

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)
)

SEVENTH REPORT AND ORDER
AND
EIGHTH FURTHER NOTICE OF PROPOSED RULE MAKING

Adopted: August 1, 2007

Released: August 6, 2007

Comment Date: [30 days after date of publication in the Federal Register]

Reply Comment Date: [45 days after date of publication in the Federal Register]

By the Commission:

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I. INTRODUCTION

1. In this *Seventh Report and Order*, the Commission adopts a new Table of Allotments for digital television (“DTV”) providing all eligible stations with channels for DTV operations after the DTV transition on February 17, 2009. The new 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 new DTV Table finalizes the channels and facilities necessary to complete the digital transition and ultimately will replace the existing DTV Table¹ at the end of the DTV transition. The existing DTV Table continues to govern stations’ DTV operations until the end of the DTV transition.

2. The new DTV Table is the result of informed decisions made by eligible licensees and permittees during the Commission’s channel election process. As the Commission stated in the *Seventh Further Notice of Proposed Rule Making* in this proceeding,² in developing these final DTV allotments the Commission has attempted to accommodate broadcasters’ channel preferences as well as their replication and maximization service area certifications (made via FCC Form 381). The DTV Table adopted herein reflects consideration of the comments filed in response to the *Seventh Further Notice* as well as our efforts to promote overall spectrum efficiency and ensure that broadcasters provide the best possible service to the public.

3. In early 2006, Congress established February 17, 2009 as a new hard deadline for the end of the DTV transition and the end of analog transmissions by full power television broadcasters.³ In view of the short period of time remaining before this deadline, our goal has been to finalize DTV channels and facilities as expeditiously as possible to provide stations with the certainty they need to complete their digital build out, consistent with the interference and other standards set forth in the *Seventh Further Notice*.

4. In addition, we are adopting a Further Notice of Proposed Rule Making (“*Eighth Further Notice*”), to announce tentative channel designations (“TCDs”) for three new permittees that have recently attained permittee status. The *Eighth Further Notice* identifies these permittees together with the channel we propose to assign the permittee and the specific technical facilities at which we propose to allow these stations to operate after the DTV transition. If adopted, this information would revise the DTV Table and Appendix B adopted in this *Seventh Report and Order*. We invite public comment on these proposed new TCDs and associated technical facilities.

5. In addition, the *Eighth Further Notice* identifies a number of proposals for revisions to the proposed DTV Table and/or Appendix B that were advanced by commenters in

¹ The post-transition DTV Table will be codified at 47 C.F.R. § 73.622(i). See 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-power analog operations must cease. We will address any rule amendments necessitated by the end of analog service in a later proceeding.

² *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*”).

³ 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) (“DRA”) (codified at 47 U.S.C. §§ 309(j)(14) and 337(e)).

either reply comments or late-filed comments in response to the *Seventh Further Notice*.⁴ As these comments propose changes to the DTV Table and/or Appendix B that could affect other stations that may not have had adequate notice of these proposals, we identify these proposals to give affected stations an opportunity to comment.

II. BACKGROUND

A. The DTV Transition

6. The Commission established the existing DTV Table in the 1997 *Sixth Report and Order* as part of its DTV transition plan.⁵ In creating the existing DTV Table, the Commission sought to accommodate all eligible, full-service broadcasters with a second 6 MHz channel to provide DTV service in addition to their existing analog service.⁶ In addition, the Commission initiated a process by which the amount of spectrum devoted to the television broadcast service will eventually be reduced to a “core spectrum” (*i.e.*, channels 2-51) after the end of the transition, enabling the recovery of a total of 108 MHz of spectrum (*i.e.*, channels 52-69).⁷ This “out of core” spectrum has been made available for public safety and wireless communications services.⁸

⁴ Appendix B reflects the revisions adopted in this Order. The additions and modifications proposed in the *Eighth Further Notice* are not included in Appendix B, but are separately listed in Appendix G. Stations that would be affected by the proposed changes are shown with their current facilities, which would duly change if the proposed modifications are adopted in the future Eighth Report and Order.

⁵ *Sixth Report and Order, Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, MM Docket No. 87-268, 12 FCC Rcd 14588 (1997) (“*Sixth Report and Order*”), on recon., *Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order*, 13 FCC Rcd 7418 (1998) (“*Sixth MO&O*”), on further recon., *Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders*, 14 FCC Rcd 1348 (1998) (“*Second MO&O on Reconsideration*”). See also 47 C.F.R. § 73.622(b). The details of each station’s channel assignment under the existing DTV Table, including technical facilities and predicted service and interference information, were set forth in the initial Appendix B of the *Sixth Report and Order* (“initial Appendix B”). See *Sixth Report and Order*, 12 FCC Rcd at 14693, app. B. The initial Appendix B was amended in 1998. See *Sixth MO&O*, 13 FCC Rcd 7418 (1998) and *Second MO&O on Reconsideration*, 14 FCC Rcd 1348 (1998). Simultaneously with the adoption of the *Sixth Report and Order*, the Commission announced DTV channel assignments for eligible licensees in the *Fifth Report and Order* in the same docket. See *Fifth Report and Order*, MM Docket No. 87-268, 12 FCC Rcd 12809, 12892, App. E (1997) (“*Fifth Report and Order*”).

⁶ Eligibility to receive a second channel for DTV operations was limited to existing broadcasters. See 47 U.S.C. § 336(a)(1). See also *Fifth Report and Order*, 12 FCC Rcd at 12838, ¶ 69.

⁷ See *Sixth MO&O*, 13 FCC Rcd at 7431, ¶ 41 (determining that the core TV spectrum after the transition would encompass television channels 2 through 51).

⁸ Channels 60-69 were reallocated for public safety and wireless communications services in 1998. See *Report and Order, Reallocation of Television Channels 60-69, the 746-806 MHz Band*, ET Docket No. 97-157, 12 FCC Rcd 22953 (1998). Channels 52-59 were reallocated for new wireless services in 2001. See *Report and Order, Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59)*, GN Docket No. 01-74, 17 FCC Rcd 1022 (2002). See also *Service Rules for the 698-746, 747-762 and 777-792 MHz Bands*, WT Docket No. 06-150, Report and Order and Further Notice of Proposed Rulemaking, FCC 07-72 (rel. Apr. 27, 2007) (addressing rules governing wireless licenses in the 700 MHz Band); *Service Rules for the 698-746, 747-762 and 777-792 MHz Bands*, WT Docket No. 06-150, Second Report and Order, adopted July 31, 2007.

B. The Channel Election Process and Proposed New DTV Table of Allotments

7. Broadcast licensees selected their ultimate (*i.e.* post-transition) DTV channel inside the core spectrum through a channel election process established by the Commission in the *Report and Order* in the Second DTV Periodic proceeding.⁹ 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 new DTV Table.¹⁰ 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.¹¹

8. The first step of the channel election process addressed preliminary matters and required all licensees to file a certification (via FCC Form 381) in order to define their post-transition facility.¹² In these certifications, licensees had to decide whether they would (1) replicate their allotted DTV facilities, (2) maximize to their currently authorized DTV facilities,¹³ or (3) reduce to a currently authorized smaller DTV facility.

9. The second step of the channel election process was the first round of channel elections, in which only in-core licensees – those with at least one in-core channel – could participate. In-core licensees that participated in round one filed their channel elections (via FCC Form 382) by February 10, 2005. First-round electors were not permitted to elect a channel

⁹ *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*).

¹⁰ *Id.* at 18298, ¶ 46 n.96.

¹¹ 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 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.

¹² 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) (“*Certification Deadline PN*”). 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.

¹³ 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.

that was not assigned to them unless rights to that channel were obtained through a negotiated channel agreement (“NCA”) with another licensee. At the close of the first round elections, the Commission announced 1,554 TCDs,¹⁴ which included channels elected through 25 NCAs.¹⁵

10. In the third step, the Commission analyzed the interference conflicts arising out of the first round and offered licensees an opportunity to resolve them (via FCC Form 383). After reviewing the first round conflicts, the Commission announced an additional 159 TCDs, bringing the total number of TCDs to 1,713.¹⁶

11. The fourth step of the channel election process was the second round of elections, in which the remaining licensees made their elections. Licensees that participated in this round filed their channel elections (via FCC Form 384) by October 31, 2005.

12. In the fifth step, the Commission analyzed the interference conflicts arising out of the second-round elections and announced 75 TCDs, which included channels elected through two NCAs.¹⁷ The Commission subsequently announced the consolidated total of first- and second-round TCDs to be 1,789.¹⁸

13. The sixth step of the channel election process was the third and final round of elections, in which licensees without a TCD after rounds one and two, as well as certain other eligible licensees,¹⁹ filed a final channel election preference.²⁰ Licensees that participated in the third round filed their channel elections (via FCC Form 386) by May 26, 2006. At the close of the third round, the Commission announced 20 TCDs for eligible licensees.²¹ The four eligible

¹⁴ Public Notice, “DTV Tentative Channel Designations for 1,554 Stations Participating in the First Round of DTV Channel Elections,” 20 FCC Rcd 10983 (MB 2005).

¹⁵ By Order released on June 8, 2005, the Media Bureau approved 25 NCAs for the first round and rejected 12 NCAs, sending those 12 licensees to their contingent round one election or, if necessary, to round two. *Negotiated Channel Election Arrangements*, MM Docket No. 03-15, Report and Order, 20 FCC Rcd 10141, 10142 (MB 2005) (“*Round One NCA Order*”).

¹⁶ 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) (“*First Round TCD PN*”).

¹⁷ Public Notice, “Tentative Digital Channel Designations for Stations Participating in the Second Round of DTV Channel Elections and Third Round Election Filing Deadline,” DA 06-991 at 2-4 (MB rel. May 5, 2006) (“*Second Round TCD PN*”). The Commission received two NCAs: one for Philadelphia, Pennsylvania and the other for San Francisco, California. The Commission approved the Philadelphia NCA in full, and the San Francisco NCA in part.

¹⁸ Public Notice, “Tentative Digital Channel Designations for Stations Participating in the First and Second Rounds of the DTV Channel Election Process,” DA 06-1082 (MB rel. May 23, 2006). One additional first round TCD was announced in addition to the 75 second round TCDs.

¹⁹ Licensees with a TCD were eligible to seek an alternative designation in the third round if they received a TCD for a low-VHF channel (channels 2-6) or if their TCD was subject to international coordination issues which the Commission has been unable to resolve with the Canadian and Mexican governments. *Second DTV Periodic Report and Order*, 19 FCC Rcd at 18306, ¶ 63.

²⁰ In the third round, we received seven channel elections from stations that did not have a TCD, 14 from stations that had a low-VHF TCD, and one from a station that had an international coordination issue.

²¹ Public Notice, “Third Round of the DTV Channel Election Process: Tentative Channel Designations,” 21 FCC Rcd 9572 (MB 2006) (“*Third Round TCD PN*”).

stations without a TCD after the third round were awarded a TCD in the *Seventh Further Notice*.²²

14. 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.²³ The DTV Act does not provide for waivers or extensions of this deadline for cessation of analog broadcasts.²⁴ 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.²⁵ 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, 2009.²⁶

15. On April 25, 2007, the Commission initiated the Third DTV Periodic Review proceeding.²⁷ The Commission sought comment on a range of proposals intended to ensure that broadcasters complete construction of their final, post-transition (digital) facilities by the February 17, 2009 statutory deadline for completion of the digital transition. Among other things, the Commission tentatively concluded that February 17, 2009 will be the construction deadline for stations that are building digital facilities based on their new channel allotments determined in this *Report and Order*.²⁸ For these stations, whose pre-transition DTV channel is

²² These four stations are: WABC-TV (New York, New York), WEDH-TV (Hartford, Connecticut), KTFK(TV) (Stockton, California), and KVIE(TV) (Sacramento, California).

²³ 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.

²⁴ 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.

²⁵ See 47 U.S.C. § 337(e)(1).

²⁶ *Id.*

²⁷ *Third Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*, MB Docket No. 07-91, Notice of Proposed Rulemaking, FCC 07-70 (rel. May 18, 2007) (“*Third DTV Periodic Review NPRM*”). Comments are due by August 8, 2007, and replies by August 23, 2007. Public Notice, “Media Bureau Announces Comment and Reply Comment Dates for the Third DTV Periodic Review NPRM,” MB Docket No. 07-91, DA 07-3073 (2007).

²⁸ See *Third DTV Periodic Review NPRM* at ¶ 60. Stations whose pre-transition DTV channel is different from their post-transition channel will be required to file an application for a construction permit for their post-transition (continued...)

different from their post-transition DTV channel, the Commission proposed not to require further construction of the station's pre-transition DTV channel.²⁹ For stations with a post-transition channel the same as their pre-transition DTV channel, the Commission proposed to require construction be completed six months from the release date of the *Construction Deadline Extension Order* and *Use or Lose Order*, or November 18, 2007.³⁰ The Commission also made a number of proposals regarding the procedures and standards applicants must follow in filing applications for facilities specified in the final DTV Table and Appendix B.³¹

C. Allotment Methodology and Evaluation of Interference Conflicts

16. In the *Second DTV Periodic Report and Order*, the Commission stated that channel elections would be evaluated after each channel election round in order to identify potential interference conflicts. Interference conflicts were found to exist only where licensees elected channels other than their current DTV channel (e.g., most often when stations elected their NTSC channels).³²

17. In developing the proposed DTV Table and Appendix B (which proposed channel assignments, operating facilities, and service information for individual stations), engineering evaluations were generated using computer analysis to determine station service coverage and interference. 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.³³ Specifically, Section 73.622(e) defines a

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channel following adoption of this *Report and Order* and once the standards and procedures for processing such applications are finalized in the Report and Order in the Third DTV Periodic Review proceeding.

²⁹ *Id.* at ¶ 61. The Commission noted that this approach, if adopted, would change the Commission's previous policy regarding interference protection on the post-transition channel. *Id.* at ¶ 62-63. In 2004, the Commission established two deadlines by which stations were expected to either replicate or maximize DTV service on their current (pre-transition) DTV channel or lose interference protection to the unserved areas on that channel. See *Second DTV Periodic Report and Order*, 19 FCC Rcd at 18311-18319, ¶¶ 72-87. By July 1, 2005, top-four network affiliates in the top 100 markets were required to fully replicate or maximize if they will remain on their DTV channel after the transition. If these stations will move to another channel post-transition, they were required to serve at least 100 percent of their replication service population by July 1, 2005. By July 1, 2006, all other stations were required to fully replicate and maximize if they will remain on their current DTV channel after the transition. If they will move to another channel post-transition, they were required to serve at least 80 percent of their replication service population by July 1, 2006. *Id.* at 18314-18315, ¶ 78. The Commission stated that stations that met the applicable "use-or-lose" deadline and that are going to move to a different channel after the transition would be permitted to carry over their authorized maximized areas to their new channels. *Id.* at 18317-18318, ¶¶ 85-86.

³⁰ See *Order, In the Matter of DTV Build-Out, Applications Requesting Extension of the Digital Television Construction Deadline*, FCC 07-91, adopted May 17, 2007 ("Construction Deadline Extension Order"); *Order, In the Matter of DTV Build-Out, Requests for Waiver of July 1, 2005 and July 1, 2006 "Use or Lose" Deadlines, Requests for Waiver of the August 4, 2005 "Checklist" Deadline*, FCC 07-90, adopted May 17, 2007 ("Use or Lose Order"). Stations with a pending construction permit that extends beyond this deadline have until the date specified on their permit to complete construction.

³¹ See *Third DTV Periodic Review NPRM* at ¶¶ 92-96.

³² It was not necessary to determine the amount of interference caused by stations that elected their current DTV channel because operation on those channels would not result in new interference.

³³ See 47 C.F.R. §§ 73.622(e), 73.623(c).

DTV station's service area as the geographic area within the station's noise-limited F(50,90) contour where its signal is predicted to exceed the noise-limited service level.³⁴ A station's noise-limited contour is computed using its actual transmitter location, effective radiated power ("ERP"), antenna height above average terrain ("antenna HAAT"), and antenna radiation pattern. Section 73.623(c) sets forth the thresholds of desired-to-undesired (D/U) ratio at which interference is considered to occur.

18. Calculations related to service coverage and interference were based on the terrain-dependent Longley-Rice point-to-point propagation model for predicting the geographic areas and populations served by stations.³⁵ Interference resulting from co-channel and first adjacent channel relationships were examined in accordance with the interference criteria for DTV allotments specified in Section 73.623(c).³⁶

19. Channel election analysis relied upon a database composed of TV station authorizations to which licensees certified as of November 5, 2004 (the "certification database"), including both analog and digital stations.³⁷ 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.³⁸ Values for the 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.³⁹ 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

³⁴ 47 C.F.R. § 73.622(e). The F(50,90) designator indicates that a specified field strength necessary for the provision of DTV service is expected to be available at 50 percent of the locations 90 percent of the time. *Id.*

³⁵ See 47 C.F.R. §§ 73.622(c) and 73.623(c); See also OET Bulletin No. 69, "Longley-Rice Methodology for Evaluating TV Coverage and Interference," (Feb. 6, 2004) ("*OET Bulletin No. 69*"), available at www.fcc.gov/Bureaus/Engineering_Technology/Documents/bulletins/oet69/oet69.pdf. Under the procedure in *OET Bulletin No. 69*, the predicted geographic area and population served by a TV station are reduced by any interference it receives from other stations.

³⁶ The computer software used in this work is similar to that used in performing the service coverage and interference evaluations for the initial DTV Table adopted in the *Sixth Report and Order* and that the Media Bureau has used to evaluate requests for modification of DTV facilities and changes in channel allotments in the initial DTV Table. This software provides analysis of service coverage and interference on both a cumulative and individual-station basis.

³⁷ 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.

³⁸ See ¶ 22, *infra*, for a discussion of the process by which "best available" channels were determined.

³⁹ 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. 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 that new interference. 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.

certification database information). Service coverage and interference conflicts were based only on the populations determined to be receiving service and new interference.⁴⁰

20. 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.⁴¹ 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.⁴² 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.⁴³ 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.⁴⁴ 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.⁴⁵

21. 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 NCAs⁴⁶ were included in the service coverage and interference evaluations of channels elected in

⁴⁰ See *Seventh Further Notice* at 12107, ¶ 21. See also, *Second DTV Periodic Report and Order*, 19 FCC Rcd 18294, 18302-03, ¶¶ 37-38, 56.

⁴¹ 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. To this end, the Commission recognized that the interference relationships between DTV-to-DTV and NTSC-to-DTV operations are such that a DTV station serving the same geographic area as its associated analog station would have a 1 dB greater interference impact on a co-channel DTV station than it would have had as an analog station and an 8 dB greater impact on an adjacent channel DTV station than it would have had as an analog station, assuming the same coverage and locations for all stations. Thus, DTV operation on a station's analog channel could result in new interference. Unlike a station that has its DTV channel inside the core, and therefore could avoid this new interference by electing its in-core DTV channel, a station with an out-of-core DTV channel by definition could not elect its DTV channel for post-transition use. A station that did not have an in-core analog channel could not make use of this special accommodation. *Second DTV Periodic Report and Order*, 19 FCC Rcd at 18302-03, ¶ 56.

⁴² *Id.*

⁴³ 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).

⁴⁴ *Id.*

⁴⁵ *Second DTV Periodic Report and Order*, 19 FCC Rcd at 18302-03, ¶ 56.

⁴⁶ *Id.* at 18297-98, ¶ 45 (describing NCAs).

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.

22. In cases where the licensee requested, or was given, a Commission-determined “best available” channel for its station, an ordered approach was used, as follows. First, the station’s possible post-transition operation on each in-core channel was analyzed, including the interference impact and service coverage based on the station’s certified facilities. If there was a channel or channels where the station could operate without causing new interference to another station and provide adequate service, it was given a TCD on that channel. If there was more than one such channel, it was given the lowest channel that was outside of the low-VHF band. In cases where there was no channel that would allow the station to satisfy these criteria when operating at its certified maximized facilities, the station’s possible post-transition operation on each in-core channel at its replication facilities was examined, and then a channel that would result in the minimum amount of new interference to protected stations was selected. In these cases, the objective was to achieve a balance that would minimize the amount of interference that the subject station would cause to and receive from other stations. In every “best available” channel determination, the interference that other stations would receive from the TCD was less than 2.0 percent.

23. Because the final channel allotments can be established only through a rulemaking proceeding, the Commission proposed the new DTV Table as an amendment to Section 73.622 in the *Seventh Further Notice* in this proceeding, which was released October 20, 2006.⁴⁷ The proposed DTV Table included a channel for each then-eligible broadcast television station, set forth in the proposed rules and Appendix A to the *Seventh Further Notice*. The specific technical facilities – ERP, antenna HAAT, antenna radiation pattern, and geographic coordinates at which stations would be allowed to operate – were set forth in Appendix B, as proposed, to the *Seventh Further Notice*. The proposed Appendix B also included information on service area and population coverage.⁴⁸

24. The Commission noted that additional pending applications might be granted before an order finalizing the new DTV Table was adopted and stated that, to the extent possible, it would accommodate future new permittees in the proposed new DTV Table.⁴⁹ Accordingly, the Media Bureau issued a related Public Notice announcing TCDs for six new permittees.⁵⁰

25. We received more than 200 comments and reply comments in response to the *Seventh Further Notice*. The vast majority of these comments request specific changes to the proposed DTV Table and/or proposed Appendix B facilities. In general, our goal in reviewing

⁴⁷ The *Seventh Further Notice* established January 11, 2007 as the deadline for filing comments and February 12, 2007 as the deadline for filing reply comments. In an *Order* released January 9, 2007, the Media Bureau extended these filing deadlines to January 25, 2007 for comments and February 26, 2007 for reply comments. See *Order Granting Extension of Time for Filing Comments and Reply Comments*, MB Docket 87-268, 22 FCC Rcd 188 (MB 2007).

⁴⁸ See *Seventh Further Notice*, 21 FCC Rcd at 12149, Appendix B.

⁴⁹ *Id.* at 12118.

⁵⁰ 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*”).

these comments was to accommodate the requests made by commenters to the extent possible consistent with the standards outlined in the *Seventh Further Notice*, and particularly the 0.1 percent interference standard. We adopted this approach 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. As we emphasized in the *Third DTV Periodic Review NPRM*, this statutory deadline is fast approaching and the Commission has no discretion to waive or change this transition date. Full-power television broadcast stations not ready to commence digital operation 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.⁵¹

26. In view of the importance of finalizing post-transition DTV channels and facilities to permit stations to complete their DTV build-out, the Commission reviewed the comments to determine whether the requests for changes were consistent with the standards outlined in the *Seventh Further Notice*.⁵² Where the proposed changes to the DTV Table and/or Appendix B are consistent and do not create new post-transition interference to a TCD of more than 0.1 percent, the request is granted. Where the interference standard is not met, and the affected station(s) do not agree to accept the interference, in general we deny 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 deny the request to change the DTV Table and/or Appendix B and direct that these requests be filed following adoption of this *Report and Order* and the Report and Order in the Third DTV Periodic Review proceeding.⁵³

III. SEVENTH REPORT AND ORDER

A. General Issues

27. Most of the comments and reply comments filed in response to the *Seventh Further Notice* pertained to individual station situations and are discussed in detail, below, and are grouped by the nature of the request. However, several commenters raised general issues and the Association for Maximum Service Television, Inc. (“MSTV”) discussed these general observations in their reply comments. We begin by addressing these observations and general comments.

1. Request to add references to pending applications

28. First, we deny the request of NBC Telemundo and MSTV that we include references to pending applications in the DTV Table so that the facilities will be described in the

⁵¹ See *Third DTV Periodic Review NPRM* at ¶ 16. See also *supra* ¶ 14.

⁵² We considered late-filed comments and requests initially raised in reply comments where these comments and requests request minor adjustments or do not cause impermissible interference to other stations. Where late-filed comments request more significant changes that may affect other stations, we raise these comments and requests for comment in the *Eighth Further Notice* herein.

⁵³ See Section III.F.2, *infra*.

event the application is granted.⁵⁴ We decline to add uncertain parameters to the Table or Appendix B. Rather, we are adjusting the Table and Appendix B where appropriate in this proceeding in response to specific requests filed pursuant to the *Seventh Further Notice*. In paragraph 28 of the *Seventh Further Notice*, stations were invited to propose modifications to their facilities as certified and described on Appendix B in order to match their authorized or constructed facilities insofar as they differ from their certified facilities. This situation would occur where a modification application was granted in the interim between certification on FCC Form 381 in 2004 and this proceeding.⁵⁵ For example, as listed below in the discussion of Requests to Make Changes to Certification, NBC Telemundo requested that we revise the parameters for their KDEN-DT facility in Longmont, Colorado to reflect their modified facility.⁵⁶ Appendix B, as adopted, will reflect these and other changes requested in response to the *Seventh Further Notice*.

2. Request for a procedure for correcting “minor variances”

29. On a related topic, we deny the request of MSTV and Pappas for a procedure for correcting “minor variances between authorized facilities and built-out facilities.”⁵⁷ These comments were filed before the Commission adopted the *Third DTV Periodic Review NPRM* in which we proposed the procedures for filing and reviewing the applications necessary for stations to construct their post-transition facilities.⁵⁸ We expect that the issues raised by MSTV and Pappas with regard to simplifying procedures for resolving minor differences between the facilities authorized by the Commission and the technical requirements associated with constructing the facilities will be raised and addressed in the Third DTV Periodic Report and Order. Similarly, Pappas expressed concern regarding the difficulty of duplicating the directional pattern designed for a VHF antenna with a UHF directional antenna for stations changing from VHF to UHF channels.⁵⁹ We appreciate Pappas’ general concern as well as their specific request associated with their station, KUNO-DT in Fort Bragg, California. As described in greater detail below, these issues will be addressed at the application stage when stations will submit the precise parameters they propose to use to construct the facilities in the DTV Table and Appendix B.⁶⁰

3. Methodology issues

30. We find that the concerns raised by Cohen, Dippell and Everist (“CDE”) about the methodology used to develop the DTV Table are without merit. CDE submitted comments

⁵⁴ See Reply Comments of Association for Maximum Service Television, Inc. (“MSTV”), filed Feb. 26, 2007, at 2; Comments of NBC Telemundo License Co., filed Jan. 25, 2007, at 4-5.

⁵⁵ See *Seventh Further Notice*, 21 FCC Rcd at 12110, ¶¶28-29; see also, *Third DTV Periodic Review NPRM* at ¶¶ 92-93.

⁵⁶ See, *infra*, Appendix D2.

⁵⁷ See Reply Comments of MSTV at 3; Comments of Pappas Entities, filed Jan. 25, 2007, at 3.

⁵⁸ See *Third DTV Periodic Review NPRM* at ¶¶ 92-93.

⁵⁹ See Comments of Pappas Entities at 3-4.

⁶⁰ See, *infra*, Section III.F.2, discussion of proposed application process in “Speculative Requests to Change Appendix B Facilities.” See also *Third DTV Periodic Review NPRM* at ¶¶ 92-93.

questioning the methodology used to determine service replication.⁶¹ MSTV's reply comments noted that they had not evaluated CDE's comments but encouraged the Commission to correct any software errors in the event CDE's concerns were valid.⁶² We have carefully evaluated CDE comments and find that, contrary to CDE's understanding of our service replication methodology, where the Commission determined a station's ERP value, we did not calculate the reference antenna patterns for stations based on terrain data for only 8 radials at 45-degree spacings. As we indicated in the description of our methodology in Appendix B, our calculation was based on 360 uniformly spaced radials. While we do not understand how CDE arrived at this misunderstanding, we clarify here that our software does not interpolate terrain heights for radials between the 8 "cardinal" radials but in fact uses the actual terrain data for each of the 360 one-degree radials. Accordingly, we will not accept an applicant's request to substitute an ERP and reference antenna pattern that are calculated using a methodology that differs from that used in preparing Appendix B.

4. Use of the 0.1 percent interference standard

31. We reject Bluestone License Holdings ("Bluestone") challenge to the use of the 0.1 percent interference standard in establishing post-transition operations. Bluestone questioned the Commission's use of the 0.1 percent standard for new interference in developing the post-transition DTV Table through the channel election process.⁶³ Bluestone contends that the interference standard was inconsistent with other standards used by the Commission in other contexts. As MSTV points out in their reply comments, the 0.1 percent standard, as adopted in the *Second DTV Periodic Report and Order*, was appropriate for the channel election process, which was establishing post-transition operations.⁶⁴ The Commission determined that, in the context of the channel election process, interference conflict would constitute an impermissible violation of a station's responsibility to protect other stations if new interference exceeded 0.1 percent. The 2.0 percent standard, in contrast, was appropriate in the context of pre-transition digital operations.⁶⁵ In developing the initial DTV Table, the Commission used the 2.0 percent standard to fit DTV stations in the DTV Table while analog stations were also in operation.⁶⁶ We further note that we have proposed a different standard, 0.5 percent, for DTV-to-DTV interference post transition.⁶⁷ This 0.5 percent standard, if adopted in the Third DTV Periodic Report and Order, would be used to evaluate proposals starting after the establishment of the final post-transition DTV Table.

⁶¹ Comments of Cohen Dippell and Everist, filed Jan. 26, 2007, at 1-3.

⁶² Reply Comments of MSTV at 3.

⁶³ Comments of BlueStone License Holdings Inc. ("BlueStone"), filed Jan. 25, 2007, at 1-2.

⁶⁴ See *Second DTV Periodic Report and Order*, 19 FCC Rcd at 18302-03, ¶ 56; Reply Comments of MSTV at 4; see discussion of 0.1 percent standard, *supra* ¶ 19.

⁶⁵ See *Sixth MO&O*, 13 FCC Rcd at 7450-7451, ¶ 80.

⁶⁶ See Comments of BlueStone at 4.

⁶⁷ See *Third DTV Periodic Review NPRM* at ¶ 104. See also MSTV Reply Comments at 5.

5. AMTS Licensees' Protection of TV Channels 10 and 13

32. In response to comments filed by Maritime Communications/Land Mobile, LLC ("MC/LM"), we conclude that an Automated Maritime Telecommunications System ("AMTS")⁶⁸ licensee must protect TV broadcast licensees and permittees authorized to operate on channels 10 and 13 during the DTV transition's channel election process. MC/LM filed comments questioning whether an existing AMTS licensee must protect TV broadcast licensees and permittees moving to channels 10 and 13 as part of the DTV transition's channel election process.⁶⁹ Paging Systems, Inc., ("PSI") and Florida West Coast Public Broadcasting ("Florida West"), licensee of NCE station WEDU in Tampa, FL ("WEDU"), filed reply comments and MSTV filed an *ex parte* on this issue.⁷⁰

33. We agree with MC/LM and PSI, both AMTS licensees,⁷¹ that Section 80.475(a) of the rules governs how AMTS licensees must protect TV broadcast stations.⁷² As acknowledged by both MC/LM and PSI, AMTS applicants must protect broadcast television stations with existing authorizations to operate on TV channels 10 and 13, whether the broadcast television station is providing analog or digital service.⁷³ Based on the new post-transition DTV Table, it appears that very few stations are moving to new allotments in which they may be affected by existing AMTS licensees.⁷⁴ To the extent that any station anticipates a problem with respect to coordination with AMTS service, the station may raise the issue with the Media Bureau.

⁶⁸ AMTS is a specialized system of coast stations in the 217/219 MHz band providing "automated, integrated, and interconnected ship-to-shore communications for tugs, barges, and other vessels on waterways." 47 C.F.R. § 80.385. The Commission has auctioned a total of 30 AMTS licenses: 20 in the 2004 Auction 57 and 10 in the 2005 Auction 61, each for a ten-year term.

⁶⁹ See Comments of Maritime Communications/Land Mobile, LLC ("MC/LM"), filed Jan. 11, 2007.

⁷⁰ See Reply Comments of Paging Systems, Inc. ("PSI"), filed Feb. 23, 2007; Reply Comments of Florida West Coast Public Broadcasting, Inc. ("Florida West"), filed Feb. 26, 2007; and Association for Maximum Service Television, Inc. ("MSTV") *ex parte* (dated Apr. 11, 2007).

⁷¹ MC/LM obtained its AMTS license in Auction 61. PSI obtained AMTS licenses in both Auction 57 and Auction 61.

⁷² 47 C.F.R. § 80.475(a)(1) provides: "Applicants proposing to locate a coast station transmitter within 169 kilometers (105 miles) of a channel 13 TV station or within 129 kilometers (80 miles) of a channel 10 TV station or with an antenna height greater than 61 meters (200 feet), must submit an engineering study clearly showing the means of avoiding interference with television reception within the grade B contour, see § 80.215(h) of this chapter, unless the proposed station's predicted interference contour is fully encompassed by the composite interference contour of the applicant's existing system, or the proposed station's predicted interference contour extends the system's composite interference contour over water only (disregarding uninhabited islands)." In addition, the rule requires that applications "must give written notice of the filing of such application(s) [sic] to the television stations which may be affected. A list of the notified television stations must be submitted with the subject applications." 47 C.F.R. § 80.475(a)(2). See also 47 C.F.R. § 80.215(h) ("... no harmful interference will be caused to television reception except that TV services authorized subsequent to the filing of the AMTS station application will not be protected.")

⁷³ Comments of MC/LM at 2-3; Reply Comments of PSI at 3.

⁷⁴ Fewer than ten stations have received new DTV allotments on channel 10 or 13 (*i.e.*, the allotment on channel 10 or 13 was not the station's analog channel).

34. At this time, Florida West, which received a TCD for channel *13 in the proposed DTV Table, is the only licensee that has indicated a potential conflict with AMTS operations.⁷⁵ Florida West requests assurance that its station, WEDU, will be protected with respect to AMTS licensees.⁷⁶ We note that AMTS licensees have had to protect WEDU's predecessor, WTVT, on channel 13 in Tampa,⁷⁷ and must continue to protect that station through the end of the transition. Accordingly, we conclude that post-transition operation by WEDU on channel 13 in Tampa should not raise new interference issues with respect to AMTS licensees in that area, and therefore allot channel 13 to WEDU in the new DTV Table of Allotments. We note, however, that Section 80.475(a)(1) of the Commission's rules applies.⁷⁸

B. Requests for Minor Adjustments

35. We will make a variety of minor adjustments based on requests from commenters. We received comments filed on behalf of 22 stations requesting that we make minor adjustments to the station coordinates specified in the proposed DTV Table Appendix B. We asked licensees to review the accuracy of their information contained in the proposed DTV Table Appendix B and comment on any inaccuracies or discrepancies in this information.⁷⁹ In some cases, the station requested a change to conform to the coordinates reflected on a station authorization and/or the coordinates of the Antenna Structure Registration ("ASR")⁸⁰ for the station's tower.⁸¹ In circumstances where a station submitted a correction to the station's coordinates, 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. 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.⁸² Three seconds of latitude or longitude is approximately 200 to 300 feet. The stations for which we make such a correction are listed in Appendix D1

⁷⁵ See *Seventh Further Notice*, 21 FCC Rcd at 12149, App. A. Florida West is the licensee of station WEDU, channel *3, and of WEDU-DT, channel *54, Tampa, FL. Channel 13 is an existing NTSC channel allotment, 47 C.F.R. § 73.606(b), which was previously held by station WTVT. MSTV also expressed concern and noted that AMTS licensees must not cause harmful interference to authorized analog and DTV stations on channel 10 or 13. Reply Comments of MSTV at 1-3.

⁷⁶ Comments of Florida West at 3 (arguing that "viewers of Station WEDU should not be subjected to adjacent-channel AMTS interference").

⁷⁷ WTVT, Tampa, FL, which currently operates in analog on channel 13, received its DTV channel 12 for its TCD.

⁷⁸ Pursuant to 47 C.F.R. § 80.475(a)(1), an AMTS licensee is not permitted to apply for a transmitter site that would interfere with an existing TV station.

⁷⁹ *Seventh Further Notice*, 21 FCC Rcd at 12105-6, ¶ 16.

⁸⁰ Part 17 of the FCC's rules sets forth antenna structure registration procedures for antenna structures that pose a potential hazard to aircraft. The registration of an antenna structure that affects air navigation is a pre-condition to FCC licensing of radio facilities at a particular site. See 47 C.F.R. Part 17.

⁸¹ See e.g., Comments of Northern California Public Broadcasting, Inc. (KQED, San Francisco, CA), filed Jan. 25, 2007; Comments of Waitt Broadcasting, Inc. (KMEG, Sioux City, IA), filed Jan. 19, 2007.

⁸² See 47 C.F.R. § 73.1690(b)(2). See also Comments of Pappas Entities, filed Jan. 25, 2007, at 3 (suggesting that the Commission resolve minor variances between facilities as constructed versus facilities as authorized with a procedure modeled after 47 C.F.R. § 73.1690).

hereto and the changes requested by those stations are reflected in DTV Table Appendix B adopted herein.

36. We also received comments filed on behalf of stations requesting modification of the proposed DTV Table Appendix B in the *Seventh Further Notice* either to express a station's geographic coordinates in tenths of seconds in addition to the currently listed degrees, minutes, and seconds or to round to the nearest whole second rather than merely truncate the data. One such commenter argued that precision is important as even a small change in location data could have an impact on interference studies in light of the 0.1 percent interference standard.⁸³ We note that a tenth of a second latitude or longitude is equivalent to approximately 10 feet.

37. We find it is appropriate to round to the nearest whole second because the resources necessary to collect more precise data and revise the computer software that generates the Table would not be justified by the small difference in physical location. For those commenters that have requested a correction of their station coordinates and provided us with station coordinates expressed to the tenth of a second, we have revised DTV Table Appendix B to round the coordinates to the nearest whole second. The stations for which such a change is made are included in the list of stations in Appendix D1 herein.

C. Requests to Make Changes to Certification

38. We are permitting 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 381.⁸⁴ 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.⁸⁵ The Commission stated that it would permit stations in this situation to file comments proposing to modify their certified facilities to match their authorized or constructed facilities.⁸⁶ 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.⁸⁷ The Commission also stated that stations in these circumstances seeking a change in their certification would be required to accept interference from any channel election already approved.⁸⁸

⁸³ See Comments of NBC Telemundo License Co., filed Jan. 25, 2007, at 2-3 (KVEA, Corona, CA; KWHY, Los Angeles, CA; and WSCV, Fort Lauderdale, FL).

⁸⁴ *Seventh Further Notice*, 21 FCC Rcd at 12110, ¶ 28.

⁸⁵ *Id.*

⁸⁶ *Id.* These changes, if approved, would be changes to the facilities reflected on DTV Table Appendix B.

⁸⁷ *Id.* at 12110, ¶ 29.

⁸⁸ *Id.*

1. Requests That Meet the Interference Criteria

39. We will permit stations to change their 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 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 received comments on behalf of 130 stations requesting such changes. We have made the changes requested by these commenters 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 D2.⁸⁹ 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.

40. In some cases, stations listed in Appendix D2 request changes to the DTV Table/Appendix B that differ from the facilities specified in a current authorization for the station on the post-transition channel.⁹⁰ In these circumstances, we have revised DTV Table Appendix B to specify the station's authorized facilities. The following paragraphs describe three situations that merit additional explanation.

41. KBCW, San Francisco, CA. San Francisco Television Station KBCW, Inc. ("KBCW"), licensee of station KBCW, channel 44, and KBCW-DT, channel 45, San Francisco, CA, received channel 45 for its TCD in the proposed DTV Table.⁹¹ In comments filed on behalf of KBCW, CBS Corporation ("CBS") requests a change to conform to the parameters of KBCW's licensed facilities on Channel 45.⁹² CBS states that, along most azimuths, the currently licensed digital facilities of KBCW exceed those resulting from the replication facilities assigned to the station in the proposed DTV Table Appendix B. CBS states that an interference study shows that the requested KBCW parameters would cause in excess of 0.1 percent new interference only to the digital operation of KQCA, Stockton, California. According to CBS, KQCA currently receives 0.46 percent interference from KBCW-DT's presently licensed operation and would continue to do so after the transition if KBCW-DT keeps its existing facilities. CBS submitted an agreement in which KQCA agrees to accept this interference. In light of the interference agreement submitted by CBS, we will accept the requested change to the

⁸⁹ Christian Faith Broadcast, Inc., licensee of WGGN-DT, Sandusky, OH, digital channel 42, is included on Appendix D2 based on its request to reduce power from 1000 kw to 700 kw to avoid causing more than 0.1 percent new interference. *See* Christian Faith Broadcast, Inc., *ex parte* (dated July 10, 2007), at 2. The licensee should also file an application to modify its CP to match the reduced power.

⁹⁰ WMEI, Arecibo, PR has notified us of their intent to relinquish their construction permit for their pre-transition DTV facility in order to flash cut directly from analog to digital operation. *See* Public Notice, "DTV Transition – Approval of 'Flash Cut' Requests," 22 FCC Rcd 7581 (MB 2007). Accordingly, we treat WMEI herein as a singleton station, determine replication based on the station's analog facility, and grant WMEI's request to change Appendix B to reflect the current WMEI analog transmitter site. *See* Appendix D2, *infra*; *see also* Comments of CMCG Puerto Rico License LLC, filed Jan. 25, 2007.

⁹¹ *See Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

⁹² *See* Comments of CBS Corporation, filed Jan. 25, 2007, at 6-8.

parameters for KBCW to conform to its authorized and operating facilities. These changes are reflected in the revised DTV Table Appendix B adopted herein.

42. KALO, Honolulu, HI. Pacifica Broadcasting Company (“Pacifica”), licensee of station KALO(TV), channel 38, and KALO-DT, channel *10, Honolulu, HI, received channel 10 for its TCD in the proposed DTV Table.⁹³ In a late-filed comment, Pacifica noted its concern that it may not be able to operate at its applied-for power level on channel 10 because it will cause an unacceptable level of interference to the FCC monitoring station at Waipahu.⁹⁴ To address this anticipated difficulty, Pacifica has proposed a reduced ERP of 14.275 kW.⁹⁵ This power level is less than the authorized power of the facility,⁹⁶ but the reduction is necessary to prevent interference with our nearby monitoring facility. We have studied the proposed power and find that it does not cause impermissible interference to any station. We accept KALO’s proposal and the DTV Table Appendix B has been revised accordingly.

43. WPPB, Boca Raton, FL. The School Board of Broward County (“SBBC”), licensee of WPPB-TV, channel *63, and permittee of WPPB-DT, channel *40,⁹⁷ Boca Raton, FL, received channel *40 for its TCD in the proposed DTV Table.⁹⁸ In comments filed to this proceeding, SBBC supports the proposed allotment of channel *40, but asks to change its

⁹³ See *Seventh Further Notice*, 21 FCC Rcd at 12123 App. A. See also *Report and Order, Amendment of Section 73.622(B), Table of Allotments, Digital Television Broadcast Stations, MB Docket No. 04-192*, 19 FCC Rcd 23604 (2004) (DA 04-3815, rel’d Dec. 7, 2004) (granting substitution of *10 for *39 and power of 25 kW and HAAT of 577 meters).

⁹⁴ See Pacifica *ex parte* comments (dated July 27, 2007).

⁹⁵ Pacifica also submitted an earlier *ex parte* request to swap post-transition channels with Oceania Christian Church, licensee of station KUPU(TV), ch 56 and KUPU-DT, ch 38, in Waimanalo, HI, but subsequently withdrew this proposal and reverted to its TCD on 10, thus leaving KUPU unchanged. See Pacifica *ex parte* comments (dated July 20, 2007) at 2; and *ex parte* comments (dated July 27, 2007).

⁹⁶ See *Report and Order*, DA 04-3815, 19 FCC Rcd 23604.

⁹⁷ SBBC was originally allotted channel *44 for WPPB-DT, but the Commission approved SBBC’s request to substitute channel *40 for *44, see 47 C.F.R. § 73.622(b), and recently affirmed this decision in disposing of an Application for Review (opposing this channel substitution) filed on July 1, 2005 by Sherjan Broadcasting Company, Inc. (“Sherjan”), licensee of Class A station WJAN-CA, Channel 41. See *Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations. (Boca Raton, Florida)*, MM Docket No. 00-138, RM-9896, 17 FCC Rcd 7114 (MB 2002) (“*Boca Raton Allotment Order*”) (approving the substitution of DTV channel *40 for station WPPB-DT’s assigned channel *44); Memorandum Opinion and Order, 17 FCC Rcd 23528 (MB 2002) (“*Reconsideration Order*”) (dismissing petition for reconsideration and affirming channel substitution); Memorandum Opinion and Order, 20 FCC Rcd 9783 (MB 2005) (“*Further Reconsideration Order*”) (dismissing “further” petition for reconsideration and affirming channel substitution); Memorandum Opinion and Order, FCC 07-137, adopted Aug. 1, 2007, not yet released (dismissing application for review and affirming channel substitution).

⁹⁸ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A. SBBC’s election of channel *44 was proper because the channel election process permitted a station to elect a channel if an NPRM had been issued with respect to a channel change (as was the case here). See *Second DTV Periodic Report and Order*, 19 FCC Rcd at 18307-08, ¶¶ 67 and 18279 (Channel election form 382 provides: “Pending Channel Change Requests. Licensees for which the Commission has issued a Notice of Proposed Rulemaking with respect to a channel change request may elect the new channel proposed in the NPRM.”)

certified facilities and DTV Table Appendix B to reflect facilities authorized by the Commission in 2002.⁹⁹ No other comments were filed related to this TCD.

44. SBBC's request to change WPPB's DTV channel from *44 to *40 was approved in the 2002 *Boca Raton Allotment Order*.¹⁰⁰ In that order, WPPB-DT, channel *40, was authorized to operate at maximized facilities, including an ERP of 1000 kW and an antenna HAAT of 310 m.¹⁰¹ However, SBBC certified in its FCC Form 381¹⁰² for maximized facilities as authorized by its existing construction permit for DTV channel *44.¹⁰³ SBBC explained in its FCC Form 381 that it did this because the channel substitution decision was challenged by a petition for reconsideration and, thus, not deemed "final."¹⁰⁴ In its FCC Form 381, SBBC also stated its intention to certify for maximized facilities at the new channel *40 allotment when the channel substitution became final.¹⁰⁵ SBBC subsequently filed an application in 2006¹⁰⁶ to conform its new DTV channel *40 allotment to those facilities specified in the 2002 *Boca Raton Allotment Order*.

45. The proposed post-transition DTV Table now shows WPPB's new DTV channel *40.¹⁰⁷ We hereby revise DTV Table Appendix B herein to reflect the facilities authorized by the 2002 *Boca Raton Allotment Order*. This change does not result in more than 0.1 percent new interference to any station. WPPB's requested certification change is to facilities expressly authorized to the station in 2002, and the station expressed its intent to certify to these facilities in its Form 381 filing.

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

46. We will 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. Eight 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(s). In several cases, the Commission granted

⁹⁹ See Comments of The School Board of Broward County ("SBBC"), filed Jan. 25, 2007.

¹⁰⁰ See *Boca Raton Allotment Order*, 17 FCC Rcd at 7116, ¶ 6.

¹⁰¹ *Id.*

¹⁰² See FCC File No. BCERET-20041101AFT (filed Nov. 2, 2004) (WPPB's FCC Form 381, certifying to maximized facilities as authorized by FCC File No. BPEDT-19991028ACM).

¹⁰³ See Comments of SBBC at 1. See also FCC File No. BPEDT-19991028ACM (filed Nov. 6, 2000) (WPPB's construction permit for channel *44, which includes an ERP of 565 kW and an antenna HAAT of 311 m).

¹⁰⁴ See Comments of SBBC at 1.

¹⁰⁵ See *id.* at 1-2.

¹⁰⁶ See FCC File No. BMPEDT-20060705ACF (filed July 6, 2006) (application to modify WPPB-DT's facilities to reflect channel *40 allotment).

¹⁰⁷ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

pending applications for these stations after certification.¹⁰⁸ In other cases, as discussed further below, we have permitted stations to change their certification from replication to maximization, thereby potentially causing more interference to other stations than would have been permitted for the facilities to which the station originally certified.¹⁰⁹

47. While these stations are requesting changes to the parameters proposed in the *Seventh Further Notice* in situations where the level of interference exceeds the relevant standard, we find that they have met their burden of demonstrating that their special circumstances justify a waiver.¹¹⁰ We therefore grant the requested changes. In each case, the changes are being requested for stations that 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. Indeed, as these stations are already providing service at the requested parameters, it is in the public interest to allow them to continue to do so. In addition, none of the stations receiving the interference filed an opposition to the station requesting the change.

48. Following is a brief discussion of the stations requesting changes to reflect their operating facilities and the relevant circumstances that support our grant of their requests:

49. KTBN, Santa Ana, CA. Trinity Christian Center of Santa Ana, Inc. (“Trinity”), licensee of station KTBN-TV, channel 40, and KTBN-DT, channel 23, Santa Ana, CA, received channel 23 for its TCD in the proposed DTV Table.¹¹¹ Trinity requests that the parameters for KTBN in the proposed DTV Table Appendix B be changed to reflect those of the facility currently licensed in BLCDT-20050729AFT.¹¹² The Commission’s interference analysis shows that KTBN’s licensed facility causes 0.75 percent interference to KBEH, Oxnard, California (analog channel 63, digital channel 24 for both pre- and post-transition).¹¹³

50. WICS, Springfield, IL. WICS Licensee, LLC (“WICS Licensee”), licensee of station WICS, channel 20, and WICS-DT, channel 42, Springfield, IL, received channel 42 for

¹⁰⁸ See, e.g., WICS, Springfield, Illinois (application granted July 26, 2005); WKDH, Houston, Mississippi (application granted June 5, 2006); WTEN, Albany, New York (application granted Aug. 2005); WUTV, Buffalo, NY (application for modification of CP to resolve international coordination issue granted June 27, 2005). These applications were analyzed using the 2 percent new interference standard applied to applications for pre-transition operations, see 47 C.F.R. § 73.623(c)(2), rather than the 0.1 percent new interference standard applied during the channel election process for post-transition operations.

¹⁰⁹ See, e.g., WLMB, Toledo, OH; KOCE, Huntington Beach, CA; and WLLA, Kalamazoo, MI. For KTBN, Santa Ana, CA we are changing the certification to correct the station’s mistake in citing the incorrect application on its Form 381 certification. In addition, cumulative changes to station parameters made over the course of establishing the final DTV Table may also affect the level of interference caused to other stations.

¹¹⁰ 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).

¹¹¹ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

¹¹² See Comments of Trinity Christian Center of Santa Ana, Inc., filed Jan. 10, 2007, at 3.

¹¹³ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A. This commenter also states that the licensee has a pending Petition for Rulemaking to operate on Channel 33 and requests that the parameters specified in that petition ultimately be allotted to this station. *Id.* As discussed further in Section III.F.2., *infra*, requests to conform DTV Appendix B to facilities that are not yet authorized are premature. If the pending Petition for Rulemaking is granted, KTBN can apply at that time for authority to operate on Channel 33.

its TCD in the proposed DTV Table.¹¹⁴ Sinclair Broadcast Group, Inc. (“Sinclair”), the parent company of WICS Licensee, requests that the parameters for WICS in the DTV Table Appendix B be changed to reflect those of the licensed facility BLCDDT-20050627AAI.¹¹⁵ The Commission’s interference analysis shows that the WICS licensed facility causes 0.43 percent interference to WICD, Champaign, Illinois (analog 15, post-transition digital channel 41).

51. WUTV, Buffalo, NY. WUTV Licensee, LLC (“WUTV Licensee”), licensee of station WUTV, channel 29, and permittee of WUTV-DT, channel 14, Buffalo, NY, received channel 14 for its TCD in the proposed DTV Table.¹¹⁶ Sinclair Broadcast Group Inc., parent company of WUTV Licensee, requests that the parameters for WUTV in the DTV Table Appendix B be changed to reflect those of the licensed facility BLCDDT-20060829BGK.¹¹⁷ The Commission’s interference analysis shows that the WUTV licensed facility causes 8.45 percent interference to the TCD on Channel 14 of a new analog singleton in Bath, New York (call sign 870331LW).¹¹⁸ We note that, in its license application, WUTV indicated it would employ antenna beam tilting to protect the Bath station from interference and that the WUTV license specifies beam tilting.¹¹⁹

52. WKDH, Houston, MS. Southern Broadcasting Inc. (“Southern”), licensee of singleton station WKDH, channel 45, Houston, MS, received channel 45 for its TCD in the proposed DTV Table.¹²⁰ Southern requests that the parameters for WKDH in the DTV Table Appendix B be changed to reflect the parameters specified in its construction permit BPCDDT-20060519ABE.¹²¹ WKDH is now operating pursuant to program test authority. The Commission’s interference analysis shows that WKDH causes 0.34 percent interference to WPXH, Gadsden, Alabama (analog channel 44, digital channel 45 for both pre- and post-transition).¹²²

¹¹⁴ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

¹¹⁵ See Comments of Sinclair Broadcast Group, Inc. (“Sinclair”), filed Jan. 25, 2007, at 1 and Exhibit 1.

¹¹⁶ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

¹¹⁷ See Sinclair Comments at 1 and Exhibit 1.

¹¹⁸ See FCC File No. BPCT - 19870331LW, (granted Apr. 23, 2004). This station’s analog facility is not yet constructed.

¹¹⁹ See FCC File No. BLCDDT – 20060829BGK (granted Nov. 20, 2006). We also note that the level of interference predicted to be caused by co channel digital-digital operation often exceeds the interference predicted for co-channel analog-digital operation. Thus, while WUTV-DT’s pre-transition operation on channel 14 was subject to the 2 percent new interference standard of 47 C.F.R. § 73.623(c)(2) vis a vis the Bath station’s proposed analog facility on channel 14, the level of predicted interference caused by WUTV to Bath’s co channel digital operation is more than 8 percent. As WUTV elected to stay on its current DTV channel for post-transition operation, its operation on that channel was not subject to interference analysis. See *supra* ¶ 16.

¹²⁰ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

¹²¹ See Comments of Southern Broadcasting, Inc. (“Southern”), filed Jan. 25, 2007, at 2-3 and attachment C. Southern also filed a late comment stating its belief that WKDH’s antenna identification and orientation were also incorrect in Appendix B. See Comments of Southern Broadcasting, Inc., filed Mar. 16, 2007. The request to base all of WKDH’s Appendix B parameters on its authorized and operating DTV facilities is granted.

¹²² See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

53. WTEN, Albany, NY. Young Broadcasting, Inc. (“Young”), licensee of station WTEN, channel 10, and WTEN-DT, channel 26, Albany, NY, received channel 26 for its TCD in the proposed DTV Table.¹²³ Young requests that the parameters for WTEN in the DTV Table Appendix B be changed to reflect the parameters of the station’s license BLCDDT-20060104ACC.¹²⁴ The Commission’s interference analysis shows that the WTEN licensed facility causes 3.24 percent interference to WHPX, New London, Connecticut (analog channel 26, post-transition digital channel 26) and 1.39 percent interference to WFXV, Utica, New York, (analog channel 33, digital channel 27 for both pre- and post-transition).¹²⁵

54. WLMB, Toledo, OH. Dominion Broadcasting, Inc., (“Dominion”), licensee of station WLMB, channel 40, and WLMB-DT, channel 5, Toledo, OH, received channel 5 for its TCD in the proposed DTV Table.¹²⁶ Dominion requests that the parameters for WLMB in the DTV Table Appendix B be changed to reflect those of the licensed facility BLCDDT-20050201AAF.¹²⁷ Dominion failed to timely file a certification on FCC Form 381 for WLMB specifying whether it would construct replication or maximization facilities, and consequently WLMB was assigned replication facilities in the proposed DTV Table Appendix B.¹²⁸ The Commission noted that forty-one stations, including WLMB, did not timely file a certification form, and stated that it would permit these licensees to file comments proposing a change to their certification to specify maximized facilities for which they would have been allowed to certify.¹²⁹ Dominion requests that its certification for WLMB be modified to specify the maximized facilities that Dominion has now constructed and that the Commission has licensed.¹³⁰ The Commission’s interference analysis shows that the WLMB licensed facility causes 2.04 percent interference to WGPK, Kalamazoo, Michigan (analog channel 52, digital channel 5 for both pre- and post-transition).¹³¹

55. KOCE, Huntington Beach, CA. KOCE-TV Foundation (“KOCE Foundation”), licensee of noncommercial educational station KOCE, channel *50-, and KOCE-DT, channel *48, Huntington Beach, CA, received channel *48 for its TCD in the proposed DTV Table.¹³² KOCE Foundation requests that the parameters for KOCE in the proposed DTV Table Appendix B be changed to reflect those of the licensed facility BLEDT-20041117ADG.¹³³ KOCE

¹²³ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

¹²⁴ See Comments of Young Broadcasting, Inc., filed Jan. 25, 2007, at 1.

¹²⁵ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

¹²⁶ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

¹²⁷ See Comments of Dominion Broadcasting, Inc. (“Dominion”), filed Jan. 9, 2006, at 2.

¹²⁸ Certifications were due to be filed by November 5, 2004. See, *supra*, ¶ 8 and note 12.

¹²⁹ *Seventh Further Notice*, 21 FCC Rcd at 12110, ¶ 28 and n. 60 (A request was filed on behalf of WLMB(TV) that we waive the freeze and filing deadlines to accept their untimely maximization certification).

¹³⁰ See Comments of Dominion at 2.

¹³¹ We note that, for purposes of calculating interference for pre-transition operations, the FCC employed rounding such that interference of 2.04 percent would have been rounded down to 2 percent.

¹³² See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

¹³³ See Comments of KOCE-TV Foundation, filed Jan. 25, 2007, at 2.

Foundation failed to timely file a certification on FCC Form 381 for KOCE specifying whether it would construct replication or maximization facilities, and consequently KOCE was assigned replication facilities in the proposed DTV Table Appendix B.¹³⁴ This situation is similar to WLMB, paragraph 54, *supra*. The Commission noted that KOCE also did not timely file a certification form and stated that it would permit this licensee to file comments proposing a change to its certification to specify maximized facilities for which it would have been allowed to certify.¹³⁵ KOCE Foundation requests that its certification for KOCE be modified to specify KOCE-DT's licensed, maximized facilities.¹³⁶ The Commission's interference analysis shows that the KOCE licensed facility causes 0.24 percent new interference to KAZA, Avalon, CA (analog channel 54, digital channel 47 for both pre- and post-transition).

56. WLLA, Kalamazoo, MI. Christian Faith Broadcast, Inc. ("Christian Faith"), licensee of station WLLA, channel 64, and WLLA-DT, channel 45, Kalamazoo, MI, received channel 45 for its TCD in the proposed DTV Table.¹³⁷ Christian Faith failed to timely file a certification on FCC Form 381 for this station.¹³⁸ Stations that did not file certifications were assigned replication facilities for purposes of the Commission's channel election process and interference evaluation.¹³⁹ On October 31, 2005, Christian Faith filed a request for acceptance of a late-filed certification on behalf of WLLA specifying maximization facilities authorized for that station.¹⁴⁰ The proposed DTV Table Appendix B did not reflect this requested certification change.¹⁴¹ Christian Faith subsequently filed comments in response to the *Seventh Further Notice* requesting a change in the proposed DTV Table to reflect its construction permit for maximized facilities for this station.¹⁴² On May 29, 2007, Christian Faith filed a license application for WLLA for these maximized facilities.¹⁴³ The authorized and operating maximized facilities of

¹³⁴ Certifications were due to be filed by November 5, 2004. *See, supra*, ¶ 8 and note 12.

¹³⁵ *Seventh Further Notice*, 21 FCC Rcd at 12110, ¶ 28 and n. 60 (A request was filed on behalf of KOCE-TV that we waive the freeze and filing deadlines to accept their untimely maximization certification).

¹³⁶ *See* Comments of KOCE-TV Foundation at 3..

¹³⁷ *See Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ Supplement to Petition to Accept Late-Filed FCC Form 381 of Christian Faith Broadcast, Inc., filed Oct. 31, 2005, at 7.

¹⁴¹ On March 3, 2006, the Video Division of the FCC's Media Bureau issued a letter granting "limited relief" to Christian Faith for WLLA. *See* Letter from Barbara A. Kreisman, Chief, Video Division, Media Bureau to Christian Faith Broadcast, Inc., c/o Joseph M. Di Scipio, DA 06-519. Specifically, the Commission agreed to permit WLLA to construct authorized maximized facilities and agreed to protect those facilities "to the extent that they do not create interference to stations that have received DTV channel designations in rounds 1 and 2 of the DTV election process." The Commission subsequently determined, however, that the maximization facilities specified by Christian Faith for WLLA exceeded the maximum permissible interference of 0.1 percent to DTV facilities elected in rounds 1 and 2. Accordingly, in the *Seventh Further Notice*, the Commission specified replication facilities in the proposed DTV Table Appendix B for WLLA.

¹⁴² *See* Comments of Christian Faith Broadcast, Inc., filed Jan. 25, 2007.

¹⁴³ *See* FCC File No. BLCDDT-20070529AEA. On May 29, 2007, Christian Faith also requested that the Commission waive the 0.1 percent interference limit for WLLA. *See* Joseph M. Di Scipio *ex parte* (dated May 29, 2007) at 2.

WLLA cause 2.11 percent new interference to WZPX, Battle Creek, Michigan (analog channel 43, digital channel 44 for both pre- and post-transition) and 0.79 percent new interference to WDIV, Detroit, Michigan (analog channel 4, digital channel 45 for both pre- and post-transition).

57. For the reasons discussed in paragraph 47, *supra*, we hereby grant the changes requested for these eight stations and these changes are reflected in the DTV Table Appendix B adopted herein.

3. Requests By Non-Operational Stations That Do Not Meet Interference Criteria

58. Comments were filed on behalf of two stations requesting changes to the proposed DTV Table Appendix B to reflect authorized facilities where we have determined that the interference caused to another licensee's existing TCD exceeds the 0.1 percent interference standard, there is no interference agreement with the affected station(s), and the station requesting the change is not operational.¹⁴⁴ One of these stations, WTCV, San Juan, PR, has not met its burden to demonstrate that special circumstances justify a waiver, and we therefore deny its request to change DTV Table Appendix B. Unlike the stations discussed in Section III.C.2, *supra*, this station has not completed construction and begun DTV service to the public. We do not believe it is appropriate 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. We note that this station could apply in the future for a modification to specify maximized facilities. Any such application would be subject to interference criteria and other standards adopted in the Third DTV Periodic Review Report and Order. As discussed further below, for one station, WMFD, Mansfield, Ohio, we will grant the request to change DTV Table Appendix B because this station has obtained international coordination for its authorized facility.

59. WTCV, San Juan, PR. International Broadcasting Corporation ("IBC"), licensee of station WTCV, channel 18, and WTCV-DT, channel 32, San Juan, PR, received channel 32 for its TCD in the proposed DTV Table.¹⁴⁵ IBC states in its comments that it originally intended to operate its post-transition DTV transmitter from its current analog tower but was forced to change sites because of difficulties in obtaining tower space at its original site for its digital facilities.¹⁴⁶ According to IBC, after lengthy negotiations with the tower site owner, Puerto Rico Telephone Company, "it became clear that the tower structural requirements imposed at the time made the project economically unfeasible."¹⁴⁷ IBC therefore certified to an authorized construction permit for a different site with substantially reduced facilities. In its comments IBC states that it has recently solved the difficulties of obtaining tower space to operate from its currently authorized analog site and has filed an application for a construction permit to operate

¹⁴⁴ In addition, WGGN, Sandusky, OH, initially requested a change that would exceed the 0.1 percent interference standard. On July 10, 2007, WGGN submitted *ex parte* comments modifying its original request for increased power so that it will not exceed the 0.1 percent interference standard. See Christian Faith Broadcast, Inc. *ex parte* (dated July 10, 2007) at 2. See *supra* Section III.C.1., discussion of requests that meet the interference criteria.

¹⁴⁵ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

¹⁴⁶ See Comments of International Broadcasting Corporation, filed Jan. 25, 2007, at 3.

¹⁴⁷ *Id.*

from this site.¹⁴⁸ This application was pending at the time IBC filed its comments in response to the *Seventh Further Notice* but has now been granted.¹⁴⁹ IBC requests a change in the proposed DTV Table Appendix B to specify the parameters of the construction permit application that was pending at the time IBC's comments were filed and that has now been granted. IBC states that the proposed change in site and technical facilities will enable WTCV to serve an additional 318,230 viewers. However, the WTCV facilities requested by IBC would cause 1.49 percent new interference to WSJU-TV, San Juan, Puerto Rico (analog channel 30, post-transition digital channel 31) and WTCV is not currently operational. As the facilities requested by IBC would cause new interference in excess of the 0.1 percent interference standard and the station is not yet providing service to the public, we will deny IBC's request to change DTV Table Appendix B.

60. WMFD, Mansfield, OH. Mid-State Television, Inc., ("Mid-State"), licensee of station WMFD-TV, channel 68 and WMFD-DT, channel 12, Mansfield, OH, received channel 12 for its TCD in the proposed DTV Table.¹⁵⁰ Mid-State certified to a then-pending maximization application that had not yet been authorized due to international coordination issues. Mid-State states that, when it filed its pre-election certification, it indicated that it intended to operate with the facilities specified in the then-pending modification application, but that the application remained subject to international coordination.¹⁵¹ After certification, the application was amended to resolve the international coordination issues and subsequently was granted in July 2005.¹⁵² The proposed DTV Table Appendix B specifies the facilities to which Mid-State certified. Mid-State requests that DTV Table Appendix B be changed to reflect the facilities specified in its July 2005 construction permit. The facilities requested by Mid-State would cause 1.13 percent interference to WINM, Angola, Indiana (analog channel 63, post-transition digital channel 12) and 0.44 percent interference to WBOY, Clarksburg, West Virginia (analog channel 12, post-transition digital channel 12). Neither of the affected stations filed comments opposing WMFD's proposed change to Appendix B.

61. We will grant Mid-State's request and change DTV Table Appendix B accordingly. This change is reflected in the DTV Table Appendix B attached hereto. The change requested by Mid-State is the result of a negotiated solution with Canada to resolve international coordination issues that prohibit operation of the facility proposed in the application pending at the time of certification and to which Mid-State certified on FCC Form 381.¹⁵³ The Commission has recognized that stations facing international coordination issues face unique challenges in completing the digital transition.¹⁵⁴ As the result of a modification to a Canadian DTV allotment, WMFD states that it is precluded from constructing the facilities listed in the proposed DTV

¹⁴⁸ *Id.* at 4.

¹⁴⁹ See FCC File No. BPCDT - 20070125AAX (granted Feb. 21, 2007).

¹⁵⁰ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

¹⁵¹ See Comments of Mid State Television, Inc., filed Jan. 19, 2007, at 3.

¹⁵² See FCC File No. BPCDT-20040526ABT (granted July 15, 2005).

¹⁵³ The Commission must obtain concurrence by the Canadian government for any proposed allotments located within 400 kilometers of the U.S.-Canadian border, and by the Mexican government for any proposed allotments located within 275 kilometers of the U.S.-Mexican border. See *Seventh Further Notice*, 21 FCC Rcd at 12117, ¶ 48.

¹⁵⁴ See, e.g., *Second DTV Periodic Report and Order*, 19 FCC Rcd at 18310, ¶ 71 and 18295, ¶ 39.

Table Appendix B. If we were to deny the change requested by Mid-State, WMFD would be required to identify a new facility and re-commence the process of obtaining international coordination for that facility. Because of the unique circumstances faced by WMFD, a station that is already providing digital service to the public and seeks to improve that service, we believe that grant of the requested change to DTV Table Appendix B is warranted and will serve the public interest.

D. Requests for Modified Coverage Area

62. We will grant requests filed on behalf of 30 stations whose post-transition DTV channel is different from their pre-transition DTV channel to change the coverage area in the proposed DTV Table Appendix B. In general, these commenters argue that the facilities specified in the proposed DTV Table Appendix B do not permit the station to provide service to the area served by the station's analog facility.¹⁵⁵

63. In the creation of the initial Table of Allotments, DTV channels were chosen to allow service on the channel to best match the Grade B service contour of the analog station with which it was paired.¹⁵⁶ Implementation of this replication goal requires 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. In the *Sixth Report and Order* in this docket, however, the Commission determined that the maximum permissible power for all allotments in the initial DTV Table would be 1000 kW.¹⁵⁷ For some stations whose analog channel was in the VHF band and whose initial DTV channel was in the UHF band, an ERP of 1000 kW was not sufficient to permit replication of the station's analog service.¹⁵⁸

64. 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;¹⁵⁹ or 3) replication facilities.¹⁶⁰ Stations certifying to replication facilities that

¹⁵⁵ The Commission determined replication coverage based on the service provided by the station's DTV facilities established in Appendix B of the 1998 *Second MO&O*, *supra* note 5. See also *Second DTV Periodic Report and Order*, 18314-18315, ¶ 78; Instructions to FCC Form 381, Item 1(c).

¹⁵⁶ See *Sixth Report and Order*, 12 FCC Rcd at 14605, ¶¶ 29-30.

¹⁵⁷ See *Sixth Report and Order*, 12 FCC Rcd at 14605, ¶ 30.

¹⁵⁸ 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 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).

¹⁵⁹ See *Second DTV Periodic Report and Order*, 18314-18315, ¶ 78; Instructions to FCC Form 381, Item 1(c).

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*.¹⁶¹

65. Several commenters argue that, because of the 1000 kW maximum imposed in the *Sixth Report and Order*, the Commission's decision to base replication during the channel election process on the station's initial DTV facilities established in the *Second MO&O* rather than the station's analog facilities resulted in the Commission proposing parameters in the DTV Table Appendix B that do not permit the station to replicate the analog service area.¹⁶² In other cases, stations filed comments requesting a change to the parameters in the proposed DTV Table Appendix B to modify the station's coverage area to permit replication of the station's analog coverage area where the station was not subject to the 1000 kW maximum imposed in the *Sixth Report and Order*. These stations, returning to their analog channel for post-transition operations, commented that the proposed DTV Table Appendix B facilities would not permit replication of the station's analog Grade B contour.¹⁶³ For stations returning to their analog channel, this discrepancy between the proposed Appendix B parameters and the analog coverage area may have been due to translation discrepancies that occurred over a series of engineering calculations used to determine replication.¹⁶⁴ In other cases, stations simply requested 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.¹⁶⁵

66. In response to the comments filed on behalf of these stations, we have recalculated Appendix B facilities based on replicating the analog coverage that was used to determine their initial DTV table facilities. If the recalculation would result in a reduction in the Appendix B facilities, we are adopting herein the larger Appendix B facilities that we had initially proposed in the *Seventh Further Notice*.¹⁶⁶ If the recalculation would result in a larger

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¹⁶⁰ 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).

¹⁶¹ See Instructions to FCC Form 381, Item 1(c). The Commission indicated that stations that had changed their DTV channel since the DTV *Second MO&O* would have their replication facilities based on the facilities established by the relevant Report and Order for that station. *Second DTV Periodic Report and Order*, 18314-18315, ¶ 78

¹⁶² See, e.g., Comments of Hoak Media, LLC, filed Jan. 25, 2007, at 3-7 (KMOT, Minot, ND; KHAS, Hastings, NE; KNOP, North Platte, NE); Comments of Walt Disney Company, filed Jan. 25, 2007 (WPVI, Philadelphia, PA).

¹⁶³ See, e.g., Comments of Tanana Valley Television Company, filed Jan. 22, 2007 (KFXF, Fairbanks, AK); Comments of the University of Alaska, filed Jan. 18, 2007 (KUAC, Fairbanks, AK); Comments of Georgia Public Telecommunications Commission, filed Jan. 25, 2007 (WVAN, Savannah, GA).

¹⁶⁴ Some of the discrepancies may have been 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) than the facility that is being replicated.

¹⁶⁵ See, e.g., Comments of Red River Broadcast Co., LLC, filed Jan. 25, 2007 (KJRR, Jamestown, ND) (requesting modification of the azimuth pattern to a directional pattern more suited for a VHF frequency); Comments of BlueStone License Holdings Inc., filed Jan. 25, 2007 (KTVM, Butte, MT; KCFW, Kalispell, MT; and KECI, Missoula, MT; WCYB, Bristol, VA) (arguing that these stations were allotted very low power in the proposed DTV Table Appendix B).

¹⁶⁶ The stations whose Appendix B facilities are not being changed are: KBRR, Thief River Falls, MN; KNRR, Pembina, ND; KRRCR, Redding, CA; KXFX, Fairbanks, AK; WGAL, Lancaster, PA; and WMAE, Booneville, MS.

coverage area 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* or (2) would cause more than 0.1 percent new interference but the affected station(s) agree to accept the interference,¹⁶⁷ we are granting the request to change DTV Appendix B to reflect the larger 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*. There were no comments filed opposing these requested changes.

67. We believe that permitting these changes to the proposed DTV Table is consistent with our overall goal in the DTV transition of encouraging replication of analog service.¹⁶⁸ 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.¹⁶⁹ We believe that the revisions requested by the stations listed in Appendix D3 will serve the public interest by permitting those stations to provide digital service to more of their established analog viewers.

68. In addition, three stations requested changes to the proposed DTV Table Appendix B to increase the station's coverage area, but our recalculations of the Appendix B facilities and the subsequent interference analysis show that the requested change would result in interference that would exceed the 0.1 percent interference standard adopted in the *Second DTV Periodic Report and Order* and the affected station has not agreed to accept this interference. We deny the requests of these stations, as described in greater detail below. None of them are requesting changes to reflect DTV facilities they are operating or are authorized to operate. Consistent with our decisions above, 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.¹⁷⁰ We note, however, that each of these stations must file an application for authority to construct its post-transition facility, and at that time may be able, consistent with the procedures ultimately adopted in the Third Periodic Review proceeding, to specify facilities in that application that more closely approach the parameters requested in their comments. Following is a list of these stations and a description of their individual circumstances.

69. WEDU, Tampa, FL. Florida West Coast Public Broadcasting, Inc. ("FWCPB"), licensee of NCE station WEDU, channel *3, and WEDU-DT, channel *54, Tampa, FL, received

¹⁶⁷ With respect to WVAN, Savannah, GA, our interference analysis shows that the changes proposed for that station would cause 0.21 percent new interference to WXGA, Waycross, GA. However, WXGA has agreed to accept this interference. See Georgia Public Telecommunications Commission *ex parte* (dated June 20, 2007); see also, Comments of Georgia Public Telecommunications Commission, filed Jan. 25, 2007 regarding WVAN, Savannah, GA.

¹⁶⁸ We note that WSTE, Ponce, PR (analog channel 7, pre-transition digital channel 8, post-transition digital channel 7) currently employs boosters to broadcast their analog signal throughout their coverage area. See Comments of Siete Grande Television, Inc. (filed Jan. 25, 2007). We are revising WSTE's parameters in Appendix B so that the station can replicate its analog coverage, and the Bureau is instructed to process, and grant as appropriate, the applications that will permit WSTE to continue serving its coverage area with its digital signal.

¹⁶⁹ *Second DTV Periodic Report and Order*, 19 FCC Rcd at 18311, ¶ 72.

¹⁷⁰ See, *supra*, ¶ 58.

channel *13 for its TCD in the proposed DTV Table.¹⁷¹ FWCPB requests that the proposed DTV Table Appendix B be revised to specify omnidirectional facilities for WEDU at an ERP of 40 kW.¹⁷² The Commission's interference analysis based on recalculated Appendix B facilities shows that WEDU would cause 1.16 percent new interference to WTLV, Jacksonville, Florida (analog channel 12, post-transition digital channel TCD channel 13).

70. WGTV, Athens, GA. Georgia Public Telecommunications Commission ("GPTC"), licensee of NCE station WGTV, channel *8, and permittee of WGTV-DT, channel *12, Athens, GA, received channel *8 for its TCD in the proposed DTV Table.¹⁷³ GPTC requests that the proposed parameters in DTV Table Appendix B be changed to permit WGTV to increase power and operate with an omnidirectional antenna.¹⁷⁴ The Commission's interference analysis based on recalculated Appendix B facilities shows that WGTV would cause 0.19 percent new interference to WCIQ, Mount Cheaha, Alabama (analog channel 7, post-transition digital channel 7).

71. KOED, Tulsa, OK. Oklahoma Educational Television Authority ("OETA"), licensee of NCE station KOED-TV, channel *11, and KOED-DT, channel *38, Tulsa, OK, received channel *11 for its TCD in the proposed DTV Table.¹⁷⁵ OETA requests that DTV Table Appendix B be revised to reflect an increase in antenna height for KOED.¹⁷⁶ The Commission's interference analysis based on recalculated Appendix B facilities shows that the KOED would cause 0.16 percent new interference to KTUL, Tulsa, Oklahoma (analog channel 8, post-transition digital channel 10).

E. Requests for Alternative Channel Assignments

72. We will grant certain stations' requests for an alternative channel assignment, consistent with our proposal in the *Seventh Further Notice*. 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 facilities¹⁷⁷ 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

¹⁷¹ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

¹⁷² See Comments of Florida West Coast Public Broadcasting, Inc., filed Jan. 24, 2007, at 4.

¹⁷³ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

¹⁷⁴ See Comments of Georgia Public Telecommunications Commission, filed Jan. 25, 2007, at 2 and Engineering Exhibit.

¹⁷⁵ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

¹⁷⁶ See Reply Comments of Oklahoma Educational Television Authority and Request for Acceptance of Late-Filed Pleading, filed Mar. 1, 2007, at 2-3. Although we deny this request on the grounds of impermissible interference, we also note that, because the request was filed later than the deadline for comments in this proceeding, affected stations were not afforded a full opportunity to respond.

¹⁷⁷ The term "full, authorized DTV facilities" refers to the original facilities certified by the licensee in its FCC Form 381. The Commission stated in the *Seventh Further Notice* that it would not preclude requests for alternative channel assignments from licensees that modified their certified facilities after receiving a conflict letter in the first and second channel election rounds. *Seventh Further Notice*, 21 FCC Rcd at 12109, ¶ 25, n.49.

on FCC Form 381;¹⁷⁸ (2) licensees with international coordination issues which the Commission has been unable to resolve with the Canadian and Mexican governments;¹⁷⁹ (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. 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.¹⁸⁰

73. 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.¹⁸¹

74. We received comments filed on behalf of 22 stations requesting a change in the channel assigned to the station for post-transition operation in the proposed DTV Table. For 13 of these stations, we will grant the requested channel change. A list of the stations for which we are granting an alternative channel appears in Appendix D5, *infra*,¹⁸² and we have revised the DTV Table for these stations accordingly.¹⁸³ 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*.¹⁸⁴

¹⁷⁸ The Commission stated in the *Seventh Further Notice* that it would consider only engineering demonstrations and not requests based on financial or other reasons. *Id.* at n.50.

¹⁷⁹ See also Section III.C.5., *infra* ¶ 103.

¹⁸⁰ *Seventh Further Notice*, 21 FCC Rcd at 12109, ¶ 25 (citing 47 C.F.R. § 1.420). See also *Third DTV Periodic NPRM* at ¶ 103-112 (proposing interference criteria for evaluating petitions for rulemaking requesting a new DTV allotment post-transition).

¹⁸¹ See *Second DTV Periodic Report and Order*, 19 FCC Rcd at 18307, ¶ 65 and *Seventh Further Notice*, 21 FCC Rcd at 12109, ¶ 26.

¹⁸² See Appendix D5, *infra*.

¹⁸³ See Appendices A and B.

¹⁸⁴ One of the requests for a new channel that we are granting herein was opposed. CBS Broadcasting, Inc., licensee of station WBBM-TV, channel 2, and WBBM-DT, channel 3, Chicago, IL, received channel 11 for its TCD in the proposed DTV Table. See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A. CBS Corporation (“CBS”), requests the substitution of Channel 12 for Channel 11 in the DTV Table. See Comments of CBS Corporation, filed Jan. 25, 2007. Quincy Broadcasting Company and WREX Television, LLC state in reply comments that this proposed channel substitution would cause 0.6 percent new interference to WREX, Rockford, Illinois and 0.8 percent new interference to WINM, Angola, Indiana. See Joint Reply Comments of Quincy Broadcasting Company and WREX Television, LLC, filed Feb. 26, 2007, engineering statement at 4. WREX states that, should the channel change be deemed acceptable by the Commission, WREX would work to resolve any conflict with WBBM. *Id.*, engineering statement at 5. CBS filed supplemental comments in this proceeding disputing the Quincy/WREX interference analysis. See Supplemental Comments of CBS Corporation, filed Mar. 14, 2007. We have analyzed the interference using extensively tested computer software techniques, and our analysis shows that the requested (continued....)

Furthermore, none require waiver of the 0.1 percent interference standard, because they either do not exceed that limit or have acquired the agreement of the affected station(s).¹⁸⁵

75. For two stations, we deny the request for an alternative channel assignment.¹⁸⁶ According to the Commission's interference analysis, the new channels requested by these stations cause interference to another station in excess of the 0.1 percent standard and there is no agreement with the affected station accepting this interference. As discussed below, we decline to waive our interference limit for these stations. Following is a brief discussion of these two stations and the relevant circumstances.

76. KCWX, Fredericksburg, TX. Corridor Television LLP, Inc., ("Corridor"), licensee of singleton station KCWX, channel 2, Fredericksburg, TX, received channel 5 for its TCD in the proposed DTV Table.¹⁸⁷ Corridor requests the substitution of channel 8 for its TCD of channel 5.¹⁸⁸ Corridor recognizes that the allotment of channel 8 to KCWX would require a waiver of the 0.1 percent interference standard, but argues that grant of a waiver would contribute to clearing the lower VHF band so that it can be used for other purposes.¹⁸⁹ In addition, Corridor states that it serves viewers in a rural area that rely more heavily on over-the-air signals and that channel 8 would result in fewer signal reception difficulties for these viewers than channel 5. Corridor also argues that operation on channel 8 would reduce its operating costs.¹⁹⁰

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channel substitution for WBBM would not cause new interference in excess of the 0.1 percent interference standard. We have considered the analysis offered in the Quincy/WREX pleadings, but we note that it may be based on an incorrect method of interference calculation. We are confident that the result of our interference analysis is correct and accurately reflects the interference conditions that are expected to be present among stations. See ¶¶ 18-20, *supra*, for description of methodology used. Accordingly, as reflected in Appendix D5 and the DTV Table Appendix B adopted herein, we grant the WBBM request.

¹⁸⁵ Our engineering analysis does show that one of the requests we are granting herein causes new interference. Colorado Public Television, ("CPT"), licensee of NCE station KBDI-TV, channel *12 and permittee of KBDI-DT, channel *38, Broomfield, CO, received channel *38 for its TCD in the proposed DTV Table. See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A. CPT requests the substitution of Channel *13 for Channel *38 for KBDI. The Commission's engineering analysis shows that this substitution would cause 1.17 percent new interference to KTNE, Alliance, NE. However, KTNE has agreed to accept this interference. See *Colorado Public Television ex parte* (dated June 21, 2007) at 1. Accordingly, we grant the requested substitution. We note that the Commission recently denied KBDI's request for a waiver of the July 1, 2006 "use or lose" deadline on the ground that KBDI did not submit a showing claiming financial hardship. See *Use or Lose Order*, *supra* note 30, at ¶ 121. In that Order, the Commission stated that KBDI would lose interference protection to the unused portion of the applicable replication/maximization coverage area and the ability to carry over interference protection to the station's unserved DTV service area on the post-transition channel. *Id.* at ¶ 123. CPT filed a petition for reconsideration of the *Use or Lose Order* decision. See *Petition for Reconsideration of Colorado Public Television*, MB Dockets No. 03-15, 87-268, filed June 18, 2007.

¹⁸⁶ An additional licensee, Gilmore Broadcasting Corporation, filed reply comments requesting an alternative channel assignment for WEHT, Evansville, Indiana. See *Reply Comments of Gilmore Broadcasting Corporation*, filed Feb. 26, 2007. Because this request was raised in reply comments, thereby not affording affected stations a full opportunity to comment, we address this request for WEHT in the *Eighth Further Notice* herein.

¹⁸⁷ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

¹⁸⁸ See *Comments and Waiver Request of Corridor Television LLP*, filed Jan. 9, 2007.

¹⁸⁹ *Id.* at 3.

¹⁹⁰ *Id.* at 3-4.

77. Corridor argues that, with respect to new channel allotments after the transition, the Commission proposed to utilize an interference protection requirement based on engineering criteria (*e.g.*, permissible interference), rather than geographic spacing, and to use an interference standard of 0.5 percent.¹⁹¹ Corridor argues that this proposed standard should be given significant weight in considering requests to waive the 0.1 percent standard in connection with the TCD selection process. The Commission's interference analysis shows that the requested 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). KTBC License, Inc., licensee of KTBC, filed an opposition to Corridor's request to waive the 0.1 percent interference limit.¹⁹² In addition, Alamo Public Telecommunications Council, licensee of KLRN, filed an opposition to Corridor's request, also arguing that Corridor should not receive a waiver of the 0.1 percent interference standard.¹⁹³

78. We note that the 0.5 percent standard is only a proposal and a different standard could be adopted.¹⁹⁴ Moreover, the new interference caused to KTBC, 0.79 percent, not only significantly exceeds the current 0.1 percent interference standard applied to channel substitution requests, it also exceeds even the proposed 0.5 percent standard. In 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.

79. WMYT, Rock Hill, SC. WMYT-TV, Inc., ("WMYT"), licensee of station WMYT-TV, channel 55, and permittee of WMYT-DT, channel 39, Rock Hill, SC, received channel 39 for its TCD in the proposed DTV Table.¹⁹⁵ WMYT requests the substitution of Channel 46 for its TCD of Channel 39.¹⁹⁶ WMYT argues that Channel 46 is fully spaced to other stations, while Channel 39 is short-spaced to two stations. WMYT also argues that the station would cause less interference on Channel 46 at its preferred ERP than it does at the lower assigned ERP on Channel 39. In addition, WMYT states that operation on Channel 46 would permit it to serve up to 500,000 additional viewers. The Commission's interference analysis shows that the requested change would cause 0.64 percent new interference to WYCW, Asheville, NC (analog 62, post-transition digital channel 45).¹⁹⁷

¹⁹¹ See Comments of Corridor Television LLP, filed June 12, 2007, at 5 (citing *Third DTV Periodic Review NPRM* at ¶¶ 104,105).

¹⁹² See Opposition of KTBC License, Inc. to Comments and Waiver request of Corridor Television LLP, filed July 24, 2007.

¹⁹³ See Comments of Alamo Public Telecommunications Council, filed June 27, 2007, at 4.

¹⁹⁴ See *Third DTV Periodic Review NPRM* at ¶ 104.

¹⁹⁵ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

¹⁹⁶ See Comments of WMYT-TV, Inc., filed Jan. 25, 2007.

¹⁹⁷ WVVA Television, Inc. filed reply comments opposing the WMYT channel change request on the ground that it would cause new interference to WVVA, Bluefield, West Virginia in excess of the 0.1 percent interference threshold. See Reply Comments of WVVA Television, Inc., filed Feb. 26, 2007. However, the Commission's (continued...)

80. In view of the level of interference caused to WYCW, we do not believe it is appropriate to waive our interference standard in this situation. The level of interference caused is far in excess of the applicable 0.1 percent standard. In addition, the new interference caused to WYCW of 0.64 percent exceeds even the 0.5 percent new interference standard we proposed apply to new channel allotments after the transition.¹⁹⁸ As we concluded with respect to the proposed channel substitution of KCWX, *supra*,¹⁹⁹ in view of the significant level of impermissible interference that would be caused by the WMYT request we do not believe that a waiver of our interference standard would promote our overall spectrum efficiency or ensure the best service to the public.

F. Additional Requests to Change Appendix B Facilities

1. Antenna Information

81. We deny the requests of certain stations seeking to add antenna identification numbers to the proposed post-transition DTV Table Appendix B. Several stations requested that we change the proposed DTV Table Appendix B to include such antenna identification numbers.²⁰⁰ In developing the proposed post-transition DTV Table Appendix B, we did not include any antenna identification number 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, where stations request the addition of an antenna identification number to Appendix B, we will not make that change if our database indicates that the station is authorized for an omnidirectional antenna.

82. In addition, Scripps Howard Broadcasting requests that we change Appendix B for KNXV, Phoenix, Arizona and WCPO, Cincinnati, Ohio to reflect an antenna pattern value of “1” for 110 degrees.²⁰¹ Trinity Broadcasting of Indiana, Inc. makes a similar request for WCLJ, Bloomington, Indiana.²⁰² The channel allotments for KNXV and WCLJ are based on the use of omnidirectional antennas, so we will delete the antenna identification number in Appendix B for these stations. For WCPO, the correct 110 degree value of 1 was used when we generated Appendix B and we will correct the antenna pattern in the FCC’s CDBS database. Finally, Griffin Tulsa II Licensing, LLC requests that we change Appendix B for KQCW, Muskogee, OK to reflect a relative field value of “0.958” instead of “0.096” in the reference pattern at 280 degrees.²⁰³ We have made this change and it is reflected on Appendix B, *infra*.

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interference analysis shows that the WMYT channel change request would not exceed this interference limit. As we deny the WMYT request on other grounds, we will not address further the WVVA reply comments.

¹⁹⁸ *Third DTV Periodic Review NPRM* at ¶ 104.

¹⁹⁹ *See, supra*, ¶ 76.

²⁰⁰ *See* 17 stations listed on Appendix D6, *infra*.

²⁰¹ *See* Comments of Scripps Howard Broadcasting Company, filed Jan. 25, 2007.

²⁰² *See* Comments of Trinity Christian Center of Santa Ana, Inc., Jacksonville Educators Broadcasting, Inc., Trinity Broadcasting of Indiana, Inc., and National Minority TV, Inc., filed Jan. 25, 2007.

²⁰³ *See* Comments of Griffin Tulsa II Licensing, LLC, filed Jan. 25, 2007.

2. Speculative Requests to Change Appendix B Facilities

83. We reject the premature or incomplete requests of certain stations seeking changes to their facilities as proposed in the post-transition DTV Table Appendix B when these changes pertain to speculative future events or could best be accomplished through the upcoming application process. These requests are not for modifications of the coverage area as defined by the proposed DTV Table Appendix B to match authorized or licensed coverage. Instead, these stations comment that they may be unable to serve the coverage area, which is described in the proposed DTV Table Appendix B, on their post-transition channel due to differences in station parameters on the new channel or different equipment the station would like to use.²⁰⁴ These are changes that should be requested in an application to construct or modify post-transition facilities on the new channel filed consistent with the procedures and standards for such applications adopted in the Third DTV Periodic Review proceeding,²⁰⁵ including compliance with the filing freeze and interference standard.²⁰⁶

84. Commenters notified the Commission of possible future changes to the parameters for 13 stations.²⁰⁷ In general, these commenters anticipate filing requests for changes to station parameters in the future, but do not yet have all of the information necessary to request changes at this time.²⁰⁸ In addition, in cases where a station certified to replication facilities or will not use its current DTV channel for post-transition operations, some stations comment that they may not be able to construct the precise facilities specified in the proposed DTV Table

²⁰⁴ For example, stations returning to their analog channel have requested that the Commission recalculate their station parameters in Appendix B now based on parameters that will be different for use of the analog channel for digital service (such as the HAAT of the analog antenna). *See, e.g.*, Comments of Twin Cities Public Television, Inc. (“Twin Cities”), filed Jan. 25, 2007 at 4; Comments of Prime Time Christian Broadcasting, Inc. (“PTCB”), filed Jan. 25, 2007, at 1.

²⁰⁵ *See* 47 C.F.R. §§ 73.1690(b), 73.3533(a), 73.3538; and proposed post-transition application rules and procedures; *Third DTV Periodic Review NPRM* at ¶¶ 92-93.

²⁰⁶ *See* discussion of freeze and interference standard ¶ 7 note 11 *supra*.

²⁰⁷ *See* Comments of Pappas Entities, filed Jan. 25, 2007, at 4-5 (relating to station KSWT-DT, Yuma, AZ) and at 6 (relating to station KDBC-DT, El Paso, TX); Comments of Mission Broadcasting Inc. (“Mission”), filed Jan. 25, 2007, at 6-7 (relating to station KJTL-DT, Wichita Falls, TX) and at 10 (relating to WFXP-DT, Erie, PA); *See* Comments of Twin Cities, at 3 (relating to NCE station KTCI-DT, St. Paul, MN); Comments of The Arizona Board of Regents (“Arizona Board”), filed Jan. 25, 2007, at 1 (relating to NCE station KAET-DT, Phoenix, AZ); Comments of Barrington Peoria License LLC (“Barrington Peoria”), filed Jan. 25, 2007, at 1 (relating to NCE station WHOI-DT, Peoria, IL); Comments of the Board of Trustees of Northern Michigan University (“Northern Michigan”), filed Jan. 10, 2007, at 2 (relating to NCE station WNMU-DT, Marquette, MI); Comments of Puerto Rico Public Broadcasting Corporation, filed Jan. 25, 2007 (relating to station WIPR-DT, San Juan, PR); Comments of PTCB at 1 (relating to station KPCB-DT, Snyder, TX, whose proposed post-transition DTV Appendix B facilities accurately reflect the coverage of the KPCB certified construction permit); Comments of CBS Corporation (“CBS”), filed Jan. 25, 2007, at 4 (relating to station KCBS-DT, Los Angeles, CA); and Comments of Tribune Broadcasting Company (“Tribune”), filed Jan. 29, 2007, at 5 (relating to stations WGNO-DT and WNOL-DT, New Orleans, LA). *See also* note 219 and note 221, *infra*.

²⁰⁸ *See, e.g.*, Comments of Pappas Entities at 4-5 (stating intent to duplicate its analog facilities for KSWT-DT) and at 6 (speculating possible need for new site for KDBC-DT); Comments of Mission at 6-7 and at 10 (stating future intent to modify KJTL-DT and WFXP-DT); and Comments of Tribune at 3 (stating intent to apply for different facilities not yet determined for WGNO-DT and WNOL-DT, both of which were destroyed by Hurricane Katrina). On July 23, 2007, Tribune filed an *ex parte* specifying the new parameters for these stations. *See* Tribune *ex parte* (dated July 23, 2007).

Appendix B.²⁰⁹ In general, these stations note that, while the station seeks to serve the same coverage area on the post-transition channel as defined by the facilities specified in Appendix B, the station will operate with different equipment and/or other parameters on the channel than those specified in Appendix B.²¹⁰ We find that these speculative or incomplete requests are not yet ripe for Commission action. If and when these stations need to request changes to station parameters and have full information regarding the nature of the changes, the station should file a request following the procedures appropriate for the change requested.

85. In response to these premature or speculative requests to modify facilities, we refer commenters to our discussion in the *Third DTV Periodic Review NPRM* concerning the rules and procedures for filing applications for construction permits to build stations' post-transition (DTV) facilities and to request authorization to maximize facilities.²¹¹ We remind stations that they must file construction permit or modification applications (*i.e.*, FCC Form 301 or 340) if they need to request authority to construct or modify their post-transition facilities.²¹² Moreover, in the *Third DTV Periodic Review NPRM*, the Commission proposed that stations must limit their applications to those facilities specified in the new DTV Table Appendix B and that applications requesting facilities that would serve a larger area than stations' new DTV Table Appendix B facilities would not be accepted.²¹³ Stations that wish to apply for reduced facilities may do so, but must comply with the reduction standard ultimately adopted in the Third DTV Periodic Report and Order.²¹⁴

86. The appropriate rules, procedures and timing for filing these applications will depend on whether the station will be using its current DTV channel or another channel for post-transition operations. Stations KSWT-DT, KDBC-DT, KJTL-DT and WFXP-DT will use their current DTV channel for post-transition operations.²¹⁵ These stations, and others that seek to modify their facility on their current DTV channel, may file an application at any time, provided they comply with the relevant interference standard and do not violate the filing freeze. In

²⁰⁹ For example, Pappas Entities, which certified to replication facilities for KSWT-DT, argues in its comments that it is virtually impossible for a VHF directional antenna to duplicate exactly the directional pattern originally designed for a UHF antenna. As noted in ¶ 29, *supra*, this issue was addressed in the *Third DTV Periodic Review NPRM* at ¶¶ 92-93 (proposing post-transition application rules and procedures).

²¹⁰ See, e.g., Comments of Twin Cities at 3 (stating intent to use another station's existing antenna for KTCI-DT); Comments of Arizona Board at 1 (stating intent to use its analog channel's existing antenna for KAET-DT); Comments of Barrington Peoria at 1 (stating intent to use its analog channel's existing top-mounted antenna site for WHOI-DT); Comments of Northern Michigan at 2 (stating intent to use its analog channel's existing antenna site for WNMU-DT); Comments of PTCB at 1 (stating intent to use its analog channel's parameters for KPCB-DT); and Comments of CBS at 4 (stating intent to use another station's parameters for KCBS-DT).

²¹¹ See *Third DTV Periodic Review NPRM* at ¶¶ 92-93.

²¹² See 47 C.F.R. §§ 73.1690(b), 73.3533(a), 73.3538.

²¹³ See *Third DTV Periodic Review NPRM* at ¶ 93.

²¹⁴ The *Third DTV Periodic Review NPRM* has proposed that if a station is unable to build precisely the facilities specified in the new post-transition DTV Table Appendix B, then it must apply for facilities that reduce by no more than five percent from those Appendix B facilities with respect to predicted population. See *Third DTV Periodic Review NPRM* at ¶ 94. For example, PTCB may apply for reduced facilities for KPCB at the appropriate time. See PTCB Comments at 1.

²¹⁵ See Appendix A.

response to Pappas Entities' request for clarification on this issue,²¹⁶ we note that the filing freeze does not preclude the filing of an application to modify a construction permit to specify facilities listed for the station in the post-transition DTV Table Appendix B. Accordingly, Pappas can file for modification based on current rules and procedures and does not need a waiver of the freeze. However, to the extent that Pappas seeks a change in its post-transition DTV facilities that would result in an expanded or shifted coverage area, such a change would violate the filing freeze and Pappas must wait until the freeze is lifted to make such a request.

87. Stations KTCI-DT, KAET-DT, WHOI-DT, WNMU-DT, KPCB-DT, WIPR-DT, and KCBS-DT will use a different channel from their current DTV channel for post-transition operations.²¹⁷ These stations, and others that seek to use their analog channel or a new channel for post-transition operations, may not file an application to construct their post-transition facilities until the final post-transition rules and procedures are established by the Report and Order in the Third DTV Periodic Review proceeding.²¹⁸ We recognize that these stations may need to request different parameters from those specified in the post-transition DTV Table Appendix B, even though these stations are not seeking to change the coverage area of their post-transition channel. These stations should address this situation in their applications for their post-transition channels. If a station that is moving to a different channel for post-transition use determines that the parameters necessary to serve the coverage area specified in the post-transition DTV Table Appendix B differ from those specified in the post-transition DTV Table Appendix B, it should apply for those changes in its application. The Commission will evaluate those applications using the interference standard and other processing standards adopted in the Third DTV Periodic Report and Order.

88. We note that some commenters have asked for changes to the proposed post-transition DTV Table Appendix B facilities to conform to specific parts of their licensed or authorized facilities.²¹⁹ Although we are allowing stations to change their certifications and post-transition DTV Table Appendix B facilities to reflect an existing license or authorization,²²⁰

²¹⁶ Comments of Pappas Entities at 4-5. Pappas seeks guidance on how to modify its construction permit for KSWT-DT to make it reflect the facilities listed in the post-transition DTV Table Appendix B, consistent with the filing freeze.

²¹⁷ See Appendix A.

²¹⁸ *Third DTV Periodic Review NPRM* at ¶ 94.

²¹⁹ For example, NJPBA is asking to change the transmitter site coordinates of NCE station WNJT-DT, Trenton, NJ to reflect those granted in the station's DTV license, FCC File No. BMPEDT-20030224AAF; however, it does not ask to change all of its facilities to match its DTV license. See Comments of New Jersey Public Broadcasting Authority ("NJPBA"), filed Jan. 25, 2007, at 2 and n.1. Similarly, Ebenezer Broadcasting Group, Inc. asks to change the coordinates of WIDP-DT, Guayama, PR to match those of the site currently authorized in its DTV construction permit, FCC File No. BPCDT-19991029AHA, but does not ask to change all of the parameters in Appendix B to match that DTV CP. See Comments of Ebenezer Broadcasting Group, Inc., filed February 23, 2007. In addition, Pappas Telecasting of Central Nebraska, L.P. asks to change the coordinates for KWNB, Hayes Center, NE to conform to the coordinates specified in the construction permit for KWNB-DT, FCC File No. BPCDT-19991101AIJ, but does not ask to change all of the Appendix B parameters to match that construction permit. See Comments of Pappas Entities, filed January 25, 2007, at 2, 5-6.

²²⁰ See Section III.C., *supra*.

stations must conform to all portions of that license or authorization and may not choose various parts of that license or authorization.²²¹

89. WGNO and WNOL, New Orleans, LA. Tribune Television New Orleans, Inc. (“Tribune”), licensee of station WGNO, channel 26, and permittee of WGNO-DT, channel 15, New Orleans, LA, received channel 26 for its TCD in the proposed DTV Table.²²² Tribune is also the 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 Table.²²³ Tribune states that the analog and digital transmission facilities of both of these stations were destroyed by Hurricane Katrina.²²⁴ Tribune states that it has worked to resume and then improve reduced-power analog operations for both stations but that it has not yet been able to restore DTV operations. Tribune is evaluating alternative sites for the DTV operations of these stations and recently reported that it has finalized negotiations to relocate the digital operations of the stations to another tower.²²⁵ Tribune recently filed an *ex parte* to request that the proposed DTV allotments for WGNO and WNOL be changed to reflect the technical parameters for the facilities it will construct at the new site.²²⁶ The Commission is committed to continuing to work with stations affected by Hurricane Katrina to help those stations commence or re-commence operations. Because this request applies to post-transition operations, we will offer the proposal for further comment in the *Eighth Further Notice* herein.²²⁷

3. Proposals Subject to the Filing Freeze

90. We deny the requests of stations seeking a waiver of the filing freeze, except for one station which has demonstrated unique circumstances. Seven stations filed comments requesting a change in and/or expansion of the facilities specified in the proposed post-transition DTV Table Appendix B that is inconsistent with the August 2004 filing freeze.²²⁸ This freeze on the filing of certain applications was imposed to provide for a stable database while the Commission developed the post-transition DTV Table.²²⁹ The freeze precludes any expansion of

²²¹ In its comments, the South Dakota Board of Directors for Educational Telecommunications (“SDBD”) requests changes to DTV Appendix B for several stations. For four of these stations, SDBD requests only a change in the coordinates specified in Appendix B: KBHE, Rapid City, SD; KDSB, Aberdeen, SD; KPSD, Eagle Butte, SD; and KZSD, Martin, SD. See Comments of South Dakota Board of Directors for Educational Telecommunications, filed January 10, 2007. It appears from these comments that for these four stations SDBD wants to adjust the station coordinates but still retain the larger coverage area for the station provided on Appendix B rather than change Appendix B to reflect the smaller coverage area provided in the station authorization. If so, these are changes that may be accomplished through the application process. Accordingly, we decline to make the requested coordinate changes for these four stations at this time in order to preserve for these stations the larger coverage area provided in Appendix B. These stations may file applications for the new coordinates they request.

²²² See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

²²³ See *id.*

²²⁴ See Reply Comments of Tribune Broadcasting Company (“Tribune”), filed Jan. 29, 2007 at 5.

²²⁵ See Tribune *ex parte* (dated June 15, 2007).

²²⁶ Ex parte Comments of Tribune (dated July 23, 2007).

²²⁷ See *Eighth Further Notice, infra*, describing Tribune’s proposed parameters, and requesting comment thereon.

²²⁸ See *August 2004 Filing Freeze PN, supra* note 11.

²²⁹ *Id.*

a station's post-transition noise limited service contour beyond that of the station's certified Grade B contour. The freeze remains in effect while the DTV Table is being finalized to assist the Commission in providing stations with authorizations for post-transition facilities. Unlike the stations discussed in Section III.C, *supra*, the stations whose comments are discussed below are not requesting changes to DTV Table Appendix B to reflect authorized facilities to which they could have certified on FCC Form 381, consistent with the 0.1 percent interference standard, or to match constructed and operating facilities. In contrast, the stations discussed below are requesting changes that violate the filing freeze and do not meet the criteria for a change to certified facilities discussed in the *Seventh Further Notice*.

91. For one station, WLAE, New Orleans, LA, we hereby waive the filing freeze and make the changes requested to the DTV Table Appendix B adopted herein. For the reasons discussed below, we believe that a waiver of the freeze for this station is warranted. For the other stations discussed below, we decline to waive the filing freeze and decline to make the requested changes to Appendix B. In order to preserve the integrity of the licensing process and avoid giving certain stations an unfair advantage over others in seeking expanded facilities, we have granted waivers of the filing freeze only in very limited circumstances. In general, before we can consider stations' requests to modify and, in particular, expand their DTV facilities, we must first ensure that all stations can at least provide digital service to their analog viewers by the transition date.²³⁰ Except for the unique circumstances present in the case of WLAE, we find that these stations have failed to demonstrate that a waiver of the freeze would advance their transition to DTV or that the station's circumstances warrant a waiver of the freeze for any other reason. A description of these stations' individual circumstances is provided below.

92. WLAE, New Orleans, LA. Educational Broadcasting Foundation, Inc. ("EBFI"), licensee of NCE station WLAE, channel 32 and permittee of WLAE-DT, channel 31, New Orleans, LA, received channel 31 for its TCD in the proposed DTV Table.²³¹ EBFI did not file a Form 381 for WLAE and, accordingly, the station received replication facilities in the proposed post-transition DTV Table Appendix B.²³² At the time that certifications were due, WLAE-DT had a construction permit for maximized facilities.²³³ In August 2005, WLAE's facilities were destroyed by Hurricane Katrina. EBFI now asks to change the station's certification to its previously authorized maximized facilities.²³⁴

²³⁰ See *Third DTV Periodic Review NPRM* at ¶ 99. In the *Third DTV Periodic Review NPRM*, the Commission tentatively decided not to allow stations to apply for expanded facilities at this time. The Commission, however, proposed to consider the issue of expanded facilities after all stations have had an opportunity to apply for their facilities as specified in the new DTV Table Appendix B. The Commission invited comment on this proposal and also invited comment on ways in which stations could seek expanded facilities at this time without delaying the transition or overburdening the scarce resources needed by other stations to transition.

²³¹ See *Seventh Further Notice*, 21 FCC Rcd at 12149, App. A.

²³² See *Seventh Further Notice*, 21 FCC Rcd at 12100, App. B.

²³³ See FCC File No BPEDT-20000210AAF (Form 340 granted Aug. 14, 2000). This CP authorized 200 kW ERP and 274m antenna HAAT.

²³⁴ See Comments of Educational Broadcasting Foundation, Inc., filed Jan. 8, 2007.

93. We will waive the freeze to allow WLAE-DT to apply for the maximized facilities specified in its initial construction permit.²³⁵ WLAE was one of the 41 stations expressly invited to request maximized facilities for which they would have been allowed to certify.²³⁶ As noted above, the WLAE-DT maximized facilities were authorized at the time that certifications were filed. Our actions herein will aid in the restoration of public television service to the city of New Orleans.

94. WBPG, Gulf Shores, AL. LIN of Alabama, L.L.C. (“LIN”), singleton licensee of analog station WBPG, channel 55, Gulf Shores, AL, received channel 25 for its TCD in the proposed DTV Table.²³⁷ The previous licensee of WBPG certified on FCC Form 381 that the station did not have a digital allotment and would operate post-transition based on its currently authorized analog facilities.²³⁸ In comments filed to this proceeding, LIN seeks to maximize its Appendix B facilities for WBPG by increasing its ERP, changing its antenna pattern, and changing transmitter location.²³⁹ The changes requested would violate the filing freeze. LIN does not have an existing authorization for these facilities and does not meet the criteria for a change to certified facilities discussed in the *Seventh Further Notice*.

95. WUOA, Tuscaloosa, AL. The Board of Trustees of the University of Alabama (“University of Alabama”), singleton licensee of analog station WUOA, channel 23, Tuscaloosa, AL, received channel 23 for its TCD in the proposed DTV Table.²⁴⁰ The previous licensee of WUOA, Channel 23, LLC, certified in its FCC Form 381 that it did not have a DTV channel allotment and intended to operate its post-transition station based on its currently authorized analog license.²⁴¹ In comments filed to this proceeding, the University of Alabama seeks to maximize the Appendix B facilities for WUOA by increasing the permitted ERP, changing the antenna pattern, and changing transmitter location.²⁴² The facilities requested would violate the filing freeze. The University of Alabama does not have an existing authorization for such facilities and the request does not meet the criteria for a change to certified facilities discussed in the *Seventh Further Notice*.²⁴³

²³⁵ A freeze waiver is needed because of the station’s subsequent modification to reduce facilities.

²³⁶ See *Seventh Further Notice*, 21 FCC Rcd at 12110, ¶ 28.

²³⁷ See *Seventh Further Notice*, 21 FCC Rcd at 12149, App. A.

²³⁸ See FCC File No. BCERCT-20041104BAW (WBPG’s Form 381 filed Nov. 5, 2004, certifying to the station’s license: FCC File No. BMLCT-20021009AAA). See also Comments of LIN of Alabama, L.L.C., filed Jan. 23, 2007, at 2.

²³⁹ See Comments of LIN of Alabama, L.L.C., filed Jan. 23, 2007.

²⁴⁰ See *Seventh Further Notice*, 21 FCC Rcd at 12149, App. A.

²⁴¹ See FCC File No. BCERCT-20041105ADM (WUOA’s Form 381 filed Nov. 8, 2004, certifying to the station’s license: FCC File No. BLCT-20011109ACV). Channel 23, LLC subsequently assigned the license for WUOA to the University of Alabama.

²⁴² See Comments of University of Alabama, L.L.C., filed Jan. 23, 2007, at 1.

²⁴³ We note that University of Alabama filed an *ex parte* in June 2007 seeking a channel change to a low VHF channel. See University of Alabama *ex parte* (dated June 1, 2007) (“Supplement to Comments”). We decline to consider this late request in this Report and Order, but note that it, too, would violate the freeze. However, to the extent that WUOA would accept replication facilities on an alternative channel, we will consider the station’s late request in the *Eighth Further Notice*. See ¶ 148, *infra*.

96. KQSD, Lowry, SD. South Dakota Board of Directors for Educational Telecommunications (“SDBD”), licensee of NCE station KQSD-TV, channel *11 and KQSD-DT, channel *15, Lowry, SD, received its analog channel *11 for its TCD in the proposed DTV Table.²⁴⁴ In its FCC Form 381, SDBD certified to replication facilities and was given the allotted replication facilities in the proposed Appendix B.²⁴⁵ In its comments, SDBD requests a change in Appendix B for KQSD-DT to increase the HAAT and change the geographic coordinates.²⁴⁶ These changes violate the filing freeze. KQSD does not have a current authorization for these facilities and the request does not meet the criteria for a change to certified facilities discussed in the *Seventh Further Notice*.

97. KNVA, Austin, TX. 54 Broadcasting, Inc. (“54 Broadcasting”), licensee of station KNVA, channel 54, and KNVA-DT, channel 49, Austin, TX, received channel 49 for its TCD in the proposed DTV Table.²⁴⁷ In its FCC Form 381, 54 Broadcasting certified that KNVA would operate post-transition at maximized facilities as authorized by an existing construction permit.²⁴⁸ 54 Broadcasting’s comments request that its allotment be changed to allow operation post-transition at a lower ERP but using an omnidirectional instead of a directional antenna to provide more viewers with DTV service.²⁴⁹ These requested changes would violate the freeze. KNVA does not have a current authorization for these facilities and the request does not meet the criteria for a change to certified facilities discussed in the *Seventh Further Notice*.

98. KPXC, Denver, CO. Paxson Denver License, Inc. (“Paxson”), licensee of station KPXC-TV, channel 59, and permittee of KPXC-DT, channel 43, Denver, CO, received channel 43 for its TCD in the proposed DTV Table.²⁵⁰ In its FCC Form 381, Paxson certified to replication facilities, which are reflected in the proposed Appendix B parameters for KPXC-DT.²⁵¹ In its comments, Paxson seeks a change in KPXC’s certified facilities to conform to those it recently requested in a January 2007 construction permit application, including a site change.²⁵² Paxson states 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. In 2006, however, the

²⁴⁴ See *Seventh Further Notice*, 21 FCC Rcd at 12149, App. A.

²⁴⁵ See FCC File No. BCERET-20041101ADM (KQSD’s Form 381 filed Nov. 2, 2004, certifying to allotted replication facilities).

²⁴⁶ See Comments of South Dakota Board of Directors for Educational Telecommunications (“SDBD”), filed Jan. 10, 2007, at 3 (requesting change in antenna HAAT to 564m and change in coordinates to 451638 N and 995910 W).

²⁴⁷ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

²⁴⁸ See FCC File No. BCERCT - 20041029AIJ (KNVA’s Form 381 filed Nov. 1, 2004, certifying post-transition operations pursuant to FCC File No. BPCDT-19991025ADB).

²⁴⁹ See Comments of 54 Broadcasting, Inc., filed Jan. 16, 2007.

²⁵⁰ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A; FCC File No. BCERCT - 20041103AIF (Form 381).

²⁵¹ See FCC File No. BCERCT-20041103AIF (KPXC’s FCC Form 381 filed Nov. 4, 2004, certifying to the station’s allotted replication facilities). See also *Seventh Further Notice*, 21 FCC Rcd at 12100, App. B.

²⁵² See Comments of Paxson Denver License, Inc. (“Paxson”), filed Jan. 5, 2007, at 1-2; FCC File No. BMPCDT-200701104ACH (Form 301 filed Jan. 4, 2007).

decision was overturned by the Colorado Appeals Court which remanded the case to the Board of Commissioners.²⁵³ The Board of Commissioners subsequently sought certiorari from the Colorado Supreme Court, which has yet to make a decision.²⁵⁴ Paxson states it “has no expectation that it could construct the station on Mt. Morrison before the statutory termination of analog service” and it would thus be “more reasonable for the allotment to correspond to the parameters proposed in the new CP application.”²⁵⁵

99. Paxson’s request would result in a significant shift in the area served by KPXC, such that the station’s digital signal would not reach a large area that is currently served by this station, and would violate the filing freeze. We are concerned, however, about the zoning issue faced by this station and by Paxson’s stated expectation that it will not be able to construct its full DTV facility before the transition deadline on February 17, 2009. While we do not believe that shifting Paxson’s coverage as proposed is the proper resolution, and therefore deny Paxson’s request for a waiver of the freeze, we hereby invite Paxson to propose another site that would result in a less dramatic change to its current service area and population. We will consider such a request in the application process following adoption of the Report and Order in the Third DTV Periodic Review proceeding. We also urge Paxson to keep us informed concerning progress and events in the zoning case in Colorado.

100. WMHT, Schenectady, NY. WMHT Educational Telecommunications (“WMHT”), licensee of NCE station WMHT-TV, channel *17, and permittee of WMHT-DT, channel *34, Schenectady, NY, received channel *34 for its TCD in the proposed DTV Table.²⁵⁶ In its comments, WMHT supports the proposed allotment of channel *34 but requests a change of its community of license from Schenectady to Albany.²⁵⁷ WMHT argues that it should be allowed to change its community of license because its market is defined as a hyphenated market, Schenectady-Albany, in the NTSC Table of Allotments.²⁵⁸ In addition, WMHT argues that the station’s “Troy studio and Altamont tower locations permit it to serve the entire New York Capital District and beyond.”²⁵⁹ No other comments were filed related to this TCD.

101. We decline to make the allotment change requested by WMHT at this time. The Commission did not use hyphenated markets in the initial DTV Table²⁶⁰ and did not use hyphenated markets in the new DTV Table proposed in the *Seventh Further Notice*.²⁶¹ While the market may have been hyphenated in the NTSC Table, WMHT’s license lists the station’s market as Schenectady and not as a hyphenated market.²⁶² WMHT’s request to change its

²⁵³ See Comments of Paxson at 2.

²⁵⁴ *Id.*

²⁵⁵ *Id.*

²⁵⁶ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

²⁵⁷ See Comments of WMHT Educational Telecommunications (“WMHT”) (filed Jan. 24, 2007).

²⁵⁸ 47 C.F.R. § 73.606(b).

²⁵⁹ See Comments of WMHT at 3.

²⁶⁰ See 47 C.F.R. § 73.622(b).

²⁶¹ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

²⁶² See FCC File No. BLEDT-20040108ALV (filed Aug. 9, 2004).

community of license is precluded by the Commission's filing freeze.²⁶³ We further conclude that WMHT has not demonstrated that a waiver of the freeze is warranted. WMHT does not suggest that the change in community of license is necessary to advance its digital transition process. Instead, WMHT states only that the proposed change "entails no change in the current operation," "will result in no diminution of service to Schenectady," and is intended for "future state funding, grant funding, and membership recruitment" because an Albany community license provides "greater recognition to the licensee's operations."²⁶⁴ We note that WMHT may seek a change in its community of license after the freeze is lifted, consistent with the Commission's rules for post-transition operations.²⁶⁵

4. Stations Not Eligible To Participate in the Channel Election Process

102. We deny the requests of pending applicants for a new television station to add new allotments to the post-transition DTV Table. Comments were filed by such pending applicants arguing that the Commission failed to include such allotments in the proposed DTV Table.²⁶⁶ In each case, the commenter has an application for a construction permit for a new television station on the requested new allotment pending at the Commission. In the *Second DTV Periodic Report and Order*, the Commission made it clear that only Commission licensees and permittees would be eligible to participate in the channel election process.²⁶⁷ Applicants for new stations and petitioners for new allotments were expressly excluded from making elections.²⁶⁸ In the *Seventh Further Notice*, we noted that a number of pending applications for

²⁶³ See *August 2004 Filing Freeze PN*, 19 FCC Rcd at 14810 (stating that the Commission will not accept for filing petitions for rulemaking to change communities of license).

²⁶⁴ See Comments of WMHT at 4.

²⁶⁵ Requests to change a community of license require the filing of a petition for rulemaking. 47 C.F.R. §73.3572(a).

²⁶⁶ See Appendix D7. See also Comments of Northern California Public Television ("NCPTV"), filed Jan. 25, 2007, at 1 (relating to Weaverville, CA); Comments of Flathead Adventist Radio, Inc. ("FAR"), filed Jan. 25, 2007, at 1 (relating to Kalispell, MT); Comments of Oral Roberts University ("ORU"), filed Jan. 12, 2007, at 1 (relating to Tulsa, OK); Comments of Pappas Telecasting of America ("Pappas") and South Central Communications Corporation ("SCCC"), filed Jan. 19, 2007, at 1 (relating to Owensboro, KY); Joint Comments of Grant Educational Foundation, KVIE, Inc., LeSea Educational Broadcasting of Sacramento, Inc., Calvary Christian Inc., ESP Technology Community Broadcasters, Amazing Facts, Inc., Rising Tide of Sacramento, Family Stations, Inc., and La Dov Educational Outreach, Inc. filed Jan. 25, 2007, at 1 (relating to Sacramento, CA).

²⁶⁷ See *Second DTV Periodic Report and Order*, 19 FCC Rcd at 18307, ¶ 66. Contrary to the assertion of Flathead Adventist Radio, Inc. ("FAR") and Oral Roberts University, the prohibition in paragraph 66 applies to pending applicants for both NTSC and DTV stations. See Comments of FAR, filed Jan. 25, 2007; Comments of Oral Roberts University, filed Jan. 12, 2007.

²⁶⁸ *Id.* With respect to pending NTSC and DTV rulemaking proposals, the Commission stated: "...pending NTSC and DTV rulemaking proposals will be dismissed if found to be inconsistent with the current protection requirements. Each rulemaking request, including those associated with applications and those seeking new DTV allotments, falls into one of three groups: (1) pending petitions for rulemaking; (2) outstanding rulemakings (Notice of Proposed Rule Making issued); or (3) completed rulemakings that now have pending applications for a construction permit. We will attempt to protect allotments and proposed allotments in the second and third groups where we have already adopted a Notice of Proposed Rule Making or a Report and Order to establish a channel allotment. Protection of these rulemaking proceedings is consistent with the requirements placed on DTV applications by Section 73.623(h)(2) of the rules. However, we advise these petitioners that there may be a few cases where we must modify, restrict or eliminate their requested allotment in order to accommodate all eligible (continued...)

new television stations had been granted since the start of the channel election process, and we accommodated those permittees with TCDs in the proposed DTV Table.²⁶⁹ In addition, we announced a method by which we would assign TCDs to other new permittees whose pending applications for new television stations were granted before an Order finalizing the DTV Table is adopted.²⁷⁰ We also stated that, before the end of the transition, we 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.²⁷¹ Thus, if any other pending applications are granted before the end of the transition, we will attempt to accommodate these stations with a DTV channel for post transition operation.²⁷²

5. Stations Awaiting International Coordination

103. In the *Seventh Further Notice*, the Commission noted that proposed allotments near the U.S.-Canadian and U.S.-Mexican borders require coordination with those countries.²⁷³ The Commission stated that our international negotiations are continuing in a cooperative manner and we indicated that we do not believe that these negotiations will delay stations' ability to construct their post-transition facilities.²⁷⁴ We continue to believe that international coordination of digital allotments will proceed in a manner that will allow affected stations to construct digital facilities by the transition deadline. In some cases, however, stations may need to proceed with constructing authorized facilities to the extent approved by Canada or Mexico, even if those facilities differ from the preferred facilities sought by the station, if international

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broadcasters with a post-transition DTV allotment. Remaining rulemaking petitions will be evaluated at the conclusion of the channel election and repacking process and may be accommodated with a post-transition DTV allotment or dismissed when we issue the NPRM proposing the new DTV Table of Allotments.” *Id.* at 18307-8, ¶ 67.

²⁶⁹ See *Seventh Further Notice*, 21 FCC Rcd at 12117-8, ¶ 50.

²⁷⁰ *Id.* at 12118, ¶ 53. See also ¶ 24, *supra*, and Sections III.F.7 and IV.A, *infra*. But see Reply Comments of Cohen, Dippell, and Everist, Feb. 26, 2007 (proposing that certain pre-transition allotments be included on the post-transition table even where no permit or license has been granted for those channels).

²⁷¹ *Seventh Further Notice*, 21 FCC Rcd at 12118-9, ¶ 54. With respect to applicants that receive a construction permit after the close of the comment period in this proceeding, we 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.* We noted that new permittees could request authorization to continue DTV operations on their NTSC channels after the transition. *Id.*

²⁷² See *Second DTV Periodic Report and Order*, 19 FCC Rcd at 18307-18308, ¶ 67.

²⁷³ See *Seventh Further Notice*, 21 FCC Rcd at 12117, ¶ 48. The Commission noted that, under international arrangements with Canada and Mexico, the Commission must obtain concurrence by the Canadian government for any proposed allotments located within 400 kilometers of the U.S.-Canadian border, and by the Mexican government for any proposed allotments located within 275 kilometers of the U.S.-Mexican border. See “Letter of Understanding Between the Federal Communications Commission of the United States of America and Industry Canada Related to the Use of the 54-72 MHz, 76-88 MHz, 174-216 MHz and 470-806 MHz Bands for the Digital Television Broadcasting Service Along the Common Border,” signed Sept. 22, 2000 and amended Oct. 7, 2004 (“Canadian LOU”), and “Memorandum of Understanding Between the Federal Communications Commission of the United States of America and the Secretaria de Comunicaciones y Transportes of the United Mexican States Related to the Use of the 54-72 MHz, 76-88 MHz, 174-216 MHz and 470-806 MHz Bands for the Digital Television Broadcasting Service Along the Common Border,” signed Apr. 2, 1997.

²⁷⁴ See *Seventh Further Notice*, 21 FCC Rcd at 12117, ¶ 48.

coordination issues arise that delay action on a pending application and those issues cannot be resolved in time to allow construction to be completed before the end of the transition.²⁷⁵

104. We note that all stations in the U.S.-Canadian or U.S.-Mexican border area with a TCD on a channel that is not their current digital channel will have to file an application for the TCD channel following adoption of the Report and Order in the Third DTV Periodic Review proceeding. A list of these stations is attached hereto in Appendix D4. The Commission is working to coordinate all Appendix B facilities as a group so that individual applications do not need to be coordinated. If there are circumstances where this is not possible, the Commission will work with these stations to expedite international coordination of their applications.²⁷⁶

105. In the *Seventh Further Notice*, the Commission identified two allotments for which it had received recent objections from Industry Canada: WBSF-DT, (TCD on channel 46), Bay City, MI²⁷⁷ and KAYU-DT, (TCD on channel 28), Spokane, WA.²⁷⁸ The Commission included the TCDs for these channels in the proposed DTV Table, but sought comment from these licensees concerning whether they are willing to reduce coverage on the TCD in order to address Canadian concerns.²⁷⁹ The Commission also noted that these licensees could request an alternative post-transition DTV allotment.²⁸⁰ Both of these stations have filed comments indicating their belief that the current proposed TCD does not in fact cause impermissible interference, and have submitted engineering statements in support of their positions.²⁸¹ These stations request that the Commission continue to negotiate with Industry Canada to permit them to operate on the TCD proposed in the *Seventh Further Notice*.²⁸² We are adopting our proposed allotments for these stations, subject to our continuing negotiations with Canada which relate to these allotments as well as all other new DTV allotments in the border area.²⁸³

²⁷⁵ In the *Third DTV Periodic Review NPRM*, we proposed to require all full-power television stations to file a form with the Commission detailing their current transition status, additional steps necessary in order to be prepared for digital-only operation on Feb. 17, 2009, and a timeline for making those steps. *See Third DTV Periodic Review NPRM* at ¶ 35. The proposed form, if adopted, would permit stations to indicate that they require international government clearance of a proposed facility. *Id.* at Appendix B.

²⁷⁶ ION Media Networks filed *ex parte* comments concerning ten of their stations that need international coordination. ION Media Networks *ex parte* (dated June 28, 2007). These stations are included with the other stations in the border areas that the Commission and the State Department are working to coordinate with Canadian and Mexican authorities.

²⁷⁷ Barrington Bay City License LLC (“Barrington”), licensee of WBSF(TV), channel 46, Bay City, MI, received channel 46 for its TCD in the proposed DTV Table. *See Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

²⁷⁸ Mountain Licenses, LP (“MLLP”), licensee of KAYU-TV, channel 28 and KAYU-DT, channel 30, Spokane, WA, received channel 28 for its TCD in the proposed DTV Table. *See Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

²⁷⁹ *Id.* at 12117, ¶ 49.

²⁸⁰ *Id.*

²⁸¹ *See* Comments of Mountain Licenses, LP, filed Jan. 25, 2007, at 3; Comments of Barrington Bay City License LLC, filed Jan.25, 2007, at 3-4.

²⁸² *Id.*

²⁸³ It is not necessary for MLLP to make a contingent election for DTV channel 30, as it requested, at this time. *See* Comments of Mountain Licenses at 3.

6. Resolution of TCDs Pending After Round Three

106. We adopt our tentative conclusions in the *Seventh Further Notice* with respect to the resolution of four allotments that remained outstanding after TCDs were announced for the third round of channel elections.²⁸⁴ The Commission noted that these TCDs represented challenging and difficult cases in crowded markets necessitating waiver of the freeze²⁸⁵ or the 0.1 percent interference standard²⁸⁶ in order to find appropriate channels for post-transition operation that would ensure the best possible service to the public and promote overall spectrum efficiency.²⁸⁷ We received comments from some of the parties involved in these cases and address each of these proposed allotments below.

107. WABC, New York, NY. American Broadcasting Companies, Inc. (“ABC”), the licensee of station WABC-TV, channel 7 and WABC-DT, channel 45, New York, NY,²⁸⁸ was granted a waiver of the 0.1 percent interference standard in the *Seventh Further Notice* and received channel 7 for its TCD in the proposed DTV Table.²⁸⁹ ABC and The New Jersey Public Broadcasting Authority (“NJPBA”), the permittee of WNJB-DT, channel *8, New Brunswick, NJ, filed comments related to this TCD.²⁹⁰ During the channel election process, NJPBA initially objected to the grant of a waiver for WABC and later sought a waiver of the freeze to move its digital operations on channel 8 to New York City.²⁹¹ These arguments were fully considered by the Commission in deciding to grant ABC’s request for waiver of the 0.1 percent interference standard, required in light of the predicted 2.8 percent new interference to WNJB.²⁹² The Commission concluded that the loss of service for WABC would affect current viewers of WABC, while the predicted loss of service for WNJB would affect areas outside of its current service area and primarily outside of the state of New Jersey.²⁹³ The Commission noted that WABC has been a pioneer of digital service, having built full-power digital operations in 2001 and re-built them first at Four Times Square and then on the Empire State Building, with a back-up facility at Alpine Tower in New Jersey, after the September 11, 2001 loss of the World Trade

²⁸⁴ See *Seventh Further Notice*, 21 FCC Rcd at 12110, ¶ 30; see also *Third Round TCD PN*, 21 FCC Rcd at 9573.

²⁸⁵ See *supra* note 11.

²⁸⁶ See *supra* note 39.

²⁸⁷ See *Seventh Further Notice*, 21 FCC Rcd at 12110, ¶ 30.

²⁸⁸ WABC is the flagship station of the ABC Television Network and is the sole ABC network station serving the New York market. ABC was an early adopter of DTV technology, commencing operation with its full, authorized DTV facility at the World Trade Center in 2001. File No. BLCDDT-20010710ABU. The Walt Disney Company (“Disney”) is the ultimate parent company of ABC.

²⁸⁹ See *Seventh Further Notice*, 21 FCC Rcd at 12114, ¶ 36.

²⁹⁰ See generally Comments of Disney, filed Jan. 25, 2007; Comments of The New Jersey Public Broadcasting Association, filed Jan. 25, 2007 (“Comments of NJPBA”); Reply Comments of Disney, filed Feb. 26, 2007.

²⁹¹ See Comments of The New Jersey Public Broadcasting Association, MB 03-15, filed Sept. 12, 2005; See also Comments of NJPBA.

²⁹² See *Seventh Further Notice*, 21 FCC Rcd at 12111-12113, ¶¶ 31-36.

²⁹³ *Id.* The Commission also found that WABC’s continued use of channel 7 would benefit WABC’s viewers, many of whom have relied on VHF antennas for decades.

Center.²⁹⁴ In addition, the Commission noted that allotting channel 7 to WABC would eliminate any interference concerns between WABC and both WEDH-TV, an NCE station in Hartford, CT (analog channel *24, post-transition digital channel *45),²⁹⁵ and WOLF-TV in Hazleton, PA (analog channel 56, post-transition digital channel 45).²⁹⁶

108. Because ABC sought the waiver during the channel election process, both parties had an opportunity to present their arguments prior to the adoption of the *Seventh Further Notice*. We find that NJPBA has not raised any new arguments that would cause us to reverse our grant of the interference standard waiver to ABC. We note that NJPBA contests the Commission's statement in the *Seventh Further Notice* that WNJB had not built its digital facility.²⁹⁷ In fact, WNJB has built only smaller DTV facilities pursuant to STA and has still not constructed its full, authorized DTV facility,²⁹⁸ in contrast to WABC's early construction and rebuilding of full DTV facilities after the September 11, 2001 destruction of their facilities.

109. NJPBA also claims that, based on an agreement between the parties, it is entitled to a waiver of the Commission's current freeze on modification applications and thereby allowed to co-locate its transmitting facilities at Four Times Square in New York City.²⁹⁹ As noted by ABC, NJPBA did not file its application and waiver request to modify WNJB-DT's facilities until after release of the *Seventh Further Notice*.³⁰⁰ Moreover, NJPBA offers no showing that it could not achieve its transition absent a waiver of the freeze. Thus, we disagree with NJPBA that allotment of channel 7 to ABC necessitates, or entitles NJPBA to, a waiver of the freeze. The Media Bureau will consider WNJB's application and waiver request in the normal course of processing. As noted in the *Seventh Further Notice*, consideration of NJPBA's application is best left until after the filing freeze is lifted.³⁰¹ Accordingly, we allot channel 7 to WABC.³⁰²

²⁹⁴ *Id.* (noting that the Commission, in the *Second DTV Periodic Report and Order*, indicated that it would consider a number of factors, including "whether the station was an early adopter of DTV technology," when deciding among third round election preferences). *Id.* at n.81.

²⁹⁵ As discussed in ¶ 110, *infra*, we adopt the allotment of channel *45 to WEDH-TV made in the proposed DTV Table.

²⁹⁶ See *Seventh Further Notice*, 21 FCC Rcd at 12111-12113, ¶¶ 31-36.

²⁹⁷ Comments of NJPBA at 10.

²⁹⁸ See FCC File No. BEDSTA-20060628ABA (filed June 28, 2006; requesting extension of the STA for operation of station facilities at less than specified in the permittee's CP, in particular asserting that WNJB is a satellite station of flagship NCE WNJT-DT, Trenton; and WNJB's construction permit, FCC File No. BNPEDT-20000425AAM (granted May 14, 2001); see also Reply Comments of Disney at 9.

²⁹⁹ In *ex parte* exchanges before release of the *Seventh Further Notice*, NJPBA stated that it would not object to WABC operating on channel 7 if the freeze is waived so that WNJB-DT could apply to modify its facilities to co-locate at Four Times Square and ABC stated that it would not object to WNJB-DT's move to Four Times Square if there was favorable action on its election of channel 7 and interference standard waiver request. See *Seventh Further Notice*, 21 FCC Rcd at 12112, ¶ 34 (citing to WABC-TV *ex parte* in MB Docket No. 03-15 (dated May 12, 2006) and NJPBA *ex parte* in MB Docket No. 03-15 (dated June 2, 2006)).

³⁰⁰ Reply Comments of Disney at 6. See FCC File No. BNPEDT 20070125ACC (WNJB's Waiver Request at 8 dated Jan. 26, 2007).

³⁰¹ If that application is granted, WNJB's virtual collocation with WABC-DT and other New York market stations would be likely to reduce or eliminate the predicted interference to its digital operations on channel 8.

110. WEDH, Hartford, CT and WEDN, Norwich, CT. Connecticut Public Broadcasting, Inc. (“CPBI”), the licensee of NCE stations WEDH, channel *24, permittee of WEDH-DT, channel *32, Hartford, CT and WEDN, channel *53, permittee of WEDN-DT, channel *9, Norwich, CT, received a TCD of channel *45 for WEDH in Hartford and a TCD of channel *9 for WEDN in Norwich in the proposed DTV Table.³⁰³ In proposing these allotments, the Commission found it necessary to supersede a pending swap application and rulemaking pertaining to CPBI’s pre-transition facilities.³⁰⁴ CPBI filed comments in favor of these proposed allotments.³⁰⁵ No comments were filed opposing these proposed allotments.³⁰⁶ Accordingly, we allot channel *45 to WEDH, Hartford, CT and channel *9 to WEDN, Norwich, CT.³⁰⁷

111. Although CPBI supported the post-transition allotments, it objected to the Commission’s decision to supersede the swap application and channel substitution rulemaking proceedings associated with the changes CPBI requested for its Hartford and Norwich stations.³⁰⁸ We cannot reinstate these applications without vitiating the basis for the post-transition channel allotments for WEDH and WEDN.³⁰⁹ We recognize, however, that CPBI wants to use their new allotments for pre-transition DTV operations. In that regard, we note that the *Third DTV Periodic Review NPRM* seeks comment on a proposal to allow stations that are moving to new post-transition channels (such as WEDH and WEDN) to begin operating on their new channels before the transition date, under certain conditions.³¹⁰ If such a proposal is adopted, CPBI would be able to apply for pre-transition DTV operations on their new allotments.

112. KTFK, Stockton, CA. Telefutera Sacramento, LLC (“Telefutera”), the licensee of station KTFK-TV, channel 64, and KTFK-DT, channel 62, Stockton, CA, was granted a waiver of the filing freeze in the *Seventh Further Notice* to permit it to modify KTFK’s certified facilities and receive channel 26 for its TCD in the proposed DTV Table.³¹¹ No comments were

(Continued from previous page) _____

³⁰² See Appendices A and Appendix B, *infra*.

³⁰³ See *Seventh Further Notice*, 21 FCC Rcd at 12112, ¶ 36.

³⁰⁴ For purposes of the channel election process, the Commission stated that it would protect channels proposed in outstanding rulemakings where a Notice of Proposed Rulemaking had been issued, and that we would permit licensees to elect a channel if an NPRM had been issued with respect to a channel change. The Commission did not specifically address how DTV channels in a pending swap application would be treated. *Seventh Further Notice*, 21 FCC Rcd at 12113, ¶ 38 (citing the *Second DTV Periodic Report and Order*, 19 FCC Rcd at 18307-08, ¶ 67 and 18279).

³⁰⁵ See Comments of CPBI (filed Jan. 25, 2007); Reply Comments of CPBI (filed Feb. 26, 2007).

³⁰⁶ Entravision Holdings, LLC and the Scripps-Howard Broadcasting Company previously filed objections to the pre-transition use of Channel *45 at Hartford and Channel *9 at Norwich, respectively; however, neither party addressed the Hartford and Norwich allotments in their comments to this proceeding. See Reply Comments of CPBI at 2.

³⁰⁷ See Appendices A and B, *infra*.

³⁰⁸ Comments of CPBI at 3. See also FCC File Nos. BNPEDT-20031008AAT and BPEDT-19990113KG.

³⁰⁹ See *Seventh Further Notice*, 21 FCC Rcd at 12115, ¶ 40.

³¹⁰ See *Third DTV Periodic Review NPRM* at ¶ 88. For example, the Commission proposes to allow early transition, provided such operations would not cause impermissible interference to another station.

³¹¹ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

filed opposing this proposed allotment. Accordingly, we adopt this TCD and allot channel 26 to KTFK, Stockton, CA.³¹²

113. KVIE, Sacramento, CA. KVIE, Inc., the licensee of NCE station KVIE, channel *6 and KVIE-DT, channel *53, Sacramento, CA, was granted a waiver of the 0.1 percent interference standard³¹³ and received channel *9 for its TCD in the proposed DTV Table.³¹⁴ KVIE, Inc. filed comments in favor of the proposed allotment.³¹⁵ No comments were filed opposing this proposed allotment. Accordingly, we adopt this TCD and allot channel *9 to KVIE(TV), Sacramento, CA.³¹⁶

7. TCDs for New Permittees Granted During Proceeding

114. We adopt the TCDs announced for the six new permittees in the *New Permittees Public Notice*.³¹⁷ As discussed in Paragraph 24, *supra*, six pending applications were granted during this rulemaking, and proposed TCDs for the new permittees were published for comment in the *New Permittees Public Notice*. There were no comments, or only favorable comments, regarding the TCDs of five of the permittees, and they are therefore included in this *Report and Order*'s modified DTV Table and Appendix B.³¹⁸ An objection was raised to the TCD of one of the new permittees, and is discussed below.

115. KCWV, Duluth, MN. George S. Flinn, III, new permittee of station KCWV-TV, channel 27, Duluth, MN, received channel 27 for KCWV's TCD in the Public Notice. The State of Wisconsin – Educational Communications Board (“ECB”) filed comments in opposition.³¹⁹ ECB is the licensee of NCE station WHWC-DT, Channel *27, Menomonie, WI, which received

³¹² See Appendices A and B, *infra*.

³¹³ The proposed allotment was predicted to cause 1.3 percent new interference to NCE station KIXE-TV, channel *9, Redding, CA; however, the Commission concluded that this was outweighed by the fact that more than 4 million people residing within the KVIE service area were predicted to receive a superior DTV signal from KVIE on channel *9 than on its current low-VHF channel *6.

³¹⁴ See *Seventh Further Notice*, 21 FCC Rcd at 12112, ¶ 36.

³¹⁵ See Comments of KVIE, Inc., filed Jan. 25, 2007.

³¹⁶ See Appendices A and B, *infra*.

³¹⁷ See *New Permittees Public Notice*, *supra* note 50. The Media Bureau announced TCDs for six permittees that attained permittee status during the pendency of the rulemaking proceeding and invited public comment on these changes to the proposed post-transition DTV Table.

³¹⁸ Prior to the issuance of the *New Permittees Public Notice*, Entravision Holdings, LLC (“Entravision”) filed a comment noting that its newly-issued permit in Derby, KS made it eligible for participation in the channel election process, and requesting that the station at Derby be included in the new DTV Table. See Comments of Entravision, filed Dec. 28, 2006. Derby was included in the *New Permittees Public Notice*, and no comments were filed in opposition to its inclusion. We grant Entravision's request for the inclusion of Derby in the DTV Table. See also *Eighth Further Notice* at ¶ 140, *infra* (proposing the inclusion in the Table of a more recently granted Entravision permittee). No comments were filed regarding the other four new permittees.

³¹⁹ See Comments of State of Wisconsin – Educational Communications Board (“ECB”), filed Feb. 9, 2007. ECB's comments were timely filed within the comment cycle established by the *New Permittees Public Notice*: February 9, 2007 for comments and February 26, 2007 for reply comments. *Id.* Comments filed in response to this public notice were incorporated into the record in this proceeding.

channel 27 for its TCD in the proposed DTV Table.³²⁰ ECB states its belief that the proposed allotment of channel 27 to Duluth “would cause interference to WHWC-DT for 10,995 persons, or 1.290 percent of its noise limited service area,” including “new interference from Duluth channel 27 of 0.345 percent of the population served.”³²¹ ECB asks the Commission to instead assign channel 47 to KCWV, arguing that such an allotment “would cause considerably less interference.”³²² Mr. Flinn did not file a reply.

116. Prior to the issuance of the *New Permittees Public Notice*, the TCDs of all new permittees were analyzed using computer software techniques that have been validated through extensive testing and comparison of results with similar software used by other parties participating in this proceeding. At that time, the Commission’s interference analysis indicated that no station would receive impermissible interference from KCWV’s TCD. We have considered the analysis offered in ECB’s pleadings, and we find that they do not match our findings. We are confident that the results of our interference analysis are correct and accurately reflect the service areas to be provided with the facilities specified and the interference conditions that are expected to be present among stations.³²³ We therefore include KCWV in the modified DTV Table and Appendix B.³²⁴

8. Stations to be Deleted from the DTV Table

117. Two stations, Delta College, licensee of NCE station WDCP-TV, University Center, MI, analog channel *19 and permittee of DTV channel *18, and Rockfleet Broadcasting II, LLC, (“Rockfleet”) licensee of station WFUP, channel 45, and permittee of WFUP-DT, channel 59, Vanderbilt, MI (satellite station of WFUX-TV, Cadillac, MI), have notified us that they do not intend to construct DTV facilities and will cease operation after February 17, 2009. Delta College filed a comment and requested that we delete the TCD for WDCP on channel 18 from the Table of Allotments.³²⁵

118. Rockfleet notified us during the first round of the channel elections that it does not intend to construct a post-transition DTV facility for WFUP.³²⁶ Rockfleet explained that Vanderbilt will be served by the digital signal of WFUX-DT. Consequently, we did not assign a TCD for this station. Rockfleet will surrender its license for cancellation after February 17, 2009.³²⁷

9. Other Requests

119. WSWP, Grandview, WV. We grant the request of West Virginia Educational Broadcasting Authority (“WVEBA”), licensee of NCE station WSWP-TV, channel *9 and

³²⁰ See *Seventh Further Notice*, 21 FCC Rcd at 12123 App. A.

³²¹ See Comments of ECB at 2 and n.1.

³²² *Id.*

³²³ See ¶¶ 18-20, *supra*, for description of methodology used.

³²⁴ See Appendices A and B, *infra*.

³²⁵ WDCP Comment at 2-3.

³²⁶ See letter filed in lieu of Form 381 by Rockfleet, dated Nov. 5, 2004.

³²⁷ *Id.*

permittee of WSWP-DT, channel *53, Grandview, WV, which received channel *10 for its TCD in the proposed DTV Table, for a waiver of the 0.1 percent interference standard up to 2.0 percent and to the extent that it is consistent with the filing freeze.³²⁸ WVEBA requests a waiver of the 0.1 percent interference standard, claiming that WSWP-DT cannot replicate the station's existing analog service area on the proposed allotment for channel *10.³²⁹ Davis Television Clarksburg, LLC ("DTC"), permittee of WVFX-DT, channel 10, Clarksburg, WV, and TCD on channel 10 in the proposed DTV Table,³³⁰ filed reply comments opposing WVEBA's waiver request.³³¹

120. In the first channel election round, WVEBA elected its analog channel *9; however, this election was determined to cause more than 2.0 percent new interference,³³² and, thus, disapproved.³³³ In the second round, WVEBA elected channel 11, but this election was also rejected because it was determined to cause more than 0.1 percent new interference.³³⁴ In the third round, WVEBA elected channel 10.³³⁵ This election was also determined to cause more than 0.1 percent new interference.³³⁶ Consequently, WVEBA received channel *10 as its TCD, but at reduced facilities in order to bring the station into compliance with the 0.1 percent interference standard.³³⁷ Specifically, WSWP's ERP was reduced to 2.5 kW.³³⁸ In response to the *Third Round TCD PN*, WVEBA filed a "Request for Partial Reconsideration," supporting its

³²⁸ See *Seventh Further Notice*, 21 FCC Rcd at 12149, App. A.

³²⁹ See Comments of The West Virginia Educational Broadcasting Authority ("WVEBA"), filed Jan. 25, 2007. WVEBA also submitted an *ex parte* filing on April 26, 2007 in the docket. WVEBA previously filed a "Request for Partial Reconsideration" of its TCD after issuance of the *Third Round TCD PN*. See WVEBA *ex parte* (filed Apr. 26, 2007 and May 10, 2007); WVEBA "Request for Partial Reconsideration of Third Round DTV Tentative Channel Designation" filed Sept. 28, 2006 ("*WVEBA's Partial Recon*"). See also Public Notice, "Third Round of the DTV Channel Election Process: Tentative Channel Designations," 21 FCC Rcd 9572 (MB 2006) ("*Third Round TCD PN*").

³³⁰ See *Seventh Further Notice*, 21 FCC Rcd at 12149, App. A. WVFX(TV)'s current NTSC channel is channel 46, Clarksburg, WV. 47 C.F.R. § 73.606(b).

³³¹ See Reply Comments of Davis Television Clarksburg ("DTC"), filed Feb. 26, 2007. DTC also filed supplemental comments in response to WVEBA's *ex parte* Engineering statement on May 10, 2007.

³³² The analysis indicated 2.8 percent new interference to another station (*i.e.*, WVNS, Lewisburg, WV, analog ch 59, TCD on ch 8) (service loss to 13,763 people). As previously noted in *supra* ¶ 20, the Commission allowed a station with an out-of-core DTV channel to exceed the 0.1 percent interference standard to up to 2.0 percent, if doing so would allow such a station to elect its in-core analog channel. If such an election was predicted to cause more than 2.0 percent new interference to a protected DTV station, then the station was made subject to the normal conflict-resolution procedures.

³³³ See FCC File No. BFREET-20050209AKA (disapproving WSWP's election in Form 382).

³³⁴ See FCC File No. BSREET-20051031AEV (disapproving WSWP's election in Form 384). The analysis indicated 0.5 percent new interference to another station (*i.e.*, WJHL) (service loss to 6,876 people).

³³⁵ See FCC File No. BTREET-20060526AAZ (WSWP's Form 386).

³³⁶ WVEBA states that it requested to operate channel *10 using 10 kW. See *WVEBA's Partial Recon* at 1.

³³⁷ See *Third Round TCD PN*, 21 FCC Rcd at 9573, n.5.

³³⁸ *Id.*

proposed channel allotment, but requesting to operate at 10 kW in order to “adequately serve the station’s current audience.”³³⁹

121. The *Seventh Further Notice* proposed channel *10 as WSWP’s TCD at 2.5 kW ERP in the post-transition DTV Table.³⁴⁰ WVEBA filed comments in response to the *Seventh Further Notice* and now asks for 20 kW ERP.³⁴¹ WVEBA contends that this power level is necessary for the station to replicate its analog coverage.³⁴²

122. WVEBA certified to its replication facilities on Form 381.³⁴³ WVEBA claims that its current analog station serves 906,075 people and that its proposed operation of its digital facility on channel 10 at 20 kW ERP would serve 900,098 people.³⁴⁴ WVEBA further asserts that its proposal to operate WSWP at 20 kW ERP will result in new interference of 0.7 percent to WVFX-DT, which it acknowledges exceeds the 0.1 percent interference standard,³⁴⁵ but claims is necessary “to meet its certification to replicate its NTSC coverage.”³⁴⁶ DTC replies that WVEBA overstates WSWP’s present analog population coverage and understates the interference to WVFX-DT, claiming that WVEBA’s proposal would cause more than 1.4 percent new interference.³⁴⁷

123. We agree with DTC that WVEBA overstates WSWP’s present analog population coverage, but we also concur with WVEBA that WSWP-DT’s operation at the proposed 2.5 kW ERP would not fully replicate its existing analog coverage.³⁴⁸ We also find, however, that operation of channel *10 at 20 kW ERP would exceed the station’s certified replication facilities and violate the current freeze on expansion of a noise limited service contour beyond its certified replication contour.³⁴⁹ To resolve the conflict, we have analyzed WSWP’s channel facilities using a modified replication approach to derive the proposed facilities from the analog Grade B contour on which the initial DTV Table facilities were based and determined that WSWP could replicate its analog coverage at 18.6 kW.³⁵⁰ Operation of WSWP-DT at 18.6 kW, however,

³³⁹ See *WVEBA’s Partial Recon* at 2.

³⁴⁰ WVEBA’s petition for reconsideration was premature because the issuance of a TCD was not a final Commission action subject to reconsideration. 47 C.F.R. § 1.106(a)(1). As noted in the *Seventh Further Notice*, final channel allotments can be established only through a rulemaking proceeding. *Seventh Further Notice*, 21 FCC Rcd at 12103, ¶ 5. We, therefore, dismiss WVEBA’s petition as premature and will consider the pleading as an informal comment to the instant proceeding.

³⁴¹ See Comments of WVEBA at 1.

³⁴² *Id.*

³⁴³ See FCC File No. BCERET-20041105AFL (WSWP’s Form 381).

³⁴⁴ See Comments of WVEBA at 3-4.

³⁴⁵ See *id.* at 5; WVEBA *ex parte* (dated Apr. 26, 2007) at 1, and “Supplemental Engineering Technical Statement.”

³⁴⁶ See Comments of WVEBA at 1.

³⁴⁷ See Reply Comments of Davis Television Clarksburg, filed Feb. 26, 2007, at 2-4.

³⁴⁸ WSWP’s operation at 2.5 kW ERP on its TCD of channel *10 is predicted to serve a population of approximately 435,000 people, which is less than those that would be served by the station’s replication facilities.

³⁴⁹ See discussion of freeze, *supra* note 11.

³⁵⁰ See discussion of requests for modified coverage area, *supra* Section III.D.

would cause 1.73 percent new interference to WVFX-DT, which exceeds the 0.1 percent interference standard. Therefore, we must consider WVEBA's waiver request.

124. In evaluating WVEBA's request for a waiver of the 0.1 percent interference standard, we find that although WVEBA's circumstances are dissimilar to two stations that were granted waivers in the *Seventh Further Notice*,³⁵¹ WVEBA does offer important public interest bases that merit a waiver in this case. First, WVEBA had an out-of-core DTV channel, which would have warranted a 2.0 percent interference allowance to elect its analog channel *9 in the first round. However, use of channel 9 would have exceeded the 2.0 percent standard. Second, although there are UHF channels available in its market, WVEBA has argued persuasively that a UHF channel would not replicate the station's analog coverage due to the mountainous terrain in WSWP's service area and would require this educational station to incur "significant increased capital and operational costs."³⁵² Third, NCE station WSWP offers unique educational programming to an economically disadvantaged community that relies on over-the-air broadcasting for their TV service.³⁵³

125. Our analysis indicates that WSWP's operation on channel 10 with full replication facilities would cause less total interference than would its operation on channel 9, 11 or any other high VHF channel. We conclude that WSWP would have been eligible for up to 2.0 percent new interference using its own analog channel 9 for post-transition DTV operation.³⁵⁴ Operation on channel 9 would have exceeded 2.0 percent new interference, while operation on channel 10 at 18.6 kW does not. Therefore, we grant WVEBA's request for waiver of the 0.1 percent interference standard and establish its Appendix B facilities at 18.6 kW ERP on channel *10.³⁵⁵

126. KTAZ, Phoenix, AZ. We grant the request of NBC Telemundo License, Co. ("NBC Telemundo"), licensee of singleton station KTAZ, channel 39, Phoenix, AZ, which received channel 39 for its TCD in the proposed DTV Table,³⁵⁶ to change station KTAZ's post-transition DTV Table Appendix B facilities. In 2005, the Commission approved a modification to the analog Table of Allotments sought by NBC Telemundo and Community Television Educators, Inc. ("CTE") which substituted Channel 39 for noncommercial reserved Channel 39 (*39) in Phoenix, substituted noncommercial reserved Channel 11 (*11) for Channel 11 in Holbrook, Arizona, and authorized NBC Telemundo to operate on Channel 39 in Phoenix and CTE to operate on Channel *11 in Holbrook.³⁵⁷ The Commission subsequently granted minor

³⁵¹ See Comments of WVEBA at 6.

³⁵² Comments of WVEBA at 2 ("the UHF signal characteristics over the relevant terrain (even at maximum UHF power of 1000 kW) cannot replicate the current channel 9 NTSC coverage").

³⁵³ See Comments of WVEBA at 4.

³⁵⁴ See *supra* ¶ 20 and note 41.

³⁵⁵ See *infra* Appendix B.

³⁵⁶ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

³⁵⁷ See Comments of NBC Telemundo License Co., filed Jan. 25, 2007, at 3. See also *Memorandum Opinion and Order*, Amendment of the Television Table of Allotments to Delete Noncommercial Reservation of Channel *39, 620-626 MHz, Phoenix, Arizona, and to Add Noncommercial Reservation on Channel 11, 198-204 MHz, Holbrook, Arizona, 20 FCC Rcd 16854 (2005).

modification applications filed by the parties to implement the channel substitutions.³⁵⁸ The proposed post-transition DTV Table Appendix B lists the Facility ID for the former Channel *39 facility for KTAZ, rather than the Facility ID for the new Channel 39 facility. NBC Telemundo requests that Appendix B be revised to reflect the correct Facility ID for the new Channel 39 facility.³⁵⁹

127. In addition, NBC Telemundo states that the technical facilities specified in Appendix B for Channel 39 are no longer accurate. KTAZ does not have a paired digital channel. The technical facilities specified in Appendix B for Channel 39 reflect the digital parameters applied for by CTE prior to the channel substitutions. NBC Telemundo states that it recently relocated the Channel 39 analog facility to a new tower.

128. We have revised DTV Table Appendix B as adopted herein to reflect operation of a digital station on Channel 39 in Phoenix with parameters reflected in the analog authorization approved by the Commission for KTAZ.³⁶⁰ In addition, we have revised Appendix B to reflect the correct Facility ID for both KTAZ and Channel *11 in Holbrook.

129. WNYA, Pittsfield, MA. In response to comments filed opposing the proposed post-transition facilities of WNYA, Pittsfield, MA, we will change station WNYA's post-transition DTV Table Appendix B facilities. Venture Technologies Group, LLC, licensee of singleton station WNYA, channel 51, Pittsfield, MA, received channel 13 for its TCD in the proposed post-transition DTV Table.³⁶¹ WNYT-TV, LLC ("WNYT"), licensee of station WNYT, channel 13, and WNYT-DT, channel 12, Albany, NY, which received channel 12 for its TCD in the proposed post-transition DTV Table,³⁶² objects to the facilities proposed for WNYA in the post-transition DTV Table Appendix B.³⁶³ WNYA did not respond to the WNYT comments.

130. The proposed post-transition DTV Table Appendix B specifies a site change for WNYA which would move that station's DTV facility from the WNYA analog site in Pittsfield to WNYT's licensed site near Albany. WNYA specified this site change in its second round conflict decision form (FCC Form 385) to resolve an interference conflict of 3.7 percent with WNYT, which resulted from WNYA's election of channel 13.³⁶⁴ In its comments, WNYT claims that the ERP of 28kW that is proposed for WNYA in Appendix B, is substantially in excess of that permitted for a DTV station on channel 13 in Zone 1.³⁶⁵ WNYT requests that the Commission revise Appendix B for WNYA to specify the Pittsfield site for that station with parameters that would permit WNYA to comply with its FCC Form 381 certification.

³⁵⁸ See FCC File No. BLCT-20060809ABN; BMPCT-20060417AGD.

³⁵⁹ See Comments of NBC Telemundo, at 3.

³⁶⁰ *Id.*

³⁶¹ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

³⁶² See *id.*

³⁶³ See Comments of WNYT-TV, LLC, filed Jan. 25, 2007.

³⁶⁴ See FCC File No. BSRCC-20060317ADH (WNYA's Form 385).

³⁶⁵ *Id.* at 4.

131. WNYT is correct that the power specified in the proposed Appendix B for WNYA exceeds the maximum allowed pursuant to 73.622(f)(7)(ii). At an HAAT of 396 meters, the maximum ERP for a channel 13, Zone 1 DTV station is 12.6 kW. However, WNYT's request that we change WNYA's Appendix B facilities to specify the Pittsfield transmitter site would not address the interference conflict found in round 2 of the channel election process.

132. We conclude that WNYA can serve most of its certified coverage area from the site near Albany, at reduced power. We have determined that WNYA can provide an acceptable predicted field strength over Pittsfield, Massachusetts, its city of license, based on its FCC Form 385 facilities with its maximum ERP reduced from the proposed 28 kW to 12.6 kW. In addition, at this reduced power, WNYA's operation on channel 13 will cause any additional interference. Therefore, we are changing Appendix B to specify an ERP for WNYA of 12.6 kW.

133. WLFL, Raleigh, NC. We deny the request of Sinclair Broadcast Group, Inc. ("Sinclair"), the parent entity of the licensee³⁶⁶ of station WLFL, channel 22 and permittee of WLFL-DT, channel 57, Raleigh, NC, which received channel 27 for its TCD in the proposed DTV Table.³⁶⁷ We conclude that it is not necessary to increase the ERP for this station.³⁶⁸

134. In its Form 381, Sinclair certified to maximized facilities for WLFL-DT as authorized by its construction permit.³⁶⁹ In the first round, Sinclair obtained a TCD for channel 27 through an approved NCA with station WRDC, Durham, NC.³⁷⁰ Sinclair's comments claim that the power listed for channel 27 on Appendix B is incorrect.³⁷¹ In fact, the proposed channel 27 power is less than the certified channel 57 power so that the post-transition facilities will match the certified facilities' coverage.³⁷² Consequently, no change in Appendix B is needed to provide WLFL-DT with its certified coverage.

135. KCET, Los Angeles, CA. Community Television of Southern California ("CTSC"), licensee of NCE station KCET, channel *28, and KCET-DT, channel *59, Los Angeles, CA, received channel *28 for its TCD in the proposed DTV Table.³⁷³ CTSC states in its comments that it certified that it would operate noncommercial educational station KCET with maximized facilities on channel *28 for post-transition operations but the Commission disapproved the election because it was projected to cause interference of 2.3 percent to the

³⁶⁶ Sinclair is the parent of WLFL Licensee, LLC, which is the named licensee of station WLFL.

³⁶⁷ See *Seventh Further Notice*, 21 FCC Rcd at 12149, App. A.

³⁶⁸ See Comments of Sinclair Broadcast Group, Inc., filed Jan. 25, 2007, at 2, 4.

³⁶⁹ See FCC File No. BCERCT-20041105AIM (Form 381 filed Nov. 8, 2004, certifying to its maximized facilities authorized in FCC File No. BMPCDT-19991021AAO – Form 301 granted Feb. 1, 2001). The CP authorized 1000 kW ERP for DTV channel 57.

³⁷⁰ See FCC File No. BFRECT-20050209AUR (Form 382, approved June 23, 2005).

³⁷¹ See Sinclair Comments at 2, 4.

³⁷² The adjustment in power is necessitated by the "dipole factor" that is applied to UHF TV service as determined pursuant to OET Bulletin 69. OET Bulletin No. 69, "Longley-Rice Methodology for Evaluating TV Coverage and Interference," (Feb. 6, 2004) ("*OET Bulletin No. 69*"), available at www.fcc.gov/Bureaus/Engineering_Technology/Documents/bulletins/oet69/oet69.pdf. A lower UHF channel requires less power to reach the same coverage area as a higher number UHF channel.

³⁷³ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

elected DTV channel 27 of KEYT, Santa Barbara, California (analog channel 3, post-transition digital channel 27).³⁷⁴ CTSC states that it changed its election to specify replication facilities on channel *28 but reserved its right to seek maximized facilities should circumstances permit.³⁷⁵

136. On July 7, 2006, Smith Media License Holdings, LLC (“Smith”) filed a letter requesting a waiver of the July 1, 2006 replication/maximization deadline with respect to KEYT-DT.³⁷⁶ In that letter, Smith indicated that for KEYT-DT to operate with its allotted replication facilities, as the prior owner certified, Smith would have to increase the ERP for KEYT to approximately 698 kW.³⁷⁷ Smith indicated that, because of electrical capacity limits at the station’s antenna site, it did not anticipate being able to increase power at the antenna site until near the end of the DTV transition.³⁷⁸

137. According to CTSC, the maximized facilities it originally proposed for KCET-DT on Channel *28 would not cause impermissible interference to the facilities of KEYT-DT on Channel *27 if KEYT-DT operates with an ERP of 699 kW.³⁷⁹ Accordingly, CTSC requests that the Commission change DTV Table Appendix B to specify maximized parameters for KCET-DT. Smith objects to CTSC’s request and urges the Commission to continue to protect the KEYT-DT post-transition allotment.³⁸⁰

138. We deny the request of CTSC to change DTV Table Appendix B for KCET. We note the disagreement of CTSC, but have already determined that the KCET maximized facilities would cause interference to the certified facilities of KEYT-DT on its TCD in excess of the permissible limit. Our analysis was performed using computer software techniques that have been validated through extensive testing and comparison of results with similar software used by other parties participating in this proceeding. We are confident that the result of our interference analysis is correct, and there is no agreement with the affected station to accept this

³⁷⁴ See Comments of Community Television of Southern California, filed Jan. 25, 2007, at 1-2; See also FCC File No. BFREET-20050121ALB (disapproving KCET's Form 382 election of channel 28 and requiring conflict analysis); and FCC File No. BFCET-20050815ABG (approving KCET's Form 383 to reduce facilities to eliminate the interference conflict that had prevented the election of channel 28).

³⁷⁵ *Id.* at 3.

³⁷⁶ See Smith Media License Holdings, Inc. *ex parte* MB Docket No. 03-15 (dated July 7, 2006). A copy of this letter is also attached as an exhibit to the CTSC Comments.

³⁷⁷ The proposed DTV Table Appendix B specifies an ERP for KEYT of 699 kW.

³⁷⁸ *Id.* at 2. Smith was subsequently granted a waiver of the use-or-lose deadline for KEYT until February 17, 2009. See *Use or Lose Order*, *supra* note 30, at ¶105. We note that the Commission recently denied KCET’s request for an extension of the digital television construction deadline on the ground that when KCET chose to amend its Conflict Resolution Form and to specify its licensed replication facilities, it gave up its rights to pursue the construction permit for its maximized facilities. See *Construction Deadline Extension Order*, *supra* note 30, at ¶ 89. In that Order, the Commission stated that KCET would not be permitted to pursue a construction permit that conflicts with the allotted facilities of another station (KEYT-DT). *Id.* CTSC filed a petition for reconsideration of the *Construction Deadline Extension Order* decision. See *Petition for Reconsideration of Community Television of Southern California, Construction Deadline Extension Order* FCC 07-91, adopted May 17, 2007.

³⁷⁹ See Response of Community Television of Southern California to Reply Comments of Smith Media License Holdings, LLC, filed Mar. 14, 2007, at 4. See also CTSC Comments at 4 and engineering statement.

³⁸⁰ See Reply Comments of Smith Media License Holdings, LLC., filed Feb. 26, 2007, at 4.

interference.³⁸¹ The Commission will determine in the Third DTV Periodic Review Report and Order what interference standards and other procedures to apply to stations seeking to file applications for changes to station parameters post-transition. KCET may choose to file an application at that time.³⁸²

IV. EIGHTH FURTHER NOTICE OF PROPOSED RULEMAKING

139. As discussed above, the *Seventh Further Notice* finalized the DTV channel election process and began the final stage of the transition of the nation's broadcast television system from analog to digital technology. Although virtually all potentially eligible stations were assigned TCDs at that time, the *Seventh Further Notice* noted that some applications for station licenses remained pending, and might be granted before the adoption of this Order.³⁸³ Some of these new permittee TCDs were granted too late to allow sufficient opportunity for public comment in the *Seventh Further Notice* rulemaking. In addition, several commenters submitted requests for substantive modifications to the Table or Appendix B after the close of the comment period. The Commission therefore issues this *Eighth Further Notice of Proposed Rule Making*, and solicits comment on the TCDs and modification requests discussed below. We emphasize that this Further Notice deals exclusively with the stations described below. All comments and reply comments should relate solely to the specific situations and issues raised herein. No further proposals for modification of the DTV Table or Appendix B will be entertained during this pleading cycle, and no such proposals should be raised during the comment or reply period.

A. New Permittees

140. As described in the *Seventh Further Notice*, we are establishing a separate pleading cycle to give interested parties an opportunity for comment on new permittees that have attained permittee status too late to be considered in the *Seventh Report and Order*.³⁸⁴ Three new permittees have attained this status since we issued the *New Permittees PN*.³⁸⁵ Entravision Holdings, LLC, in Pueblo, Colorado (Analog channel 48), Richland Reserve, LLC in Greeley, Colorado (Digital channel 45), and Northwest Television, Inc. ("Northwest Television") in Galesburg, Illinois (Digital channel 53). Post-transition, channel 48 in Pueblo would create no additional interference, and we therefore propose channel 48 as this station's TCD. Interference analysis indicates, however, that post-transition, channel 45 in Greeley would cause 0.3 percent new interference. Therefore, we propose channel 49 as the TCD Richland Reserve, LLC. With

³⁸¹ See ¶¶ 18-20, *supra*, for description of methodology used. Smith states that, until analog service is terminated, the extent to which KEYT-DT can increase power and replicate service post-transition will not be known with reasonable certainty. According to Smith, it cannot consent to KCET-DT's proposed allotment expansion until it has determined the permissible post-transition ERP of KEYT-DT. *Id.* at 2, 4.

³⁸² We also received comments requesting a change to the proposed DTV Table Appendix B filed on behalf of WPCW, Jeannette, PA, as well as an opposition to that request. Those comments and reply comments are discussed in the *Eighth Further Notice, infra*.

³⁸³ *Seventh Further Notice*, 21 FCC Rcd at 12118, ¶ 53.

³⁸⁴ *See id.*

³⁸⁵ *See New Permittees Public Notice*, DA 07-20, 72 FR 2485 (Jan. 19, 2007).

respect to the new permittee in Galesburg, IL, because channel 53 is an out-of-core channel, an engineering analysis was conducted and it was determined that channel 8 is the best available post-transition channel in Galesburg. Channel 8 creates no new interference to the TCD of another full-power station but would interfere with licensed Class A Station WQFL-CA, Rockford, IL.³⁸⁶ However, WQFL has an application for a minor modification of license pending,³⁸⁷ which would require a waiver of the filing freeze but which, if granted, would eliminate the interference from channel 8. In order to locate an interference-free post-transition channel for Galesburg, we propose to grant WQFL-CA a waiver of the filing freeze and grant the WQFL-CA modification application, thereby resolving any potential interference, and propose channel 8 as the TCD for Northwest Television. These proposals will further amend the new DTV Table of Allotments.³⁸⁸ In addition, we propose the specific technical facilities--effective radiated power (ERP), antenna height above average terrain (HAAT), antenna radiation pattern, and geographic coordinates--at which these stations would operate after the DTV transition.³⁸⁹ The attachment also includes information on predicted service area and population coverage. Consistent with paragraph 53 of the *Seventh Further Notice*, the Commission hereby invites public comment on these proposed changes to the new DTV Table.

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

141. As noted above, several stations filed requests for revisions to the proposed DTV Table and/or Appendix B either during the reply comment period or after the close of the filing period. In order to facilitate a rapid transition, late-filed requests for minor adjustments or changes necessary for the station to replicate have been granted where they were unopposed and cause no impermissible interference to any other station. In some cases, although the Commission would have looked favorably on the proposal had it been timely filed, we find it necessary to provide a full opportunity to comment. This is particularly the case where the proposed changes to the DTV Table and/or Appendix B could affect other stations. This Further Notice identifies these late-filed requested changes, and seeks comment.

1. Request to Make Changes That Meet the Interference Criteria

142. WTXF, Philadelphia, PA. 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 for its TCD in the proposed DTV Table.³⁹⁰ In late-filed comments, Fox Philadelphia asserts that the parameters described in Appendix B reflect out-of-date information, and requests that they be revised to match its CP for its authorized facility, which will replicate its analog facilities.³⁹¹ Fox Philadelphia states that it is completing construction and expects to apply for the license to cover later this summer.³⁹² We find analyzed

³⁸⁶ See FCC File No. BLTVL-19930625JV.

³⁸⁷ See FCC File No. BPTVA-20070312ACG.

³⁸⁸ See Appendix F.

³⁸⁹ See Appendix G.

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

³⁹¹ See Comments of Fox Television Stations of Philadelphia, Inc., filed June 19, 2007. See also BPCDT-20020424AAZ; BCERCT-20041104AHH.

³⁹² See Comments of Fox Philadelphia at 1.

the requested facilities for post-transition operation, and we find that WTXF would cause 1.31 percent interference to WMPT, Annapolis, MD (analog channel 22, post-transition digital channel 42), 0.58 percent interference to WSAH, Bridgeport, CT (analog channel 43, post-transition digital channel 42), and 0.86 percent interference to WNJT, Trenton, NJ (analog channel 52, post-transition digital channel 43). Because this request was filed too late to ensure a full opportunity for comment, and particularly in light of the predicted interference, we invite comment on this request in this Further Notice.

143. 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.³⁹³ Fox filed late comments requesting that the Commission modify Appendix B to reflect WDCA's actual, authorized facilities.³⁹⁴ WDCA-DT has a construction permit, FCC File No. BMPCDT-20060519ACK, 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 Construction Permit, FCC File No. BLCDDT-20070411AAH.³⁹⁵ As noted by Fox, previous engineering analysis had indicated that this location and these parameters cause no impermissible interference. The Commission proposes to grant this request and adjust the DTV Table and Appendix B accordingly. Therefore, we solicit comments on this proposal.

2. Request for Modified Coverage Area

144. KOAM, Pittsburg, 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.³⁹⁶ Saga states that its current Appendix B parameters would allow it to reach only 83 percent of the audience it currently serves with its analog signal. Saga requests a revision to specify directional facilities for KOAM at an ERP of 15.33 kW, in order to more closely replicate its analog Grade B contour. Saga’s internal engineering study indicates that use of a directional antenna would prevent any station from receiving impermissible interference, while still allowing KOAM to reach 94.4 percent of people reached by its analog transmitter, an outcome it argues is in the public interest.³⁹⁷ We have analyzed KOAM's request and recalculated their Appendix B facilities based on replicating the analog coverage that was used to determine their initial DTV table facilities. We propose to adjust the DTV Table and Appendix B accordingly and solicit comments on this proposal.³⁹⁸

3. Requests for Alternative Channel Assignments

145. 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

³⁹³ See *Seventh Further Notice*, 21 FCC Rcd at 12123 App. A.

³⁹⁴ See Comments of Fox Television Stations, Inc., filed June 26, 2007.

³⁹⁵ *Id.*

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

³⁹⁷ See Comments of Saga Quad States Communications, LLC, filed Mar. 27, 2007, at 3-5 and Attachment.

³⁹⁸ See Appendix G

the proposed DTV Table.³⁹⁹ Gray currently broadcasts from the same antenna on its NTSC channel 8 and DTV channel 9. Gray states that its antenna has been optimized for channel 8 for over 45 years, and Gray expresses concern that attempting to retune the antenna for use on its TCD channel 9 could lead to serious engineering difficulties.⁴⁰⁰ Gray therefore requests that KOLO's TCD be changed to permit it to return to its NTSC channel 8 post-transition. Engineering analysis indicates that this proposal by Gray would cause no additional interference. The Commission proposes to grant this request and adjust the DTV Table and Appendix B accordingly. Therefore, we solicit comments on this proposal.

146. WEHT, Evansville, IN. Gilmore Broadcasting Corporation ("Gilmore"), licensee of station WEHT, channel 25, and WEHT-DT, channel 59, Evansville, IN, received channel 25 for its TCD in the proposed DTV Table.⁴⁰¹ Gilmore filed reply comments stating that WEHT could not serve its entire analog area using the TCD and parameters in the DTV Table and Appendix B. It proposes to change its TCD to channel 7 and adjust its parameters. Gilmore states that these proposed changes will increase its service area and eliminate the interference with WRTV-DT Indianapolis, IN (analog channel 6, post-transition digital channel 25) that would be caused by operating on channel 25.⁴⁰² Engineering analysis shows that Gilmore's proposed alternative channel would cause no additional interference. The Commission proposes to grant this request and adjust the DTV Table and Appendix B accordingly. Therefore, we solicit comments on this proposal.

147. KTRV, Nampa, ID. Idaho Independent Television, Inc. ("IIT"), licensee of KTRV, channel 12, and KTRV-DT, Nampa, Idaho, received channel 12 for its TCD in the proposed DTV Table.⁴⁰³ IIT filed late comments stating that it wishes to retain its existing DTV facilities for post-transition operation, and requests that Appendix B be revised to reflect those facilities.⁴⁰⁴ IIT requests its TCD be changed to channel 13 and its antenna ID to 28309. IIT states "[t]hese licensed facilities already have passed Canadian review once before, so further international coordination should be minimal." IIT makes no representation, however, about post-transition interference. In response to IIT's request, we studied KTRV's post-transition operation on channel 13 and propose to grant their requested channel change.⁴⁰⁵ We seek comment on this proposal.

148. WUOA, Tuscaloosa, AL. The University of Alabama, singleton licensee of analog station WUOA, channel 23, Tuscaloosa, AL, received channel 23 for its TCD in the proposed DTV Table.⁴⁰⁶ The University of Alabama filed an *ex parte* in June 2007 seeking a

³⁹⁹ See *Seventh Further Notice*, 21 FCC Rcd at 12123 App. A.

⁴⁰⁰ See Comments of Gray Television Licensee, Inc., filed June 18, 2007.

⁴⁰¹ See *Seventh Further Notice*, 21 FCC Rcd at 12123 App. A.

⁴⁰² See Reply Comments of Gilmore Broadcasting Corporation, filed Feb. 26, 2007 at 2.

⁴⁰³ See *Seventh Further Notice*, 21 FCC Rcd at 12123 App. A.

⁴⁰⁴ See Comments of Idaho Independent Television, Inc. ("IIT"), filed July 17, 2007. IIT simultaneously filed a Motion to Accept Late-Filed Comments, which is hereby granted.

⁴⁰⁵ See Appendices F and G. As described, *supra* ¶ 81, we do not include antenna identification numbers for stations operating with an omnidirectional antenna.

⁴⁰⁶ See *Seventh Further Notice*, 21 FCC Rcd at 12149, App. A.

channel change to a low VHF channel.⁴⁰⁷ The comment explained that the limited resources of the public university would be most efficiently used by broadcasting on a VHF channel, because of the lower cost of construction and operation of a VHF station as compared to a UHF station. We have considered and studied the University of Alabama's request, and propose replication facilities for WUOA on channel 6. Engineering analysis shows that this alternative channel will cause no additional interference. The Commission seeks comment on this proposal.

4. Other Requests

149. WPCW, Jeannette, PA. CBS Corporation ("CBS"), parent company of the licensee of Station 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.⁴⁰⁸ CBS requests a change in the parameters in the proposed Appendix B for WPCW to reflect those approved by the Commission in its 2006 decision amending the pre-transition DTV Table to substitute channel 49 for channel 30 as the digital frequency for WPCW and reallocating DTV channel 49 from Johnstown, Pennsylvania to Jeannette.⁴⁰⁹ Larry L. Schrecongost ("Schrecongost"), licensee of Class A television Station WLLS, channel 49, Indiana, Pennsylvania, opposes the CBS request and argues that the proposed DTV Table should specify channel 30 rather than channel 49 for WPCW.⁴¹⁰ Schrecongost has also filed a petition for reconsideration of the *2006 Report and Order*, which is currently pending.

150. In 1999, the former licensee of WPCW filed a petition for rule making seeking to modify the station's DTV allotment from channel 30 to channel 49 and to change the station's digital community of license from Johnstown to Jeannette.⁴¹¹ That petition was subsequently amended to specify a new reference site.⁴¹² The petition for rule making was pending at the time the former licensee of WPCW certified to replication on FCC Form 381. Based on the pending rule making, WPCW elected channel 49 in the first round of the channel election process. The *Seventh Further Notice* specifies channel 49 for WPCW but lists technical parameters consistent with replication on channel 49 of the WPCW initial DTV allotment which was based on its analog facility. In the *2006 Report and Order*, the Commission granted the WPCW rule making petition and, in addition to the channel change from 30 to 49, the Commission approved the requested site change for WPCW as well as an increase in ERP and other technical changes.⁴¹³

⁴⁰⁷ See University of Alabama *ex parte* (dated June 1, 2007) ("Supplement to Comments").

⁴⁰⁸ 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 Rule Making, filed Jan. 25, 2007, at 8.

⁴⁰⁹ See Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Johnstown and Jeannette, Pennsylvania), MB Docket No. 05-52, 21 FCC Rcd 1350 (2006) ("*2006 Report and Order*").

⁴¹⁰ See Comments of Larry L. Schrecongost, filed Jan. 25, 2007.

⁴¹¹ *Notice of Proposed Rule Making, Amendment of Section 73.622(B), Table of Allotments, Digital Television Broadcast Stations (Johnstown and Jeannette, Pennsylvania)*, MB Docket No. 05-52, 20 FCC Rcd 3456 (2005). At the time the petition for rulemaking was filed, the station's call sign was WNPA. We refer to the station herein by its current call sign, WPCW.

⁴¹² *Id.*

⁴¹³ See *2006 Report and Order*, 21 FCC Rcd at 1352-3.

151. CBS argues in its comments that the DTV Table should reflect the revised parameters approved for WPCW in the *2006 Report and Order*.⁴¹⁴ Schrecongost argues that the Commission erred in granting the channel change and site change for WPCW as operation of that station on channel 49 in Jeannette would cause interference to WLLS in violation of the Community Broadcasters Protection Act of 1999 (“CBPA”).⁴¹⁵ The CBPA gave certain low power television (LPTV) stations, known as Class A stations, some limited protection from interference by full-service stations.

152. We have determined that operation of WPCW on channel 49 at the site and parameters approved in the *2006 Report and Order* would cause interference to the TCDs of two full-power stations in excess of the 0.1 percent standard for new interference that applies during the channel election process. Specifically, operation of WPCW on channel 49 would cause 1.61 percent new interference to WTAP, Parkersburg, WV (analog channel 15, post-transition digital channel 49), and 0.7 percent new interference to WPXI, Pittsburgh, PA (analog channel 11, post-transition digital channel 48).⁴¹⁶

153. In light of the interference caused by WPCW on channel 49, we propose to provide WPCW with an alternative channel that would resolve this interference. Specifically, we propose to allot channel 11 to WPCW with the site location specified in the *2006 Report and Order*. The specific technical facilities we propose for WPCW on channel 11 at this location are reflected in Appendix G, *infra*. Our analysis shows that operation of WPCW on channel 11 will not cause interference to the post-transition facilities of full power stations, nor to WLLS, the Class A station.

154. We believe that this proposal is consistent our objectives in this proceeding. Operation of WPCW on channel 11 instead of channel 49 would reduce the interference caused to other facilities, consistent with our goal of efficient spectrum use. In addition, changing the WPCW allotment from channel 49 to channel 11 would resolve the challenge by Class A station WLLS to the decision reached in the *2006 Report and Order*.⁴¹⁷ Resolving this challenge avoids a potentially protracted appeal of the *2006 Report and Order* and furthers our goal of finalizing DTV channels and facilities to permit stations to construct their post-transition facilities by the rapidly approaching transition deadline.

155. WGNO and WNOL, New Orleans, LA. As described in paragraph 89, Tribune (licensee of station WGNO, channel 26, permittee of WGNO-DT, channel 15, with TCD on channel 26, New Orleans, LA, and station WNOL, channel 38, and permittee of WNOL-DT,

⁴¹⁴ See CBS Comments at 10.

⁴¹⁵ *Id.* at 5; Reply Comments of Larry L. Schrecongost, filed Feb. 26, 2007, at 1. See also 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). Schrecongost argues that WPCW failed to comply with the requirements of the CPBA that would entitle its DTV facility to protection by WLLS. See Schrecongost Comments at 4-5 and Reply Comments at 2-3. In particular, Schrecongost argues that WPCW failed to file a notice informing the Commission of the station’s intent to seek maximized facilities and failed to file a maximization application by the deadline established in the CBPA.

⁴¹⁶ Because WPCW was treated as having elected its pre-transition DTV channel for post-transition operations, it was awarded a TCD on channel 49 without analysis of interference caused to other stations. See ¶ 19, *supra*.

⁴¹⁷ This proposed channel change for WPCW will moot the pending Petition for Reconsideration.

channel 40, New Orleans, LA, with TCD on channel 15)⁴¹⁸ filed late comments requesting a change in technical parameters for both stations.⁴¹⁹ Tribune proposes to operate both WGNO and WNOL from the WDSU transmitter site and tower, 3.7 km from the WGNO/WNOL transmission site destroyed by Hurricane Katrina. Tribune proposes that WGNO and WNOL will share the antenna with WDSU (analog channel 6, pre- and post-transition digital channel 43). Tribune contends that operating their stations from this site will streamline their application process and allow Tribune to restore digital service to the New Orleans market more quickly.⁴²⁰

156. We have considered and studied Tribune's request, and we find that the proposed parameters do not cause impermissible interference to any station.⁴²¹ However, we find that the proposed parameters for both stations would exceed their authorized contours, in violation of the freeze. In light of the unusual circumstances that affect these stations due to the destruction of both stations' analog and digital facilities, and the licensee's desire to relocate the transmitter to reduce the risk of damage from future hurricanes, we propose to waive the freeze and substitute the technical parameters requested in the late-filed comments. We seek comment on this proposal.

V. PROCEDURAL MATTERS

A. Seventh Report and Order

1. Final Regulatory Flexibility Analysis

157. As required by the Regulatory Flexibility Act of 1980 ("RFA"),⁴²² the Commission has prepared a Final Regulatory Flexibility Analysis ("FRFA") relating to this *Seventh Report and Order*. The FRFA is set forth in Appendix E.

2. Final Paperwork Reduction Act Analysis

158. This *Seventh Report and Order* was analyzed with respect to the Paperwork Reduction Act of 1995 ("PRA")⁴²³ and does not contain any information collection requirements.⁴²⁴

⁴¹⁸ See *Seventh Further Notice*, 21 FCC Rcd at 12123, App. A.

⁴¹⁹ Ex parte Comments of Tribune (dated July 23, 2007).

⁴²⁰ *Id.*

⁴²¹ See Proposed Allotments for WGNO-DT, channel 26, and WNOL-DT, channel 15, Figure 1 and Figure 1 [sic] appended to ex parte Comments of Tribune (dated July 23, 2007).

⁴²² See 5 U.S.C. § 603. The RFA, *see* 5 U.S.C. § 601 et. seq., 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). The SBREFA was enacted as Title II of the Contract With America Advancement Act of 1996 ("CWAAA").

⁴²³ The Paperwork Reduction Act of 1995 ("PRA"), Pub. L. No. 104-13, 109 Stat 163 (1995) (*codified in* Chapter 35 of Title 44 U.S.C.).

⁴²⁴ See *Seventh Further Notice*, 21 FCC Rcd at 12119, ¶ 56.

3. Congressional Review Act

159. The Commission will send a copy of this *Seventh Report and Order* in a report to be sent to Congress and the Government Accountability Office, pursuant to the Congressional Review Act.⁴²⁵

B. Eighth Further Notice of Proposed Rulemaking

1. Initial Regulatory Flexibility Analysis

160. As required by the Regulatory Flexibility Act of 1980 (“RFA”),⁴²⁶ the Commission has prepared an Initial Regulatory Flexibility Analysis (“IRFA”) relating to this *Eighth Further Notice of Proposed Rulemaking*. The IRFA is set forth in Appendix H.

2. Initial Paperwork Reduction Act Analysis

161. This *Eighth Further Notice of Proposed Rulemaking* has been analyzed with respect to the PRA and does not contain proposed information collection requirements. In addition, therefore, it does not contain any new or modified “information collection burden for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002.⁴²⁷

3. Ex Parte Rules

162. Permit-But-Disclose. This proceeding will be treated as a “permit-but-disclose” proceeding subject to the “permit-but-disclose” requirements under Section 1.1206(b) of the Commission’s rules.⁴²⁸ *Ex parte* presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, *ex parte* or otherwise, are generally prohibited. Persons making oral *ex parte* presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented is generally required.⁴²⁹ Additional rules pertaining to oral and written presentations are set forth in Section 1.1206(b).

4. Filing Requirements

163. Comments and Replies. Pursuant to Sections 1.415 and 1.419 of the Commission’s rules,⁴³⁰ interested parties may file comments on or before 30 days after publication in the Federal Register, and reply comments on or before 45 days after publication in the Federal Register using: (1) the Commission’s Electronic Comment Filing System (“ECFS”), (2) the Federal Government’s eRulemaking Portal, or (3) by filing paper copies.⁴³¹

⁴²⁵ 5 U.S.C. § 801(a)(1)(A).

⁴²⁶ See 5 U.S.C. § 603.

⁴²⁷ The Small Business Paperwork Relief Act of 2002 (“SBPRA”), Pub. L. No. 107-198, 116 Stat 729 (2002) (codified in Chapter 35 of title 44 U.S.C.); see 44 U.S.C. 3506(c)(4).

⁴²⁸ See 47 C.F.R. § 1.1206(b); see also 47 C.F.R. §§ 1.1202, 1.1203.

⁴²⁹ See *id.* § 1.1206(b)(2).

⁴³⁰ See 47 CFR §§ 1.415, 1419.

⁴³¹ See *Electronic Filing of Documents in Rulemaking Proceedings*, 13 FCC Rcd 11322 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.
 - For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, “get form.” A sample form and directions will be sent in response.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission’s contractor will receive hand-delivered or messenger-delivered paper filings for the Commission’s Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

164. Availability of Documents. Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, S.W., CY-A257, Washington, D.C., 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.

165. Accessibility Information. 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>.

C. Additional Information

166. For more information on this *Seventh Report and Order and Eighth Further Notice of Proposed Rulemaking*, please contact Kim Matthews, Policy Division, Media Bureau at (202) 418-2154, Gordon Godfrey, Engineering Division, Media Bureau at (202) 418-2193, or Nazifa Sawez, Engineering Division, Media Bureau at (202) 418-7059.

VI. ORDERING CLAUSES

167. 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 *Seventh Report and Order and Eighth Further Notice of Proposed Rule Making* IS ADOPTED.

168. 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.

169. IT IS FURTHER ORDERED that the rules as revised in Appendix A SHALL BE EFFECTIVE 30 days after publication of the *Seventh Report and Order and Eighth Further Notice of Proposed Rule Making* in the Federal Register.

170. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Seventh Report and Order and Eighth Further Notice of Proposed Rule Making*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

171. IT IS FURTHER ORDERED that the Commission SHALL SEND a copy of this *Seventh Report and Order and Eighth Further Notice of Proposed Rule Making* 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

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
Opelika	47
Ozark	33

¹ Note: Changes from proposed post-transition DTV Table of Allotments are in bold.

Selma	29, 42
Troy	48
Tuscaloosa	23, 33
Tuskegee	22

ALASKA

Community	Channel No.
Anchorage	5, *8, 10, 12, 20, *26, 28, 32
Bethel	*3
Fairbanks	7, *9, 11, 18
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
Longmont	29
Montrose	13
Pueblo	*8, 42
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.
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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	12, 24
Pocatello	15, *17, 23, 31
Sun Valley	32
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
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.
Angola	12
Bloomington	*14, 27, 42, 48
Elkhart	28
Evansville	*9, 25, 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, 26, 31, 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	35

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.
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, 9, 13, *15, 20, 26, 44
Tonopah	9
Winnemucca	7

NEW HAMPSHIRE

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

NEW JERSEY

Community	Channel No.
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.
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.
Albany	7, 12, 26
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, 47
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	49
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	10, 29
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	19
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	18
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	23, 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	23
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**PROPOSED 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 would be 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 new 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* and reiterated in the discussion above. 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, in some cases modified in response to comments filed in this proceeding. 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 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/cdb.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 Commenters and Reply Commenters**Comments (filed by Jan. 25, 2007)

1. 54 Broadcasting, Inc.
2. Alabama Educational Television Commission
3. Alaska Broadcasting Company, Inc.
4. The Allen Broadcasting Corp.
5. Amarillo Junior College District
6. Arizona Board of Regents
7. Arkansas Educational Television Commission
8. Association of Federal Communications Consulting Engineers
9. Barrington Bay City License LLC
10. Barrington Peoria License LLC
11. Bluestone License Holdings, Inc.
12. Board of Regents of Oklahoma Colleges/Roger State University
13. The Board of Trustees of Southern Illinois University
14. Board of Trustees of Northern Michigan University
15. Ronald J. Brey
16. Brazos Valley Public Broadcasting Foundation
17. CBS Corporation
18. Capital Community Broadcasting, Inc.
19. Capital Broadcasting Company, Inc.
20. Christian Faith Broadcast, Inc.
21. Christian Worldview Broadcasting Corporation
22. CMCG Puerto Rico License, LLC
23. Collins Broadcasting Company
24. Colorado Public Television
25. Community Television of Southern California – KCET
26. Connecticut Public Broadcasting, Inc.
27. Corridor Television LLP Licensee of KCWX, Fredericksburg, Texas
28. The Curators of the University of Missouri
29. Delta College
30. Dept. of Information Technology and Telecommunication of the City of New York
31. Dispatch Broadcast Group
32. Diversified Broadcasting, Inc.
33. Dominion Broadcasting, Inc.
34. Duluth-Superior Area Educational Television Corporation – WDSE

35. Eastern Illinois University
36. Eastern Television Corporation
37. Educational Broadcasting Foundation, Inc.
38. Ellis Communications KDOC Licensee, Inc.
39. Entravision Holdings, LLC
40. Evangelistic Alaska Missionary Fellowship, Inc.
41. Flathead Adventist Radio, Inc.
42. Florida West Coast Public Broadcasting, Inc.
43. John F. Fleming
44. Florida West Coast Public Broadcasting, Inc.
45. Florida State University
46. Gainesville Channel 61 Associates, Inc.
47. Georgia Public Telecommunications Commission
48. Granite Broadcasting Corporation
49. Grant Educational Foundation, et. al.
50. Gray Television Licensee, Inc.
51. Griffin Tulsa II Licensing, LLC
52. Hearst-Argyle Television, KCWE LMA Inc., and WMOR-TV Company
53. Hoak Media, LLC
54. ICA Broadcasting I, Ltd., Licensee of KOSA-TV
55. International Broadcasting Corporation
56. Jackson Television, LLC
57. KATC Communications, Inc.
58. Ketchikan TV, LLC
59. KEVN, Inc.
60. KM Television of Iowa, LLC, KM Television of Flagstaff, LLC
61. KOB-TV, LLC
62. KOCE-TV Foundation
63. KPAX Communications, Inc.
64. KRTV Communications, Inc.
65. KTVQ Communications, Inc.
66. KVIE, Inc.
67. KVOA Communications, Inc.
68. LIN of Alabama, LLC
69. Malara Broadcast Group, Inc.
70. Maritime Communications/Land Mobile, LLC
71. Mc-Graw Hill Broadcasting Company, Inc.
72. Media General Communications Holdings, LLC
73. Meredith Corporation
74. Mid State Television, Inc.
75. Mission Broadcasting, Inc.
76. Mississippi Authority for Educational Television
77. Mississippi Broadcasting Partners

78. Mitts Telecasting Company
79. Morris Network, Inc.
80. Mt. Mansfield Television, Inc.
81. Mountain Licenses, LP
82. NBC Telemundo License Co.
83. NEPSK, Inc.
84. New Jersey Public Broadcasting Authority
85. New York Times Management Services
86. Newport License Holdings, Inc.
87. Newschannel 5 Network, L.P.
88. Nexstar Broadcasting, Inc.
89. Northern California Public Television
90. Northern California Public Broadcasting Inc. – KQED
91. Oral Roberts University
92. Pappas Entities
93. Pappas Telecasting of America & South Central Communications Corporation
94. Parker Broadcasting, Inc.
95. Paxson Communications License Company, LLC
96. Paxson Denver License, Inc.
97. Paxson Hartford License, Inc.
98. Paxson Jax License, Inc.
99. Paxson Kansas City License, Inc.
100. The Pennsylvania State University
101. Piedmont Television of Huntsville License, LLC and Huntsville Broadcasting Corporation
102. Piedmont Television of Macon License, LLC
103. Piedmont Television of Monroe/El Dorado License LLC
104. Prime Time Christian Broadcasting, Inc.
105. The PSC Liquidating Trust
106. Puerto Rico Public Broadcasting Corporation
107. Ramar Communications II, Ltd.
108. Raycom TV Broadcasting, Inc.
109. Red River Broadcast, LLC
110. Red River Broadcast Co., LLC – KBRR
111. Red River Broadcast Co., LLC – KJRR
112. St. Lawrence Valley Educational Television Council, Inc.
113. Sangre de Christo Communications, Inc.
114. School Board of Broward County, Florida
115. Larry L. Schrecongost
116. Scripps Howard Broadcasting Company – KNXV-DT
117. Scripps Howard Broadcasting Company – WCPO-DT
118. Siete Grande Television, Inc.
119. Sinclair Broadcast Group, Inc.
120. Smith Media License Holdings, LLC
121. South Carolina Educational Television Commission
122. South Dakota Board of Directors for Educational Telecommunications
123. Stainless Broadcasting, LP

124. State Board of Education, State of Idaho
125. Sunbeam Television Corporation
126. Surtsey Media, LLC
127. Tanana Valley Television Company
128. Television Capital Corporation of Mobile
129. University of Houston System
130. The University of North Carolina
131. Thomas Broadcasting Company
132. Trinity Christian Center of Santa Ana, Inc., et. Al. (Supplement to Comment)
133. Twin Cities Public Television, Inc.
134. University of Alaska
135. University of New Hampshire
136. Univision Communications, Inc.
137. Virgin Islands Public Television System
138. WHDH-TV
139. WLEX Communications, LLC
140. WMHT Educational Telecommunications
141. WMYT-TV, Inc.
142. WNYT-TV, LLC
143. WQED Multimedia
144. WVVA Television, Inc.
145. Waitt Broadcasting, Inc.
146. The Walt Disney Company
147. Washburn University of Topeka
148. West Virginia Educational Broadcasting Authority
149. West Virginia Media Holdings, LLC
150. Western Kentucky University
151. Woods Communications Corporation
152. Young Broadcasting, Inc.

Reply Comments (filed by Feb. 26, 2007)

1. Association for Maximum Service Television, Inc.
2. Ronald J. Brey
3. CBS Corporation
4. Capital Broadcasting Company, Inc.
5. Cohen, Dippell and Everist, P.C. (Some appear to be filed as late comments)
6. Concilio Mision Cristiana Fuente De Agua Viva, Inc. (written as comment)
7. Connecticut Public Broadcasting, Inc.
8. Davis Television Clarksburg, LLC
9. Ebenezer Broadcasting Group, Inc. (written as comment)
10. Florida West Coast Public Broadcasting, Inc.
11. Gilmore Broadcasting Corporation
12. KPAX Communications, Inc.
13. Larry L. Schrecongost
14. McGraw Hill Broadcasting Company, Inc.
15. Midwest Television, Inc.
16. Nexstar Broadcasting, Inc.
17. Paging Systems, Inc.

18. Quincy Broadcasting Company (filed jointly with WREX Television, LLC)
19. Smith Media License Holdings, LLC
20. Southern Broadcasting, Inc. (resubmitting comments they stated were filed January 25, 2007)
21. WSJV Television, Inc.
22. WVVA Television, Inc.
23. The Walt Disney Company

Late-filed Ex Parte Comments (filed after Feb. 26, 2007)

1. Alamo Public Telecommunications Council
2. The Board of Trustees of the University of Alabama
3. CBS Corporation (Supplemental comments)
4. Community Television of Southern California – KCET (response to Reply comments)
5. Corridor Television LLP Licensee of KCWX, Fredericksburg, Texas (supplemental)
6. Davis Television Clarksburg, LLC
7. Gray Television, Inc.
8. Fox Television Stations, Inc.
9. Fox Television Stations of Philadelphia, Inc.
10. Georgia Public Telecommunications Commission (supplemental)
11. Idaho Independent Television, Inc.
12. KTBC License, Inc.
13. La Cadena Del Milagro, Inc.
14. Oklahoma Educational Television Authority
15. Oklahoma Land Company LLC
16. Richland Reserve, LLC
17. Saga Quad States Communications, LLC
18. Smith Media License Holdings, LLC (supplement to comment)
19. Southern Broadcasting, Inc. (raising new issues)
20. Tribune Broadcasting Company

Ex parte

1. Association for Maximum Service Television, Inc.
2. Association of Public Television Stations, PBS, CPB
3. Christian Faith Broadcast, Inc.
4. Colorado Public Television
5. Corridor Television LLP
6. Dispatch Broadcast Group
7. Gilmore Broadcasting Corporation
8. Gray Television, Inc.
9. KTBC License, Inc.
10. Mt. Mansfield Television, Inc.
11. New America Foundation
12. Pacifica Broadcasting Company & Oceania Christian Church
13. Sangre de Cristo Communications, Inc.
14. Siete Grande Television, Inc.
15. Tribune Broadcasting Company
16. West Virginia Educational Broadcasting Authority
17. WSJV Television, Inc.

APPENDIX D1

GRANTED REQUESTS FOR MINOR ADJUSTMENTS

Call Sign	Facility ID #	Community	State	Current NTSC Channel	Current DTV Channel	Post Transition Channel
KVEA	19783	CORONA	CA	52	39	39
KWHY	26231	LOS ANGELES	CA	22	42	42
KCRA	33875	SACRAMENTO	CA	3	35	35
KQED	35500	SAN FRANCISCO	CA	9	30	30
WSCV	64971	FORT LAUDERDALE	FL	51	52	30
KMEG	39665	SIOUX CITY	IA	14	39	39
WEEK	24801	PEORIA	IL	25	57	25
WPTA	73905	FORT WAYNE	IN	21	24	24
WRTV-DT	40877	INDIANAPOLIS	IN	6	25	25
WNEM-DT	41221	BAY CITY	MI	5	22	22
WMYD	74211	DETROIT	MI	20	21	21
KPXE-DT	33337	KANSAS CITY	MO	50	51	51
WRAL	8688	RALEIGH	NC	5	53	48
KSNB	21161	SUPERIOR	NE	4	34	34
WKBW	54176	BUFFALO	NY	7	38	38
WTVH	74151	SYRACUSE	NY	5	47	47
KDOR	1005	BARTLESVILLE	OK	17	15	17
WPMT	10213	YORK	PA	43	47	47
WQHA	3255	AGUADA	PR	50	62	50
WATE	71082	KNOXVILLE	TN	6	26	26
WSLS	57840	ROANOKE	VA	10	30	30
WBAY	74417	GREEN BAY	WI	2	23	23

APPENDIX D2

GRANTED REQUESTS FOR CHANGES TO CERTIFICATION THAT MEET THE INTERFERENCE CRITERIA

Call Sign	Facility ID #	Community	State	Current NTSC Channel	Current DTV Channel	Post Transition Channel	File No.
KTVA	49632	ANCHORAGE	AK	11	28	28	BLCDT-20061113AAT
KATN	13813	FAIRBANKS	AK	2	18	18	BMPCDT-20070222AAL
KJUD	13814	JUNEAU	AK	8	11	11	BMCDDT-20070412AAI
KTOO	8651	JUNEAU	AK	3	10	10	BLEDT-20040730ABD
WDHN	43846	DOTHAN	AL	18	21	21	BMPCDT-20070125ACS
WTTO	74138	HOMEWOOD	AL	21	28	28	BMPCDT-20041104AMB
WAAY	57292	HUNTSVILLE	AL	31	32	32	BLCDDT-20050701ABO
WMPV	60827	MOBILE	AL	21	20	20	BLCDDT-20060703AAJ
KTVE	35692	EL DORADO	AR	10	27	27	BLCDDT-20070105ABH
KHOG	60354	FAYETTEVILLE	AR	29	15	15	BLCDDT-20020904AAX
KHBS	60353	FORT SMITH	AR	40	21	21	BLCDDT-20031121AMR
KARK	33440	LITTLE ROCK	AR	4	32	32	BLCDDT-20060504ABM
KCFG	35104	FLAGSTAFF	AZ	9	32	32	BMPCDDT-20060329AJP
KTAZ	81458	PHOENIX	AZ	39		39	BLCT-

							20060809AB N
KUAT	2731	TUCSON	AZ	6	30	30	BLEDT- 20040727AB R
KDOC	24518	ANAHEIM	CA	56	32	32	BLCDT- 20060626AC V
KTNC	21533	CONCORD	CA	42	63	14	BLCDT- 20060629ABI
KSEE	35594	FRESNO	CA	24	38	38	BLCDT- 20050914AA Z
KBCW- TV	69619	SAN FRANCISCO	CA	44	45	45	BLCDT- 20020709AA Q
KREG	70578	GLEENWOOD SPRING	CO	3	23	23	BLCDT- 20060629AE R
KFQX	31597	GRAND JUNCTION	CO	4	15	15	BLCDT- 20061020AC O
KKCO	24766	GRAND JUNCTION	CO	11	12	12	BLCDT- 20030401AB M
KREX	70596	GRAND JUNCTION	CO	5	2	2	BPCDT- 19991029AFS
KDEN- DT	38375	LONGMONT	CO	25	29	29	BLCDT- 20060630AC M
KREY	70759	MONTROSE	CO	10	13	13	BLCDT- 20060629AC V
KOAA	59014	PUEBLO	CO	5	42	42	BPCDT- 19991029AG S
WHPX- DT	51980	NEW LONDON	CT	26	34	26	BLCDT- 20060630AB Z
WPPB	51349	BOCA RATON	FL	63	40	40	Alltoment Facility 122731
WTGL	24582	COCOA	FL	52	53	51	BPCDT- 20000428AB S
WTCE	29715	FORT PIERCE	FL	21	38	38	BMPEDT- 20060125AD

							R
WCJB	16993	GAINESVILLE	FL	20	16	16	BDSTA- 20050803AD T
WGFL	7727	HIGH SPRINGS	FL	53	28	28	BLCDT- 20060714AB C
WJEB	29719	JACKSONVILLE	FL	59	44	44	BLCDT- 20060301AD C
WMOR	53819	LAKELAND	FL	32	19	19	BLCDT- 20050726AB O
WSFL	10203	MIAMI	FL	39	19	19	BLCDT- 20070124AB F
WSVN- DT	63840	MIAMI	FL	7	8	7	BPCDT- 19991101AF H
WTLH	23486	BAINBRIDGE	GA	49	50	49	BLCDT- 20061020AC P
WPXC- DT	71236	BRUNSWICK	GA	21	24	24	BLCDT- 20060607AB Q
WELF	60825	DALTON	GA	23	16	16	BLCDT- 20060301AD C
WGXA- DT	58262	MACON	GA	24	16	16	BMPCDT- 20070131AIP
WMGT	43847	MACON	GA	41	40	40	BLCDT- 20070112AHJ
KALO	51241	HONOLULU	HI	38	10	10	Allotment Facility 161807
KBFD	65395	HONOLULU	HI	32	33	33	BMPCDT- 20070112AG B
KWKB- TV	35096	IOWA CITY	IA	20	25	25	BLCDT- 20070130AJQ
KUID	62382	MOSCOW	ID	35	12	12	BLEDT- 20060804AF K
WCIA	42124	CHAMPAIGN	IL	3	48	48	BMPCDT- 20050701AC

							C
WICD	25684	CHAMPAIGN	IL	15	41	41	BLCDT- 20050620AA O
WEIU	18301	CHARLESTON	IL	51	50	50	BLEDT- 20060504AA W
WUSI	4301	OLNEY	IL	16	19	19	BLEDT- 20060619AB G
WMBD	42121	PEORIA	IL	31	30	30	BLCDT- 20061019AD D
WSJV	74007	ELKHART	IN	28	58	28	BLCDT- 20060620AB X
WFFT	25040	FORT WAYNE	IN	55	36	36	BMPCDT- 20070125AC Y
WISE	13960	FORT WAYNE	IN	33	19	19	BMPCDT- 20070123AA R
WFXW	65247	TERRE HAUTE	IN	38	39	39	BMPCDT- 20070125AC T
WTWO	20426	TERRE HAUTE	IN	2	36	36	BMPCDT- 20070125AD B
WLEX- TV	73203	LEXINGTON	KY	18	39	39	BMPCDT- 20050728AO P
KATC- TV	33471	LAFAYETTE	LA	3	28	28	BMPCDT- 20060906AA W
KARD	3658	WEST MONROE	LA	14	36	36	BMPCDT- 20070125AC R
WPME	48408	LEWISTON	ME	35	28	35	BLCDT- 20060629AB K
WPXT	53065	PORTLAND	ME	51	43	43	BLCDT- 20060714AB B
WAGM- DT	48305	PRESQUE ISLE	ME	8	16	8	BLCDT- 20030807AE X
KDLH	4691	DULUTH	MN	3	33	33	BMPCDT-

							20060519AA E
KTCA	68594	ST. PAUL	MN	2	34	34	BLEDT- 20060802AA O
KODE	18283	JOPLIN	MO	12	43	43	BMPCDT- 20070125AC U
KSNF	67766	JOPLIN	MO	16	46	46	BMPCDT- 20070125AC P
KSFX	3659	SPRINGFIELD	MO	27	28	28	BMPCDT- 20070116AA C
KTAJ	999	ST. JOSEPH	MO	16	21	21	BLCDT- 20060703AA K
WABG- TV	43203	GREENWOOD	MS	6	32	32	BLCDT- 20051024AB R
KSVI	5243	BILLINGS	MT	6	18	18	BPCDT- 19991029ACI
KTVQ	35694	BILLINGS	MT	2	10	10	BLCDT- 20060802AY X
KRTV	35567	GREAT FALLS	MT	3	7	7	BLCDT- 20060728AE O
KHMT	47670	HARDIN	MT	4	22	22	BMPCDT- 20070125AC V
KPAX	35455	MISSOULA	MT	8	7	7	BLCDT- 20070209AA Z
WUND	69292	COLUMBIA	NC	2	20	20	BPEDT- 20070112AH T
KFYR	41427	BISMARCK	ND	5	31	31	BMPCDT- 20060629AE S
KVLY	61961	FARO	ND	11	44	44	BMPCDT- 20060629AFS
KXJB	49134	VALLEY CITY	ND	4	38	38	BLCDT- 20060831AA M
KETV	53903	OMAHA	NE	7	20	20	BLCDT-

							20041222AE D
KPTM	51491	OMAHA	NE	42	43	43	BLCDT- 20051107AF O
KXVO	23277	OMAHA	NE	15	38	15	BLCDT- 20060809AF X
WGTW	7623	BURLINGTON	NJ	48	27	27	BLCDT- 20060105AA R
KOB	35313	ALBUQUERQU E	NM	4	26	26	BLCDT- 20051003BQ P
KVCW	10195	LAS VEGAS	NV	33	29	29	BLCDT- 20070109AA W
KVMY	10179	LAS VEGAS	NV	21	22	22	BLCDT- 20070109AA U
WICZ	62210	BINGHAMTON	NY	40	8	8	BLCDT- 20060320AF C
WNYO	67784	BUFFALO	NY	49	34	34	BLCDT- 20061207AB R
WNYE	6048	NEW YORK	NY	25	24	24	BMPEDT- 20070124AA X
WPTZ	57476	NORTH POLE	NY	5	14	14	BLCDT- 20070116AC W
WNPI	62137	NORWOOD	NY	18	23	23	BLEDT- 20050715AB Z
WROC	73964	ROCHESTER	NY	8	45	45	BLCDT- 20060418AA A
WUTR	57837	UTICA	NY	20	30	30	BLCDT- 20040217AD C
WGGN- DT	11027	SANDUSKY	OH	52	42	42	BMPCDT- 20000501AIZ
KRSC- DT	57431	CLAREMORE	OK	35	36	36	BLEDT- 20061011AA M
KTUZ	77480	SHAWNEE	OK	30	29	29	BMPCDT-

							20060707AF M
KRCW	10192	SALEM	OR	32	33	33	BMLCDT- 20070123AB S
WTAJ	23341	ALTOONA	PA	10	32	32	BLCDT- 20051018AC E
WOLF	73375	HAZLETON	PA	56	45	45	BLCDT- 20050906AC K
WQMY	52075	WILLIAMSPOR T	PA	53	29	29	BPCDT- 19980825KJ
WMEI	26676	ARECIBO	PR	60	61	14	BMPCT- 20060614ABI
WVSN	67190	HUMACAO	PR	68	49	49	BMPCDT- 20060719AC Q
WIPM- DT	53863	MAYAGUEZ	PR	3	35	35	BLEDT- 20060627AC Q
WJWJ- DT	61007	BEAUFORT	SC	16	44	44	BLEDT- 20060221AEJ
WJPM- DT	61008	FLORENCE	SC	33	45	45	BLED- 20050324AC E
WNEH- DT	60931	GREENWOOD	SC	38	18	18	BLEDT- 20050322AG H
WMBF- TV	83969	MYRTLE BEACH	SC	32		32	BMPCDT- 20060829BE G
WRET- DT	61011	SPARTANBUR G	SC	49	43	43	BLEDT- 20050324AC D
KPRY	48660	PIERRE	SD	4	19	19	BLCDT- 20021118AB Y
KCSD	60728	SIOUX FALLS	SD	23	24	24	BLEDT- 20040112AC M
KUSD	61072	VERMILLION	SD	2	34	34	BDSTA- 20060908AD D
WDSI	71353	CHATTANOOG A	TN	61	40	40	BMPCDT- 20041229AA

							O
KRBC	306	ABILENE	TX	9	29	29	BMPCDT- 20070125AB Y
KTAB	59988	ABILENE	TX	32	24	24	BMPCDT- 20070125AB S
KAMR	8523	AMARILLO	TX	4	19	19	BMPCDT- 20070125AB O
KRIS-DT	25559	CORPUS CHRISTI	TX	6	13	13	BLCDT- 20060628AB C
KAMC	40820	LUBBOCK	TX	28	27	27	BMPCDT- 20070125AB W
KJTV-DT	55031	LUBBOCK	TX	34	35	35	BLCDT- 20070201BK H
KLBK	3660	LUBBOCK	TX	13	40	40	BMPCDT- 20070125AB T
KLST	31114	SAN ANGELO	TX	8	11	11	BMPCDT- 20070125AC Q
KSAN	307	SAN ANGELO	TX	3	16	16	BMPCDT- 20070125AB X
KTAL	35648	TEXARKANA	TX	6	15	15	BMPCDT- 20070125AB R
KWBU	6673	WACO	TX	34	20	20	BLEDT- 20060622AA S
KAUZ	6864	WICHITA FALLS	TX	6	22	22	BPCDT- 19991028AD Q
KFDX	65370	WICHITA FALLS	TX	3	28	28	BMPCDT- 20070125AB U
WTJX	70287	CHARLOTTE AMALIE	VI	12	44	44	BPEDT- 20060824AD L
WFFF- DT	10132	BURLINGTON	VT	44	43	43	BPCDT- 19991029AB X

KWPX	56852	BELLEVUE	WA	33	32	33	BLCDT- 20060405AC G
WFRV	9635	GREEN BAY	WI	5	39	39	BLCDT- 20051004AB D
KBJR	33658	SUPERIOR	WI	6	19	19	BMPCDT- 20060519AA F
WVVA- DT	74176	BLUEFIELD	WV	6	46	46	BLCDT- 20060929AEJ

APPENDIX D3

GRANTED REQUESTS FOR MODIFIED COVERAGE AREA

Call Sign	Facility ID #	Community	State	Current NTSC Channel	Current DTV Channel	Post Transition Channel
KUAC	69315	FAIRBANKS	AK	9	24	9
WCIQ	711	MOUNT CHEAHA	AL	7	56	7
KFMB	42122	SAN DIEGO	CA	8	55	8
WVAN	23947	SAVANNAH	GA	9	13	9
WGEM	54275	QUINCY	IL	10	54	10
WREX	73940	ROCKFORD	IL	13	54	13
WTHR	70162	INDIANAPOLIS	IN	13	46	13
KTWU-DT	70938	TOPEKA	KS	11	23	11
WHDH-TV	72145	BOSTON	MA	7	42	7
WDSE-TV	17726	DULUTH	MN	8	38	8
KOMU-DT	65583	COLUMBIA	MO	8	36	8
KTVM-TV	18066	BUTTE	MT	6	33	6
KCFW	18079	KALISPELL	MT	9	38	9
KECI-TV	18084	MISSOULA	MT	13	40	13
WCTI-DT	18334	NEW BERN	NC	12	48	12
KJRR	55364	JAMESTOWN	ND	7	18	7
KMOT	41425	MINOT	ND	10	58	10
KHAS	48003	HASTINGS	NE	5	21	5
KNOP	49273	NORTH PLATTE	NE	2	22	2
WENH-DT	69237	DURHAM	NH	11	57	11
WPIX	73881	NEW YORK	NY	11	33	11
WPVI	8616	PHILADELPHIA	PA	6	64	6
WQED	41315	PITTSBURGH	PA	13	38	13
WSTE	60341	PONCE	PR	7	8	7
WTVF	36504	NASHVILLE	TN	5	56	5
KUHT	69269	HOUSTON	TX	8	9	8
KOSA	6865	ODESSA	TX	7	31	7
WCYB-TV	2455	BRISTOL	VA	5	28	5
WCAX	46728	BURLINGTON	VT	3	53	22
WBOY	71220	CLARKSBURG	WV	12	52	12

APPENDIX D4

STATIONS IN BORDER ZONES THAT MUST FILE POST-TRANSITION APPLICATIONS

Call Sign	FacilityID	Community	State	Current DTV Channel	Current NTSC Channel	Post Transition Channel
KTNL	60519	SITKA	AK	2	13	7
KFTU-TV	81441	DOUGLAS	AZ	0	3	36
KFPH-TV	41517	FLAGSTAFF	AZ	27	13	13
KNAZ-TV	24749	FLAGSTAFF	AZ	22	2	2
KUVE-TV	63927	GREEN VALLEY	AZ	47	46	46
KDTP	83491	HOLBROOK	AZ		11	11
KPNX	35486	MESA	AZ	36	12	12
KAET	2728	PHOENIX	AZ	29	8	8
KNXV-TV	59440	PHOENIX	AZ	56	15	15
KSAZ-TV	35587	PHOENIX	AZ	31	10	10
KTAZ	81458	PHOENIX	AZ	39	39	39
KTVW-TV	35705	PHOENIX	AZ	34	33	33
KAZT-TV	35811	PRESCOTT	AZ	25	7	7
KPPX	26655	TOLLESON	AZ	52	51	51
KGUN	36918	TUCSON	AZ	35	9	9
KHRR	30601	TUCSON	AZ	42	40	40
KYMA	74449	YUMA	AZ	41	11	11
960919KZ	83825	BISHOP	CA		20	20
KAJB	40517	CALIPATRIA	CA	5	54	36
KGMC	23302	CLOVIS	CA	44	43	43
KECY-TV	51208	EL CENTRO	CA	48	9	9
KSCI	35608	LONG BEACH	CA	61	18	18
KABC-TV	282	LOS ANGELES	CA	53	7	7
KCAL-TV	21422	LOS ANGELES	CA	43	9	9
KCBS-TV	9628	LOS ANGELES	CA	60	2	43
KCET	13058	LOS ANGELES	CA	59	28	28
KCOP-TV	33742	LOS ANGELES	CA	66	13	13
KMEX-TV	35123	LOS ANGELES	CA	35	34	34
KTTV	22208	LOS ANGELES	CA	65	11	11
KESQ-TV	25577	PALM SPRINGS	CA	52	42	42
KRCA	22161	RIVERSIDE	CA	68	62	45
KFMB-TV	42122	SAN DIEGO	CA	55	8	8
KGTV	40876	SAN DIEGO	CA	25	10	10

WEDW	13594	BRIDGEPORT	CT	52	49	49
WTXX	14050	WATERBURY	CT	12	20	20
WXFT-TV	60539	AURORA	IL	59	60	50
WBBM-TV	9617	CHICAGO	IL	3	2	12
WLS-TV	73226	CHICAGO	IL	52	7	7
WGBO-TV	12498	JOLIET	IL	53	66	38
WCLJ-TV	68007	BLOOMINGTON	IN	56	42	42
WSJV	74007	ELKHART	IN	58	28	28
WTHR	70162	INDIANAPOLIS	IN	46	13	13
WTTK	56526	KOKOMO	IN	54	29	29
WIPB	3646	MUNCIE	IN	52	49	23
WSBT-TV	73983	SOUTH BEND	IN	30	22	22
WHDH-TV	72145	BOSTON	MA	42	7	7
WUTF-TV	60551	MARLBOROUGH	MA	23	66	27
WWDP	23671	NORWELL	MA	52	46	10
WNYA	136751	PITTSFIELD	MA	0	51	13
WGBY-TV	72096	SPRINGFIELD	MA	58	57	22
WGGB-TV	25682	SPRINGFIELD	MA	55	40	40
WHAG-TV	25045	HAGERSTOWN	MD	55	25	26
WJAL	10259	HAGERSTOWN	MD	16	68	39
WGPT	40619	OAKLAND	MD	54	36	36
WCBB	39659	AUGUSTA	ME	17	10	10
WLBZ	39644	BANGOR	ME	25	2	2
WVII-TV	3667	BANGOR	ME	14	7	7
WPME	48408	LEWISTON	ME	28	35	35
WMTW-TV	73288	POLAND SPRING	ME	46	8	8
WAGM-TV	48305	PRESQUE ISLE	ME	16	8	8
WMEM-TV	39662	PRESQUE ISLE	ME	20	10	10
WPFO	84088	WATERVILLE	ME	0	23	23
WBKB-TV	67048	ALPENA	MI	13	11	11
WCML	9917	ALPENA	MI	57	6	24
WPXD	5800	ANN ARBOR	MI	33	31	31
WBSF	82627	BAY CITY	MI	0	46	46
WWTW	26994	CADILLAC	MI	40	9	9
WBKP	76001	CALUMET	MI	11	5	5
WJBK	73123	DETROIT	MI	58	2	7
WKAR-TV	6104	EAST LANSING	MI	55	23	40
WFUM	69273	FLINT	MI	52	28	28
WJRT-TV	21735	FLINT	MI	36	12	12
WZZM-TV	49713	GRAND RAPIDS	MI	39	13	13
WDHS	15498	IRON MOUNTAIN	MI	22	8	8
WBUP	59281	ISHPEMING	MI	0	10	10

WWMT	74195	KALAMAZOO	MI	2	3	2
WLNS-TV	74420	LANSING	MI	59	6	36
WCMW	9913	MANISTEE	MI	58	21	21
WMQF	81448	MARQUETTE	MI	0	19	19
WNMU	4318	MARQUETTE	MI	33	13	13
WCMU-TV	9908	MOUNT PLEASANT	MI	56	14	26
WILX-TV	6863	ONONDAGA	MI	57	10	10
WGTQ	59279	SAULT STE.MARIE	MI	9	8	8
WWUP-TV	26993	SAULT STE.MARIE	MI	49	10	10
WGTU	59280	TRAVERSE CITY	MI	31	29	29
WPBN-TV	21253	TRAVERSE CITY	MI	50	7	7
KCCO-TV	9632	ALEXANDRIA	MN	24	7	7
KSAX	35584	ALEXANDRIA	MN	36	42	42
KAWE	49578	BEMIDJI	MN	18	9	9
KFTC	83714	BEMIDJI	MN	0	26	26
KRII	82698	CHISHOLM	MN	0	11	11
WDIO-TV	71338	DULUTH	MN	43	10	10
WDSE-TV	17726	DULUTH	MN	38	8	8
WIRT	71336	HIBBING	MN	36	13	13
KARE	23079	MINNEAPOLIS	MN	35	11	11
KMSP-TV	68883	MINNEAPOLIS	MN	26	9	9
KSTC-TV	35843	MINNEAPOLIS	MN	44	45	45
WFTC	11913	MINNEAPOLIS	MN	21	29	29
KSTP-TV	28010	ST. PAUL	MN	50	5	35
KTCI-TV	68597	ST. PAUL	MN	16	17	26
KBRR	55370	THIEF RIVERFALLS	MN	57	10	10
KCCW-TV	9640	WALKER	MN	20	12	12
KBTZ	81438	BUTTE	MT	0	24	24
KTVM	18066	BUTTE	MT	33	6	6
KLMN	81331	GREAT FALLS	MT	0	26	26
KBBJ	83689	HAVRE	MT	0	9	9
KTVH	5290	HELENA	MT	14	12	12
KCFW-TV	18079	KALISPELL	MT	38	9	9
KBAO	84794	LEWISTOWN	MT	0	13	13
KYUS-TV	5237	MILES CITY	MT	13	3	3
KECI-TV	18084	MISSOULA	MT	40	13	13
KMMF	81348	MISSOULA	MT	0	17	17
KTMF	14675	MISSOULA	MT	36	23	23
KUFM-TV	66611	MISSOULA	MT	27	11	11
KNDX	82611	BISMARCK	ND	0	26	26
KXMB-TV	55686	BISMARCK	ND	23	12	12
WDAZ-TV	22124	DEVILS LAKE	ND	59	8	8

KDSE	53329	DICKINSON	ND	20	9	9
KQCD-TV	41430	DICKINSON	ND	18	7	7
KFME	53321	FARGO	ND	23	13	13
KVLY-TV	61961	FARGO	ND	44	11	44
KCPM	86208	GRAND FORKS	ND	0	27	27
KGFE	53320	GRAND FORKS	ND	56	2	15
KJRR	55364	JAMESTOWN	ND	18	7	7
KMCY	22127	MINOT	ND	15	14	14
KMOT	41425	MINOT	ND	58	10	10
KXMC-TV	55685	MINOT	ND	45	13	13
KXND	82615	MINOT	ND	0	24	24
KNRR	55362	PEMBINA	ND	15	12	12
KUMV-TV	41429	WILLISTON	ND	52	8	8
WENH-TV	69237	DURHAM	NH	57	11	11
WMUR-TV	73292	MANCHESTER	NH	59	9	9
WFUT-TV	60555	NEWARK	NJ	53	68	30
WNET	18795	NEWARK	NJ	61	13	13
KOAT-TV	53928	ALBUQUERQUE	NM	21	7	7
KRQE	48575	ALBUQUERQUE	NM	16	13	13
KTEL-TV	83707	CARLSBAD	NM	0	25	25
KUPT	27431	HOBBS	NM	16	29	29
KBIM-TV	48556	ROSWELL	NM	41	10	10
KOBR	62272	ROSWELL	NM	38	8	8
KRPV	53539	ROSWELL	NM	28	27	27
KRWB-TV	84157	ROSWELL	NM	0	21	21
KOBG-TV	85114	SILVER CITY	NM	0	6	12
KOVT	53911	SILVER CITY	NM	12	10	10
WPXJ-TV	2325	BATAVIA	NY	53	51	23
870331LW	72623	BATH	NY	0	14	14
WIVT	11260	BINGHAMTON	NY	4	34	34
WWNY-TV	68851	CARTHAGE	NY	35	7	7
WSKA	78908	CORNING	NY	0	30	30
WYDC	62219	CORNING	NY	50	48	48
WENY-TV	71508	ELMIRA	NY	55	36	36
WETM-TV	60653	ELMIRA	NY	2	18	18
WNYI	34329	ITHACA	NY	0	52	20
WNYB	30303	JAMESTOWN	NY	27	26	26
WABC-TV	1328	NEW YORK	NY	45	7	7
WCBS-TV	9610	NEW YORK	NY	56	2	33
WPIX	73881	NEW YORK	NY	33	11	11
WPXN-TV	73356	NEW YORK	NY	30	31	31
WLNY	73206	RIVERHEAD	NY	57	55	47

WHAM-TV	73371	ROCHESTER	NY	59	13	13
WHEC-TV	70041	ROCHESTER	NY	58	10	10
WRGB	73942	SCHENECTADY	NY	39	6	6
WNGS	9088	SPRINGVILLE	NY	46	67	46
WSPX-TV	64352	SYRACUSE	NY	0	56	15
WSTM-TV	21252	SYRACUSE	NY	54	3	24
WVPX	70491	AKRON	OH	59	23	23
WNEO	49439	ALLIANCE	OH	46	45	45
WBGU-TV	6568	BOWLING GREEN	OH	56	27	27
WKRC-TV	11289	CINCINNATI	OH	31	12	12
WJW	73150	CLEVELAND	OH	31	8	8
WKYC-TV	73195	CLEVELAND	OH	2	3	17
WTTE	74137	COLUMBUS	OH	36	28	36
WPTD	25067	DAYTON	OH	58	16	16
WBDT	70138	SPRINGFIELD	OH	18	26	26
WTOV-TV	74122	STEUBENVILLE	OH	57	9	9
WTOL	13992	TOLEDO	OH	17	11	11
WTVG	74150	TOLEDO	OH	19	13	13
KOAC-TV	50590	CORVALLIS	OR	39	7	7
KFFX-TV	12729	PENDLETON	OR	8	11	11
KGW	34874	PORTLAND	OR	46	8	8
KNMT	47707	PORTLAND	OR	45	24	24
KOPB-TV	50589	PORTLAND	OR	27	10	10
KPTV	50633	PORTLAND	OR	30	12	12
KPXG	5801	SALEM	OR	4	22	22
WLVT-TV	36989	ALLENTOWN	PA	62	39	39
WICU-TV	24970	ERIE	PA	52	12	12
WJET-TV	65749	ERIE	PA	58	24	24
WHP-TV	72313	HARRISBURG	PA	4	21	21
WPCW	69880	JEANNETTE	PA	49	19	11P
WWCP-TV	20295	JOHNSTOWN	PA	29	8	8
WCAU	63153	PHILADELPHIA	PA	67	10	34
WYBE	28480	PHILADELPHIA	PA	34	35	35
WQED	41315	PITTSBURGH	PA	38	13	13
WQEX	41314	PITTSBURGH	PA	26	16	38
WSWB	73374	SCRANTON	PA	31	38	38
WNAC-TV	73311	PROVIDENCE	RI	54	64	12
KTBC	35649	AUSTIN	TX	56	7	7
KNIC-TV	125710	BLANCO	TX		17	18
KZTV	33079	CORPUS CHRISTI	TX	18	10	10
KCOS	19117	EL PASO	TX	30	13	13
KTSM-TV	67760	EL PASO	TX	16	9	9

KVIA-TV	49832	EL PASO	TX	17	7	7
KHOU-TV	34529	HOUSTON	TX	31	11	11
KGNS-TV	10061	LAREDO	TX	15	8	8
KVTV	33078	LAREDO	TX	14	13	13
KCBD	27507	LUBBOCK	TX	9	11	11
KUPB	86263	MIDLAND	TX	0	18	18
KMLM	53541	ODESSA	TX	43	42	42
KOSA-TV	6865	ODESSA	TX	31	7	7
KWES-TV	42007	ODESSA	TX	13	9	9
KWWT	84410	ODESSA	TX	0	30	30
KENS-TV	26304	SAN ANTONIO	TX	55	5	39
KLRN	749	SAN ANTONIO	TX	8	9	9
KSAT-TV	53118	SAN ANTONIO	TX	48	12	12
KWEX-TV	35881	SAN ANTONIO	TX	39	41	41
WOAI-TV	69618	SAN ANTONIO	TX	58	4	48
KPCB	77452	SNYDER	TX	10	17	17
KLTV	68540	TYLER	TX	10	7	7
KPXL	61173	UVALDE	TX	0	26	26
WCAX-TV	46728	BURLINGTON	VT	53	3	22
KWPX	56852	BELLEVUE	WA	32	33	33
KQUP	78921	PULLMAN	WA	0	24	24
KWSU-TV	71024	PULLMAN	WA	17	10	10
KCTS-TV	33749	SEATTLE	WA	41	9	9
KAYU-TV	58684	SPOKANE	WA	30	28	28
KHQ-TV	34537	SPOKANE	WA	15	6	7
KCPQ	33894	TACOMA	WA	18	13	13
KSTW	23428	TACOMA	WA	36	11	11
KPDX	35460	VANCOUVER	WA	48	49	30
KAZW-TV	84238	WALLA WALLA	WA	9	9	9
WBIJ	81503	CRANDON	WI		4	4
WEAU-TV	7893	EAU CLAIRE	WI	39	13	13
WLUK-TV	4150	GREEN BAY	WI	51	11	11
WKBT	74424	LA CROSSE	WI	41	8	8
WLEF-TV	63046	PARK FALLS	WI	47	36	36
WAOW-TV	64546	WAUSAU	WI	29	9	9
WSAW-TV	6867	WAUSAU	WI	40	7	7
WFXS	86204	WITTENBERG	WI	0	55	50
WBOY-TV	71220	CLARKSBURG	WV	52	12	12
WOWK-TV	23342	HUNTINGTON	WV	47	13	13
WDTV	70592	WESTON	WV	6	5	5
WTRF-TV	6869	WHEELING	WV	32	7	7

APPENDIX D5

GRANTED REQUESTS FOR ALTERNATIVE CHANNEL ASSIGNMENTS

Call Sign	Facility ID #	Community	State	Current NTSC Channel	Current DTV Channel	Current TCD	Post Transition Channel
KJNP	20015	NORTH POLE	AK	4	20	4	20
KTNL	60519	SITKA	AK	13	2	2	7
KETZ	92872	EL DORADO	AR		12	12	10
KBDI	22685	BROOMFIELD	CO	12	38	38	13
WBBM-TV	9617	CHICAGO	IL	2	3	11	12
KFJX	83992	PITTSBURG	KS	14	0	14	13
WDBD	71326	JACKSON	MS	40	41	41	40
WFUT	60555	NEWARK	NJ	68	53	41	30
KNMT	47707	PORTLAND	OR	24	45	24	45
KEVN	34347	RAPID CITY	SD	7	18	18	7
960405KF	81692	MEMPHIS	TN	14		14	23
KLCW	77719	WOLFFORTH	TX	22		22	43
WOAY	66804	OAK HILL	WV	4	50	4	50

APPENDIX D6

REQUESTS FOR CHANGES TO APPENDIX B ANTENNA INFORMATION

Call Sign	Facility ID #	Community	State	Current NTSC Channel	Current DTV Channel	Post Transition Channel
KQCA	10242	STOCKTON	CA	58	46	46
WFGX	6554	FORT WALTON BEACH	FL	35	50	50
WFSG	6093	PANAMA CITY	FL	56	38	38
WEAR	71363	PENSACOLA	FL	3	17	17
WFSU	21801	TALLAHASSEE	FL	11	32	32
WMUM	23935	COCHRAN	GA	29	7	7
WKYU	71861	BOWLING GREEN	KY	24	18	18
WCVB	65684	BOSTON	MA	5	20	20
KCWE	64444	KANSAS CITY	MO	29	31	31
WRAZ	64611	RALEIGH	NC	50	49	49
WXII	53921	WINSTON-SALEM	NC	12	31	31
KOCT	53908	CARLSBAD	NM	6	19	19
KOFT	53904	FARMINGTON	NM	3	8	8
WLWT	46979	CINCINNATI	OH	5	35	35
WKRN	73188	NASHVILLE	TN	2	27	27
KACV	1236	AMARILLO	TX	2	8	8
WRIC	74416	PETERSBURG	VA	8	22	22

APPENDIX D7

DENIED REQUESTS FROM NEW APPLICANTS

Call Sign	Facility ID #	Community	State	Current NTSC Channel	Current DTV Channel
New	35855	SACRAMENTO	CA		
New	83711	WEAVERVILLE	CA	32	
New		OWENSBORO	KY	48	
New	169025	KALISPELL	MT		46
New		TULSA	OK	26	

APPENDIX E

FINAL REGULATORY FLEXIBILITY ACT 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*”).² The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. The comments received are discussed below. The Commission received no comments on the IRFA. This present Final Regulatory Flexibility Analysis (“FRFA”) conforms to the RFA.³

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

2. This *Seventh Report and Order* (“*Seventh R&O*”) adopts rules implementing a new post-transition DTV Table of Allotments (“DTV Table”), providing all eligible⁴ full power broadcast television stations with channels for DTV operations after the transition. The new post-transition DTV Table 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.

3. The new post-transition DTV Table is based on the tentative channel designations (“TCDs”) announced for eligible broadcast licensees through the channel election process, as

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 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.

well as on the Commission's efforts to promote overall spectrum efficiency and ensure the best possible service to the public, including service to local communities. During this election process, which was established by the *Second DTV Periodic Report and Order*, eligible full power broadcast licensees selected their ultimate DTV channel inside the "core spectrum," consisting of current television channels 2 through 51 (54-698 MHz).⁵ In developing the proposed new allotments, the Commission sought to accommodate broadcasters' channel preferences, as well as their replication and maximization service area certifications (made via FCC Form 381).

4. The new post-transition DTV Table achieves the goals set forth for the channel election process.⁶ First, the new DTV Table provides all eligible stations with channels for DTV operations after the transition. Second, the new DTV Table is the result of informed decisions by licensees when making their channel elections and licensees benefited from the clarity and transparency of the channel election process. Third, the new DTV Table recognizes industry expectations by protecting existing service and respecting investments already made, to the extent feasible. Finally, the new DTV Table reflects our efforts to promote overall spectrum efficiency and 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.⁷ The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small government jurisdiction."⁸ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.⁹ 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).¹⁰ The rules of this *Seventh R&O* will primarily affect

⁵ *Second DTV Periodic Report and Order*, 19 FCC Rcd at 18292, ¶ 33.

⁶ *Id.* at 18291, ¶ 31.

⁷ 5 U.S.C. § 603(b)(3).

⁸ *Id.* § 601(6).

⁹ *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).

¹⁰ 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.

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.

7. *Television Broadcasting.* The rules and policies adopted in this *Seventh R&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 \$13.5 million in annual receipts.¹¹ Business concerns included in this industry are those “primarily engaged in broadcasting images together with sound.”¹² The Commission has estimated the number of licensed commercial television stations to be 1,376.¹³ According to Commission staff review of the BIA Financial Network, MAPro Television Database (“BIA”) on March 30, 2007, about 986 of an estimated 1,374 commercial television stations¹⁴ (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 380.¹⁵ We note, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations¹⁶ 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

¹¹ See 13 C.F.R. § 121.201, NAICS Code 515120.

¹² *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.

¹³ 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/>.

¹⁴ We recognize that this total differs slightly from that contained in *Broadcast Station Totals*, *supra* note 446; however, we are using BIA’s estimate for purposes of this revenue comparison.

¹⁵ See *Broadcast Station Totals*, *supra* note 446.

¹⁶ “[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).

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 adopted in this *Seventh R&O* do not directly affect low power television stations, as the DTV Table adopted in the *Seventh R&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,¹⁷ 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 \$13.5 million in annual receipts.¹⁸ Currently, there are approximately 567 licensed Class A stations, 2,227 licensed LPTV stations, and 4,518 licensed TV translators.¹⁹ 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 \$13.5 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 *Seventh 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

¹⁷ 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.

¹⁸ See 13 C.F.R. § 121.201, NAICS Code 515120.

¹⁹ See *Broadcast Station Totals*, *supra* note 446.

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.²⁰

12. The new post-transition DTV Table provides all eligible full power 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. The new DTV Table is the result of informed decisions by licensees when making their channel elections, and all licensees benefited from the clarity and transparency of the channel election process. Moreover, the new DTV Table recognizes industry expectations by protecting existing service and respecting investments already made, for both large and small broadcasters, to the extent feasible. The TCDs are primarily based on the channels elected by licensees. The vast majority of licensees participating in the channel election process received a TCD for a channel they elected, and all comments, including those from small broadcasters, were considered when finalizing this Table.²¹

13. In general, our goal in reviewing the comments filed in response to the proposed Table was to accommodate the requests made by commenters to the extent possible consistent with the standards outlined in the *Seventh Further Notice*. Large and small broadcasters alike benefited from this approach, 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 commenters 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 proposed by the Commission, those requests were granted to the extent possible consistent with the standards of the *Seventh Further Notice* and, in particular, with the applicable interference standards. This process has been open and transparent, and has provided consistent treatment for large and small broadcasters.

14. The new DTV Table adopted herein 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.²² One of the Commission’s goals in the *Seventh Report and Order* 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.²³ The Commission has stated that the intent is to ensure that low power and translator stations not be required to

²⁰ 5 U.S.C. § 603(c)(1)-(c)(4)

²¹ See, e.g., Comments of Trinity Christian Center of Santa Ana, Inc.; Southern Broadcasting, Inc., Young Broadcasting, Inc., and Christian Faith Broadcast, Inc.

²² 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)).

²³ *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*”).

prematurely convert to digital operation in a manner that could disrupt their analog service or, more importantly, that might cause them to cease operation.²⁴ 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.²⁵ 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.²⁶

F. Report to Congress

15. The Commission will send a copy of this *Seventh R&O*, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996.²⁷ In addition, the Commission will send a copy of this *Seventh R&O*, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of this *Seventh R&O* and FRFA (or summaries thereof) will also be published in the Federal Register.²⁸

²⁴ *Id.* at 19337 ¶ 14.

²⁵ *Id.* at 19336 ¶ 19.

²⁶ *Id.* at 19332, ¶ 1.

²⁷ *See* 5 U.S.C. § 801(a)(1)(A).

²⁸ *See id.* § 604(b).

APPENDIX F

PROPOSED RULE CHANGES

Part 73 of the Commission's Rules and Regulations (Chapter I of title 47 of the Code of Federal Regulations) is proposed 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.
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Tuscaloosa	6
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COLORADO

Community	Channel No.
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Greeley	49
Pueblo	48

IDAHO

Community	Channel No.
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Nampa	13
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Community	Channel No.
-----------	-------------

Galesburg	8
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INDIANA

Community	Channel No.
-----------	-------------

Evansville	7
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NEVADA

Community	Channel No.
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Reno	8
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PENNSYLVANIA

Community	Channel No.
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Jeannette	11
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APPENDIX G

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

APPENDIX H

INITIAL REGULATORY FLEXIBILITY ACT ANALYSIS

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA)¹ the Commission has prepared this present Initial Regulatory Flexibility Analysis (“IRFA”) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this *Eighth Further Notice of Proposed Rulemaking* (“*Eighth Further Notice*”). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Eighth Further Notice provided in paragraph 163 of the item. The Commission will send a copy of the *Eighth Further Notice*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).² In addition, the *Eighth Further Notice* and IRFA (or summaries thereof) will be published in the Federal Register.³

A. Need for and Objectives of the Proposed Rules

2. The *Eighth Further Notice* proposes modifications to the new post-transition DTV Table of Allotments and Appendix B (“DTV Table”). Three new full power permittees and six existing full power licensees and permittees are provided with channels and parameters for digital broadcast operations after the DTV transition. Changes to the new post-transition DTV Table affects 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 an earlier Public Notice, but can be accommodated in the new DTV Table without causing impermissible interference.⁶ Six existing licensees and permittees made late-filed requests for modifications to the new DTV Table. Although these requested changes are unopposed, appear non-controversial, and would have been looked upon favorably had they been timely-filed, we find it appropriate to provide a full opportunity for comment.

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. 857 (1996).

² See 5 U.S.C. § 603(a).

³ See 5 U.S.C. § 603(a).

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*”).

4. We believe these proposed modifications to the new post-transition DTV Table support the goals set forth for the channel election process.⁷ By these proposed 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 proposals also move the overall post-transition DTV Table more quickly towards finality without sacrificing clarity or transparency. Finally, we believe the proposed changes reflects our efforts to promote overall spectrum efficiency and, in particular, to ensure the best possible DTV service to the public.

B. Legal Basis

5. The authority for the action proposed in this rulemaking is contained in Sections 1, 4(i) and (j), 5(c)(1), 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), 155(c)(1), 157, 301, 302, 303, 307, 308, 309, 316, 319, 324, 336, and 337.

C. Description and Estimate of the Number of Small Entities to Which the Proposed 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 proposed rules, if adopted.⁸ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small government jurisdiction.”⁹ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.¹⁰ 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 SBA.¹¹ The proposed rules in this *Eighth Further Notice*, if adopted, will primarily affect television 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 proposed rules and policies in this *Eighth Further Notice* 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 \$13.5 million in annual receipts.¹² Business concerns included in this industry are those

⁷ *DTV Periodic Report and Order*, 19 FCC Rcd at 18291, ¶ 31.

⁸ *Id.* § 603(b)(3).

⁹ 5 U.S.C. § 601(6).

¹⁰ *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).

¹¹ 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.

¹² *See* 13 C.F.R. § 121.201, NAICS Code 515120.

“primarily engaged in broadcasting images together with sound.”¹³ The Commission has estimated the number of licensed commercial television stations to be 1,376.¹⁴ 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 stations¹⁵ (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 380.¹⁶ We note, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations¹⁷ 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 Further Notice* 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. 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

¹³ *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.

¹⁴ 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/>.

¹⁵ We recognize that this total differs slightly from that contained in *Broadcast Station Totals*, *supra* note 446; however, we are using BIA’s estimate for purposes of this revenue comparison.

¹⁶ See *Broadcast Station Totals*, *supra* note 446.

¹⁷ “[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).

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 \$13.5 million in annual receipts.¹⁸ Currently, there are approximately 567 licensed Class A stations, 2,227 licensed LPTV stations, and 4,518 licensed TV translators.¹⁹ 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 \$13.5 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 proposals set forth in this *Eighth Further Notice* would 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.²⁰

12. The proposed changes will allow the new post-transition DTV Table to provide all eligible broadcast television stations – large and small alike – with channels for post-transition DTV operations. No distinction was made between large and small licensees and permittees when determining which proposals to include in the *Eighth Further Notice*. 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. The TCDs and parameters proposed are based almost entirely on elections by licensees. All stations affected by the proposals in the *Eighth Further Notice* will have the opportunity to comment, and the Commission will consider all comments, including those proposing alternative allotments for specific stations. No alternative to existing proposals for specific modifications to the DTV Table for purposes of DTV allotments are proposed herein. In general, the transition procedures

¹⁸ See 13 C.F.R. § 121.201, NAICS Code 515120.

¹⁹ See *Broadcast Station Totals*, *supra* note 446.

²⁰ 5 U.S.C. § 603(c)(1)-(c)(4)

utilized in selecting final DTV allotments have been sufficiently transparent and flexible and eligible applicants for post-transition DTV allotments have been provided with the opportunity to make elections and to suggest alternative allotments.

13. The *Eighth Further Notice* invites comment from broadcasters, including small broadcasters, on the proposed modifications to the new post-transition DTV Table. In addition, we invite comment on other ways in which we could consider the particular needs and interests of small businesses in finalizing the post-transition DTV Table.

14. The new DTV Table for which the *Eighth Further Notice* proposes 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.²¹ 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.²² 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.²³ 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.²⁴ 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.²⁵

F. Federal Rules Which Duplicate, Overlap, or Conflict with the Commission’s Proposals

15. None.

²¹ 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)).

²² *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*”).

²³ *Id.* at 19337 ¶ 14.

²⁴ *Id.* at 19336 ¶ 19.

²⁵ *Id.* at 19332, ¶ 1.