five-mile waiver policy and the 0.5 percent interference standard. These applications will be reviewed for compliance with international coordination standards. The process of negotiating with Canada regarding Appendix B facilities is well underway. Should any international coordination issues arise with respect to applications for final, post-transition facilities, the Commission is committed to working with applicants and the Canadian government to address those issues.

122. WCAX, Burlington, VT. We deny the petition for reconsideration filed on behalf of WCAX. WCAX, which is licensed on analog channel 3 and pre-transition DTV channel 53, was allotted channel 22 for post-transition operations. In the *Seventh Report and Order*, the Commission modified the WCAX Appendix B facilities to help this station replicate its analog Grade B coverage area.²⁸² Mt. Mansfield Television, Inc. (“Mt. Mansfield”) filed a petition for reconsideration stating that its election of channel 22 required extensive coordination with Canada which led to a solution in 2005 specifying certain parameters for WCAX.²⁸³ Mt. Mansfield states that, in its comments filed in response to the *Seventh Further Notice*, it requested that Appendix B be revised to reflect the parameters agreed to by Industry Canada and the FCC's International Bureau.²⁸⁴ While the Commission modified Appendix B for WCAX in the *Seventh Report and Order*, the modified allotment does not reflect these precise parameters. Mt. Mansfield requests that Appendix B be revised to reflect the parameters approved by Canada.

123. We modified Appendix B in the *Seventh Report and Order* to provide WCAX with the largest coverage area consistent with replication of its analog service area. We recognize that Canada has agreed to permit WCAX to serve a slightly different coverage area than that described on Appendix B, and when WCAX files its application for post-transition operations on channel 22, it may apply to match that different coverage area, including an increase in its coverage area to the extent it is consistent with the flexibility provided to all stations moving to a new channel in the *Third DTV Periodic Report and Order*.

²⁸¹ Petition for Reconsideration of Twin Cities, filed Oct. 26, 2007, at 9.

²⁸² See *Seventh Report and Order*, 22 FCC Rcd at 15608-09, ¶¶ 65-67 and App. D3.

²⁸³ See Petition for Reconsideration of Mt. Mansfield, Television, Inc., filed Oct. 26, 2007, at 1.

²⁸⁴ *Id.* at 2.

124. KVEA, Corona, CA. We deny the petition for reconsideration filed by KVEA. KVEA, which is licensed on analog channel 52 and pre-transition DTV channel 39, was allotted channel 39 for post-transition operations. In the *Seventh Report and Order*, the Commission granted KVEA's request for minor adjustment to the station's coordinates as listed on Appendix B.²⁸⁵ NBC Telemundo License Co. ("NBC Telemundo") filed a petition for reconsideration proposing that the Commission waive the current freeze and approve an increase in KVEA's ERP at any time after February 17, 2008.²⁸⁶ NBC Telemundo argues that, for the digital transition to succeed, consumers must be able to enjoy broad access to local digital TV signals prior to February 2009. According to the petitioner, if local digital signals are not available because of ongoing power restrictions, consumers that have invested in digital sets are likely to become frustrated with the digital television mandate.²⁸⁷ In addition, NBC Telemundo notes that KVEA provides Spanish-language programming to consumers who disproportionately rely on over-the-air signals and have fewer over-the-air outlets available to them.²⁸⁸ NBC Telemundo notes that its proposal would cause impermissible interference to an analog station also controlled by NBC Telemundo, which is willing to accept the interference through the termination of analog service on February 17, 2009.²⁸⁹

125. NBC Telemundo acknowledges that its requested change for KVEA would violate the freeze on maximizations.²⁹⁰ It is possible that KVEA could increase its coverage area during the application process. Otherwise, KVEA must wait to request additional expansion until the Commission lifts its filing freeze later this year.²⁹¹

G. Stations Not Eligible to Participate in the Channel Election Process

126. Pappas Telecasting of America and South Central Communications Corporation. We deny the petition for reconsideration filed by Pappas Telecasting of America ("Pappas") and South Central Communications Corporation ("SCCC").²⁹² Pappas and SCCC are pending applicants for a new single-channel television station on Channel 48 at Owensboro, Kentucky. Pappas and SCCC filed joint comments in response to the *Seventh NPRM* requesting that the Commission substitute DTV Channel 35 for Channel 48.²⁹³ Pappas and SCCC recognized that it was not possible to seek an alternate channel but argued that the Commission should act on its own motion to modify the Owensboro allotment "in the

²⁸⁵ See *Seventh Report and Order*, 22 FCC Rcd at 15596-97, ¶¶ 35-36, and Appendix D1.

²⁸⁶ See Partial Petition for Reconsideration of Seventh Report and Order and DTV Table of NBC Telemundo, filed Oct. 26, 2007, at 1. Specifically, NBC Telemundo requests that the ERP for KVEA be increased from 54 to 154 kW. *Id.*

²⁸⁷ *Id.* at 2.

²⁸⁸ *Id.* at 2.

²⁸⁹ *Id.* at 4.

²⁹⁰ *Id.*

²⁹¹ In the *Third DTV Periodic Report and Order*, the Commission announced its intent to lift the freeze on the filing of maximization applications on Aug. 17, 2008, the date by which we expect to have completed processing stations' applications to build their post-transition facilities. See *Third DTV Periodic Report and Order*, Section V.E., ¶ 148. Until that date, we will maintain the freeze and will not accept maximization applications to expand facilities, except pursuant to the 5-mile waiver policy for stations that are moving to a different channel for post-transition operations.

²⁹² See Petition for Reconsideration of Pappas Telecasting of America and South Central Communications Corporation, filed Oct. 26, 2007.

²⁹³ See Joint Comments of Pappas and SCCC filed Jan. 19, 2007.

same way it has awarded Tentative Channel Designations (TCD's) to new permittees.²⁹⁴ In the *Seventh Report and Order*, the Commission denied their request to change the allotment for Owensboro along with several other proposals submitted by pending applicants to add new allotments to the post-transition DTV Table.²⁹⁵ The Commission explained that, in the *Second DTV Periodic Report and Order*, it clearly stated that only Commission licensees and permittees would be eligible to participate in the channel election process.²⁹⁶ Applicants for new stations and petitioners for new allotments were expressly excluded from making elections.²⁹⁷ In the *Seventh Further Notice*, the Commission noted that a number of pending applications for new television stations had been granted since the start of the channel election process, and the Commission accommodated those permittees with TCDs in the proposed DTV Table.²⁹⁸ In addition, the Commission announced a method by which it would assign TCDs to other new permittees whose pending applications for new television stations were granted before an Order finalizing the DTV Table was adopted.²⁹⁹ The Commission also stated that, before the end of the transition, it would issue an NPRM to amend the DTV Table in order to allot a DTV channel for each remaining authorized facility that does not have an allotted DTV channel.³⁰⁰ Thus, if any other pending applications were granted before the end of the transition, the Commission stated that it would attempt to accommodate these stations with a DTV channel for post transition operation.³⁰¹ But in all situations, the Commission would only act to make allotment decisions once an application was granted and there was a new permittee. Since the Pappas and SCCC applications were still pending, it was to correct to deny consideration of their channel change proposal. Therefore, the Pappas and SCCC petition for reconsideration is denied.

127. Pappas and SCCC also have pending a petition for rulemaking filed on March 8, 2002, requesting DTV Channel 54 be substituted for Channel 48 at Owensboro, Kentucky ("DTV Channel 54 substitution petition"). Previously, Pappas and SCCC had filed a petition for rulemaking requesting that NTSC Channel 47 be substituted for Channel 48 at Owensboro, Kentucky ("Channel 47 substitution petition"). On November 20, 2001, the Video Division of the Media Bureau dismissed that petition due to interference problems.³⁰² The DTV Channel 54 substitution petition was an effort by Pappas and SCCC to remedy the problems with its earlier Channel 47 substitution petition. However, as the staff mentioned in its dismissal letter, the Commission provided a single amendment opportunity for applicants and petitioners with so-called "freeze waiver" applications and petitions to eliminate any

²⁹⁴ *Id.* at 2.

²⁹⁵ *Seventh Report and Order* at 15623-24, ¶ 102.

²⁹⁶ *See Second DTV Periodic Report and Order*, 19 FCC Rcd at 18307, ¶ 66.

²⁹⁷ *Id.*

²⁹⁸ *See Seventh Further Notice*, 21 FCC Rcd at 12117-18, ¶ 50.

²⁹⁹ *Id.* at 12118, ¶ 53.

³⁰⁰ *Seventh Further Notice*, 21 FCC Rcd at 12118-19, ¶ 54. With respect to applicants that receive a construction permit after the close of the comment period in this proceeding, the Commission stated that those parties may either construct their analog facilities or apply to the Commission for permission to construct a digital facility on their analog channel. *Id.* The Commission noted that new permittees could request authorization to continue DTV operations on their NTSC channels after the transition. *Id.*

³⁰¹ *See Second DTV Periodic Report and Order*, 19 FCC Rcd at 18307-08, ¶ 67.

³⁰² *See Letter to Pappas Telecasting of America*, from the Associate Chief, Video Division, November 20, 2001.

technical conflicts.³⁰³ After that date, the Commission would not accept any subsequent filing or amendment to those applications and petitions. The DTV Channel 54 substitution petition can only be viewed as an attempt by Pappas and SCCC to cure the problems in their original Owensboro applications and therefore cannot be considered.

128. Pappas and SCCC also claim that their Channel 54 substitution petition was filed in response to the Commission's Public Notice released February 6, 2002, DA 01-270, announcing a window filing opportunity for pending applicants on Channels 52-59 to either locate a channel in-core or propose a DTV-only operation on an out-of-core channel. However, Pappas and SCCC were not pending applicants for a new station on Channels 52-59 but rather for a new station on Channel 48. Therefore, they did not qualify to file an amendment in that filing window. Given these facts, the DTV Channel 54 substitution petition is hereby dismissed.³⁰⁴

129. Montana University System Board of Regents. We deny the petitions for reconsideration filed by the Board of Regents of the Montana University System ("MSU").³⁰⁵ MSU is the permittee of new single-channel television stations on Channel 21 at Great Falls, Montana (Facility ID No. 169030) and Channel 16 at Billings, Montana (Facility ID No. 169028). MSU filed petitions for rulemaking that resulted in these channels being added to the pre-transition DTV Table. Subsequently, MSU was the only applicant for these new NCE stations and received grants of its construction permits to build these pre-transition channels after the *Seventh Report and Order* and *Eighth Further Notice* was adopted. Thus MSU was not a permittee in time to be included in this rulemaking.

130. Although, as MSU acknowledges, we cannot allot these new post-transition channels for MSU's NCE stations at Great Falls and Billings, Montana, at this time,³⁰⁶ we will initiate an NPRM to add these allotments or to propose replacement channels. In the interim, MSU may file modification applications for post-transition operation for these two stations on their pre-transition channels. As long as these post-transition facilities will not cause more than 0.5 percent interference to other post-transition stations and otherwise comply with our rules, they will be granted. If either of the post-transition facilities for these stations would cause more than 0.5 percent interference to other post-transition DTV facilities, then MSU may file a petition for rulemaking and seek a channel substitution.

H. Analog Singleton Stations

131. We decline to grant the petitions for reconsideration filed by analog singleton stations WCAV, Charlottesville, VA, KUTH, Provo, UT, and KRBK, Osage Beach, MO.³⁰⁷ These stations were

³⁰³ The Commission's Public Notice released November 22, 1999, DA99-2605, announced a window filing opportunity to file amendments to certain applications and petitions for new NTSC television stations located inside of the "TV Freeze Area."

³⁰⁴ Pappas and SCCC applications for Channel 48 at Owensboro, Kentucky continue to cause impermissible interference to Channel 48 at Bowling Green, Kentucky and are therefore dismissed. *See* File Nos. BPCT-19960722KL and 19960920IV.

³⁰⁵ *See* Petitions for Partial Reconsideration of Montana State University (Billings and Great Falls, MT), filed Oct. 26, 2007.

³⁰⁶ *Id.* at 2.

³⁰⁷ *See* Petitions for Reconsideration of Gray Television, Inc., filed Oct. 26, 2007, at 4-5. (WCAV, Charlottesville, VA singleton station operating on analog channel 19, will flashcut to digital operations on channel 19.); Univision Communications, Inc., filed Oct. 26, 2007, at 1 (singleton station KUTH, Provo, UT, operates on analog channel 32, will flashcut to digital operations on channel 32.); Comments of Koplars Communications International, filed Dec. 3, (continued....)

given, in Appendix B, a coverage area to replicate their analog service area. Each station presents arguments supporting their request to make a change to their digital allotment as described by these Appendix B parameters. However, these changes would result in expanded coverage areas in violation of the freeze. We have carefully considered their arguments advocating, for example, changes to antenna patterns. We conclude that it is not necessary to waive the freeze to address these concerns. These stations should be able to achieve their goal of serving current analog viewers with digital service using their existing equipment by requesting modifications through the application process, which is currently underway, and, where necessary, filing for maximization later this year. As described above, these stations must file an application to operate digitally on their post-transition channel and can file those applications at any time.³⁰⁸ At the application stage, these stations may take advantage of the 5-mile waiver policy and the 0.5 percent new interference policy adopted in the *Third DTV Periodic Report and Order*.³⁰⁹

I. Modifications to Appendix B to Address International Coordination Issues

132. WKYC, Cleveland, OH. We grant the request of WKYC and change Appendix B herein for that station to reflect a directional antenna pattern to reduce interference to a Canadian station. WKYC, which is licensed on analog channel 3 and pre-transition DTV channel 2, was allotted channel 17 for post-transition operations. WKYC-TV, Inc. (“WKYC”) filed a comment in this proceeding stating that the request for channel 17 was referred to Canada for coordination and that Canada has responded by specifying a revision to the parameters that it requests for WKYC.³¹⁰ WKYC advises the Commission that the parameters specified by Canada are acceptable to WKYC.³¹¹ We have revised Appendix B herein for WKYC to conform to the parameters negotiated with Canada.³¹²

J. Antenna Information

133. We deny the petitions for reconsideration filed on behalf of the following stations seeking to add antenna identification numbers to Appendix B: KPLC, Lake Charles, LA; WFIE, Evansville, IN. These stations request that we change Appendix B to include antenna identification numbers for these stations and state that the stations will be operating with omnidirectional antennas.³¹³ In developing Appendix B, we did not include antenna identification numbers for stations operating with an omnidirectional antenna. An omnidirectional antenna provides the same power level in every azimuthal direction and antenna identification numbers are only used for directional antennas in order to determine the different power levels in each direction. Accordingly, consistent with our treatment of similar requests in the *Seventh Report and Order*,³¹⁴ we decline to add an antenna identification number to (Continued from previous page) _____
2007, at 1-3 (KRBK, Osage Beach, MO, a singleton station on analog channel 49 will flashcut to digital operations on channel 49).

³⁰⁸ See *supra* note 40.

³⁰⁹ See *Third DTV Periodic Report and Order*, Section V.E., ¶ 151.

³¹⁰ See Comment of WKYC-TV, Inc., filed Oct. 25, 2007, at 1.

³¹¹ *Id.* at 2.

³¹² Specifically, Canada requested that the directional antenna pattern for the WKYC allotments be modified to specify a relative field value of 50 percent over the arc from 310° to 40° relative to True North. *Id.* at Engineering Statement.

³¹³ See Petition for Clarification or Reconsideration of Raycom Media, Inc., filed October 26, 2007, at 5 (KPLC and WFIE).

³¹⁴ See *Seventh Report and Order*, 22 FCC Rcd at 15614, ¶ 81.

Appendix B where the petition indicates the station will be operating omnidirectionally and our database indicates that the station is authorized for an omnidirectional antenna.

K. Other Requests

134. WBOY, Clarksburg, WV. We deny the request of West Virginia Media Holdings, LLC (“WVMH”), licensee of WBOY, channel 12 and the permittee of WBOY-DT, channel 52, Clarksburg, WV. WBOY-DT was allotted channel 12 in the DTV Table in the *Seventh Report and Order*.³¹⁵ WVMH notes that in the *Seventh Report and Order* the Commission allotted technical facilities for WMFD-DT, Channel 12, Mansfield, Ohio, that WVMH claims will cause interference to WBOY-DT at “levels many times in excess of the applicable 0.1 percent limit on new interference.”³¹⁶ In the *Seventh Report and Order*, Mid-State Television, Inc. (Mid State) had requested that its allotment for WMFD-DT be modified to specify facilities it had included in an April 2005 amendment to its maximization application. The Commission approved this change, allotted Channel 12 for WMFD-DT, and acknowledged that this modification would result in 0.44 percent interference to WBOY-DT.³¹⁷ The Commission explained that this allotment was “the result of a negotiated solution with Canada to resolve international coordination issues.”³¹⁸ The Commission also found that WVMH had not filed comments opposing WMFD’s proposed change to Appendix B.³¹⁹

135. In its Petition for Reconsideration, WVMH argues that it had no notice that WBOY-DT might be adversely affected by this change.³²⁰ WVMH argues that the increase in ERP from 13 kW to 14 kW is not essential to the Canadian concurrence with the WMFD-DT allotment facilities. WVMH maintains it was Mid State’s amendment to include a directional antenna that resolved the Canadian concerns.³²¹ WVMH submits an engineering statement and claims that the excessive interference caused to WBOY-DT can be reduced.³²²

136. In its opposition, Mid State states that WVMH’s petition for reconsideration “raises no issues not previously considered fully by the Commission, nor does it provide any support for reversal of the Commission’s considered decision in this matter.”³²³ Mid State argues that the public interest and equities support maintaining the WMFD-DT allotment due to Canadian concurrence and “the limited impact of the projected interference alleged.”

137. We agree that WVMH’s petition fails to demonstrate error in our previous decision. Nor does WVMH’s petition raise any new issues or evidence not previously considered. In the *Seventh Report and Order*, we found that the public interest would be served by allotting the changed facilities for WMFD-DT.³²⁴ We continue to believe that this was the correct allotment for this station. As we

³¹⁵ *Id.* at 15647, App. A.

³¹⁶ WVMH, LLC Petition for Reconsideration, filed Oct. 26, 2007, at 1.

³¹⁷ *Seventh Report and Order*, 22 FCC Rcd at 15606, ¶ 60.

³¹⁸ *Id.* at 15606-7, ¶ 61.

³¹⁹ *Id.*

³²⁰ WVMH Petition for Reconsideration, filed Oct. 26, 2007, at 4.

³²¹ *Id.*

³²² *Id.* (citing Exhibit E, Engineering Statement by Cohen, Dippell, and Everist, P.C.)

³²³ Mid State Opposition, filed Nov. 30, 2007, at 2.

³²⁴ *Seventh Report and Order*, 22 FCC Rcd at 15606-07, ¶ 61.

previously found, the change requested by Mid State was the result of a negotiated solution with Canada to resolve international coordination issues that prohibited operation of the facility proposed in the application pending at the time of certification and to which Mid State certified on FCC Form 381. Stations like WMFD-DT face international coordination issues that provide unique challenges in completing the digital transition. Resolving border area conflicts often involves compromises and multiple adjustments. Contrary to WVMH position, the agreement reached between the U.S. and Canada included both the DA pattern and the power of 14kW. We could have satisfied Canada's concern by agreeing to reduce the WMFD-DT power to a very low level (for example 1 kW or less), but the U.S. public would have suffered by receiving significantly less service from WMFD-DT. The facilities approved for WMFD-DT are based on its amended application for CP which met the pre-transition interference standard and was previously granted.³²⁵ WMFD is remaining on its pre-transition channel 12 and in the channel election process we have generally allowed such DTV stations to be approved for post-transition operation with authorized pre-transition facilities. WVMH's petition for reconsideration is denied.

138. KPRY, Pierre, SD. We grant the request of Hoak Media, LLC ("Hoak"), licensee of KPRY, channel 4, and KPRY-DT, channel 19, Pierre, SD, which was allotted channel 19 for post-transition operations in the DTV Table in the *Seventh Report and Order*.³²⁶ In that Order, the Commission grouped station requests into several categories before acting upon them. The Commission placed KPRY-DT in Category 1 along with other stations proposing to modify their certified facilities to match their authorized or constructed facilities.³²⁷ Hoak claims that KPRY-DT should have been grouped in Category 2 along with stations that anticipate filing a request for change to their station's parameters in the future, but that did not yet have all of the information necessary to request such a change.³²⁸ Hoak points out that in the *Seventh Further Notice*, Appendix B proposed 1000 kW at 378 meters HAAT as KPRY-DT's post-transition allotment while KPRY-DT's existing DTV license specified 61 kW at 347 meters HAAT. In its comments, Hoak indicated that it planned to apply in the future for an ERP for KPRY-DT between its licensed 61 kW and authorized 1000 kW.³²⁹ Instead, Hoak maintains that the Commission erroneously placed KPRY-DT in Category 1 and erroneously revised Appendix B to match KPRY-DT's current license—61 kW—instead of the allotted 1000 kW.³³⁰ Hoak claims that 61 kW is too little power for it to replicate. On reconsideration, we grant KPRY-DT's request for Appendix B facilities of 1000 kW and 378 m HAAT.³³¹ Hoak may submit an application to specify a lower power and antenna height as noted in its comments.³³²

³²⁵ See BPCDT- 20040526ABT.

³²⁶ See *Seventh Report and Order*, 22 FCC Rcd at 15647, App. A.

³²⁷ *Id.* at 15597, ¶ 38.

³²⁸ Hoak Media, LLC Petition for Reconsideration, filed Oct. 10, 2007, at 2-3.

³²⁹ Hoak Media, LLC Comments, filed Jan. 25, 2007, at 10-11.

³³⁰ Hoak Petition for Reconsideration at 4; See also Hoak Media, LLC Supplement to Petition for Reconsideration, filed Jan. 31, 2008.

³³¹ See *infra* Appendix B – DTV Table of Allotments Information.

³³² In the *Third DTV Periodic Report and Order*, the Commission permitted stations filing applications to implement their final DTV facilities to make changes to their final DTV facilities as long as their modified facilities are no more than five percent smaller than those specified in the post-transition DTV Table Appendix B (with respect to predicted population). See *Third DTV Periodic Report and Order*, Section V.D., at ¶ 140.

139. KFJX, Pittsburg, KS. We grant the petition for partial reconsideration filed by KFJX. Surtsey Media, LLC (“Surtsey”), licensee of analog singleton station KFJX, channel 14, Pittsburg, KS, was allotted channel 13 for post-transition operations in the DTV Table in the *Seventh Report and Order*.³³³ In that Order, the Commission granted KFJX’s request to change its TCD from 14 to 13.³³⁴ Surtsey filed a petition for reconsideration requesting that Appendix B be revised to match the facilities of KOAM, a related station in the Pittsburg, KS market with which KFJX currently shares facilities.³³⁵

140. According to Surtsey, it requested the change in TCD in part because of interference issues on channel 14 and in part because it has the opportunity to acquire the channel 13 facilities of KOAM-DT in Pittsburg, which is moving off of channel 13 to another channel post-transition.³³⁶ Surtsey argues that permitting KFJX to take over the facilities of an existing, operating DTV station is consistent with the Commission’s goal of facilitating a smooth, efficient transition as otherwise Surtsey would have to acquire new equipment to install at its currently specified site while KOAM would have to discard its equipment once the transition occurs. Instead, Surtsey requests that its digital allotment be modified to reflect the existing KOAM-DT facilities. Surtsey acknowledges, however, that the non-directional KOAM antenna at the requested power would extend the KFJX-DT signal beyond the KFJX analog footprint, thereby violating the filing freeze. KFJX requests that the freeze be waived in view of the public interest considerations it argues are present in this case.³³⁷ Alternatively, Surtsey’s petition states that it would accept modifications to Appendix B for KFJX to specify the KOAM antenna site, antenna type and antenna height but at a reduced power in order to shrink the resulting service area into the KFJX analog footprint.³³⁸ Surtsey states that it would accept this restriction on its initial digital allotment as long as it was permitted to increase its power prior to February 17, 2009 (the final digital transition date) to the level currently utilized by KOAM.³³⁹

141. We agree that public interest considerations warrant granting Surtsey’s request to change Appendix B for KFJX to specify the KOAM antenna site, antenna height, and antenna type.³⁴⁰ Specification of these parameters will permit Surtsey to utilize the KOAM equipment, thereby facilitating the transition for KFJX. We will therefore grant Surtsey’s request for the exact coordinates, antenna type, and height, which are currently used by KOAM for its antenna.³⁴¹ We agree with Surtsey that these parameters will allow KFJX to operate using KOAM’s facility, thus speeding the transition process, reducing costs, and eliminating the need for new equipment or coordination with tower crews.³⁴²

³³³ See *Seventh Report and Order*, 22 FCC Rcd at 15647, App. A.

³³⁴ See *Seventh Report and Order*, 22 FCC Rcd at 15610-12, ¶¶ 72-74 and App. D4.

³³⁵ See Petition for Partial Reconsideration of Surtsey Media, LLC, filed Oct. 2, 2007, at 3, 5, n.3, and 7. Specifically, Surtsey requests that Appendix B for KFJX be changed to increase ERP from 3.2 to 6 kW, increase HAAT from 163 to 302.4 meters, change antenna ID from 80187 to specify a non-directional antenna, and change coordinates to match the location of the KOAM facility. *Id.* at 7.

³³⁶ *Id.* at 2. KOAM is moving to its analog channel 7 for post-transition operations.

³³⁷ *Id.* at 3-4.

³³⁸ *Id.* at 3, 6. According to Surtsey, this would require an initial ERP of 170 watts, which would result in a population loss of 9.5 percent over KFJX’s original TCD population. *Id.* at 6.

³³⁹ *Id.*

³⁴⁰ See *infra* Appendix B – DTV Table of Allotments Information.

³⁴¹ See Petition for Partial Reconsideration of Surtsey Media, LLC, filed Oct. 2, 2007, at 6.

³⁴² *Id.* at 5.

Surtsey's petition reflects the licensee's appreciation that, at this time, Appendix B will specify an ERP that will maintain the station's coverage area within its analog coverage area.³⁴³ Moreover, as the Commission concluded in the *Third DTV Periodic Review Report and Order*, and as noted in Surtsey's petition, the Commission is not lifting the filing freeze at this stage in the transition for any stations.³⁴⁴ We are, however, expecting that the freeze will be lifted later this year to enable Surtsey to apply to increase the ERP for KFJX. As Surtsey's Petition recognizes, to waive the freeze now to permit KFJX to increase power before the filing freeze is lifted for all stations, would permit Surtsey to step ahead of other stations that are waiting for the proper time to request to maximize.³⁴⁵ Indeed, there are other stations that are moving to a channel vacated by another station that would like to immediately operate the facilities of the existing station.³⁴⁶ As discussed above, to permit such a step would expand these stations' coverage, unfairly disadvantaging other stations in these markets that would like to expand on their existing stations.

142. Surtsey need not wait until the freeze is lifted to request expanded coverage. Stations that are moving to a different channel, as KFJX is doing, may file now to request a waiver of the freeze for up to five miles, where, as here, the increase is necessary to better serve current analog viewers, and where the modification would not cause more than 0.5 percent new interference to any other station. Thus, KFJX, and other similarly situated stations may build upon the changes we have made to the Appendix B facilities to apply for larger area.

143. WSJV, Elkhart, IN. We grant the petition for reconsideration filed on behalf of WSJV. WSJV Television, Inc. ("WSJV"), licensee of WSJV, channel 28, and WSJV-TV, channel 58, was allotted channel 28 for post-transition operations in the DTV Table in the *Seventh Report and Order*.³⁴⁷ In that Order, the Commission revised Appendix B for WSJV to conform to that stations' DTV authorization on channel 58.³⁴⁸ WSJV filed a petition for reconsideration requesting that the Commission instead revise Appendix B to permit the station to use the existing directional antenna system of its analog facility.³⁴⁹ WSJV explains that, when the original DTV Table was created, an inaccuracy in the orientation of the directional antenna system that existed on WSJV's analog license prior to December 1999 was carried over to the station's associated digital channel 58 allotment.³⁵⁰ The station subsequently resolved the inaccuracy in the station's analog antenna orientation on the analog license, but could not eliminate the discrepancy that was built into the original DTV Table. WSJV elected to return to its in-core analog channel for post-transition use and, based on its certification of replication, the Commission relied on the initial channel 58 allotment parameters to compute the WSJV facilities on channel 28 on Appendix B. These facilities were therefore based on the incorrect antenna pattern rotation.

144. We will change Appendix B for WSJV to reflect the correct antenna pattern rotation. Those changes are reflected on Appendix B, herein.

³⁴³ *Id.* at 6-7.

³⁴⁴ See *Third DTV Periodic Review Report and Order*, Section V.E., ¶ 148.

³⁴⁵ See Petition for Partial Reconsideration of Surtsey Media, LLC, filed Oct. 2, 2007, Engineering Statement of John F.X. Brown.

³⁴⁶ See, e.g., *supra* ¶¶ 111-112 (discussion of KCBS, Los Angeles, CA).

³⁴⁷ See *Seventh Report and Order*, 22 FCC Rcd at 15647, App. A.

³⁴⁸ *Id.* at 15682, Appendix D2.

³⁴⁹ See Petition for Reconsideration of WSJV Television, Inc., filed Oct. 26, 2007 at 1.

³⁵⁰ *Id.* at 2.

IV. EIGHTH REPORT AND ORDER

145. In the *Eighth Further Notice* we sought comment on tentative channel designations (“TCDs”) and technical facilities for three new permittees that had recently attained permittee status.³⁵¹ We also identified a number of other revisions to the DTV Table and Appendix B advanced by commenters in either reply comments or late-filed comments to the *Seventh Further Notice*, and we analyzed these revisions and submitted proposals upon which we invited public comment.³⁵²

146. As we stated in the *Third DTV Periodic Report and Order*, stations that need to request authority to construct or modify their post-transition facilities must file construction permit (CP) or modification applications.³⁵³ In that Order and in a recently adopted Public Notice,³⁵⁴ the Commission established the deadlines and procedures for filing such applications. These deadlines and procedures apply to the stations discussed below that have been granted a post-transition allotment herein.

A. New Permittees

147. The Commission established a separate pleading cycle in the *Eighth Further Notice*³⁵⁵ to give interested parties an opportunity for comment on three new permittees that had recently attained permittee status: Entravision Holdings, LLC, in Pueblo, Colorado (analog channel 48), Richland Reserve, LLC, in Greeley, Colorado (digital channel 45), and Northwest Television, Inc., in Galesburg, Illinois (digital channel 53).³⁵⁶ We proposed specific technical facilities and parameters, with predicted service areas and population coverages at which these stations would operate post-transition,³⁵⁷ and we now adopt our proposals to the extent they are unopposed.

148. Entravision Holdings, LLC, Pueblo, CO. We found that post-transition operations for Entravision on channel 48 in Pueblo would create no additional interference, and we proposed channel 48 as this station’s TCD.³⁵⁸ We received no comments in response to this proposal and accordingly will now grant the modification to the post-transition DTV Table and Appendix B to reflect this new allotment.³⁵⁹

149. Northwest Television, Inc., Galesburg, IL. With respect to new permittee Northwest Television in Galesburg, IL, our engineering analysis determined that channel 8 was the best available post-transition channel because this channel created no new interference to the TCD of any other full-

³⁵¹ *Eighth Further Notice*, 22 FCC Rcd at 15636, ¶ 139.

³⁵² *Id.*

³⁵³ See *Third DTV Periodic Report and Order*, Section V.D., ¶ 135. See also 47 C.F.R. §§ 73.1690(b), 73.3533(a), 73.3538.

³⁵⁴ See Public Notice, “*Third DTV Periodic Report and Order* Published in Federal Register Today; FCC Forms 301 and 340 Now Available for Filing for Post-Transition CP Applications; FCC Form 387, Transition Status Report, Available and Due February 19, 2008; Expedited Processing of CP Applications Available Until March 17,” DA No. 08-172 (rel. Jan. 30, 2008) (“*Third Periodic Forms Effective PN*”).

³⁵⁵ See *Eighth Further Notice*, 22 FCC Rcd at 15637-38, ¶ 140 and 15644-45, ¶ 163.

³⁵⁶ *Id.* at 15637-38, ¶ 140.

³⁵⁷ *Id.*

³⁵⁸ *Id.*

³⁵⁹ See *infra* Appendix A – Rule Changes (Post-Transition DTV Table of Allotments) and Appendix B – DTV Table of Allotments Information.

power station, and the only interference was received by Class A Station WQFL-CA, Rockford, IL.³⁶⁰ However, WQFL had an application for a minor modification to its license pending, the grant of which eliminated the interference from channel 8 but necessitated a waiver of the filing freeze.³⁶¹ In order to locate an interference-free post-transition channel for Galesburg, we proposed to grant WQFL-CA a waiver of the filing freeze and to grant the WQFL-CA modification application, thereby resolving any potential interference.³⁶² We received no comments with respect to either of these proposals, and accordingly we will make the necessary adjustments to the DTV Table and Appendix B.³⁶³

150. Richland Reserve, Greeley, CO. Although Richland Reserve was allotted channel 45 for pre-transition digital operation our analysis indicated that, post-transition, channel 45 for Richland in Greeley would have caused 0.3 percent new interference.³⁶⁴ Therefore, we proposed channel 49 as the TCD of Richland.³⁶⁵ Richland contests our proposal, and in its comment it requests that the DTV Table be amended to specify DTV channel 38 as its post-transition TCD instead of channel 49.³⁶⁶ Richland asserts that, because the *Eighth Further Notice* proposed channel 48 as the TCD for *Entravision Holdings, LLC*, in Pueblo Colorado (analog channel 48), the channel 48 TCD for Entravision will receive 0.8 percent interference from the Commission's currently proposed 49 TCD for Richland.³⁶⁷ Richland points out that using its substitute proposal of channel 38 as its TCD will eliminate all interference concerns, and that it would file a construction permit to reflect this change.³⁶⁸ The Commission has determined that Richland's proposed use of channel 38 is acceptable, and we will make the necessary adjustments to the DTV Table and Appendix B.³⁶⁹

B. Late Filed Requests for Changes to the Table of Allotments and Appendix B

151. Several stations filed late requests after the close of the reply comment period of the *Seventh Further Notice*, seeking revisions to the proposed DTV Table and Appendix B.³⁷⁰ Where the proposed changes to the DTV Table and/or Appendix B could affect other stations, we determined that it was appropriate to seek public comment on these late requests.³⁷¹

1. Requests to Make Changes that Meet the Interference Criteria

152. We stated in the *Seventh Report and Order* that we would permit stations to change their

³⁶⁰ See *Eighth Further Notice*, 22 FCC Rcd at 15637-38, ¶ 140.

³⁶¹ *Id.*

³⁶² *Id.*

³⁶³ See *infra* Appendix A – Rule Changes (Post-Transition DTV Table of Allotments) and Appendix B – DTV Table of Allotments Information.

³⁶⁴ See *Eighth Further Notice*, 22 FCC Rcd at 15637-38, ¶ 140.

³⁶⁵ *Id.*

³⁶⁶ See Comment of Richland Reserve, LLC, filed Oct. 10, 2007, at 3.

³⁶⁷ *Id.* at 2.

³⁶⁸ *Id.*

³⁶⁹ See *infra* Appendix A – Rule Changes (Post-Transition DTV Table of Allotments) and Appendix B – DTV Table of Allotments Information.

³⁷⁰ See *Eighth Further Notice*, 22 FCC Rcd at 15638, ¶ 141.

³⁷¹ *Id.*

facility certifications (FCC Form 381), and thus our post-transition DTV Table Appendix B, where such stations have demonstrated that such modification of their facilities would conform to licensed or authorized facilities and where the proposed change to the Appendix B facilities either met the 0.1 percent interference criterion (i.e., the proposed change would not result in interference in excess of 0.1 percent to any licensee's existing TCD) or the station affected agreed to accept the interference.³⁷² We proposed two such changes in the *Eighth Further Notice*. One of these requests has been withdrawn,³⁷³ and we grant the other request.

153. WDCA, Washington, DC. Fox Television Stations, Inc., ("Fox"), licensee of station WDCA-TV, channel 20, and WDCA-DT, channel 35, Washington DC, received channel 35 for its TCD in the proposed DTV Table.³⁷⁴ Fox filed late comments requesting that the Commission modify Appendix B to reflect WDCA's actual, authorized facilities.³⁷⁵ WDCA-DT has a CP that specifies facilities at its main studio where WDCA-DT is currently "located, authorized and operating," and WDCA-DT has applied for a license to cover that CP.³⁷⁶ As noted by Fox, previous engineering analysis had indicated that this location and these parameters caused no impermissible interference, and the Commission proposed granting this request.³⁷⁷ As no comments were received in response, the Commission will adjust Appendix B accordingly to reflect WDCA's authorized facilities.³⁷⁸

2. Requests for Modified Coverage Area

154. As we explained in the *Seventh Report and Order*, we have granted requests of stations whose post-transition DTV channel is different from their pre-transition DTV channel, who are returning to their analog channel for post-transition operations, and whose proposed Appendix B facilities would not permit them to replicate their station's analog grade B contour, or who are seeking changes to specific parameters to permit these stations to serve more of the area served by the station's analog facilities.³⁷⁹ In response to such comments, we recalculated Appendix B facilities for stations based on replicating their analog coverage which was used to determine their initial DTV facilities, and typically granted the benefit of the larger coverage area resulting from our calculations, whether that turned out to be the station's initially proposed Appendix B facility, or the larger coverage area resulting from our calculations

³⁷² *Seventh Report and Order*, 22 FCC Rcd at 15598, ¶ 39.

³⁷³ Fox Television Stations of Philadelphia, Inc. ("Fox Philadelphia"), licensee of station WTXF-TV, channel 29, and WTXF-DT, channel 42, Philadelphia, PA, received channel 42 as its TCD. See *Seventh Further Notice*, 21 FCC Rcd at 12123, App A; *Seventh Report and Order*, 22 FCC Rcd at 15647, App A. In late filed comments, Fox Philadelphia requested a revision to Appendix B parameters to match its CP for its authorized facility which would replicate its analog facilities. See Comments of Fox Television Stations of Philadelphia, Inc., filed June 19, 2007; see also BPCDT-20020424AZ; BCERCT-20041104AHH. Subsequently, Fox Philadelphia filed a request to withdraw its comments and requested that Appendix B as adopted remain unchanged. Brief Comment of Fox Television Stations of Philadelphia, Inc., filed Oct. 18, 2007. Because Fox has withdrawn its request, we will continue to rely upon facilities and parameters we specified for it in the *Seventh Report and Order*.

³⁷⁴ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

³⁷⁵ See Comments of Fox Television Stations, Inc., filed June 26, 2007, at 1-2.

³⁷⁶ *Id.*

³⁷⁷ See *Eighth Further Notice*, 22 FCC Rcd at 15639, ¶ 143.

³⁷⁸ See *infra* Appendix B.

³⁷⁹ *Seventh Report and Order*, 22 FCC Rcd at 15607-08, ¶¶ 62-65.

provided our interference standards were met.³⁸⁰ This process was designed to meet our goal for ensuring that audiences previously served by stations continued to receive those stations.³⁸¹ We applied this methodology below and grant the request with respect to KOAM.

155. KOAM, Pittsburgh, KS. Saga Quad States Communications (“Saga”), licensee of station KOAM-TV, channel 7, and KOAM-DT, channel 13, Pittsburg, KS, received channel 7 for its TCD in the proposed DTV Table.³⁸² In a comment to the *Seventh Further Notice*, Saga proposed parameter changes in order to more closely replicate its analog Grade B contour than it was capable of doing with its current Appendix B parameters.³⁸³ Having analyzed Saga’s request and recalculated its Appendix B facilities based upon replicating the analog coverage that was used to determine KOAM-DT’s initial DTV facilities, we solicited comments on our proposal to grant Saga’s request and to adjust KOAM’s facilities in Appendix B.³⁸⁴ In comments filed in response to the *Eighth Further Notice*, Saga supports the Commission’s proposal, and no reply comment has been filed. Accordingly, we will make the proposed change to Appendix B.³⁸⁵

3. Requests for Alternative Channel Assignments

156. We grant the requests of four stations for alternative channel assignments in conformance with the standards set out in the *Seventh Further Notice*.³⁸⁶ The Commission in that *Notice* stated that licensees that want to change their DTV allotment, but which are not in any of the specified acceptable categories (i.e., are technically able to construct their full, authorized DTV facilities on their existing TCD) may request a change in allotment only after the DTV Table is finalized and must do so through the existing allotment procedures.³⁸⁷ Those requests for an alternative channel assignment that we can consider must either meet the 0.1 percent additional interference standard or be accompanied by a request for a waiver of the 0.1 percent limit or the signed written consent of the affected licensee.³⁸⁸ The

³⁸⁰ *Id.* at 15608-09, ¶ 66.

³⁸¹ *Id.* at 15609, ¶ 67.

³⁸² *See Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

³⁸³ *See* Comments of Saga Quad States Communications, LLC, filed Mar. 27, 2007, at 3-4.

³⁸⁴ *See Eighth Further Notice*, 22 FCC Rcd at 15639, ¶ 144 and App. G.

³⁸⁵ *See infra* Appendix B – DTV Table of Allotments Information.

³⁸⁶ We consider requests for alternative channel assignments only from the following:

- (1) licensees unable to construct full, authorized DTV facilities on the TCDs that they requested and received because, in order to avoid causing impermissible interference to other TCDs and still obtain their preferred channel, they had to agree to construct facilities on their TCD that are smaller than those to which they had certified on FCC Form 381, (2) licensees with international coordination issues which the Commission has been unable to resolve with the Canadian and Mexican governments, (3) licensees with TCDs for low-VHF channels (channels 2-6); and (4) new licensees and permittees that attained such status after the start of the channel election process and to which we assigned a TCD for post-transition DTV operations because their assigned NTSC or DTV channel was determined to cause impermissible interference to existing licensees.

See Seventh Further Notice, 21 FCC Rcd at 12109, ¶ 25.

³⁸⁷ *Id.* Stations may request channel substitutions after the freeze on such requests is lifted. Such substitution requests will be evaluated based on the interference standard adopted in the *Third DTV Periodic Report and Order*, Section V.E., ¶ 151.

³⁸⁸ *Id.* at 12109, ¶ 26.

Commission stated that it would grant waivers of the 0.1 percent limit where doing so would promote overall spectrum efficiency and ensure the best possible service to the public, including service to local communities.³⁸⁹

157. Adoption of stations' channel change requests may not mean that we are adopting every parameter requested by the station. Stations should file the necessary applications for a construction permit in light of the procedures adopted in the *Third DTV Periodic Report and Order* to finalize parameters with respect to their build-out on their new channel.

158. KOLO, Reno, NV. Gray Television Licensee, Inc. ("Gray"), licensee of station KOLO-TV, channel 8, and KOLO-DT, channel 9, Reno, NV, received channel 9 for its TCD in the proposed DTV table.³⁹⁰ Gray currently broadcasts from the same antenna on its NTSC channel 8 and DTV channel 9.³⁹¹ Gray filed a late request that KOLO's TCD be changed to permit it to operate post-transition on its NTSC channel 8 due to concerns that its antenna was optimized for channel 8.³⁹² We proposed granting this request upon finding no additional interference from the proposed change.³⁹³ In a comment filed in response to our *Eighth Further Notice*, KOLO supports the Commission's proposal,³⁹⁴ and as no other comments were filed, we will make the approved change to Appendix B and the DTV Table to reflect KOLO's facilities on channel 8.³⁹⁵

159. WEHT, Evansville, IN. Gilmore Broadcasting Corp. ("Gilmore"), licensee of station WEHT, channel 25, and WEHT-DT, channel 59, Evansville, IN, received channel 25 for its TCD.³⁹⁶ Gilmore filed reply comments to the *Seventh Further Notice* asserting that WEHT could not serve its entire analog coverage area using the channel designation and parameters listed in the proposed DTV Table and Appendix B.³⁹⁷ Gilmore requested a change in its TCD to channel 7 and adjustment to its parameters on Appendix B,³⁹⁸ and we proposed granting this request upon finding no additional interference from the proposed change.³⁹⁹ Gilmore filed comments supporting the proposed change,⁴⁰⁰ and no other comments were filed. Accordingly we will make the necessary change to the DTV Table and Appendix B to reflect the change in WEHT's use of channel 7 facilities.⁴⁰¹

³⁸⁹ *Id.*

³⁹⁰ *See Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

³⁹¹ Comment of Gray Television Licensee, Inc., filed Oct. 10, 2007, at 1.

³⁹² *See* Comment of Gray Television Licensee, Inc., filed June 18, 2007, at 2.

³⁹³ *See Eighth Further Notice*, 22 FCC Rcd at 15639-40, ¶ 145.

³⁹⁴ *See* Comment of Gray Television Licensee, Inc., filed Oct. 10, 2007, at 3.

³⁹⁵ *See infra* Appendix A – Rule Changes (Post-Transition DTV Table of Allotments) and Appendix B – DTV Table of Allotments Information.

³⁹⁶ *See Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

³⁹⁷ *See* Reply Comment of Gilmore Broadcasting Corp., filed Feb. 26, 2007, at 1-2.

³⁹⁸ *Id.* at 2.

³⁹⁹ *See Eighth Further Notice*, 22 FCC Rcd at 15640, ¶ 146.

⁴⁰⁰ *See* Comment of Gilmore Broadcasting Corp., filed Oct. 10, 2007, at 5.

⁴⁰¹ *See infra* Appendix A – Rule Changes (Post-Transition DTV Table of Allotments) and Appendix B – DTV Table of Allotments Information.

160. KTRV, Nampa, ID. Idaho Independent Television, Inc. (“IIT”), licensee of KTRV-TV, and KTRV-DT, Nampa, ID, received channel 12 for its TCD in the proposed DTV Table.⁴⁰² IIT filed comments seeking to retain its existing DTV facilities and requesting revision to Appendix B to reflect that retention, but also seeking a channel change to 13 as its new TCD as well as an antenna ID change.⁴⁰³ We proposed to grant IIT’s request after studying KTRV’s post-transition operation on channel 13.⁴⁰⁴ IIT filed comments and reply comments, both supporting the Commission’s proposal and yet asking for a change in antenna ID number,⁴⁰⁵ and no reply or opposition was filed. We shall therefore substitute channel 13 for channel 12 as the TCD for post-transition use by KTRV-DT in both the DTV Table and Appendix B.⁴⁰⁶ We note that the lack of an antenna ID in Appendix B for KTRV indicates that KTRV is not using a directional antenna, which is consistent with our records for this station.⁴⁰⁷ Therefore, we are continuing not to specify an antenna ID for this station.⁴⁰⁸

161. WUOA, Tuscaloosa, AL. The Board of Trustees of The University of Alabama (“the University”), singleton licensee of analog station WUOA, channel 23, Tuscaloosa, AL, received 23 as its TCD in the proposed DTV Table.⁴⁰⁹ The University filed a Supplement to its Comments in June 2007, seeking a change to a low VHF channel 4 or channel 6 post-transition allotment with new coordinates and parameters due to limited resources of the University.⁴¹⁰ We proposed replication facilities for WUOA on channel 6 as this showed no additional interference.⁴¹¹ The University filed comments supporting the proposed replication facility on channel 6, but seeking a correction to its azimuthal pattern through utilization of a non-directional antenna.⁴¹² No other comments were filed and we grant the University’s request and make the necessary changes to the DTV Table and Appendix B to reflect the facilities on channel 6.⁴¹³ We have corrected the tabulation of antenna ID 80096 to eliminate the incorrect null at N 100.0° E and have substituted the correct relative field value of 0.717.⁴¹⁴ However, we deny the University’s request for a change in its technical parameters to reflect use of a non-directional antenna. The University can request use of a non-directional antenna when it files its application in accordance

⁴⁰² See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

⁴⁰³ See Comments of Idaho Independent Television, Inc. (“IIT”), filed July 17, 2007, at 1.

⁴⁰⁴ See *Eighth Further Notice*, 22 FCC Rcd at 15640, ¶ 147.

⁴⁰⁵ See Comment of Idaho Independent Television, Inc., filed Oct. 10, 2007, at 2; Reply Comments of Idaho Independent Television, Inc., filed on Oct. 25, 2007, at 2.

⁴⁰⁶ See *infra* Appendix A – Rule Changes (Post-Transition DTV Table of Allotments) and Appendix B – DTV Table of Allotments Information.

⁴⁰⁷ See *Eighth Further Notice*, 22 FCC Rcd at 15640, n.405.

⁴⁰⁸ See *infra* Appendix B – DTV Table of Allotments Information.

⁴⁰⁹ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

⁴¹⁰ See Supplement of The Board of Trustees of the University of Alabama, filed June 1, 2007, at 2-4. In the alternative, the University had sought replication facilities on channel 4 or 6. *Id.* at 4 n.2.

⁴¹¹ See *Eighth Further Notice*, 22 FCC Rcd at 15640-1, ¶ 148.

⁴¹² See Comment of The Board of Trustees of The University of Alabama, filed Oct. 10, 2007, at 1-2.

⁴¹³ See *infra* Appendix A – Rule Changes (Post-Transition DTV Table of Allotments) and Appendix B – DTV Table of Allotments Information.

⁴¹⁴ See *infra* Appendix B – DTV Table of Allotments Information.

with the *Third DTV Periodic Report and Order*. Pursuant to the *Third DTV Periodic Report and Order*, the University will be eligible to cause up to 0.5 percent new interference to protected stations in addition to that in the DTV Table Appendix B, and because the University has received a new post-transition DTV channel, it will also be able to specify facilities that are up to five miles larger in any direction than the station's authorized service area defined in Appendix B.

4. Other Requests

162. WPCW, Jeannette, PA. We adopt the proposed channel change for WPCW. CBS Corporation ("CBS"), parent company of the licensee of WPCW, channel 19, and applicant for construction permit for a DTV station on channel 49, Jeannette, PA, received channel 49 for its TCD in the proposed DTV Table.⁴¹⁵ In comments filed in response to the *Seventh Further Notice*, CBS requested an adjustment in Appendix B to reflect a change in parameters approved by the Commission in its 2006 decision substituting channel 49 for 30 as WPCW's digital frequency and reallocating channel 49 from Johnstown, PA to Jeannette, PA.⁴¹⁶ Larry L. Schrecongost ("Schrecongost"), licensee of Class A television Station WLLS-CA, channel 49, Indiana, PA, had opposed the CBS request and argued that the proposed DTV Table should have specified channel 30 rather than channel 49 for WPCW because operation on channel 49 would have caused interference to WLLS-CA in violation of the Community Broadcasters Protection Act of 1999.⁴¹⁷ The Commission found that WPCW's operations on channel 49 would have caused impermissible interference to two stations⁴¹⁸ and, to resolve the dispute, we proposed to allot channel 11 to WPCW with the site location specified in the *2006 Report and Order*.⁴¹⁹ In a comment filed in response to the *Eighth Further Notice*, CBS supports the proposal to allot it channel 11,⁴²⁰ and accordingly, we will make the requisite changes to the DTV Table and Appendix B to reflect CBS's facilities on this new channel and site.⁴²¹

163. WGNO & WNOL, New Orleans, LA. We grant the request of Tribune and adopt the proposed changes for WGNO and WNOL. Tribune Broadcasting Co., ("Tribune") is licensee of station WGNO, channel 26, and permittee of WGNO-DT, channel 15, New Orleans, LA, which received channel 26 for its TCD in the proposed DTV Table, and licensee of station WNOL, channel 38, and permittee of WNOL-DT, channel 40, New Orleans, LA, which received channel 15 for its TCD in the proposed DTV

⁴¹⁵ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A. The licensee of WPCW is Pittsburgh Television Station WPCW, Inc., a wholly owned subsidiary of CBS. See Comments of CBS Corporation on *Seventh Further Notice of Proposed Rulemaking*, filed Jan. 25, 2007, at 8 n.14.

⁴¹⁶ CBS Comments at 10. See *Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Johnstown and Jeannette, Pennsylvania)*, Report and Order, MB Docket No. 05-52, 21 FCC Rcd 1350, 1351, ¶ 4 and 1352, ¶ 6 (2006) ("*2006 Report and Order*"). Jeannette, Pennsylvania had already been approved as WPCW's community of license in the Report and Order in MM Docket No. 97-96, (*Johnstown and Jeannette, Pennsylvania*), 12 FCC Rcd 10300, 10301, ¶ 5 (1997) ("*1997 Report and Order*"). At the issuance of these rulemakings, the station's call signs were WNPA (*2006 Report and Order*) and WTWB (*1997 Report and Order*). We refer to the station herein by its current call sign, WPCW.

⁴¹⁷ See Reply Comments of Larry L. Schrecongost, filed Feb. 26, 2007, at 1.

⁴¹⁸ See *Eighth Further Notice*, 22 FCC Rcd at 15642, ¶ 152.

⁴¹⁹ *Id.* at 15642, ¶ 153 and App. G.

⁴²⁰ See Comments of CBS Corporation on *Eighth Further Notice of Proposed Rule Making*, filed Oct. 10, 2007, at 3-4.

⁴²¹ See *infra* Appendix A – Rule Changes (Post-Transition DTV Table of Allotments) and Appendix B – DTV Table of Allotments Information.

Table.⁴²² Tribune filed reply comments to the *Seventh Further Notice* stating that the analog and digital transmission facilities of both of these stations had been destroyed by Hurricane Katrina.⁴²³ After seeking alternative locations for its DTV operations, Tribune subsequently filed late comments requesting that the DTV allotments and technical parameters for the channels be changed to reflect new operations from the transmitter site of station WDSU, with which it proposed to share an antenna.⁴²⁴ We considered Tribune's request and found that the proposed parameters, while not causing impermissible interference, would have exceeded WGNO and WNOL's respective authorized contours, in violation of the filing freeze.⁴²⁵ Nevertheless, in light of the circumstances resulting from Hurricane Katrina, we proposed to waive the freeze and substitute the technical parameters requested by Tribune for these stations.⁴²⁶ Tribune filed comments supporting our proposal,⁴²⁷ and as no replies or objections were filed, we therefore will modify Appendix B accordingly.⁴²⁸

V. PROCEDURAL MATTERS

A. Memorandum Opinion and Order on Reconsideration

1. Regulatory Flexibility Act

164. Appendix E sets forth the Supplemental Final Regulatory Flexibility Analysis for this *Memorandum Opinion and Order on Reconsideration*, as required by the Regulatory Flexibility Act of 1980, as amended.⁴²⁹

2. Paperwork Reduction Act

165. This *Memorandum Opinion and Order on Reconsideration* was analyzed with respect to the Paperwork Reduction Act of 1995 ("PRA")⁴³⁰ and does not contain any information collection requirements.⁴³¹

3. Congressional Review Act

166. The Commission will include a copy of this *Memorandum Opinion and Order on Reconsideration* in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act.⁴³²

⁴²² See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

⁴²³ See Reply Comments of Tribune Broadcasting Company, filed Jan. 29, 2007, at 5.

⁴²⁴ See *Ex Parte* Comments of Tribune, filed July 23, 2007, at 1-2 and Attachments, Proposed Allotments for WGNO-DT, channel 26, and WNOL-DT, channel 15, Figure 1 and Figure 1 [sic].

⁴²⁵ See *Eighth Further Notice*, 22 FCC Rcd at 15643, ¶ 156.

⁴²⁶ *Id.*

⁴²⁷ See Comments of Tribune Broadcasting Company filed Oct. 10, 2007.

⁴²⁸ See *infra* Appendix B – DTV Table of Allotments Information.

⁴²⁹ See 5 U.S.C. § 604.

⁴³⁰ The Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 109 Stat 163 (1995) (*codified in* Chapter 35 of Title 44 U.S.C.).

⁴³¹ See *Seventh Report and Order*, 22 FCC Rcd at 15643, ¶ 158. See also *Seventh Further Notice*, 21 FCC Rcd at 12119, ¶ 56.

⁴³² See 5 U.S.C. § 801(a)(1)(A).

4. Accessible Formats

167. To request information in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to fcc504@fcc.gov or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This document can also be downloaded in Word and Portable Document Format (PDF) at: <http://www.fcc.gov>.

B. Eighth Report and Order

1. Regulatory Flexibility Act

168. Appendix G sets forth the Final Regulatory Flexibility Analysis for this *Eighth Report and Order*, as required by the Regulatory Flexibility Act of 1980, as amended.⁴³³

2. Paperwork Reduction Act

169. This *Eighth Report and Order* was analyzed with respect to the Paperwork Reduction Act of 1995 ("PRA")⁴³⁴ and does not contain any information collection requirements.⁴³⁵

3. Congressional Review Act

170. The Commission will include a copy of this *Eighth Report and Order* in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act.⁴³⁶

VI. ORDERING CLAUSES

171. IT IS ORDERED that, pursuant to the authority contained in Sections 1, 4(i) and (j), 7, 301, 302, 303, 307, 308, 309, 316, 319, 324, 336, and 337 of the Communications Act of 1934, 47 U.S.C §§ 151, 154(i) and (j), 157, 301, 302, 303, 307, 308, 309, 316, 319, 324, 336, and 337, this *Memorandum Opinion and Order on Reconsideration of the Seventh Report and Order and Eighth Report and Order* IS ADOPTED.

172. IT IS FURTHER ORDERED that pursuant to the authority contained in Sections 1, 2, 4(i), 303, 303a, 303b, and 307 of the Communications Act of 1934, 47 U.S.C §§ 151, 152, 154(i), 303, 303a, 303b, and 307, the Commission's rules ARE HEREBY AMENDED as set forth in Appendix A.

173. IT IS FURTHER ORDERED that the rules as revised in Appendix A SHALL BE EFFECTIVE upon publication of this *Memorandum Opinion and Order on Reconsideration of the Seventh Report and Order and Eighth Report and Order* in the Federal Register. We find good cause for the rules adopted herein to be effective upon publication of a summary of this item in the Federal Register to ensure that full power television stations can meet the statutory deadline for transitioning to all-digital service.⁴³⁷

⁴³³ See 5 U.S.C. § 604.

⁴³⁴ The Paperwork Reduction Act of 1995, Pub .L. No. 104-13, 109 Stat 163 (1995) (*codified in* Chapter 35 of Title 44 U.S.C.).

⁴³⁵ See *Eighth Further Notice*, 22 FCC Rcd at 15643, ¶ 161.

⁴³⁶ See 5 U.S.C. § 801(a)(1)(A).

⁴³⁷ See 5 U.S.C. § 553(d)(3) ("The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except...as otherwise provided by the agency for good cause found and published with the rule."). See also 47 C.F.R. §§ 1.103(a), 1.427(b). As described herein, full power television stations must complete their transition from analog to digital service by February 17, 2009. For stations that filed petitions for (continued...)

174. IT IS FURTHER ORDERED that the petitions for reconsideration or clarification listed in Appendix C ARE GRANTED to the extent provided herein and otherwise ARE DENIED.

175. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Memorandum Opinion and Order on Reconsideration and Eighth Report and Order*, including the Supplemental Final Regulatory Flexibility Analysis and Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

176. IT IS FURTHER ORDERED that the Commission SHALL SEND a copy of this *Memorandum Opinion and Order on Reconsideration and Eighth Report and Order* in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, see 5 U.S.C. § 801(a)(1)(A).

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

(Continued from previous page) _____
reconsideration of the *Seventh Report and Order*, it is essential that these stations have the information contained herein regarding the Commission's action, if any, on their petition so that these stations know their post-transition allotments and can file applications based on those allotments if necessary and have adequate time to order equipment and schedule construction before the transition deadline. Because any delay can result in harm to television stations, and, in turn, to their viewers, we find that there is good cause to expedite the effective date of the rules adopted in this *Memorandum Opinion and Order on Reconsideration and Eighth Report and Order*. The *Third DTV Periodic Review Report and Order*, which adopted rules and procedures for filing and processing applications for post-transition allotments, was also made effective upon publication in the Federal Register so that stations needing to file applications for post-transition facilities, and that had not filed a petition for reconsideration of the *Seventh Report and Order*, could file their applications as quickly as possible. See *Third DTV Periodic Report and Order*, Section VII, ¶ 210.

APPENDIX A

**Rule Changes
(Post-Transition DTV Table of Allotments)¹**

Part 73 of the Commission's Rules and Regulations (Chapter I of title 47 of the Code of Federal Regulations) is amended 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, 303, 334, 336 and 339.

2. Section 73.622 is amended by adding new paragraph (i) to read as follows:

§ 73.622 Digital television table of allotments.

* * * * *

(i) Post-Transition Table of DTV Allotments.

ALABAMA

Community	Channel No.
Anniston	9
Bessemer	18
Birmingham	*10, 13, 30, 36, 50
Demopolis	*19
Dothan	21, 36
Dozier	*10
Florence	14, 20, *22
Gadsden	26, 45
Gulf Shores	25
Homewood	28
Huntsville	19, *24, 32, 41, 49
Louisville	*44
Mobile	9, 15, 20, 23, 27, *41
Montgomery	12, 16, *27, 32, 46
Mount Cheaha	*7

¹ Note: Changes from the *Seventh Report and Order* post-transition DTV Table of Allotments are in bold.

Opelika	47
Ozark	33
Selma	29, 42
Troy	48
Tuscaloosa	6, 33
Tuskegee	22

ALASKA

Community	Channel No.
Anchorage	5, *8, 10, 12, 20, *26, 28, 32
Bethel	*3
Fairbanks	7, *9, 18, 26
Juneau	*10, 11
Ketchikan	13
North Pole	20
Sitka	7

ARIZONA

Community	Channel No.
Douglas	36
Flagstaff	2, 13, 18, 32
Green Valley	46
Holbrook	*11
Kingman	19
Mesa	12
Phoenix	*8, 10, 15, 17, 20, 24, 26, 33, 39, 49
Prescott	7
Sierra Vista	44
Tolleson	51
Tucson	9, 19, 23, 25, *28, *30, 32, 40
Yuma	11, 16

ARKANSAS

Community	Channel No.
Arkadelphia	*13
Camden	49
El Dorado	*10, 27, 43
Eureka Springs	34
Fayetteville	*9, 15
Fort Smith	18, 21, 27
Harrison	31
Hot Springs	26
Jonesboro	8, *20, 48
Little Rock	*7, 12, 22, 30, 32, *36, 44

Mountain View	*13
Pine Bluff	24, 39
Rogers	50
Springdale	39

CALIFORNIA

Community	Channel No.
Anaheim	32
Arcata	22
Avalon	47
Bakersfield	10, 25, 33, 45
Barstow	44
Bishop	20
Calipatria	36
Ceres	*15
Chico	24, 43
Clovis	43
Concord	14
Corona	39
Cotati	*23
El Centro	9, 22
Eureka	3, *11, 17, 28
Fort Bragg	8
Fresno	7, 30, 34, 38, *40
Hanford	20
Huntington Beach	*48
Long Beach	18
Los Angeles	7, 9, 11, 13, *28, 31, 34, 36, *41, 42, 43
Merced	11
Modesto	18
Monterey	31, 32
Novato	47
Oakland	44
Ontario	29
Oxnard	24
Palm Springs	42, 46
Paradise	20
Porterville	48
Rancho Palos Verdes	51
Redding	7, *9
Riverside	45
Sacramento	*9, 10, 21, 35, 40, 48
Salinas	8, 13
San Bernardino	*26, 38
San Diego	8, 10, 18, 19, *30, 40
San Francisco	7, 19, 27, 29, *30, *33, 38, 39, 45, 51
San Jose	12, 36, 41, 49, *50
San Luis Obispo	15, 34

San Mateo	*43
Sanger	36
Santa Ana	23
Santa Barbara	21, 27
Santa Maria	19
Santa Rosa	32
Stockton	25, 26, 46
Twentynine Palms	23
Vallejo	34
Ventura	49
Visalia	28, *50
Watsonville	*25

COLORADO

Community	Channel No.
Boulder	15
Broomfield	*13
Castle Rock	46
Colorado Springs	10, 22, 24
Denver	7, 9, *18, 19, 32, 34, 35, *40, 43, 51
Durango	15, *20, 33
Fort Collins	21
Glenwood Springs	23
Grand Junction	2, 7, 12, 15, *18
Greeley	38
Longmont	29
Montrose	13
Pueblo	*8, 42, 48
Steamboat Springs	10
Sterling	23

CONNECTICUT

Community	Channel No.
Bridgeport	42, *49
Hartford	31, 33, *45, 46
New Britain	35
New Haven	*6, 10, 39
New London	26
Norwich	*9
Waterbury	20

DELAWARE

Community	Channel No.
Seaford	*44

Wilmington *12, 31

DISTRICT OF COLUMBIA

Community	Channel No.
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Washington	7, 9, *27, *33, 35, 36, 48, 50
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FLORIDA

Community	Channel No.
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Boca Raton	*40
Bradenton	42
Cape Coral	35
Clearwater	21
Clermont	17
Cocoa	*30, 51
Daytona Beach	11, 49
Destin	48
Fort Lauderdale	30
Fort Myers	9, 15, *31
Fort Pierce	34, *38
Fort Walton Beach	40, 49, 50
Gainesville	9, 16, *36
High Springs	28
Hollywood	47
Jacksonville	*7, 13, 19, 32, 34, 42, *44
Key West	3, 8
Lake Worth	36
Lakeland	19
Leesburg	40, *46
Live Oak	48
Marianna	51
Melbourne	43, 48
Miami	7, 10, *18, 19, *20, 22, 23, 31, 32, 35, 46
Naples	41, 45
New Smyrna Beach	*33
Ocala	31
Orange Park	10
Orlando	22, *23, 26, 27, 39, 41
Palm Beach	49
Panama City	7, 9, 13, *38
Panama City Beach	47
Pensacola	17, *31, 34, 45
Sarasota	24
St. Petersburg	10, 38, 44
Stuart	44

Tallahassee	24, 27, *32, 40
Tampa	7, 12, *13, 29, *34, 47
Tequesta	16
Tice	33
Venice	25
West Palm Beach	12, 13, *27, 28

GEORGIA

Community	Channel No.
Albany	10, 12
Athens	*8, 48
Atlanta	10, 19, 20, *21, 25, 27, 39, *41, 43
Augusta	12, 30, 42, 51
Bainbridge	49
Baxley	35
Brunswick	24
Chatsworth	*33
Cochran	*7
Columbus	9, 15, *23, 35, 49
Cordele	51
Dalton	16
Dawson	*8
Macon	13, 16, 40, 45
Monroe	44
Pelham	*6
Perry	32
Rome	51
Savannah	*9, 11, 22, 39
Thomasville	46
Toccoa	24
Valdosta	43
Waycross	*8
Wrens	*6

HAWAII

Community	Channel No.
Hilo	9, 11, 13, 22, 23
Honolulu	8, 9, *10, *11, 19, 23, 27, 31, 33, 35, 40, *43
Kailua	50
Kailua Kona	25
Kaneohe	41
Wailuku	7, *10, 12, 16, 21, 24
Waimanalo	38

IDAHO

Community	Channel No.
Boise	7, *21, 28, 39
Caldwell	10
Coeur D'alene	*45
Filer	*18
Idaho Falls	8, 20, 36
Lewiston	32
Moscow	*12
Nampa	13 , 24
Pocatello	15, *17, 23, 31
Sun Valley	5
Twin Falls	11, *22, 34

ILLINOIS

Community	Channel No.
Aurora	50
Bloomington	28
Carbondale	*8
Champaign	41, 48
Charleston	*50
Chicago	7, 12, 19, *21, 27, 29, 31, 43, 45, *47
Decatur	18, 22
East St. Louis	47
Freeport	23
Galesburg	8
Harrisburg	34
Jacksonville	*15
Joliet	38
LaSalle	10
Macomb	*21
Marion	17
Moline	*23, 38
Mount Vernon	21
Olney	*19
Peoria	19, 25, 30, 39, *46
Quincy	10, 32, *34
Rock Island	4
Rockford	13, 16, 42
Springfield	13, 42, 44
Urbana	*9, 26

INDIANA

Community	Channel No.
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Angola	12
Bloomington	*14, 27, 42, 48
Elkhart	28
Evansville	7, *9, 28, 45, 46
Fort Wayne	19, 24, 31, 36, *40
Gary	*17, 51
Hammond	36
Indianapolis	9, 13, 16, *21, 25, *44, 45
Kokomo	29
Lafayette	11
Marion	32
Muncie	23
Richmond	39
Salem	51
South Bend	22, *35, 42, 48
Terre Haute	10, 36, 39
Vincennes	*22

IOWA

Community	Channel No.
Ames	5, 23, *34
Burlington	41
Cedar Rapids	9, 27, 47, 51
Council Bluffs	*33
Davenport	*34, 36, 49
Des Moines	8, *11, 13, 16, 31
Dubuque	43
Fort Dodge	*25
Iowa City	*12, 25
Mason City	*18, 42
Newton	39
Ottumwa	15
Red Oak	*35
Sioux City	9, *28, 39, 41, 44
Waterloo	7, 22, *35

KANSAS

Community	Channel No.
Colby	17, 19
Derby	46
Dodge City	*21
Ensign	6
Garden City	11, 13
Goodland	10
Great Bend	22

Hays	7, *16
Hoisington	14
Hutchinson	*8, 12, 35
Lakin	*8
Lawrence	41
Pittsburg	7, 13
Salina	17
Topeka	*11, 12, 13, 27, 49
Wichita	10, 19 , 26, 45

KENTUCKY

Community	Channel No.
Ashland	*26, 44
Beattyville	7
Bowling Green	13, 16, *18, *48
Campbellsville	19
Covington	*24
Danville	4
Elizabethtown	*43
Harlan	51
Hazard	12, *16
Lexington	13, 39, 40, *42
Louisville	8, 11, *17, 26, *38, 47, 49
Madisonville	20, *42
Morehead	*15, 21
Murray	*36
Newport	29
Owensboro	30
Owenton	*44
Paducah	32, 41, 49
Pikeville	*24
Somerset	*14

LOUISIANA

Community	Channel No.
Alexandria	*26, 31, 35, 41
Baton Rouge	9, 13, *25, 34, 45
Columbia	11
Hammond	42
Lafayette	10, 16, *23, 28
Lake Charles	7, *20, 30
Minden	21
Monroe	8, *13
New Iberia	50
New Orleans	8, *11, 15, 21, 26, *31, 36, 43, 50
Shreveport	17, *25, 28, 34, 44

Slidell	24
West Monroe	36, 38

MAINE

Community	Channel No.
Augusta	*10
Bangor	2, 7, 19
Biddeford	*45
Calais	*10
Lewiston	35
Orono	*9
Poland Spring	8
Portland	38, 43, 44
Presque Isle	8, *10, 47
Waterville	23

MARYLAND

Community	Channel No.
Annapolis	*42
Baltimore	11, 13, *29, 38, 40, 41, 46,
Frederick	*28
Hagerstown	26, 39, *44
Oakland	*36
Salisbury	21, *28, 47

MASSACHUSETTS

Community	Channel No.
Adams	36
Boston	7, *19, 20, 30, 31, 32, 39, *43
Cambridge	41
Lawrence	18
Marlborough	27
New Bedford	22, 49
Norwell	10
Pittsfield	13
Springfield	11, *22, 40
Vineyard Haven	40
Worcester	29, *47

MICHIGAN

Community	Channel No.
Alpena	11, *24

Ann Arbor	31
Bad Axe	*15
Battle Creek	20, 44
Bay City	22, 46
Cadillac	9, *17, 47
Calumet	5
Cheboygan	35
Detroit	7, 14, 21, 41, *43, 44, 45
East Lansing	*40
Escanaba	48
Flint	12, 16, *28
Grand Rapids	7, *11, 13, 19
Iron Mountain	8
Ishpeming	10
Jackson	34
Kalamazoo	*5, 8, 45
Lansing	36, 38, 51
Manistee	*21
Marquette	*13, 19, 35
Mount Clemens	39
Mount Pleasant	*26
Muskegon	24
Onondaga	10
Saginaw	30, 48
Sault Ste. Marie	8, 10
Traverse City	7, 29

MINNESOTA

Community	Channel No.
Alexandria	7, 42
Appleton	*10
Austin	*20, 36
Bemidji	*9, 26
Brainerd	*28
Chisholm	11
Crookston	*16
Duluth	*8, 10, 17, 27, 33
Hibbing	13, *31
Mankato	12
Minneapolis	9, 11, 22, 29, 32, 45
Redwood Falls	27
Rochester	10, 46
St. Cloud	40
St. Paul	*26, *34, 35
Thief River Falls	10
Walker	12
Worthington	*15

MISSISSIPPI

Community	Channel No.
Biloxi	13, *16
Booneville	*12
Bude	*18
Columbus	35, *43
Greenville	15
Greenwood	*25, 32
Gulfport	48
Hattiesburg	22
Holly Springs	41
Houston	45
Jackson	7, 12, *20, 21, 40, 51
Laurel	28
Magee	34
Meridian	11, 24, 31, *44
Mississippi State	*10
Natchez	49
Oxford	*36
Tupelo	8
Vicksburg	41
West Point	16

MISSOURI

Community	Channel No.
Cape Girardeau	12, 22
Columbia	8, 17
Hannibal	7
Jefferson City	12, 20
Joplin	*25, 43, 46
Kansas City	9, *18, 24, 31, 34, 42, 47, 51
Kirksville	33
Osage Beach	49
Poplar Bluff	15
Sedalia	15
Springfield	10, 19, *23, 28, 44
St. Joseph	7, 21
St. Louis	14, 24, 26, 31, 35, *39, 43

MONTANA

Community	Channel No.
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Billings	10, 11, 18
Bozeman	*8, 13
Butte	5, 6, 19, 24
Glendive	10
Great Falls	7, 8, 26, 45
Hardin	22
Havre	9
Helena	12, 29
Kalispell	9
Lewistown	13
Miles City	3
Missoula	7, *11, 13, 17, 23

NEBRASKA

Community	Channel No.
Alliance	*13
Bassett	*7
Grand Island	11, 19
Hastings	5, *28
Hayes Center	18
Kearney	36
Lexington	*26
Lincoln	8, 10, *12, 51
McCook	12
Merriman	*12
Norfolk	*19
North Platte	2, *9
Omaha	15, *17, 20, 22, 43, 45
Scottsbluff	7, 17, 29
Superior	34

NEVADA

Community	Channel No.
Elko	10
Ely	3, 27
Goldfield	50
Henderson	9
Las Vegas	2, 7, *11, 13, 16, 22, 29
Laughlin	32
Paradise	40
Reno	7, 8, 13, *15, 20, 26, 44
Tonopah	9
Winnemucca	7

NEW HAMPSHIRE

Community	Channel No.
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Concord	33
Derry	35
Durham	*11
Keene	*49
Littleton	*48
Manchester	9
Merrimack	34

NEW JERSEY

Community	Channel No.
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Atlantic City	44, 49
Burlington	27
Camden	*22
Linden	36
Montclair	*51
New Brunswick	*8
Newark	13, 30
Newton	18
Paterson	40
Secaucus	38
Trenton	*43
Vineland	29
West Milford	*29
Wildwood	36

NEW MEXICO

Community	Channel No.
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Albuquerque	7, 13, *17, 22, 24, 26, *35, 42, 45
Carlsbad	19, 25
Clovis	20
Farmington	8, 12
Hobbs	29
Las Cruces	*23, 47
Portales	*32
Roswell	8, 10, 21, 27
Santa Fe	*9, 10, 27, 29
Silver City	10, 12

NEW YORK

Community	Channel No.
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Albany	7, 12, 26
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Amsterdam	50
Batavia	23
Bath	14
Binghamton	7, 8, 34, *42
Buffalo	14, 32, 33, 34, 38, 39, *43
Carthage	7
Corning	*30, 48
Elmira	18, 36
Garden City	*21
Ithaca	20
Jamestown	26
Kingston	48
New York	7, 11, *24, 28, 31, 33, 44
North Pole	14
Norwood	*23
Plattsburgh	*38
Poughkeepsie	27
Riverhead	47
Rochester	10, 13, *16, 28, 45
Saranac Lake	40
Schenectady	6, *34, 43
Smithtown	23
Springville	7
Syracuse	15, 17, 19, 24, *25, 44, 47
Utica	27, 29, 30
Watertown	21, *41

NORTH CAROLINA

Community	Channel No.
Asheville	13, *25, 45
Belmont	47
Burlington	14
Chapel Hill	*25
Charlotte	*11, 22, 23, 27, 34
Concord	*44
Durham	11, 28
Edenton	*20
Fayetteville	36, 38
Goldsboro	17
Greensboro	33, 43, 51
Greenville	10, 14, *23, 51
Hickory	40
High Point	8
Jacksonville	*19, 34
Kannapolis	50
Lexington	19
Linville	*17
Lumberton	*31

Manteo	9
Morehead City	8
New Bern	12
Raleigh	27, 48, 49
Roanoke Rapids	*36
Rocky Mount	15
Washington	32
Wilmington	*29, 30, 44, 46
Wilson	42
Winston-Salem	29, 31, *32

NORTH DAKOTA

Community	Channel No.
Bismarck	12, 16, *22, 26, 31
Devils Lake	8, *25
Dickinson	7, *9, 19
Ellendale	*20
Fargo	*13, 19, 21, 44
Grand Forks	*15, 27
Jamestown	7
Minot	10, 13, 14, 24, *40
Pembina	12
Valley City	38
Williston	8, 14, *51

OHIO

Community	Channel No.
Akron	23, 30, *50
Alliance	*45
Athens	*27
Bowling Green	*27
Cambridge	*35
Canton	39, 47
Chillicothe	46
Cincinnati	10, 12, 33, *34, 35
Cleveland	8, 15, 17, *26, 34
Columbus	13, 14, 21, 36, *38
Dayton	*16, 30, 41, 50, 51
Lima	8, 44
Lorain	28
Mansfield	12
Newark	24
Oxford	*28
Portsmouth	17, *43
Sandusky	42

Shaker Heights	10
Springfield	26
Steubenville	9
Toledo	5, 11, 13, *29, 46, 49
Youngstown	20, 36, 41
Zanesville	40

OKLAHOMA

Community	Channel No.
Ada	26
Bartlesville	17
Cheyenne	*8
Claremore	*36
Eufaula	*31
Lawton	11
Muskogee	20
Norman	46
Oklahoma City	7, 9, *13, 15, 24, 27, 33, 40, 50, 51
Okmulgee	28
Shawnee	29
Tulsa	8, 10, *11, 22, 42, 45, 47, 49
Woodward	35

OREGON

Community	Channel No.
Bend	*11, 21, 51
Coos Bay	11, 22
Corvallis	*7
Eugene	9, 13, 17, *29, 31
Grants Pass	30
Klamath Falls	13, 29, *33
La Grande	*13, 29
Medford	5, *8, 10, 12, 26
Pendleton	11
Portland	8, *10, 12, 40, 43, 45
Roseburg	18, 19, 45
Salem	22, 33

PENNSYLVANIA

Community	Channel No.
Allentown	*39, 46
Altoona	24, 32, 46
Bethlehem	9
Clearfield	*15

Erie	12, 16, 22, 24, *50
Greensburg	50
Harrisburg	10, 21, *36
Hazleton	45
Jeannette	11
Johnstown	8, 34
Lancaster	8, 23
Philadelphia	6, 17, 26, 32, 34, *35, 42
Pittsburgh	*13, 25, 38, 42, 43, 48, 51
Reading	25
Red Lion	30
Scranton	13, 32, 38, *41, 49
Wilkes-Barre	11
Williamsport	29
York	47

RHODE ISLAND

Community	Channel No.
Block Island	17
Providence	12, 13, *21, 51

SOUTH CAROLINA

Community	Channel No.
Allendale	*33
Anderson	14
Beaufort	*44
Charleston	*7, 24, 34, 36, 47, 50
Columbia	8, 10, 17, *32, 47, 48
Conway	*9
Florence	13, 16, 21, *45
Georgetown	*38
Greenville	*9, 16, 21, 36
Greenwood	*18
Hardeeville	28
Myrtle Beach	18, 32
Rock Hill	15, 39
Spartanburg	7, 43
Sumter	*28, 39

SOUTH DAKOTA

Community	Channel No.
Aberdeen	9, *17
Brookings	*8
Eagle Butte	*13

Florence	3
Huron	12
Lead	5, 10
Lowry	*11
Martin	*8
Mitchell	26
Pierre	*10, 19
Rapid City	2, 7, 16, 21, *26
Reliance	13
Sioux Falls	7, 11, 13, *24, 36, 47
Vermillion	*34

TENNESSEE

Community	Channel No.
Chattanooga	9, 12, 13, *29, 40
Cleveland	42
Cookeville	*22, 36
Crossville	20
Greeneville	38
Hendersonville	51
Jackson	39, 43
Jellico	23
Johnson City	11
Kingsport	27
Knoxville	7, 10, *17, 26, 30, 34
Lebanon	44
Lexington	*47
Memphis	5, *10, 13, *23, 25, 28, *29, 31, 51
Murfreesboro	38
Nashville	5, *8, 10, 15, 21, 23, 27,
Sneedville	*41
Tazewell	48

TEXAS

Community	Channel No.
Abilene	15, 24, 29
Alvin	36
Amarillo	7, *8, 10, 15, 19
Arlington	42
Austin	7, 21, *22, 33, 43, 49
Baytown	41
Beaumont	12, 21, *33
Belton	46
Big Spring	33
Blanco	18
Borger	31

Brownsville	24
Bryan	28, 50
College Station	*12
Conroe	32, 42
Corpus Christi	8, 10, 13, *23, 27, 38
Dallas	8, *14, 32, 35, 36, 40, 45
Decatur	30
Del Rio	28
Denton	*43
Eagle Pass	24
El Paso	7, 9, *13, 15, 18, 25, *39, 51
Farwell	18
Fort Worth	9, 11, 18, 41
Fredericksburg	5
Galveston	*23, 48
Garland	23
Greenville	46
Harlingen	31, *34, 38
Houston	*8, 11, 13, 19, *24, 26, 35, 38, 44
Irving	48
Jacksonville	22
Katy	47
Kerrville	32
Killeen	13
Lake Dallas	39
Laredo	8, 13, 19
Llano	27
Longview	31, 38
Lubbock	11, 16, 27, 35, *39, 40
Lufkin	9
McAllen	49
Midland	18, 26
Nacogdoches	18
Odessa	7, 9, 23, 30, *38, 42
Port Arthur	40
Rio Grande City	20
Rosenberg	45
San Angelo	11, 16, 19
San Antonio	*9, 12, *16, 30, 38, 39, 41, 48
Sherman	12
Snyder	17
Sweetwater	20
Temple	9
Texarkana	15
Tyler	7
Uvalde	26
Victoria	11, 15
Waco	10, *20, 26, 44
Weslaco	13
Wichita Falls	15, 22, 28

Wolfforth 43

UTAH

Community	Channel No.
Cedar City	14
Logan	12
Ogden	24, *36, 48
Price	11
Provo	29, 32, *44
Richfield	*19
Salt Lake City	13, 20, 34, 38, 40, *42, 46
St. George	9, *18
Vernal	16

VERMONT

Community	Channel No.
Burlington	13, 22, *32, 43
Hartford	25
Rutland	*9
St. Johnsbury	*18
Windsor	*24

VIRGINIA

Community	Channel No.
Arlington	15
Ashland	47
Bristol	5
Charlottesville	19, 32, *46
Danville	24
Fairfax	*24
Front Royal	*21
Goldvein	*30
Grundy	49
Hampton	13
Hampton Norfolk	*16
Harrisonburg	49
Lynchburg	13, 20
Manassas	34
Marion	*42
Norfolk	33, 40, 46
Norton	*32
Petersburg	22
Portsmouth	31, 50
Richmond	12, 25, 26, *42, *44

Roanoke	*3, 17, 18, 30, 36
Staunton	*11
Virginia Beach	7, 29

WASHINGTON

Community	Channel No.
Bellevue	33, 50
Bellingham	19, 35
Centralia	*19
Everett	31
Kennewick	44
Pasco	18
Pullman	*10, 24
Richland	26, *38
Seattle	*9, 25, 38, 39, 44, 48
Spokane	7, *8, 13, 20, 28, 34, 36
Tacoma	11, 13, 14, *27, *42
Vancouver	30
Walla Walla	9
Yakima	14, 16, *21, 33

WEST VIRGINIA

Community	Channel No.
Bluefield	40, 46
Charleston	19, 39, 41
Clarksburg	10, 12
Grandview	*10
Huntington	13, 23, *34
Lewisburg	8
Martinsburg	12
Morgantown	*33
Oak Hill	50
Parkersburg	49
Weston	5
Wheeling	7

WISCONSIN

Community	Channel No.
Antigo	46
Appleton	27
Chippewa Falls	49
Crandon	12
Eagle River	28
Eau Claire	13, 15

Fond Du Lac	44
Green Bay	11, 23, 39, 41, *42
Janesville	32
Kenosha	40
La Crosse	8, 14, 17, *30
Madison	11, 19, *20, 26, 50
Mayville	43
Menomonie	*27
Milwaukee	*8, 18, 22, 25, 28, 33, 34, *35, 46
Park Falls	*36
Racine	48
Rhineland	16
Superior	19
Suring	21
Wausau	7, 9, *24
Wittenberg	50

WYOMING

Community	Channel No.
Casper	*6, 12, 14, 17, 20
Cheyenne	11, 27, 30
Jackson	2, 11
Lander	7, *8
Laramie	*8
Rawlins	9
Riverton	10
Rock Springs	13
Sheridan	7, 13

GUAM

Community	Channel No.
Agana	8, 12
Tamuning	14

PUERTO RICO

Community	Channel No.
Aguada	50
Aguadilla	12, 17, *34
Arecibo	14, 46
Bayamon	30
Caguas	11, *48
Carolina	51
Fajardo	13, *16, 33
Guayama	45

Humacao	49
Mayaguez	22, 23, 29, 35
Naranjito	18
Ponce	7, 9, 15, 19, *25, 47
San Juan	21, 27, 28, 31, 32, *43
San Sebastian	39
Yauco	41

VIRGIN ISLANDS

Community	Channel No.
Charlotte Amalie	17, 43, *44
Christiansted	15, 20, 23

APPENDIX B

DTV Table of Allotments Information

The table in this appendix presents the Commission's assignments of DTV channel allotments to individual broadcast television stations for post-transition DTV operations. It sets forth the technical facilities – effective radiated power, antenna height above average terrain, and antenna identification code – and transmitter site for which each TV station is authorized on its post-transition channel. The table also provides information on stations' predicted service coverage and the percentage of their service population that would be affected by interference received from other DTV stations. The channels here are the same as those the Commission is including in the final DTV Table of Allotments (DTV Table), codified in Section 73.622(i) of the rules (*see* Appendix A.).

The table includes a DTV channel assignment for all television stations that are eligible under the qualifying criteria, set forth in the *Second DTV Periodic Report and Order* in this proceeding. The technical facilities parameters, which were also used for calculation of the tabulated engineering information, were developed in the three-round channel election process that the Commission conducted to create the proposed DTV Table. The proposed DTV Table was subsequently modified for some stations following the filing of comments in response to the *Seventh Further Notice* as well as the filing of petitions for reconsideration of the *Seventh Report and Order*. These technical facilities data are also available in an EXCEL format at <http://www.fcc.gov/dtv>.

Data Elements

Facility ID: A five-digit code for identification of TV or DTV stations associated with channel allotments. A unique code is assigned to each station at the time the Commission first receives an application for a construction permit for that station and does not change, even where the license for the station changes ownership or major changes are made to the station, such as a change of channel or community.

City and State: The city and state to which the channel is allotted and the station is licensed to serve.

NTSC Channel: The station's current analog (NTSC) channel. This field is left blank in the case of stations that are only licensed to operate digital television service. If a station currently operates only an analog channel, that analog channel will appear in this field. Note: Stations must cease analog operations at the end of the DTV transition on February 17, 2009. *See* 47 U.S.C. § 309(j)(14)(A).

DTV Channel: The channel assigned for the station's post-transition DTV operation.

DTV Power: The effective radiated power (ERP) for the station's post-transition DTV operation. This value is the ERP specified for the station's post-transition operation in the channel election process or modified in response to comments or petitions for reconsideration in this proceeding. Accordingly, the ERP may be the station's: (1) currently authorized ERP, (2) 1997 service replication ERP, (3) other allowable value to which it agreed to operate to resolve a conflict or as part of a negotiated agreement in the channel election process; or (4) in cases where a station's assigned DTV channel is not its current DTV channel, a value determined by the Commission that will enable the station to provide coverage of the station's service area as specified in the channel election process. The value shown is the maximum, over a set of uniformly spaced compass directions, of the ERP values used in determining the station's specified noise-limited DTV service contour. This value is used in the calculations of service and interference also shown herein.

In cases where the TV Engineering Database indicated employment of a directional antenna, the ERP in each specific direction was determined through linear interpolation of the relative field values describing the directional pattern. (The directional pattern stored in the FCC computer database provides relative field values at 10 degree intervals and may include additional values in special directions. The result of linear interpolation of these relative field values is squared and multiplied by the overall maximum ERP listed for the station in the TV Engineering Database to find the ERP in a specific direction.)

Where a station's ERP was determined by the Commission, it was calculated using the following methodology. First, the distance to the station's noise-limited DTV contour (or Grade B contour for stations that do not have a DTV channel) was determined in each of 360 uniformly spaced compass directions starting from true north. This determination was made using information in the engineering database, including directional antenna data, and using terrain elevation data at points separated by 3 arc-seconds of longitude and latitude, in conjunction with the FCC F(50,90) curves. The FCC curves (47 C.F.R. §73.699) were applied in the usual way, as described in 47 C.F.R. §73.684, to find this noise-limited contour distance, with the exception that dipole factor considerations were applied to the field strength contour specified in 47 CFR §73.683 for UHF channels.

The station's post-transition DTV ERP was then calculated by a further application of FCC curves, with noise-limited DTV coverage defined as the presence of field strengths of 28 dBu, 36 dBu, and 41 dBu as set forth in Section 73.622(e) of the rules, respectively for low-VHF, high-VHF and UHF, at 50 percent of locations and 90 percent of the time. The family of FCC propagation curves for predicting field strength at 50 percent of locations 90 percent of the time is found by the formula $F(50, 90) = F(50, 50) - [F(50, 10) - F(50, 50)]$. That is, the F(50, 90) value is lower than F(50, 50) by the same amount that F(50, 10) exceeds F(50, 50). At UHF, the precise value 41 dBu was applied for channel 38; and the value used for other UHF channels is 41 dBu plus a dipole factor modification. This results in reception on channel 14 needing 2.3 dB less, and channel 69 needing 2.3 dB more, than the 41 dBu for channel 38. The dipole factor modification used in ERP calculations is equal to 20 times \log_{10} of the ratio of the center frequency of the UHF channel of interest to the center frequency of channel 38.

In general, these computations of a station's DTV power on a new channel to match the distance to its noise-limited contour result in ERP values which vary with azimuth. For example, the azimuthal ERP pattern that replicates for a UHF channel, the noise-limited contour of an omnidirectional VHF operation will be somewhat different because terrain has a different effect on propagation in the two bands. Thus, the procedure described here effectively derives a new directional antenna pattern wherever necessary for a precise match according to FCC curves.

Finally, the ERP specified for a station's new UHF DTV channel was limited so that it does not exceed 1 megawatt. This was done by scaling the azimuthal power pattern rather than by truncation. For example, if replication by FCC curves as described above requires an ERP of 1.2 megawatts, the power pattern is reduced by a factor of 1.2 in all directions. The azimuthal pattern is used in subsequent service and interference calculations for the station.

Antenna Height: The height of the station's transmitting antenna above average terrain, that is, antenna height above average terrain (antenna HAAT). In general, the antenna HAAT value shown for each station is the same as that specified for the station in the channel election process. This value represents the height of the radiation center of the station whose service area is being replicated, above terrain averaged from 3.2 to 16.1 kilometers (2 to 10 miles) from the station's transmitter site, over 8 evenly spaced radials. In computations of service coverage and interference, the value of antenna HAAT was determined every 5 degrees directly from the terrain elevation data, and by linear interpolation for

compass directions in between.

Antenna ID: A six digit number that identifies the radiation pattern for the station's transmitting antenna that is stored in the Commission's Consolidated Database System (CDBS). In cases where a station's post-transition channel is the same as its currently assigned DTV channel, the station's antenna pattern is the same as its certified facilities antenna. In other cases, such as where a station chose its analog channel or a different channel, or where the Commission's staff selected a "best available" channel for the station's post-transition operation, the antenna pattern for the station was developed by our computer software to allow the station to replicate the coverage area reached by operation at its certified facilities on its proposed channel (i.e., the station's TCD from the channel election process); or the station has indicated that it would use a particular antenna for its post-transition operation in the channel election process, the station's antenna pattern is the same as specified in Schedule B of FCC Forms 383 and 385. These antenna patterns are used in the calculation of service area and interference. The CDBS can be accessed on the Internet at www.fcc.gov/mb/cdbs.html.

Transmitter Latitude: The geographic latitude coordinates of the station's transmitter location.

Transmitter Longitude: The geographic longitude coordinates of the station's transmitter location.

Service Area, Service Population, and Percent Interference Received: Under the heading "DIGITAL TELEVISION SERVICE AFTER THE TRANSITION," prospective conditions are evaluated in terms of both area and population. The values tabulated under this heading are net values: service area is the area within a station's noise-limited service contour where the desired signal is above the DTV noise threshold, less the area where service receives predicted interference from other DTV stations. Similarly, the number of people served is the population within a station's noise-limited service contour receiving an adequate signal relative to noise excluding people in areas with predicted interference. The level of interference received to a station's service is calculated based on desired-to-undesired (D/U) ratios, and these levels must be above certain threshold values for acceptable service. The percent interference received value is the percentage of the station's service coverage within its noise-limited service contour that is affected by predicted interference from other DTV stations. The threshold values used to prepare the interference estimates in this appendix are those set forth in Section 73.623(c) of the rules, 47 C.F.R. § 73.623(c). The procedure used to identify areas of service and interference is that specified in *OET Bulletin No. 69*. See *OET Bulletin No. 69*, Longley-Rice Methodology for Evaluating TV Coverage and Interference, February 6, 2004 ("*OET Bulletin No. 69*"), available at www.fcc.gov/Bureaus/Engineering_Technology/Documents/bulletins/oet69/oet69.pdf.

**[Note: DTV Table of Allotments Information
is attached separately in Microsoft Excel format.]**

APPENDIX C

List of Petitions for Reconsideration, Oppositions, and Replies

Petitions for Reconsideration (filed by October 26, 2007)

1. Ackerley Broadcasting Operations, LLC
2. Allbritton Communications Company & Gannett Co., Inc.
3. American Christian Television Service, Inc.
4. Arkansas 49, Inc.
5. Arkansas Educational Television Commission
6. Bahakel Communications, Ltd.
7. Barrington Traverse City Licensee, LLC
8. Belo Corp.
9. BlueStone License Holdings, Inc.
10. Board of Regents of the Montana University System
11. Board of Regents of the Montana University System
12. Brigham Young University
13. CBS Corporation
14. CBS Corporation
15. Channel 20 TV Company
16. Community Television of Southern California
17. Connecticut Public Broadcasting, Inc.
18. Corridor Television, LLP
19. Davis Television Clarksburg, LLC
20. Duluth-Superior Area Educational Television Corporation
21. Ellis Communications KDOC Licensee, Inc.
22. Florida West Coast Public Broadcasting, Inc.
23. Fort Meyers Broadcasting Company
24. Fox Television Stations, Inc.
25. Gannett Co., Inc.
26. Georgia Public Telecommunications Commission
27. Granite Broadcasting Corporation
28. Granite Broadcasting Corporation
29. Gray Television, Inc.
30. Hawaii Public Television Foundation
31. Hearst-Argyle Television, Inc.
32. Hoak Media, LLC
33. Hoak Media, LLC
34. Holston Valley Broadcasting Corporation
35. Hubbard Broadcasting, Inc. KAAL-DT
36. Hubbard Broadcasting, Inc. WDIO-DT
37. Hubbard Broadcasting, Inc. WIRT-DT
38. Hubbard Broadcasting, Inc.
39. Hubbard Broadcasting, Inc.
40. Independence Television Company
41. Independent Communications, Inc.
42. Independent Communications, Inc.
43. International Broadcasting Corporation
44. Joint Public Television Petitioners
45. KAZT, LLC

46. KEVN, Inc.
47. KTVU Partnership
48. KWWL Television, Inc.
49. Lambert Broadcasting of Burlington, LLC
50. Lehigh Valley Public Telecommunications Corp.
51. Lima Communications Corporation
52. LIN Television Corporation
53. Long Communications, LLC
54. Malara Broadcast Group, Inc.
55. Maranatha Broadcasting Company, Inc.
56. Media General Communications Holdings, LLC
57. Media General Communications Holdings, LLC
58. Media General Communications Holdings, LLC
59. Media General Communications Holdings, LLC
60. Media General Communications Holdings, LLC
61. Media General Communications Holdings, LLC
62. Media General Communications Holdings, LLC
63. Media General Communications Holdings, LLC
64. Media General Communications Holdings, LLC
65. Media General Communications Holdings, LLC
66. Meredith Corporation
67. Meredith Corporation
68. Meredith Corporation
69. Mississippi Authority for Educational Television
70. Mississippi Television, LLC
71. Montana State University
72. Montecito Hawaii License, LLC
73. Montecito Hawaii License, LLC
74. The Association for Maximum Service Television - MSTV
75. Mt. Mansfield Television, Inc.
76. Mullaney Engineering, Inc.
77. Nashville Public Television, Inc.
78. NBC Telemundo License Co.
79. Nexstar Broadcasting, Inc.
80. Oklahoma Educational Television Authority
81. Pappas Telecasting of America & South Central Communications Corporation
82. Paxson Denver License, Inc.
83. Post-Newsweek Stations, Orlando, Inc.
84. Radio Perry, Inc.
85. Raycom Media, Inc.
86. Red River Broadcast Co., LLC KBRR-DT
87. Red River Broadcast Co., LLC KNRR-DT
88. Rocky Mountain Public Broadcasting Network, Inc.
89. Schurz Communications, Inc.
90. Scripps Howard Broadcasting Company
91. Silverton Broadcasting Company, Inc., Mark III Media, Inc. and First National Broadcasting Corp.
92. Sky Television, LLC
93. South Carolina Educational Television Commission
94. Southeastern Media Holdings, Inc.
95. Southern TV Corporation

96. Sunflower Broadcasting
97. Surtsey Media, LLC
98. Tribune Broadcasting Company
99. Tri-State Public Teleplex, Inc.
100. Marcia T. Turner d/b/a Turner Enterprises
101. Twin Cities Public Television, Inc.
102. United Communications Corporation
103. University of Alaska
104. University of Houston System
105. Univision Communications, Inc.
106. Univision New York, LLC
107. Vermont ETV, Inc.
108. The Walt Disney Company
109. WDEF-TV, Inc.
110. West Virginia Media Holdings LLC
111. WHYI, Inc.
112. Winston Broadcasting Network, Inc.
113. Withers Broadcasting Company of West Virginia
114. WMMP Licensee, L.P.
115. WNAC, LLC
116. Woods Communications Corporation
117. WSJV Television, Inc.
118. WTAT Licensee, LLC
119. WTOV, Inc.
120. WTVZ Licensee, LLC
121. WTVV Licensee, Inc.
122. WWAZ License, LLC
123. WWBT, Inc.
124. Dr. Joseph A. Zavaletta

Oppositions (filed by November 6, 2007 or December 3, 2007)

1. Alamo Public Telecommunications Council
2. KTBC License, Inc.
3. Mid State Television, Inc.
4. Primeland Television, Inc.
5. Sonshine Family Television, Inc.
6. Sonshine Family Television, Inc.
7. State of Wisconsin-Educational Communications Board
8. The Association for Maximum Service Television, Inc.
9. The Board of Trustees of the University of Alabama
10. West Virginia Educational Broadcasting Authority
11. WOOD License Company, LLC
12. WTNH Broadcasting, Inc.

Replies to Oppositions (filed by November 16, 2007 or December 13, 2007)

1. Barrington Traverse City Licensee, LLC (12/21/07) (Request for Extension filed on 12/13)
2. Belo Corp.
3. Connecticut Public Broadcasting, Inc.
4. Corridor Television, LLP
5. Gannett Co., Inc.

6. Gannett Co., Inc.
7. Robert E. Lee
8. Twin Cities Public Television, Inc.

Other Pleadings

1. Allbritton Communications Company & Gannett Co., Inc.
2. Arkansas Educational Television Commission
3. Bahakel Communications, Ltd.
4. Barrington Traverse City Licensee, LLC
5. Brigham Young University
6. Connecticut Public Broadcasting, Inc.
7. Corridor Television, LLP
8. Corridor Television, LLP
9. Dan Priestley
10. Fox Television Stations of Philadelphia, Inc.
11. Gannett Co., Inc.
12. Hawaii Public Television Foundation
13. Hoak Media, LLC
14. Holston Valley Broadcasting Corporation
15. Holston Valley Broadcasting Corporation
16. Holston Valley Broadcasting Corporation
17. Hubbard Broadcasting, Inc., KAAL-DT
18. KEVN, Inc.
19. Koplars Communications International
20. KWVL Television, Inc.
21. Lehigh Valley Public Telecommunications Corp.
22. Media General
23. Media General
24. Media General
25. Robert E. Lee
26. SagamoreHill Broadcasting of Wyoming/Northern Colorado, LLC
27. Sangre de Cristo Communications, Inc.
28. Sunbelt Multimedia Co
29. United Communications
30. West Virginia Media Holdings, LLC
31. WKYC-TV, Inc.
32. WMMP Licensee L.P.
33. WTAT Licensee, LLC
34. WTVZ Licensee, LLC
35. WVTM Licensee, Inc.

Ex Parte/Late Filed Comments (filed after October 26, 2007, December 13, 2007 and November 16, 2007)

1. Davis Television Wasau, LLC
2. EME Communications
3. KMBC Hearst-Argyle Television, Inc.
4. Mountain TV, LLC
5. School Board of Miami Dade County, Florida
6. Lake Superior Community Broadcast Corporation

7. Mullaney Engineering Inc.

Notices of Ex Parte Communications

1. Allbritton Communications Company & Gannett Co., Inc.
2. Association of Public Television Stations
3. Capitol Broadcasting/Hubbard Broadcasting
4. Cohen, Dippell and Everist, P.C.
5. Georgia Public Telecommunications Commission
6. Holston Valley Broadcasting Corporation
7. ION Media Networks
8. ION Media Networks, Inc.
9. MSTV
10. MSTV
11. MSTV
12. MSTV
13. MSTV Inc.
14. MSTV Inc.
15. MSTV Inc.
16. MSTV Inc.
17. MSTV Inc.
18. MSTV Inc.
19. Sunflower Broadcasting, Inc.
20. The Association of Maximum Service Television – MSTV
21. The Walt Disney Company, CBS Corporation, Capitol Broadcasting, Hubbard Broadcasting
22. Tribune Broadcasting Company

APPENDIX D1

Granted Requests for Minor Adjustments

Call Sign	Facility ID No.	Community	State	Current NTSC Channel	Current DTV Channel	Post Transition Channel
WISE	13960	FORT WAYNE	IN	33	19	19
KCTV	41230	KANSAS CITY	MO	5	24	24
KMDE	162016	DEVILS LAKE	ND		25	25
WCNY	53734	SYRACUSE	NY	24	25	25
KBJR	33658	SUPERIOR	WI	6	19	19

APPENDIX D2

Granted Requests for Changes to Certification that Meet the Interference Criteria

Call Sign	Facility ID No.	Community	State	Current NTSC Channel	Current DTV Channel	Post Transition Channel	File No.
KAKM	804	ANCHORAGE	AK	7	8	8	BLEDT-20050915APL
WFIQ	715	FLORENCE	AL	36	22	22	BLEDT-20060718ACG
WHIQ	713	HUNTSVILLE	AL	25	24	24	BLEDT-20060927ALU
WAIQ	706	MONTGOMERY	AL	26	27	27	BLEDT-20060706ACK
KKYK	86534	CAMDEN	AR	49		49	BPCDT-20050224ABE
KDOC	24518	ANAHEIM	CA	56	32	32	BMPCDT-20040323ATA
KAEF	8263	ARCATA	CA	23	22	22	BPCDT-20070914AAG
KVCR	58795	SAN BERNARDINO	CA	24	26	26	BLEDT - 20070904AIC
KPXC	68695	DENVER	CO	59	43	43	BPCDT-19990923AAM
KRMA	14040	DENVER	CO	6	18	18	BMPEdT-20061205AAG
KFCT	125	FORT COLLINS	CO	22	21	21	BMPCDT-20050916ACG
WINK	22093	FORT MYERS	FL	11	9	9	BLCDT-20060531ADP
WCWJ	29712	JACKSONVILLE	FL	17	34	34	BLCDT-20060630AFM
WSRE	17611	PENSACOLA	FL	23	31	31	BLEDT-20060621AAS
WGSA	69446	BAXLEY	GA	34	35	35	BMPCDT-20060717AAC
WPGA	54728	PERRY	GA	58	32	32	BMPCDT-20041203ADW

KFVE	34445	HONOLULU	HI	5	23	23	BDSTA- 20041012AKF
KHNL	34867	HONOLULU	HI	13	35	35	BLCDT- 20070220ABH
KQIN	5471	DAVENPORT	IA	36	34	34	BMPEDT- 20070809AAX
KTIN	29100	FORT DODGE	IA	21	25	25	BMPEDT- 20060911AAJ
KYIN	29086	MASON CITY	IA	24	18	18	BMPEDT- 20060714ABL
KSIN	29096	SIOUX CITY	IA	27	28	28	BLEDT- 20050726AMC
WSBT	73983	SOUTH BEND	IN	22	30	22	BMPCDT- 20050613AFU
KSWK	60683	LAKIN	KS	3	8	8	BLEDT- 20050203ADS
WKLE	34207	LEXINGTON	KY	46	42	42	BLEDT- 20060926AJQ
KALB	51598	ALEXANDRIA	LA	5	35	35	BPCDT- 19991025ACQ
WWLP	6868	SPRINGFIELD	MA	22	11	11	BLCDT- 20060619AAS
KDLH	4691	DULUTH	MN	3	33	33	BMPCDT- 20060519AAE
KOZJ	51101	JOPLIN	MO	26	25	25	BLEDT- 20060620ABP
KYTV	36003	SPRINGFIELD	MO	3	44	44	BLCDT- 20020213AAA
KUSM	43567	BOZEMAN	MT	9	8	8	BLEDT- 20050926ALC
WSFX	72871	WILMINGTON	NC	26	30	30	BMPCDT- 20060630ADE
KRWG	55516	LAS CRUCES	NM	22	23	23	BMPEDT- 20041104AXJ
WNLO	71905	BUFFALO	NY	23	32	32	BLCDT- 20070320AAV
WSKA	78908	CORNING	NY	30		30	BLEDT- 20060705ABL
WBNX	72958	AKRON	OH	55	30	30	BLCDT- 20070430AXX

WCET	65666	CINCINNATI	OH	48	34	34	BLEDT-20061031AAR
WLIO	37503	LIMA	OH	35	8	8	BMPCDT-20060517ABE
WQCW	65130	PORTSMOUTH	OH	30	17	17	BLCDT-20060630AFJ
WFMZ	39884	ALLENTOWN	PA	69	46	46	BLCDT-20060621AAU
WITF	73083	HARRISBURG	PA	33	36	36	BLEDT-20000922AHE
WMTJ	2174	FAJARDO	PR	40	16	16	BMPEdT-20070629AEN
WTCV	28954	SAN JUAN	PR	18	32	32	BPCDT-20070125AAX
WRLK	61013	COLUMBIA	SC	35	32	32	BMLEDT-20040826AAL
WSMV	41232	NASHVILLE	TN	4	10	10	BLCDT-20021029AAV
KXAN	35920	AUSTIN	TX	36	21	21	BLCDT-20050630AAG
KTLM	62354	RIO GRANDE CITY	TX	40	20	20	BPCDT-19991026ACA
KBYU	6823	PROVO	UT	11	44	44	BLEDT-20020813ABC
WDBJ	71329	ROANOKE	VA	7	18	18	BLCDT-20020502AAP
WETK	69944	BURLINGTON	VT	33	32	32	BLEDT-20061011ADW
WVNY	11259	BURLINGTON	VT	22	13	13	BLCDT-20061113ABH
WVTB	69940	ST. JOHNSBURY	VT	20	18	18	BPEDT-20071026ABW
WVTA	69943	WINDSOR	VT	41	24	24	BMPEdT-20060306BRA
WHLA	18780	LA CROSSE	WI	31	30	30	BMLEDT-20041013AAL
WHRM	73036	WAUSAU	WI	20	24	24	BLEDT-20051014AAW

APPENDIX D3

Granted Requests for Modified Coverage Area

Call Sign	Facility ID No.	Community	State	Current NTSC Channel	Current DTV Channel	Post Transition Channel
WVTM	74173	BIRMINGHAM	AL	13	52	13
KETS	2770	LITTLE ROCK	AR	2	5	7
KNAZ	24749	FLAGSTAFF	AZ	2	22	2
KCET	13058	LOS ANGELES	CA	28	59	28
KXTV	25048	SACRAMENTO	CA	10	61	10
WJLA	1051	WASHINGTON	DC	7	39	7
WUSA	65593	WASHINGTON	DC	9	34	9
WHYY	72338	WILMINGTON	DE	12	55	12
WTSP	11290	ST. PETERSBURG	FL	10	24	10
WPTV	59443	WEST PALM BEACH	FL	5	55	12
WGTV	23948	ATHENS	GA	8	12	8
KWWL	593	WATERLOO	IA	7	55	7
KTVB	34858	BOISE	ID	7	26	7
WNIN	67802	EVANSVILLE	IN	9	12	9
WBKO	4692	BOWLING GREEN	KY	13	33	13
WHAS	32327	LOUISVILLE	KY	11	55	11
WLBZ	39644	BANGOR	ME	2	25	2
WBKP	76001	CALUMET	MI	5	11	5
WILX	6863	ONONDAGA	MI	10	57	10
WPBN	21253	TRAVERSE CITY	MI	7	50	7
WDIO	71338	DULUTH	MN	10	43	10
KEYC	68853	MANKATO	MN	12	38	12
WJTV	48667	JACKSON	MS	12	52	12
WTOK	4686	MERIDIAN	MS	11	49	11
KOBF	35321	FARMINGTON	NM	12	17	12
WWNY	68851	CARTHAGE	NY	7	35	7
WHEC	70041	ROCHESTER	NY	10	58	10
WTVG	74150	TOLEDO	OH	13	19	13
KOED	66195	TULSA	OK	11	38	11
WGAL	53930	LANCASTER	PA	8	58	8
WSUR	19776	PONCE	PR	9	43	9
WJAR	50780	PROVIDENCE	RI	10	51	51

WBTW	66407	FLORENCE	SC	13	56	13
WHNS	72300	GREENVILLE	SC	21	57	21
WYFF	53905	GREENVILLE	SC	4	59	36
KTTM	28501	HURON	SD	12	22	12
WMC	19184	MEMPHIS	TN	5	52	5
KCPQ	33894	TACOMA	WA	13	18	13
KSTW	23428	TACOMA	WA	11	36	11
WDTV	70592	WESTON	WV	5	6	5

APPENDIX D4

Granted Requests for Alternative Channel Assignments

Call Sign	Facility ID No.	Community	State	Current NTSC Channel	Current DTV Channel	Post Transition Channel
KTVF	49621	FAIRBANKS	AK	11	26	26
KIDA	81570	SUN VALLEY	ID	5		5
KSCW	72348	WICHITA	KS	33	31	19
WUFX	84253	VICKSBURG	MS	35		41
WTLW	1222	LIMA	OH	44	47	44
KIVV	34348	LEAD	SD	5	29	5
WKPT	27504	KINGSPORT	TN	19	27	27
KVAW	32621	EAGLE PASS	TX	16	18	24

APPENDIX D5

Stations Requesting Changes that Should be Requested in an Application

(Stations Whose Post-Transition Channel is Different from Their Pre-Transition Channel)

Call Sign	Facility ID No.	Community	State	Current NTSC Channel	Current DTV Channel	Post Transition Channel
KBRR	55370	THIEF RIVER FALLS	MN	10	57	10
KBSH	66415	HAYS	KS	7	20	7
KCBS	9628	LOS ANGELES	CA	2	60	43
KDSE	53329	DICKINSON	ND	9	20	9
KETZ	92872	EL DORADO	AR		12	10
KFME	53321	FARGO	ND	13	23	13
KFVS	592	CAPE GIRARDEAU	MO	12	57	12
KGIN	7894	GRAND ISLAND	NE	11	32	11
KHAS	48003	HASTINGS	NE	5	21	5
KNOP	49273	NORTH PLATTE	NE	2	22	2
KNRR	55362	PEMBINA	ND	12	15	12
KOLN	7890	LINCOLN	NE	10	25	10
KPNE	47973	NORTH PLATTE	NE	9	16	9
KRMJ	14042	GRAND JUNCTION	CO	18	17	18
KTCI	68597	ST. PAUL	MN	17	16	26
KTSC	69170	PUEBLO	CO	8	26	8
KUAC	69315	FAIRBANKS	AK	9	24	9
KUHT	69269	HOUSTON	TX	8	9	8
KUPK	65535	GARDEN CITY	KS	13	18	13
KWCH	66413	HUTCHINSON	KS	12	19	12
KWTX	35903	WACO	TX	10	53	10
WAKA	701	SELMA	AL	8	55	42
WBKO	4692	BOWLING GREEN	KY	13	33	13
WCAX	46728	BURLINGTON	VT	3	53	22
WDSE	17726	DULUTH	MN	8	38	8
WEAU	7893	EAU CLAIRE	WI	13	39	13
WEDU	21808	TAMPA	FL	3	54	13
WIBW	63160	TOPEKA	KS	13	44	13
WJHG	73136	PANAMA CITY	FL	7	8	7
WLEF	63046	PARK FALLS	WI	36	47	36
WLVT	36989	ALLENTOWN	PA	39	62	39

WNPT	41398	NASHVILLE	TN	8	46	8
WPTD	25067	DAYTON	OH	16	58	16
WPVI	8616	PHILADELPHIA	PA	6	64	6
WRDW	73937	AUGUSTA	GA	12	31	12
WSAW	6867	WAUSAU	WI	7	40	7
WSKY	76324	MANTEO	NC	4	4	9
WTAT	416	CHARLESTON	SC	24	40	24
WTVM	595	COLUMBUS	GA	9	47	9
WTVZ	40759	NORFOLK	VA	33	38	33
WVTV	74174	MILWAUKEE	WI	18	61	18

(Stations Whose Post-Transition Channel is the Same as Their Pre-Transition Channel)

Call Sign	Facility ID No.	Community	State	Current NTSC Channel	Current DTV Channel	Post Transition Channel
KBTV	61214	PORT ARTHUR	TX	4	40	40
KFNR	21612	RAWLINS	WY	11	9	9
KGWL	63162	LANDER	WY	5	7	7
KMID	35131	MIDLAND	TX	2	26	26
KQTV	20427	ST. JOSEPH	MO	2	53	7
KTWO	18286	CASPER	WY	2	17	17
KUPN	63158	STERLING	CO	3	23	23
KVEA	19783	CORONA	CA	52	39	39
WBBJ	65204	JACKSON	TN	7	43	43
WFXV	43424	UTICA	NY	33	27	27
WHKY	65919	HICKORY	NC	14	40	40
WMYO	34167	SALEM	IN	58	51	51

APPENDIX E

Supplemental Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (“RFA”)¹ an Initial Regulatory Flexibility Analysis (“IRFA”) was incorporated in the *Seventh Further Notice of Proposed Rulemaking* (“*Seventh Further Notice*”) in MB Docket 87-268.² The Commission sought written public comment on the proposals in the *Seventh Further Notice*, including comment on the IRFA. In addition, a Final Regulatory Flexibility Analysis (“FRFA”) was incorporated in the *Seventh Report and Order* in MB Docket 87-268.³ This present Supplemental Final Regulatory Flexibility Analysis (“Supplemental FRFA”) on the *Memorandum Opinion and Order on Reconsideration* conforms to the RFA.⁴

A. Need for, and Objectives of, the Order on Reconsideration

2. The Commission initiated this proceeding to establish a final DTV Table of Allotments with the *Seventh Further Notice*, which proposed a final, post-transition DTV channel for each eligible⁵ full power television broadcast station. After reviewing comments, the Commission adopted a final DTV Table in the *Seventh Report and Order*. The Commission received approximately 124 petitions for reconsideration of the *Seventh Report and Order* requesting changes to the Table and/or to the station operating parameters on Appendix B for more than 200 stations. This *Memorandum Opinion and Order on Reconsideration* responds to these petitions and, in response to some of the petitions, modifies the DTV Table and/or Appendix B adopted in the *Seventh Report and Order*. This Supplemental FRFA is associated with the *Memorandum Opinion and Order on Reconsideration* and discusses the changes made to the DTV Table and Appendix B in response to the petitions for reconsideration.

3. The final post-transition DTV Table, as modified herein on reconsideration, finalizes the channel and facilities necessary to complete the digital transition for full power television stations, including full power commercial and noncommercial broadcast television stations. The changes we made to the DTV Table and Appendix B in response to the petitions will help promote overall spectrum efficiency and ensure the best possible service to the public, including service to local communities. For example, for 55 stations, we made changes to Appendix B station operating parameters to be consistent with current authorizations for these stations. For 8 stations, we granted channel changes requested by the station, which will assist those stations in making the transition to digital service and in continuing to serve their communities. For 40 stations, we modified the station’s post-transition coverage area to help the station better serve their community post-transition, and for 6 stations we granted minor changes to

¹ See 5 U.S.C. § 603. The RFA, see 5 U.S.C. § 601 - 612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (“SBREFA”), Pub. L. No. 104-121, Title II, 110 Stat. 847 (1996).

² *Seventh Further Notice of Proposed Rule Making, In the Matter of Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, MB Docket No. 87-268, 21 FCC Rcd 12100 (2006) (“*Seventh Further Notice*”).

³ See *Seventh Report and Order, In the Matter of Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, MB Docket No. 87-268, 22 FCC Rcd 15581 (2007) (“*Seventh Report and Order*”).

⁴ See 5 U.S.C. § 604.

⁵ Only Commission licensees and permittees were eligible to participate in the channel election process to select a final DTV channel. See *Second DTV Periodic Report and Order*, 19 FCC Rcd at 1830, ¶ 66.

Appendix B station parameters to reflect correct coordinates for the station. These and other changes to the final DTV Table and Appendix B made herein will assist these broadcasters in transitioning to digital service.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

4. There were no comments filed that specifically addressed the FRFA in this proceeding.

C. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

5. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the rules adopted herein.⁶ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small government jurisdiction.”⁷ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.⁸ A small business concern is one which: (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).⁹ The rules of this *MO&O* will primarily affect full power television stations, as opposed to low power television stations and television translator stations. A description of such small entities, as well as an estimate of the number of such small entities, is provided below.

6. *Television Broadcasting.* The rules and policies adopted in this *MO&O* apply to television broadcast licensees and potential licensees of television service. The SBA defines a television broadcast station as a small business if such station has no more than \$13.0 million in annual receipts.¹⁰ Business concerns included in this industry are those “primarily engaged in broadcasting images together with sound.”¹¹ The Commission has estimated the number of licensed commercial television stations to be 1,376.¹² According to Commission staff review of the BIA Financial Network, MPro Television

⁶ 5 U.S.C. § 603(b)(3).

⁷ *Id.* § 601(6).

⁸ *Id.* § 601(3) (incorporating by reference the definition of “small business concern” in 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.” 5 U.S.C. § 601(3).

⁹ 15 U.S.C. § 632. Application of the statutory criteria of dominance in its field of operation and independence are sometimes difficult to apply in the context of broadcast television. Accordingly, the Commission’s statistical account of television stations may be over-inclusive.

¹⁰ See 13 C.F.R. § 121.201, NAICS Code 515120.

¹¹ *Id.* This category description continues, “These establishments operate television broadcasting studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studios, from an affiliated network, or from external sources.” Separate census categories pertain to businesses primarily engaged in producing programming. See Motion Picture and Video Production, NAICS code 512110; Motion Picture and Video Distribution, NAICS Code 512120; Teleproduction and Other Post-Production Services, NAICS Code 512191; and Other Motion Picture and Video Industries, NAICS Code 512199.

¹² See News Release, “Broadcast Station Totals as of December 31, 2006,” 2007 WL 221575 (dated Jan. 26, 2007) (“*Broadcast Station Totals*”); also available at <http://www.fcc.gov/mb/>.

Database (“BIA”) on March 30, 2007, about 986 of an estimated 1,374 commercial television stations¹³ (or about 72 percent) have revenues of \$13.0 million or less and thus qualify as small entities under the SBA definition. The Commission has estimated the number of licensed NCE television stations to be 380.¹⁴ We note, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations¹⁵ must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. The Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

7. In addition, an element of the definition of “small business” is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply do not exclude any television station from the definition of a small business on this basis and are therefore over-inclusive to that extent. Also as noted, an additional element of the definition of “small business” is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities and our estimates of small businesses to which they apply may be over-inclusive to this extent.

8. *Class A TV, LPTV, and TV translator stations.* The rules and policies adopted in this *MO&O* do not directly affect low power television stations, as the DTV Table adopted in the *MO&O* finalizes post-transition digital channels only for full power television stations. Nonetheless, as discussed in Section E, *infra*, low power television stations will also eventually transition from analog to digital technology and may be indirectly affected by the channel allotment decisions herein. The broadcast stations indirectly affected include licensees of Class A TV stations,¹⁶ low power television (LPTV) stations, and TV translator stations, as well as to potential licensees in these television services. The same SBA definition that applies to television broadcast licensees would apply to these stations. The SBA defines a television broadcast station as a small business if such station has no more than \$13.0 million in annual receipts.¹⁷ Currently, there are approximately 567 licensed Class A stations, 2,227 licensed LPTV stations, and 4,518 licensed TV translators.¹⁸ Given the nature of these services, we will presume that all of these licensees qualify as small entities under the SBA definition. We note, however, that under the SBA’s definition, revenue of affiliates that are not LPTV stations should be aggregated with the LPTV station revenues in determining whether a concern is small. Our estimate may thus overstate the number of small entities since the revenue figure on which it is based does not include or aggregate revenues from

¹³ We recognize that this total differs slightly from that contained in *Broadcast Station Totals*, *supra* note 12; however, we are using BIA’s estimate for purposes of this revenue comparison.

¹⁴ See *Broadcast Station Totals*, *supra* note 12.

¹⁵ “[Business concerns] are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has to power to control both.” 13 C.F.R. § 121.103(a)(1).

¹⁶ In general, low power television stations are secondary to full power television stations and must accept interference from full power stations. The Community Broadcasters Protection Act, and the Commission’s rules implementing that statute, give certain low power television (LPTV) stations, known as Class A stations, some limited protection from interference by full-service stations. See Community Broadcasters Protection Act of 1999, Pub. L. No. 106-113, 113 Stat. Appendix I at pp. 1501A-594 – 1501A-598 (1999), codified at 47 U.S.C. § 336(f). See also 47 C.F.R. §§ 73.6000-6027.

¹⁷ See 13 C.F.R. § 121.201, NAICS Code 515120.

¹⁸ See *Broadcast Station Totals*, *supra* note 12.

non-LPTV affiliated companies. We do not have data on revenues of TV translator or TV booster stations, but virtually all of these entities are also likely to have revenues of less than \$13.0 million and thus may be categorized as small, except to the extent that revenues of affiliated non-translator or booster entities should be considered.

D. Description of Projected Reporting, Recordkeeping and other Compliance Requirements

9. The rules adopted in this *MO&O* involve no changes to reporting, recordkeeping, or other compliance requirements beyond what is already required under the current regulations.

E. Steps Taken to Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

10. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.¹⁹

11. As noted in paragraph 3 of this Supplemental FRFA, we made a number of changes to the final DTV Table and Appendix B in the *Memorandum Opinion and Order on Reconsideration* in response to petitions for reconsideration filed on behalf of stations. The changes we made will help promote overall spectrum efficiency and ensure the best possible service to the public, including service to local communities. In general, we accommodated the requests made by petitioners to the extent possible consistent with the interference and other standards outlined in the *Seventh Further Notice* and the *Seventh Report and Order* in this proceeding. Making changes wherever possible in response to station requests and consistent with previous standards advances the Commission's overall goal of facilitating the digital transition. An alternative, which we did not pursue, would have been to consider petitions without reference to the interference and other standards set forth in the *Seventh Further Notice* and the *Seventh Report and Order*. We rejected that alternative on the ground that station requests should be treated consistently to the extent possible, so that stations that requested relief earlier in the proceeding, in a comment filed in response to the *Seventh Further Notice*, do not get treated differently from those that requested relief later, in a petition for reconsideration filed in response to the *Seventh Report and Order*.

12. The changes to the final post-transition DTV Table adopted in the *Memorandum Opinion and Order on Reconsideration* provides stations that filed petitions for reconsideration – large and small alike – with the best channels and facilities possible for accomplishing the digital transition. Large and small broadcasters alike benefited from our approach of accommodating petitioner requests where possible, which was taken in an effort to expedite finalization of the DTV Table and Appendix B so that stations can complete construction of their post-transition facilities by the statutory deadline for the DTV transition. Where petitioners made specific requests for changes to the proposals in the *Seventh Further Notice*, requests that provided for an alternative service area for the station or parameters that differed from those adopted by the Commission, those requests were granted to the extent possible consistent with the standards of the *Seventh Further Notice* and the *Seventh Report and Order* and, in particular, with the

¹⁹ 5 U.S.C. § 603(c)(1)-(c)(4).

applicable interference standards. This process has been open and transparent, and has provided consistent treatment for large and small broadcasters.

13. The final DTV Table adopted herein does not provide for channels for low power television stations, and we received no petitions for reconsideration from low power stations. The Commission will address the digital transition for low power television (“LPTV”) stations in a separate proceeding. The statutory transition deadline established by Congress in 2006 – February 17, 2009 - applies only to full-power stations.²⁰ One of the Commission’s goals in this proceeding is to permit full power stations to finalize their post-transition facilities by this rapidly approaching deadline. The Commission previously determined that it has discretion under 47 U.S.C. § 336(f)(4) to set the date by which analog operations of stations in the low power and translator service must cease.²¹ The Commission has stated that the intent is to ensure that low power and translator stations not be required to prematurely convert to digital operation in a manner that could disrupt their analog service or, more importantly, that might cause them to cease operation.²² The Commission decided not to establish a fixed termination date for the low power digital television transition until it resolved the issues concerning the transition of full-power television stations.²³ The Commission has recognized that low power television stations are a valuable component of the nation’s television system and has stated its intention to facilitate, wherever possible, the digital transition of these stations.²⁴

F. Report to Congress

14. The Commission will send a copy of this *MO&O*, including this Supplemental FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act.²⁵ In addition, the Commission will send a copy of this *MO&O*, including the Supplemental FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of this *MO&O* and Supplemental FRFA (or summaries thereof) will also be published in the Federal Register.²⁶

²⁰ See Digital Television and Public Safety Act of 2005, which is Title III of the Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4 (2006) (codified at 47 U.S.C. §§ 309(j)(14) and 337(e)).

²¹ *Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations*, MB Docket No. 03-185, Report and Order, [19 FCC Rcd 19331, 19336 ¶ 12 \(2004\)](#) (“*LPTV DTV Report and Order*”).

²² *Id.* at 19337 ¶ 14.

²³ *Id.* at 19336 ¶ 19.

²⁴ *Id.* at 19332, ¶ 1.

²⁵ See 5 U.S.C. § 801(a)(1)(A).

²⁶ See *id.* § 604(b).

APPENDIX F**Eighth Report and Order****List of Comments and Replies**

1. Richland Reserve, LLC
2. Fox Television Stations of Philadelphia, Inc.
3. Maryland Public Broadcasting Commission d/b/a Maryland Public Television
4. Saga Quad States Communications
5. Gray Television Licensee, Inc.
6. Gilmore Broadcasting Corp.
7. Idaho Independent Television, Inc.
8. The Board of Trustees of The University of Alabama
9. CBS Corporation
10. Tribune Broadcasting Co.

APPENDIX G

Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (“RFA”)¹ an Initial Regulatory Flexibility Analysis (“IRFA”) was incorporated in the *Eighth Further Notice of Proposed Rulemaking* (“*Eighth Further Notice*”).² The Commission sought written public comment on the proposals in the *Eighth Further Notice*, including comment on the IRFA. The Commission received no comments on the IRFA. This present Final Regulatory Flexibility Analysis (“FRFA”) accompanying the *Eighth Report and Order* (“*Eighth R&O*”) conforms to the RFA.³

A. Need for, and Objectives of, the Report and Order

2. This *Eighth R&O* addresses comments filed by licensees and permittees in response to the *Eighth Further Notice*. The *Eighth Further Notice* proposed modifications to the new post-transition DTV Table of Allotments and Appendix B (“DTV Table”). It provided three new full power permittees and nine existing full power licensees and permittees with channels and parameters for digital broadcast operations after the DTV transition. Changes to the new post-transition DTV Table affect full power commercial and noncommercial broadcast television stations as the new DTV Table provides post-transition channels for all eligible full power stations⁴ and changes to the Table may have interference or other implications for other broadcasters in the Table.

3. The Commission announced in the *Seventh Further Notice* that, to the extent possible, it would accommodate future new permittees in the new post-transition DTV Table, but that it would provide an opportunity for public comment before doing so.⁵ Three new construction permits were issued to permittees too late to be offered for comment in the Public Notice revising the *Seventh Further Notice*,⁶ but it was found that these permittees could be accommodated in the new DTV Table without causing impermissible interference. Having provided the requisite notice and comment periods, in the *Eighth R&O* we have now granted the specific facilities and parameters we proposed for these permittees, including the request for a different post-transition digital channel in a comment filed by one of the permittees. Furthermore, ten⁷ existing licensees and permittees made late-filed requests to the *Seventh*

¹ See 5 U.S.C. § 603. The RFA, see 5 U.S.C. § 601 - 612., has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (“SBREFA”), Pub. L. No. 104-121, Title II, 110 Stat. 847 (1996).

² *Eighth Further Notice of Proposed Rule Making, In the Matter of Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, MB Docket No. 87-268, 22 FCC Rcd 15581 (2007) (“*Eighth Further Notice*”).

³ See 5 U.S.C. § 604.

⁴ Only Commission licensees and permittees were eligible to participate in the channel election process to select a final DTV channel. See *Second DTV Periodic Report and Order*, 19 FCC Rcd at 1830, ¶ 66.

⁵ *Seventh Further Notice*, 21 FCC Rcd at 12118, ¶ 53.

⁶ Public Notice, “Revisions to Proposed New DTV Table of Allotments, Tentative Channel Designations To Be Added to the DTV Table of Allotments Proposed in the *Seventh Further Notice of Proposed Rule Making* in MB Docket No. 87-268,” DA 07-20 (MB rel. Jan. 8, 2007), 72 FR 2485 (Jan. 19, 2007)(“*New Permittees PN*”).

⁷ Initially, ten licensees or permittees requested changes and were under consideration, however one licensee, Fox Television Stations of Philadelphia, Inc., has withdrawn its request to adjust its Appendix B parameters and (continued....)

Further Notice for modifications to the new DTV Table, and we found it appropriate to provide a full opportunity for comment with respect these entities in the *Eighth Further Notice*. With the issuance of the instant *Eighth R&O*, we have now considered any comments filed in connection with these proposals. We grant the request of one station to modify Appendix B to reflect its authorized facilities, we grant the request of another station seeking to modify its Appendix B facilities to more closely replicate its analog Grade B contour, we grant alternative post-transition digital channel assignments to five stations, and we grant the request to modify the technical parameters of two stations whose transmission facilities were destroyed by Hurricane Katrina.

4. We believe these modifications to the new post-transition DTV Table support the goals set forth for the channel election process.⁸ By these modifications, the new permittees are provided with channels for DTV operations after the transition. Where adjustments bring the Table into line with the facilities or service areas of existing licensees or permittees, they recognize industry expectations and respect investments already made. These adjustments also move the overall post-transition DTV Table more quickly towards finality without sacrificing clarity or transparency. Finally, we believe the adjustments we have granted in the *Eighth R&O* reflect our efforts to promote overall spectrum efficiency and, in particular, ensure the best possible DTV service to the public.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

5. There were no comments filed that specifically addressed the rules and policies proposed in the IRFA.

C. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

6. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the rules adopted herein.⁹ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small government jurisdiction.”¹⁰ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.¹¹ A small business concern is one which: (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).¹² The rules of this *Eighth R&O* will primarily affect full power television stations, as opposed to low power television

(Continued from previous page) _____

therefore only nine such requests are being considered. *See* Brief Comment of Fox Television Stations of Philadelphia, Inc., filed Oct. 18, 2007.

⁸ *DTV Periodic Report and Order*, 19 FCC Rcd at 18291, ¶ 31.

⁹ 5 U.S.C. § 604(a)(3).

¹⁰ *Id.* § 601(6).

¹¹ *Id.* § 601(3) (incorporating by reference the definition of “small business concern” in 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.” 5 U.S.C. § 601(3).

¹² 15 U.S.C. § 632. Application of the statutory criteria of ‘non-dominance in its field of operation’ and ‘independence’ are sometimes difficult to accomplish in the context of broadcast television. Accordingly, the Commission’s statistical account of television stations may be over-inclusive.

stations and television translator stations. A description of such small entities, as well as an estimate of the number of such small entities, is provided below.

7. *Television Broadcasting.* The rules and policies adopted in this *Eighth R&O* apply to television broadcast licensees and permittees of television service. The SBA defines a television broadcast station as a small business if such station has no more than \$13.0 million in annual receipts.¹³ Business concerns included in this industry are those “primarily engaged in broadcasting images together with sound.”¹⁴ The Commission has estimated the number of licensed commercial television stations to be 1,376.¹⁵ According to Commission staff review of the BIA Financial Network, MPro Television Database (“BIA”) on March 30, 2007, about 986 of an estimated 1,374 commercial television stations¹⁶ (or about 72 percent) have revenues of \$13.5 million or less and thus qualify as small entities under the SBA definition. The Commission has estimated the number of licensed NCE television stations to be 380.¹⁷ We note, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations¹⁸ must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. The Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

8. In addition, an element of the definition of “small business” is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply do not exclude any television station from the definition of a small business on this basis and are therefore over-inclusive to that extent. Also as noted, an additional element of the definition of “small business” is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities and our estimates of small businesses to which they apply may be over-inclusive to this extent.

9. *Class A TV, LPTV, and TV translator stations.* The rules and policies proposed in this *Eighth R&O* do not directly affect low power television stations, as the DTV Table to which changes are being proposed will finalize post-transition digital channels only for full power television stations.

¹³ See 13 C.F.R. § 121.201, NAICS Code 515120.

¹⁴ *Id.* This category description continues, “These establishments operate television broadcasting studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studios, from an affiliated network, or from external sources.” Separate census categories pertain to businesses primarily engaged in producing programming. See Motion Picture and Video Production, NAICS code 512110; Motion Picture and Video Distribution, NAICS Code 512120; Teleproduction and Other Post-Production Services, NAICS Code 512191; and Other Motion Picture and Video Industries, NAICS Code 512199.

¹⁵ See News Release, “Broadcast Station Totals as of December 31, 2006,” 2007 WL 221575 (dated Jan. 26, 2007) (“*Broadcast Station Totals*”); also available at <http://www.fcc.gov/mb/>.

¹⁶ We recognize that this total differs slightly from that contained in *Broadcast Station Totals*, *supra* note 15; however, we are using BIA’s estimate for purposes of this revenue comparison.

¹⁷ See *Broadcast Station Totals*, *supra* note 15.

¹⁸ “[Business concerns] are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has to power to control both.” 13 C.F.R. § 121.103(a)(1).

Nonetheless, as discussed in Section E, *infra*, low power television stations will also eventually transition from analog to digital technology and may be indirectly affected by the channel allotment decisions herein. The broadcast stations indirectly affected include licensees of Class A TV stations, low power television (LPTV) stations, and TV translator stations, as well as to potential licensees in these television services. The same SBA definition that applies to television broadcast licensees would apply to these stations. The SBA defines a television broadcast station as a small business if such station has no more than \$13.0 million in annual receipts. Currently, there are approximately 567 licensed Class A stations, 2,227 licensed LPTV stations, and 4,518 licensed TV translators. Given the nature of these services, we will presume that all of these licensees qualify as small entities under the SBA definition. We note, however, that under the SBA's definition, revenue of affiliates that are not LPTV stations should be aggregated with the LPTV station revenues in determining whether a concern is small. Our estimate may thus overstate the number of small entities since the revenue figure on which it is based does not include or aggregate revenues from non-LPTV affiliated companies. We do not have data on revenues of TV translator or TV booster stations, but virtually all of these entities are also likely to have revenues of less than \$13.0 million and thus may be categorized as small, except to the extent that revenues of affiliated non-translator or booster entities should be considered.

D. Description of Projected Reporting, Recordkeeping and other Compliance Requirements

10. The rules adopted in this *Eighth R&O* involve no changes to reporting, recordkeeping, or other compliance requirements beyond what is already required under the current regulations.

E. Steps Taken to Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

11. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.¹⁹

12. The new post-transition DTV Table adopted in the *Seventh R&O* provides all eligible broadcast television stations – large and small alike – with channels for post-transition DTV operations. Small broadcasters, just like large ones, benefited from participating in the channel election process, and had an equal opportunity to review the proposed DTV Table and request modifications to it. Furthermore, no distinction was made between large and small licensees and permittees when determining which proposals to include in the *Eighth Further Notice* or which proposals to grant in the *Eighth R&O*. All licensees and permittees affected by the *Eighth R&O* had the opportunity to comment, and the Commission considered all comments, including those proposing alternative allotments for specific stations. The channel designations and parameters granted in the *Eighth R&O* are based almost entirely on elections by licensees and permittees. The transition procedures utilized in selecting final DTV allotments have been sufficiently transparent and flexible and were the most efficient means of minimizing the impact on small entities. The narrow scope of the Commission's authority did not permit for alternative procedures for selecting final DTV allotments, nor has the Commission ever utilized any alternative procedure for finalizing the DTV Table.

¹⁹ 5 U.S.C. § 603(c)(1)-(c)(4)

13. In addition, the new DTV Table to which the *Eighth R&O* grants modifications does not provide for channels for low power television stations. The Commission will address the digital transition for low power television (“LPTV”) stations in a separate proceeding. The statutory transition deadline established by Congress in 2006 – February 17, 2009 – applies only to full-power stations.²⁰ One of the Commission’s goals in this proceeding is to permit full power stations to finalize their post-transition facilities by this rapidly approaching deadline. The Commission previously determined that it has discretion under [47 U.S.C. § 336\(f\)\(4\)](#) to set the date by which analog operations of stations in the low power and translator service must cease.²¹ The Commission has stated that the intent is to ensure that low power and translator stations not be required to prematurely convert to digital operation in a manner that could disrupt their analog service or, more importantly, that might cause them to cease operation.²² The Commission decided not to establish a fixed termination date for the low power digital television transition until it resolved the issues concerning the transition of full-power television stations.²³ The Commission has recognized that low power television stations are a valuable component of the nation’s television system and has stated its intention to facilitate, wherever possible, the digital transition of these stations.²⁴

F. Report to Congress

14. The Commission will send a copy of this *Eighth R&O*, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act.²⁵ In addition, the Commission will send a copy of this *Eighth R&O*, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of this *Eighth R&O* and FRFA (or summaries thereof) will also be published in the Federal Register.²⁶

²⁰ See Digital Television and Public Safety Act of 2005, which is Title III of the Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4 (2006) (codified at 47 U.S.C. §§ 309(j)(14) and 337(e)).

²¹ *Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations*, MB Docket No. 03-185, Report and Order, [19 FCC Rcd 19331, 19336 ¶ 12 \(2004\)](#) (“*LPTV DTV Report and Order*”).

²² *Id.* at 19337 ¶ 14.

²³ *Id.* at 19336 ¶ 19.

²⁴ *Id.* at 19332, ¶ 1.

²⁵ See 5 U.S.C. § 801(a)(1)(A).

²⁶ See *id.* § 604(b).