

cause interference to WTVE-TV. HSNi states that this reallocation would resolve interference to WHSP-TV's DTV channel 66 allotment from WCAU-TV's adjacent DTV channel 67 operation.

381. Jacksonville Educators Broadcasting, Inc. Petition and Supplemental Filing.

Jacksonville Educators Broadcasting, Inc. (JEB) is the licensee of noncommercial educational WTCE-TV, NTSC channel 21 in Fort Pierce, Florida. JEB states that it cannot co-locate its assigned DTV channel 38 with its existing NTSC operation and will have to construct or locate another tower. JEB states that, due to environmental concerns, its DTV tower site would have to be located significantly south of its existing transmitter site. Because use of DTV channel 38 in such a location would raise spacing concerns with WTVX-TV, channel 34 in Ft. Pierce, JEB proposes that it be allotted DTV channel 57, which will afford WTCE-TV the flexibility of locating its DTV operation to the south. JEB submits an engineering statement indicating that channel 57 is the best alternative based on MSTV's list and would meet the no interference increase standard.

382. Pensacola Junior College Petition and Supplemental Filing.

Pensacola Junior College (PJC), the licensee of WSRE-TV, channel 23 in Pensacola, Florida, requests that we modify the reference coordinates for its channel 31 DTV allotment. PJC states that it is currently working with another station in the market, WEAR-TV, to relocate their NTSC operation to a new, taller tower. It states that in order to make operation on DTV channel 31 possible from the relocated WSRE-TV transmitter site, a change in reference coordinates is needed. PJC submits that WSRE-TV's coverage is currently constrained by a relatively low antenna HAAT on a 149 m (500 foot) tower. It states that FAA considerations limit WSRE-TV's ability to increase its tower height at any location within the 5 km limit. PJC states that it has been working to locate a better site that would accommodate a tower providing antenna height of the maximum 2000 feet and that it appears that a move of about 20 miles would be required to do so. It states that it cannot now specify the exact coordinates at which the new tower would be located and that it will strive to complete its engineering studies and locate a suitable site at the earliest possible time. PJC states that at that time it will amend its petition to specify the coordinates for its DTV allotment. PJC submits that, if necessary, based on mileage separation and interference considerations, it may also propose power limitations on channel 31 or a change in its DTV channel.

383. In its supplemental filing, PJC submits that it has now identified 30° 35' 18" N and 87° 33' 16" W as the approximate location of its new tower. It states that these coordinates are for reference only, as this is the current location of the tower of WJTC-TV in Pensacola, and the actual location of the new tower will be nearby, but not precisely at the WJTC-TV site. PJC submits that a study by its engineering consultants indicate that WSRE-TV could operate with the DTV channel 31 allotment at the requested site with a power of 316 kW ERP using a directional antenna mounted at 614 m. above mean sea level (AMSL). PJC states that this study indicates that this operation would provide significant coverage improvements for WSRE-TV and would not cause interference to Grade B service of the only relevant co-channel station, WGBC-TV in Meridian, Mississippi.

384. We have reviewed the specific requests made by HSNI, Jacksonville, and PJC. With regard to HSNI's requested modifications to WPVI-TV's DTV allotment, as indicated above, we are not granting requests to modify DTV allotments unless the licensee of the affected station concurs with the requested change. We have no indication that the licensee of WPVI-TV has agreed to the changes suggested by HSNI. We therefore are denying HSNI's requests to modify the channel or power of WPVI-TV's DTV allotment. Because our analysis indicates that WTCE-TV's use of channel 57 would impact other stations, we are denying Jacksonville's requested channel allotment change. With regard to the petitioners' requests to change their transmitter sites and/or increase power and antenna height, as indicated above, we find that such requests should be handled under the DTV allotment modification procedures provided for in the rules and not as a matter for reconsideration. We further note that, as presented by HSNI, the requested change to relocate WHSP-TV to the Philadelphia antenna farm would entail a number of detailed engineering solutions that are best dealt with as part of a specific application or a regional solution requiring agreement from any affected stations. Accordingly, we are denying the requests made by HSNI, Jacksonville, and PJC.

385. Certain other petitioners requested more power and alternative channels for their stations. We address many of these petitions below.

386. Channel 51 of San Diego, Inc. Petition. Channel 51 of San Diego, Inc. (Channel 51) is the licensee of KUSI-TV in San Diego. In its petition, Channel 51 requests an increase in its DTV power limit to maintain the present competitive balance among stations in San Diego. It also urges the Commission to inaugurate negotiations with Mexico looking towards the possible use of channel 17 for DTV purposes at San Diego. KUSI has been allotted DTV channel 18, and Channel 51 submits that its limited power, combined with the interference it would receive, would prevent it from replicating its present service and would result in KUSI serving significantly less population than its competitors. It states that KUSI would serve only 86.5% of its present area, while all other stations would serve between 95.7% and 100% of their current service areas. Channel 51 states that operation on DTV channel 17 would offer a solution. It notes that this allotment is precluded by an agreement with Mexico but speculates that Mexico might agree to this change, as it has apparently not authorized any operation on channel 17. Channel 51 states that, if the Commission could successfully negotiate such a change, all domestic stations involved in this narrow matter would benefit.

387. We note that channel 17 is now allotted to Mexico for use in Ensenada, only 60 miles from San Diego. Thus, the channel is not available for use in San Diego. As indicated above, to the extent that Channel 51 wishes to increase the power of its station, it should ask to do so under the appropriate rule provisions. Accordingly, Channel 51's request that the DTV allotment for KUSI-TV be changed, and its power limit increased, is denied.

388. Family Stations, Inc. Petition. Family Stations, Inc. (FSI), the licensee of KFTL-TV, channel 64 in Stockton, CA, expresses concern that we have provided KFTL-TV with DTV channel 62 and only 60.7 kW ERP. It argues that, given the terrain conditions in the Stockton

area, a power limit of 60.7 kW will reduce KFTL-TV's direct service area to dozens of communities and several hundred thousand people. It requests that we allot DTV channel 63 for KFTL-TV, with 144 kW ERP, as proposed in the Sixth Further Notice.

389. We find that the DTV channel and power level assigned to FSI's KFTL-TV are appropriate for service replication. We estimate that use of DTV channel 64 at 60.7 kW of power would provide 99.9% service area replication based on the technical parameters contained in the Sixth Report and Order. In addition, we estimate that this channel and power level would provide KFTL with a significant increase in its DTV service area over its existing Grade B NTSC service during the transition area. In this regard, we estimate that KFTL's service would increase to 27,091 square kilometers and 6,636,000 people versus 25,391 square kilometers and 5,855,000 people. To the extent that FSI desires a further improvement in its DTV facilities, we have indicated that such requests are to be addressed under our rules and regulations for maximization of DTV facilities. Accordingly, we are denying FSI's request that we change the channel and power of its DTV allotment.

390. Holston Valley Broadcasting Corporation Petition. Holston Valley Broadcasting Corporation (HVBC), the licensee of WKPT-TV, channel 19 in Kingsport, Tennessee, requests reconsideration of the channel 27 DTV allotment and 51.6 kW power level provided for WKPT-TV. HVBC expresses concern that the power level will prove insufficient to penetrate buildings and will provide an inferior signal, even where outdoor antennas are employed, and that the allotment is adjacent to the channel 28 DTV allotment provided for another station in its market, WCYB-TV in Bristol, Virginia. It indicates that WCYB-TV was allowed 1,000 kW for its DTV station, almost 20 times the power allowed to WKPT-TV. HVBC states that the nearly 13 dB difference between these signals would result in interference even if the stations were co-located, and that they are, in fact, two miles apart.

391. HVBC submits that one solution to this problem would be to find an alternate channel for either WCYB-TV or WKPT-TV, and it notes several possibilities based on the MSTV/NAB list of alternative DTV channel assignments. As a practical matter, it observes that there are problems with all of the potential substitute channels it has identified and asks that WKPT-TV be allowed to operate on channel 27 at a power level comparable to WCYB-TV on channel 28. It states that, if WKPT-TV were afforded 1000 kW of power on channel 27, or even half that amount, the disparity between the signal strengths of the two DTV operations would be minimized. It further submits that it has had on file with the FCC since July 11, 1996, an application to increase WKPT-TV's NTSC power to 3,890 kW, the maximum power allowed at its antenna height. HVBC states that this higher NTSC power should be a mitigating factor in favor of a decision to allow WKPT-TV a higher power level on DTV channel 27. It also states that, in the event that WKPT-TV is given a higher DTV power level, it pledges to work with Appalachian Broadcasting Corporation, the licensee of WCTB-TV, toward the possibility of sharing a common transmitting site and even a common antenna. HVBC did not submit a supplemental filing.

392. Service replication is based on facilities licensed as of the date of the Sixth Report and Order. We find that the 51.6 kW power level assigned to WKPT-TV comports with our service replication criteria. In fact, we note that MSTV in its *ex parte* filing estimates that HVBC's WKPT-TV would be able to serve a greater population with its DTV channel than it currently serves with its analog operations. We do not believe that it is appropriate to consider HVBC's request to increase power for its station WKPT-TV at this time. We have adopted rules and procedures for power increases and maximization requests. We find that such requests are more appropriately considered under these procedures rather than in the context of a petition for reconsideration. Accordingly, HVBC's petition is denied.

393. Sonshine Family TV Corp. Petition. Sonshine Family TV Corp. (Sonshine), the licensee of WBPH-TV, channel 60 in Bethlehem, Pennsylvania, alternatively requests either that the authorized ERP for the channel 59 DTV allotment provided for WBPH-TV be increased from 64.5 kW to at least 150 kW or that the DTV channel assigned to WBAL-TV, Baltimore, Maryland be changed from channel 59. Sonshine notes that WBAL-TV was allowed to operate its DTV service with an ERP of 1,000 kW and that Bethlehem and Baltimore are located only about 100 miles apart. It is concerned that, with the existing difference in power levels, there will be significant interference to WBPH-TV's DTV service. Sonshine further argues that the DTV power provided for WBPH-TV is inconsistent with our goal of providing for replication of NTSC service areas. It states that on August 12, 1996, we granted its application to increase the power and antenna HAAT of WBPH-TV's NTSC service to 2,950 kW and 294 m., respectively. It states that, while this grant was initially conditioned on the outcome of the DTV Allotment Table, we developed the Table using a database that included all modification applications granted as of April 3, 1997. Sonshine submits that it appears that the table did not reflect WBPH-TV's new operating parameters. Sonshine did not submit a supplemental filing.

394. Hearst, the licensee of WBAL-TV in Baltimore, Maryland, indicates that it would not oppose an alternative DTV channel, so long as the new channel improved coverage for WBAL-TV. Hearst states that it would prefer an allotment in the core spectrum rather than channel 59, but it notes that, due to extreme congestion along the eastern seaboard, the likelihood of finding an alternative DTV channel allotment is probably greater for WBPH-TV. Hearst opposes Sonshine's request to increase WBPH-TV's DTV power to 150 kW and states that this would increase interference to 68,000 persons and 25,000 households within WBAL-TV's coverage area. For this reason, it requests that Sonshine's petition be denied.

395. We find that the power level and antenna height associated with the DTV allotment for Sonshine's WBPH-TV is appropriate and is based on WBPH-TV's new operating parameters. Accordingly, Sonshine's request for a further increase in power and antenna height is denied. Sonshine may, however, submit a separate request for increased power and/or antenna height under the procedures for maximization of DTV facilities contained in the rules. With regard to Sonshine's request to change the DTV channel assigned to WBAL-TV in Baltimore, Sonshine has not identified an alternative channel for that station that would provide it with comparable coverage. As Hearst notes, given the congestion along the eastern seaboard, the prospects of

finding an alternative DTV channel allotment are probably greater for Sonshine's WBPH-TV than for Hearst's WBAL-TV. In the absence of any specific request for a different channel by Sonshine for itself or WBAL-TV or information that the DTV channel provided to its station did not adequately comport with our DTV allotment principles and goals, we continue to believe that the DTV channel 59 allotment provided for WBPH-TV is appropriate. Accordingly, Sonshine's petition is denied.

396. Speer Communications Holdings I Limited Partnership Petition and Supplemental Filing. In its petition, Speer Communications Holdings I Limited Partnership (Speer), the licensee of WNAB-TV, channel 58 in Nashville, Tennessee, argues that the DTV allotments provided for Nashville stations, including the channel 23 allotment provided for WNAB-TV, would seriously disrupt both analog and digital television service for a large number of viewers in that market. It noted that WNAB-TV would be required to operate its DTV service on channel 23 with a directional antenna and power limited to 50.3 kW ERP. Speer states that it will be competing against four other UHF stations, all with power levels greater than 100 kW and including two that would be allowed to broadcast at 1 MW.

397. In its supplemental filing, Speer submits that its engineering study shows that any attempt to increase the DTV power of WNAB-TV above 50.3 kW would result in new or increased interference to at least five existing NTSC or proposed DTV stations, and that, because of the nature of the required directional antenna pattern, it may even be necessary for Speer to broadcast at less than 50.3 kW. It states that these constraints make it impossible for WNAB-TV to provide the level of service to Nashville areas viewers that Speer currently provides and to compete on an equal technical footing with other stations in its market. Speer indicates that it conducted a search for a different channel that would alleviate these problems and could find no workable alternative within the core spectrum.

398. Speer also notes that we have assigned DTV channel 56 to Landmark Television of Tennessee, Inc. the licensee of WTVF-TV in Nashville. Speer states that this assignment, which is located only 39 km from WNAB-TV's transmitter, does not comply with the separation requirements for second-adjacent channels. It is concerned that WTVF-TV's DTV signal will cause interference to WNAB-TV's service throughout most of Nashville, its city of license. Speer submits that the Nashville DTV allotments would not only prevent WNAB-TV from becoming a strong competitor in DTV, but also threaten its existing service. Speer asks that we thoroughly reconsider the DTV Table for Nashville area to address its concerns.

399. We find that the DTV allotment plan developed for the Nashville area is appropriate and consistent with our policies. As stated above, the powers and antenna heights assigned to the Nashville stations are based on replicating the existing television service based on the facilities licensed as of April 3, 1997. We find that the power level and antenna height provided for Speer's WNAB-TV are correct. The fact that other Nashville stations are authorized higher power merely reflects that those stations' existing service areas are currently larger than that of WNAB-TV. With regard to Speer's concern about second-adjacent channel interference, we find

no reason to re-examine such situations and any interference from such operation is already reflected in our service and interference estimates. As indicated in the Sixth Report and Order, Speer's WNAB-TV would receive less than 4% interference to its existing NTSC service. We therefore are denying Speer's requests to increase the power and antenna height of its WNAB-TV or revise the DTV channel allotments for the Nashville area.

400. WRNN-TV Associates L.P. Petition. WRNN-TV Associates L.P. (WRNN) is the licensee of WRNN-TV, channel 62 in Kingston, New York. In its petition, WRNN requests that we substitute DTV channel 48 for WRNN-TV's channel 21 DTV allotment and increase its power on that channel to ensure service replication. WRNN argues that we estimate that channel 21 will allow the station to replicate 99% of its existing service area, but it believes that the DTV service area will actually be significantly smaller. It argues that, even if the ERP authorized for its DTV service on channel 48 is increased, use of DTV channel 21 still would result in additional interference. WRNN did not submit a supplemental filing.

401. We have reviewed WRNN's request, and our analysis indicates that operation of WRNN-TV's DTV service on channel 48 would cause additional interference to other stations. We further note that MSTV in its *ex parte* filing confirms our estimate that WRNN's channel 21 DTV allotment would provide a very high degree of service replication, as well as a substantial increase in coverage and population served for its station. We therefore are denying WRNN's request that its DTV allotment be changed to channel 48. To the extent that WRNN desires a further improvement in its DTV facilities, we have indicated that such requests are to be addressed under our rules and regulations for maximization of DTV facilities.

E. Petitions Requesting Unspecified Alternative Channels

402. A number of petitioners question the adequacy of the DTV channels allocated to their stations but do not request specific alternative channels or supply any information to show that the DTV channels provided to their stations do not adequately comport with our DTV allotment principles and goals. In the discussion below, we first address these petitions. We next address certain petitions that fail to request specific alternative channels and also raise additional, related concerns. Because we have already adequately addressed the issue of the petitioners' initial lack of access to OET Bulletin 69, we do not discuss that topic here. However, we note that several of the petitioners who raised this issue nevertheless did not avail themselves of the opportunity to submit a supplemental filing after the publication of OET Bulletin No. 69.

403. GOCOM Licensees Petition. GOCOM Licensees (GOCOM), the licensee of several broadcast stations, states that it is unable to make a meaningful assessment of whether the DTV channels allocated to its stations are the most desirable for DTV; whether other channels may be available which may better serve the public without adversely affecting other DTV channels; or whether the channels allocated provide for the possibility of an increase in power. It states that it has no recourse but to seek reconsideration pending release of OET Bulletin No. 69. GOCOM did not file a supplemental filing requesting any specific changes.

404. Golden Empire Television Corporation Petition. Golden Empire Television Corporation (GETC), the licensee of KHSL-TV, channel 12 in Chico, California. GETC supports the petition submitted by MSTV and other broadcasters. It states that it wishes to make us aware of the special circumstances relating to KHSL-TV and to maintain the ability to seek improvement of the DTV Table. GETC states that the programs of KHSL-TV are extended to remote areas, from the far side of Mount Shasta to Paradise, California through a network of two dozen translator stations, 16 of which are licensed to itself. GETC states that it is important to achieve the optimum set of channel allotments and procedures for preservation of translator service rather than push toward implementation of a less than optimal plan. It submits that we have taken a number of steps reasonably calculated to minimize the impact on translators such as those which rebroadcast KHSL-TV. GETC also expresses concern about the DTV channel 43 allotment provided for KHSL-TV, as compared to those of other stations in the Chico-Redding market, which are between channels 14-20. It states that, without OET Bulletin No. 69, it is unable to ascertain whether allotment of a different DTV channel to Chico is feasible and would serve the public interest. It states that it reserves the right to supplement its petition within 30 days of the release of OET Bulletin No. 69. GETC did not submit a supplemental filing requesting any specific channel change.

405. KMVT Television Inc. Petition. KMVT Television Inc. (KMVT) is the licensee of KMVT-TV, channel 11 in Twin Falls, Idaho. KMVT states that it is unable to assess the impact of DTV without OET Bulletin No. 69 and requests that it be given the opportunity to file for reconsideration after the Commission releases the technical guidelines and criteria it used to develop the DTV Table. KMVT did not submit a supplemental filing.

406. Mission Broadcasting I, Inc., and Mission Broadcasting II, Inc. Petition. Mission Broadcasting I, Inc., and Mission Broadcasting II, Inc. (Mission) are the licensees of WUXP-TV, channel 30 in Nashville, Tennessee and WUPN-TV, channel 48 in Greensboro, North Carolina. Mission states that it has been unable to thoroughly assess the DTV Table and its specific channel assignments without OET Bulletin No. 69. It requests the opportunity to seek reconsideration after the Commission makes public the technical guidelines and criteria used to develop the Table. Mission did not submit a supplemental filing.

407. Oklahoma Educational Television Authority Petition. Oklahoma Educational Television Authority (OETA) is the licensee of five noncommercial television stations in the state of Oklahoma. OETA requests that the time for parties to seek reconsideration of the DTV Table of Allotments be postponed until after the Commission publishes OET Bulletin No. 69. It notes that, from the outset, the staff of the Commission has been able to complete the staggering task of establishing rules and a DTV Allotment Table that will enable the entire television industry to have a smooth and efficient transition to DTV. OETA also recognizes the flexibility for public stations. It states that because it makes extensive use of TV translators to fill in gaps in coverage, it is concerned that its new allocations will allow it to continue its comprehensive coverage through the use of transmitters and translators. OETA did not file a supplemental filing or request any specific channel changes.

408. Pappas Stations Partnership Petition. Pappas Stations Partnership (Pappas), the licensee of KPTM-TV, channel 42 in Omaha, Nebraska, requests that we change the allotment for KPTM-TV from channel 43 to a non-adjacent DTV channel. Pappas states that, while it understands that adjacent channel NTSC and DTV allotments were made in a limited number of cases to the same entity, such allotments raise the specter of DTV-to-NTSC interference and would preclude the operation of its NTSC and DTV services from a single antenna combiner. Pappas expresses a preference for operating its NTSC and DTV channels from a combined antenna, in order to reduce the capital costs. While Pappas indicated that it could not recommend an alternative, it expressed confidence that we could find a DTV channel for KPTM-TV that is not first adjacent to its existing channel 42, given the relatively low density of channel use in the Great Plains region. Pappas did not submit a supplemental filing.

409. Puerto Rico Public Broadcasting Corporation Petition. Puerto Rico Public Broadcasting Corporation (PRPBC), the licensee of noncommercial station WIPR-TV, channel 6, in San Juan, Puerto Rico, expresses concern that it cannot verify the efficacy of the channel 55 DTV allotment provided for WIPR-TV and is thus unable to determine which equipment and technical configuration will be suitable on that channel. It is also concerned about potential interference from the DTV operation of WLII-TV, Caguas-San Juan, Puerto Rico on first adjacent channel 56. PRPBC submits that because Puerto Rico is isolated and its DTV allotments do not impact continental DTV allotments, implementation of DTV there can be delayed without significant impact on the overall DTV allotment plan. It asks that we extend the date for DTV implementation in Puerto Rico until information and materials identified by its consulting engineer in an attached appendix are available. The appendix states that OET Bulletin No. 69 is needed to assess whether WIPR-TV's service area is adequately protected and replicated, and asserts that we have not provided information on how the DTV allotments were made. The engineering statement states that, without such information, no meaningful technical evaluations can be performed. PRPBC did not submit a supplemental filing.

410. Rural California Broadcasting Corporation Petition. Rural California Broadcasting Corporation (RCB) is the licensee of noncommercial station KRCB-TV, channel 22, in Cotati, California. In its petition, RCB states that KRCB-TV currently operates with 67.7 kW ERP, a power significantly below the maximum permissible for its channel. RCB is concerned that the DTV channel 23 allotment that was provided for KRCB-TV is short-spaced to an adjacent DTV channel 24 allotment provided for KGO-TV in San Francisco. It indicates that KRCB-TV's transmitter site is only 67.6 km from the site where KGO-TV's DTV transmitter will operate. RCB also notes that the channel 62 noncommercial NTSC allotment for Santa Rosa, California was deleted and that no noncommercial DTV allotment was provided in replacement. It submits that, as the only noncommercial station in the area north of San Francisco, KRGB-TV may need to increase its DTV power in the future to provide service to the entire area. It is concerned that, since KRCB-TV's DTV channel is short-spaced to an adjacent channel DTV station, the provision of universal noncommercial service to the area may be jeopardized. RCB submits that it lacks a solution but is studying this problem and awaiting actions by the Broadcasters' Caucus and the release of OET Bulletin No. 69. RCB did not submit a supplemental filing.

411. Smith Broadcasting of Santa Barbara Limited Partnership Petition. Smith Broadcasting of Santa Barbara Limited Partnership (Smith), the licensee of KEYT-TV, channel 3 in Santa Barbara, California, states that, in operating on its allotted DTV channel 27, KEYT-TV would lose approximately 8.4% of the population (7.7% of the geographic area) it now serves and that this coverage loss is exacerbated by the comparative superiority of the DTV allotments its competitors have received. Smith notes that KEYT-TV's competitors, KSBY-TV in San Luis Obispo and KCOY-TV in Santa Maria, lose 3.4% and gain 1.9% population coverage, respectively. It argues that, while service replication is one of the bedrock principles of the DTV Table, we failed to develop a DTV allotment for KEYT-TV that would protect viewers' ability to receive the station. Smith states that, without OET Bulletin No. 69, it has been unable to either fully analyze the engineering principles that resulted in our reducing KEYT-TV's coverage or formulate any solutions. It requests that we develop a DTV allotment for KEYT-TV that would better replicate the station's existing NTSC coverage. Smith did not submit a supplemental filing.

412. We have reviewed the above requests and continue to find that the allotments provided for these stations are appropriate and that there are no alternative in-core channels that would improve their service without affecting other stations.¹⁴² Furthermore, in the absence of any specific requests for the use of different channels by GOCOM, GETC, KMTV, Mission, OETA, Pappas, PRPBC, Smith, and RCB, or of any information that the DTV channels provided to their stations do not adequately comport with our DTV allotment principles and goals, we will maintain the channels allotted for these petitioners' stations in the Sixth Report and Order.¹⁴³ Accordingly, we are making no changes in the DTV allotments provided for their stations, and we are denying their petitions for reconsideration.

F. Petitions Objecting to Allotment of Channels Outside the Core Spectrum

413. A number of petitioners with DTV allotments on channels that were out of the

¹⁴² With regard to Smith's comparison of its station's DTV allotment to those of its competitors, while we agree that service replication is a fundamental principle of the DTV Table, it must also be balanced against our other goals and policies, such as full accommodation, minimal interference, and spectrum reclamation. Therefore, full service replication is not always possible. Nonetheless, we believe that the channel 27 allotment for KEYT-TV is more than sufficient to provide for competitive DTV service. Although Smith asserts that two competitors were given superior DTV channels, we note that the DTV channel 27 allotment for KEYT-TV would have coverage far superior both in terms of population and of area to the coverage of either of its competitors.

¹⁴³ In fact, we believe that the DTV channel 23 allotment provided for RBC in the Sixth Report and Order will provide for more than adequate replication of the present service of its station during the DTV transition period. We note that RBC's KRCB-TV was assigned a maximum power of 50 kW. This power is the minimum power assigned to UHF stations, not the power required for service replication by KRCB-TV; thus, KRCB's DTV service area and population served is likely to be significantly greater than its existing NTSC service area and population served. For example, MSTV estimates that KRCB's service area will increase from 8,719 to 18,957 sq. km., and its population reach will increase from 1,014,000 to 2,477,000. See MSTV's *Ex Parte* Filing, Exhibit 1B, FCC DTV Table with Corrected Coverage and Interference Figures.

range of the core spectrum discussed in the Sixth Report and Order on channels 2-6 or 47-51 that could potentially have been out of the core request that we modify their allotments provide them with channels in the core. We address these petitions below.

414. We first address three requests for reallocation to channels within the core spectrum that are moot, as the channels originally assigned to those petitioners now fall within the redefined core spectrum, and a petition objecting to an out-of-core DTV channel allotment on the claim that the channel at issue would not be acceptable even if we redefined the core spectrum to include it.

415. Clear Channel Television Licensees, Inc. Petition and Supplemental Filing. Clear Channel Television Licensees, Inc. (CCTL), requests that its DTV channel 4 allotment for WXXA-TV, channel 23, in Albany, New York, be changed to DTV channel 7, as channel 4 may be ultimately outside the DTV core spectrum.

416. University of New Hampshire d/b/a New Hampshire Public Television Petition and Supplemental Filing. University of New Hampshire d/b/a New Hampshire Public Television (NHPT) is the licensee of public stations WEKW-TV, Keene, New Hampshire; WENH-TV, Durham, New Hampshire; and WLED-TV, Littleton, New Hampshire. NHPT is concerned about the problems posed by its multiple out-of-core DTV allotments. It states that the initial DTV allotments for the NHPT stations include channel 57 for WENH-TV, channel 49 for WEKW-TV, and channel 48 for WLED-TV. It states that while the initial allotments were made using channel 2 to 51, the Commission has not made a decision whether the ultimate core spectrum will encompass channels 2-46 or 7-51. It states that, if channels 2-46 are designated as the core, then all three of its allotments will fall outside the core. In its supplemental filing, NHPT expresses concern that both the NTSC and DTV channels for WLED-TV and WEKW-TV will be outside the core spectrum if channels 2-46 are selected as the core. NHPT also requests that we determine the core spectrum at an early date. In addition, it requests that WLED-TV's DTV allotment be changed to channel 40 and WEKW-TV's DTV allotment be changed to channel 14, if channels 2-46 become the core.

417. West Tennessee Public Television Council, Inc. Petition and Supplemental Filing. West Tennessee Public Television Council, Inc. (WTPTC), the licensee of WLJT-TV, channel 11 in Lexington, TN, states that it was assigned channel 47 for its DTV service, a potentially out-of-core channel. WTPTC states that the expense for DTV conversion will place great strains on its current budget and the prospect for moving twice is virtually impossible for a small rural public station. It asks, consistent with the requests of AAPTS and PBS, that we assign public television stations paired allotments between channels 7-46 to ensure that their DTV assignments will be within the core spectrum. WTPTC also requests that WLJT-TV be assigned a DTV allotment within the core and that the Commission provide it additional time after the release of OET Bulletin No. 69 to supplement its petition.

418. As indicated above, we are expanding the DTV core spectrum to include channels

2-51. We find that both CCTL's request to substitute DTV channel 7 for its channel 4 allotment for WXXA-TV in Albany, New York, and WTPTC's request to assign a new channel to WLJT-TV for its DTV service, are now moot, as the original DTV channel allotments for those stations now fall within the core spectrum. Our expansion of the DTV core spectrum also mitigates NHPT's stated concerns with regard to its channel allotments, as the DTV allotments for NHPT's WEKW-TV and WLED-TV and the existing NTSC channel for WENH-TV are within the core spectrum. Thus, no DTV allotment changes are needed to provide stations WEKW-TV and WLED-TV with in-core allotments, and NHPT's request is moot. As stated above, we generally are not granting requests by broadcasters to change their DTV channel allotments based solely on the fact that the broadcaster received an out-of-core allotment. Therefore, we deny WTPTC's petition to the extent that it requests that all public television stations receive DTV channel allotments within the core spectrum.

419. Guy Gannett Communications Petition and Supplemental Filing. Guy Gannett Communications (Guy Gannett), the licensee of seven television stations, states that it strongly supports our objectives in this proceeding. However, it submits that at least one of its stations, WTWC-TV, channel 40 in Tallahassee, Florida, may face unacceptable interference and reductions in service area for its DTV service. Guy Gannett is concerned that WTWC-TV's DTV channel 2 allotment may be unacceptable due to noise concerns and its possible location outside the core spectrum. In its supplemental filing, Guy Gannett states that further analysis confirms that channel 2 is not a viable DTV assignment for WTWC-TV. It argues that television transmissions on channel 2 often experience interference, and that this interference, coupled with the low ERP specified and the generally poor performance of commercially-available receive antennas, makes it unlikely that WTWC-TV could achieve the necessary service replication. Guy Gannett does not request a specific DTV channel.

420. Channel 2 now falls within the DTV core spectrum. As indicated above, we have no engineering data showing that channels 2-6 will be unsuitable for the provision of DTV service. On the contrary, as noted by several petitioners seeking inclusion of channels 2-6 in the DTV core spectrum, the testing and analysis completed to date indicate that the propagation characteristics of these channels provide superior coverage capabilities for DTV service and that the potential for interference is minimal.

421. Some licensees filed petitions protesting their allotment of DTV channels outside the core spectrum. We first address those petitions that primarily object to out-of-core allotments but do not request specific alternative channels.

422. University of North Carolina Center for Public Television Petition. The University of North Carolina Center for Public Television (UNCTV) requests that it be permitted to file a technical supplement after the release of OET Bulletin No. 69. It states that WUNC-TV, Chapel Hill, North Carolina and WUNE-TV, Linville, North Carolina were assigned DTV channels 59 and 54, respectively, which are outside the core spectrum. In addition, it states that two new proposed stations are on channels outside the core spectrum. It states that the assignment of non-

core channels exposes public stations to greater risks. UNCTV requests that the Commission make every effort to provide public television stations with assignments between channels 7-46, confirm protection of pending applications, and provide substitute channels for these stations within the core spectrum. UNCTV did not submit a separate supplemental filing requesting specific DTV channels.¹⁴⁴

423. Educational Broadcasting Corporation Petition. Educational Broadcasting Corporation (EBC), the licensee of noncommercial educational station WNET-TV, NTSC channel 13 in Newark, New Jersey, submits that WNET-TV will be burdened by the assignment of DTV channel 61. It states that the additional costs and diminished service area associated with this channel make it particularly inappropriate for a public broadcaster. First, EBC submits it will face higher costs as the channel 61 allotment will require WNET-TV to build one DTV facility on channel 61 and then a second station on its existing channel 13 at the end of the transition period. It states that these costs are onerous for a noncommercial licensee and that New York City presents costly obstacles to new television construction. Second, EBC states that, as long as it operates on channel 61, WNET-TV will run up extremely high electricity bills, due to the inefficiency of high-frequency transmitters. Finally, it submits that the chance of obtaining compensation from new users of channels 60-69 for expenses incurred in relocating DTV operations to core spectrum will be remote, since the channels users are expected to be public safety agencies rather than commercial entities. EBC argues that channel 61 would provide for replication of only 94.3% of WNET-TV's existing coverage area. It states that portions of its service area on Long Island will receive NTSC interference from co-channel WTIC-TV, Hartford, Connecticut and, secondarily, from co-channel WTGI-TV, Wilmington, Delaware and WACI-TV, channel 62, Atlantic City, New Jersey. EBC submits that the two co-channel stations are significantly short-spaced to WNET-TV. It argues that any adjustments made to the DTV Table for the Northeast Corridor should incorporate a preference for allotting core DTV channels to noncommercial educational broadcasters and a penalty for assigning channels 60-69 to such broadcasters, particularly in cases like WNET-TV's, where co-location with commercial broadcasters makes non-interference-causing channel changes feasible. EBC did not submit a supplemental filing.

424. As stated above, we are not granting requests by broadcasters to change their DTV allotments based solely on the fact that the broadcaster received a DTV allotment out of the core spectrum. In developing the DTV Table of Allotments, we attempted to provide all eligible broadcasters with an initial DTV allotment within channels 2 to 51. However, this was not always possible because of the limited availability of spectrum and the need to accommodate and replicate all existing facilities with minimal interference. Although we recognize that the implementation of DTV will present a number of unique challenges for noncommercial educational broadcasters, we have stated that in considering changes in the DTV allotments, including changes to eliminate out-of-core channels, the interests of service replication and

¹⁴⁴ As noted above, UNCTV did submit an opposition to the petition of TBN. UNCTV opposed TBN's proposal that its stations be given DTV allotments in channels 60 to 69.

minimizing interference generally supersede other station characteristics, such as whether the station is a noncommercial operation. We agree that allotment of out-of-core channels and, in particular, channels 60-69, should be avoided for DTV; to the extent possible, we have attempted to do so in the development of the DTV Table of Allotments. Unfortunately, it was not possible to avoid the allotment of these channels and still provide all broadcasters with a DTV allotment, particularly in congested regions, such as the northeastern United States. We find that the channel 61 allotment provided for EBC's WNET-TV, the channel 59 allotment provided for UNCTV's WUNC-TV, and the channel 54 allotment provided for UNCTV's WUNE-TV are fully consistent with our DTV allotment policies and accordingly deny those petitioners' requests for new allotments.

425. KVIE, Inc. Petition and Supplemental Filing. KVIE, Inc., the licensee of noncommercial educational television station KVIE-TV, channel 6 in Sacramento, California, seeks reconsideration of the allotment of DTV channel 53 to KVIE-TV. It states that requiring KVIE-TV to use channel 53 would result in additional electrical power costs of between \$200,000 and \$250,000 per year and would require it to change channels after the transition period. It urges that the Commission work with it to find an acceptable substitute channel and indicates that it is working diligently with its engineering consulting firm to identify an alternative channel that would avoid interference to other NTSC and DTV allotments and stations. In its supplemental filing, KVIE states that, despite analysis by its engineering consultant, no other channel within the core spectrum could be identified for use, even at relatively lower power and antenna height combinations. KVIE therefore limits its request on reconsideration to urging that we consider favorably the future substitution of a core channel for KVIE-TV's DTV channel 53 if such a channel becomes available for use at Sacramento. In this regard, KVIE-TV states that, as a result of its participation in this proceeding, it would expect to have a priority over parties not participating here.

426. As stated above, to the extent that in-core channels become available during the transition, we will attempt to further reduce the number of out-of-core allotments, such as the channel 53 allotment to KVIE-TV, in any future amendments to the DTV Table. We do not find, however, it is appropriate to give such parties priority in our allotment process merely because they participated in this proceeding. We note that other matters, such as providing first service to a community, are also important, and we believe that, in making future DTV allotments available, all relevant issues should be considered.

427. Other licensees filed petitions objecting to their receipt of out-of-core DTV allotments and suggesting specific alternative channels. We discuss several of them below.

428. Buck Owens Production Company, Inc. Petition. Buck Owens Production Company, Inc. (Owens), licensee of KUZZ-TV, channel 45, Bakersfield, California, asks that we change its DTV allotment from channel 55 to channel 31. It states that the MSTV study indicates that channel 31 can be allotted to KUZZ-TV without affecting other allotments, and it notes that allotment of an in-core channel would avoid the expense and viewer confusion of a

second move to a new channel. Owens did not submit a supplemental filing.

429. Central Michigan University Petition and Supplemental Filing. Central Michigan University (CMU) is the licensee of four educational TV stations serving central and northern Michigan; three of its stations were allocated out-of-core DTV channels. CMU states that, as a noncommercial education licensee and a public institution, it will suffer substantial hardship from the allotment of out-of-core channels. In its supplemental filing, CMU requests that the following channels be substituted for those currently provided for its stations: for WCMU-TV, DTV channel 42 instead of 56; for WCML-TV, DTV channel 23 instead of 57; and for WCMV-TV, DTV channel 10 instead of 58. CMU requests that we determine appropriate power levels for its stations on these proposed DTV allotments. CMU states that its consulting engineers believe that WCMU-TV could operate on channel 42 with power and antenna height that would replicate and improve the station's existing coverage. It further states that WCML-TV could operate on DTV channel 23 with maximum power and height combinations that would essentially replicate and improve this station's existing coverage while meeting applicable DTV spacing requirements. CMU also states WCMV-TV could operate on DTV channel 10 with power and antenna height that would replicate the station's existing coverage with less interference than that resulting from the use of channel 58.¹⁴⁵

430. Citadel Communications Co., Ltd. Petition. Citadel Communications Co., Ltd. (Citadel), the licensee of WHBF-TV, channel 4 in Rock Island, Illinois, WOI-TV, channel 5 in Ames, Iowa, and other television stations, submits that, regardless of whether we adopt a core spectrum plan that includes channels 2-6, we should assign channel 29 for DTV service by both WHBF-TV and WOI-TV in lieu of their respective assigned DTV channels 58 and 59. During the transition, Citadel expects to employ DTV transmission facilities based on replication of its stations' current NTSC Grade A contours. It submits a technical study that indicates that WHBF-TV and WOI-TV could use channel 29 for DTV service within their Grade A contours without causing or receiving objectionable interference. Citadel states that, because it does not intend to construct maximum power interim DTV facilities (that at full power would cause and receive interference on channel 29), there would be no advantage in assigning out-of-core channels for these stations. Citadel did not submit a supplemental filing.

431. Community Television of Southern California Petition and Supplemental Filing. Community Television of Southern California (KCET) is the licensee of non-commercial educational television station channel 28, KCET-TV in Los Angeles, California, which was assigned DTV channel 59. In its petition, KCET states that, as a non-commercial station, it can ill afford to assume the expense of constructing two digital facilities and observes that an in-core allotment would spare it this expense. It states that, in view of the Commission's recognition of

¹⁴⁵ According to CMU, the channel 10 DTV allotment for WCMV-TV would, however, be short-spaced 46 km to the NTSC co-channel service of WILX-TV in Onondaga, MI; short-spaced 38.6 km to the NTSC co-channel service of WWUP-TV in Sault Ste. Marie, MI; and short-spaced 7.4 km to the NTSC co-channel service of WMVS-TV in Milwaukee, WI.

the financial plight of public broadcasting, it would have expected the Commission to try to assign core channels to public stations. KCET notes that several other DTV allotments for Los Angeles stations that operate from Mount Wilson received DTV channels in the core. It states that, while it recognizes that revisiting the DTV Table is not feasible, minor adjustments might be possible. It argues that it has been unable to make alternative suggestions for KCET-TV without OET Bulletin No. 69.

432. In its supplemental filing, KCET states that its consulting engineers have identified channel 45 as an in-core DTV channel on which KCET-TV could operate in substantial compliance with the DTV allotment rules. It states, however, that a DTV channel 45 allotment for KCET-TV would be short spaced to a vacant co-channel NTSC allotment in Tijuana, Mexico, under the mileage separation requirements established in the Memorandum of Understanding between the U.S. and Canada on DTV allotments (MOU). It urges us to institute negotiations with Mexican authorities to permit KCET-TV to operate on DTV channel 45. It states that the short spacing could be resolved by deleting the channel 45 allotment from Tijuana, substituting another channel in Tijuana for channel 45, or waiving the separation requirements of the MOU. KCET also submits that allotting DTV channel 45 to KCET-TV would make DTV channel 59 available for use in Los Angeles by another station. It states that its attached engineering statement shows that KCET-TV could operate from the station's current transmitter site at the Mount Wilson antenna farm and provide the same service that it would using channel 59. KCET states that operation on channel 45 would cause substantially less interference to other stations than would operation on channel 59.

433. Gilmore Broadcasting Corporation Petition and Supplemental Filing. Gilmore Broadcasting Corporation (Gilmore) is the licensee of WEHT-TV, channel 25 in Evansville, Indiana. In its petition, Gilmore submits that, without OET Bulletin No. 69, it does not have sufficient information to estimate the replication that can be achieved with the channel 59 DTV allotment provided for WEHT-TV or to determine whether that channel will afford it sufficient flexibility to remain competitive. Gilmore states that a channel within the core DTV spectrum would be more desirable than channel 59 because an in-core channel would allow it to avoid business planning uncertainties, substantial additional equipment expenses, and viewer confusion. Gilmore also states that it is concerned that operation on DTV channel 59 may present problems with adjacent DTV channel 58, which has been allotted to WFIE-TV, Evansville, Indiana. Gilmore requests that we provide WEHT-TV and WFIE-TV with DTV allotments that do not present this adjacent channel problem. In its supplemental filing, Gilmore proposes that its DTV allotment be modified to channel 26. It asserts that this allotment is consistent with the FCC's rules and policies, would reduce interference, and would permit an easier DTV transition for its station. While it states that this change would still present a first adjacent channel situation, it notes that the two facilities will be owned by the same licensee, the antennas will be on the same tower, and the transmitters will be in the same building. Gilmore states that these features confer a greater ability to correct problems and thus decrease the risks associated with such situations. Gilmore provides an engineering statement that indicates that use of channel 25 will meet almost all spacing requirements, with the following exceptions: (1)

the DTV-to-NTSC spacing to WLCN-TV, channel 19 is 50.4 km rather than less than 24.1 km or greater than 80.5 km (but WLCN-TV operates at less than full facilities); and (2) the DTV-to-DTV spacing to channel 26, WLKY-TV, Louisville, Kentucky, is 162 km rather than 217.3 km.

434. Cosmos, the licensee of WFIE-TV, NTSC channel 14 in Evansville, Indiana, opposes Gilmore's petition to the extent that it proposes a change in the DTV Table for WFIE-TV to address concerns about adjacent channel interference. Cosmos states that it is unfair to ask it to shoulder the burden solely due to the request of another broadcaster. It states that it would not oppose GBC's attempt to modify its allotment or take other action but it does object to GBC's burden-shifting approach. It also notes that the DTV Allotments for WFIE-TV and GBC's WEHT-TV are in compliance with the Commission's rules, which would suggest that the interference problem may not exist.

435. Jet Broadcasting Co. Petition. Jet Broadcasting Co. (Jet), the licensee of WJET-TV, channel 24 in Erie, Pennsylvania, seeks reconsideration of its assignment of out-of-core DTV channel 58. It states that channel 58 would require a new wave guide and could not be used on its existing tower, while in-core channel 42 would permit it to finalize its DTV plans. Jet states that WJET-TV cannot follow through with its plan to be the first to operate DTV in Erie unless it is allocated a frequency it can use at its present site. In its supplemental filing, Jet indicates that channel 42 appears to be consistent with our allotment guidelines and should be available for allotment to Erie. It states that, while operation on this channel could have the potential for minor interference to co-channel DTV operation of WPTT-TV in Pittsburgh, Pennsylvania and co-channel NTSC operation of Canadian station, CDCO-TV3 in Sarnia, Ontario, WJET-TV could use lower power or a directional antenna to protect these stations. Jet states that, under the separation standards in the rules, a channel 42 DTV allotment at Erie would be short spaced 16.2 km to WPTT-TV and 31.2 km to CKCO-TV3.

436. As stated above, we generally are not granting requests by broadcasters to change their DTV allotments based solely on the fact that the broadcaster received a DTV allotment out of the core spectrum. In developing the DTV Table of Allotments, we attempted to provide all eligible broadcasters with an initial DTV allotment within channels 2 to 51.¹⁴⁶ However, this was not always possible, because of the limited availability of spectrum and the need to accommodate and replicate all existing facilities with minimal interference, and was particularly difficult to accomplish in congested areas. To facilitate second channel transitions, we stated that we will allow broadcasters with DTV channels out of the core spectrum to switch their DTV service to their existing in-core NTSC channels at the end of the transition, if they so desire. Thus, with regard to Owens' station, we note that KUZZ-TV now operates on channel 45 and can shift its DTV operations to this channel at the end of the transition period. Although we recognize that the implementation of DTV will present a number of unique challenges for noncommercial educational broadcasters, we have stated that, in considering changes in the DTV allotments,

¹⁴⁶ Our allotment software includes a penalty for the use of out-of-core DTV allotments and such channels were used only where the use of such channels would outweigh the penalties for interference and service replication.

including changes to eliminate out-of-core channels, the interests of service replication and minimizing interference generally supersede other station characteristics, such as whether the station is a noncommercial operation. In addition, we stated that we would consider alternative allotment/assignment plans that are the result of negotiations and coordination among broadcasters and other parties within their communities. We stated, however, that such changes must have the agreement of all affected broadcasters and must not result in additional interference to other stations or allotments. Our analysis indicates that the use of specific alternative DTV channels suggested by Owens, Citadel, CMU, Gilmore, and Jet would result in increased interference to other stations and that none of these petitioners have obtained the concurrence of the affected stations.¹⁴⁷ Similarly, our analysis indicates that allotment of channel 45 for KCET-TV's DTV service would impact other stations and would not be consistent with required protection of Mexican operations and allotments. Accordingly, the requests of Owens, Citadel, CMU, Gilmore, Jet, and KCET for changes to their stations' DTV allotments are denied.

437. Certain petitioners emphasized that both their NTSC channels and their DTV channels fell outside the core spectrum. We address these petitions below.

438. Central Virginia Educational Telecommunications Corp. Petition and Supplemental Filing. The Central Virginia Educational Telecommunications Corp. (CVETC), licensee of noncommercial station WNVC-TV, channel 56 in Fairfax, Virginia. In its petition, CVETC requests that we change WNVC-TV's DTV allotment from channel 57 to channel 36. CVETC submits this request as a supplement to the petition for reconsideration submitted by AAPTS. It states that it was a party to the petition filed by AAPTS, which noted the status of WNVC-TV as a public television station with both its NTSC and DTV channels outside of the DTV core. CVETC is concerned that having to build two new DTV facilities will create substantial financial difficulties for a noncommercial educational station with a limited operating budget. CVETC submits that assignment of DTV channel 36 to WNVC-TV will provide it with virtually full replication of its current channel 56 service area.¹⁴⁸ CVETC argues that its requested changes can be made in accordance with our rules, will meet the DTV spacing requirements at the stations' licensed NTSC transmitter sites, and will benefit the public by providing two stations,

¹⁴⁷ We note that Citadel indicates that it will operate at reduced facilities and therefore will not cause or receive objectionable interference. However, the analysis contained in its engineering statement assumes that its stations would be operating at the maximum power permitted for DTV stations in the UHF band and shows that some interference would be caused to other stations. Accordingly, at this time, we are denying Citadel's petition. If Citadel desires to resubmit its request, it should specify reduced powers and antenna heights for its stations and provide supporting engineering data that such reduced operation would not affect other stations, or show that any affected station has concurred with such interference.

¹⁴⁸ To accommodate this change, CVETC asks that the DTV allotment for WVVI-TV, channel 66 in Manassas, Virginia be changed from channel 36 to channel 43. As indicated above, we have made several channel changes to address DTV-to-DTV adjacent channel interference concerns, including modifying the DTV allotment of WVVI-TV from channel 36 to channel 43. However, this change does not alter our assessment below that WNVC-TV's use of channel 36 would impact other stations and that there are no in-core channels available.

including one public station, with in-core DTV channels. It states that substitution of channel 36 for channel 57 will eliminate potential first adjacent channel incompatibility with WNVC-TV's NTSC channel 56, which might otherwise require WNVC-TV to invest in transmission isolation systems to preserve an acceptable signal.

439. WGBH Educational Foundation Petition. WGBH Educational Foundation (WGBH) is the licensee of noncommercial educational station WGBY-TV, channel 57 in Springfield, Massachusetts. WGBH states that, as a noncommercial station with both its NTSC and DTV channels (57 and 58) outside of the core band, WGBY-TV will be among the most severely handicapped licensees. WGBH indicates that, for more than five years, it has been preparing for DTV by holding a capital campaign and purchasing equipment. It states that the cost of moving from DTV channel 58 to an in-band channel could be as much as \$261,000. It states that it recognizes that the allotment of DTV channels was a monumentally complex task and that some channel assignments will change. If changes are made in the Northeast, WGBH asks that its concerns be considered and WGBY-TV be reassigned an in-core channel. WGBH did not submit a supplemental filing.

440. WNAC Argyle Television, Inc. Petition. WNAC Argyle Television, Inc. (Argyle) is the licensee of WNAC-TV, channel 64 in Providence, Rhode Island. Argyle states that the fact that both its existing NTSC channel and its new channel 52 DTV allotment are outside the core spectrum will cause it substantial additional expense and will make viewer confusion likely. It states that, without OET Bulletin No. 69, it has been unable to determine whether a suitable alternative is available. Argyle did not submit a supplemental filing. Rhode Island Public Telecommunications Authority (RIPTA) opposes any future proposals by Argyle for the allotment to RIPTA of a DTV channel less desirable than channel 21.

441. As stated above, we are not granting requests by broadcasters to change their DTV allotments based solely on the fact that the broadcaster received a DTV allotment out of the core spectrum. In developing the DTV Table of Allotments, we attempted to provide all eligible broadcasters with an initial DTV allotment within channels 2 to 51, and to eliminate to the extent possible the assignment of out-of-core channels to stations with NTSC channels outside the core spectrum. However, this was not always possible, because of the limited availability of spectrum and the need to accommodate and replicate all existing facilities with minimal interference, and was particularly difficult in congested areas such as the northeastern United States. As noted above, there are only 13 stations that have both their NTSC and DTV channels outside the core spectrum. We stated that stations in this position would be assigned new channels within the core from recovered NTSC spectrum at the end of the transition period. We further stated that, to the extent that in-core channels become available during the transition, we will attempt to further reduce the number of out-of-core allotments in any future amendments to the DTV Table. In addition, we stated that we would consider alternative allotment/assignment plans that are the result of negotiations and coordination among broadcasters and other parties within their communities, but that such changes must have the agreement of all affected broadcasters and must not result in additional interference to other stations or allotments. In this regard, we note

that the allotment of channel 36 for WNVC-TV's DTV service suggested by CVETC would create increased interference to other stations, and that CVETC has not received the concurrence of those affected stations. While we recognize the additional burdens placed on stations such as CVETC's WNVC-TV, WGBH's WGBY-TV, and Argyle's WNAC-TV, we find that there are no available in-core channels that would not cause significant interference to other stations. Accordingly, we are denying these petitioners' requests that the DTV channels for their stations be changed to in-core channels.

G. Other Petitions Requesting Specific Changes to the DTV Table of Allotments

442. The remaining petitions for reconsideration of specific allotments, which raise a number of different issues, are addressed below in alphabetical order.

443. ABC, Inc. Petition. ABC requests that the DTV allotments for its stations WPVI-TV in Philadelphia and WTVG-TV in Toledo, Ohio, be changed.¹⁴⁹ ABC also asks that the DTV allotments of two non-ABC stations, WTTG-TV in Washington, DC, and WMBC-TV in Newton, New Jersey, be changed. Finally, ABC submits that the DTV Table should be amended to make Fresno, California an all-UHF DTV market. ABC states that its requested changes are all located within the three regions identified by the Joint MSTV Petitioners as the areas in which existing NTSC service and future DTV service are most in jeopardy under the DTV Table. ABC states that, in seeking reconsideration, it recognizes that changing an individual allotment potentially will affect other stations, both NTSC and DTV. It submits that since the coordination process has not yet been completed, it is not proposing alternative allotments at this time. ABC did not submit an individual supplemental filing but was party to MSTV's *ex parte* filing of November 20, 1997.

444. With regard to WPVI-TV in Philadelphia, Pennsylvania, ABC states that the transmitter site for this station, which will operate on DTV channel 64 with 1000 kW, is only 48 km from existing NTSC station WHSP-TV, in Vineland, New Jersey, which operates on adjacent channel 65. ABC states that the only way to avoid harmful interference to WHSP-TV would be for WPVI-TV to reduce its DTV power.

445. Although we attempted to provide for full service replication for all stations and to ensure that the DTV allotments would not cause interference, this was not always possible. As ABC notes, WPVI-TV is located in one of the most congested areas of the country. We note that in this case WPVI-TV's DTV allotment provides almost full replication and is estimated to serve a larger population base than its companion NTSC facility. In addition, we note that MSTV in its *ex parte* filing estimates that less than 3% of the population served by WHSP-TV would receive interference. We therefore find that the DTV allotment provided for ABC's WPVI-TV is consistent with our DTV service replication policies and goals and that the interference to

¹⁴⁹ We address ABC's request regarding its station KABC-TV in section IV B above.

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WHSP-TV is within acceptable limits. Accordingly, ABC's request for a change in the DTV allotment of WPVI-TV is denied.

446. For WTVG-TV, ABC is concerned that the DTV channel 19 allotment for this station will cause interference to the NTSC service of WOIO-TV in Shaker Heights, Ohio and that the 146.8 km short spacing between these stations will also limit the ability of WTVG-TV to replicate that station's existing NTSC Grade B service. In comments responding to ABC's petition, Cannell Cleveland, L.P. (Cannell), the licensee of WUAB-TV in Lorain, Ohio, notes that ABC has requested assignment of a different but unspecified DTV channel for WTVG-TV. Cannell is uncertain whether any channel or technical change requested by ABC would affect its station but to the extent that such a change may do so, it states that it reserves the right to oppose any supplement to ABC's petition for reconsideration.

447. Although we attempted to provide for full service replication for all stations and to ensure that the DTV allotments would not cause interference, this was not always possible. As ABC notes, WTVG-TV is located in one of the most congested areas of the country. We further note that, while this station's DTV allotment does not provide for full replication, the DTV channel assigned to it does, in fact, provide for estimated coverage of a larger population base than its companion NTSC facility. We find that the DTV allotment provided for ABC's WTVG-TV is consistent with our DTV service replication policies and goals and that the interference to WOIO-TV is within acceptable limits. ABC's request for a change in the DTV allotment of WTVG-TV is therefore denied.

448. ABC also requests that the DTV allotments of two non-ABC stations, WTTG-TV in Washington, DC and WMBC-TV in Newton, New Jersey, be changed. It submits that WTTG's use of DTV channel 6 in Washington would cause co-channel interference to the NTSC service of its WPVI-TV in Philadelphia. It further submits that WMBC-TV's DTV channel 8 allotment would result in adjacent channel interference to WABC-TV's NTSC channel 7 service area in New York. It also states that NTSC channel 9 in New York would also suffer a similar loss of service. Further, it is concerned that the DTV allotment for its Chicago station, WLS-TV, DTV channel 52 to be located on the Sears Tower is adjacent to the channel 53 DTV allotment provided for another station located on the Hancock Building, 2.5 km away. It believes that non-exact co-location of DTV channels 52 and 53 will result in substantial interference between the two stations. It argues that the antenna elevation and pattern differences will result in substantially different multipath conditions, and that the partial shielding due to buildings or other obstructions will reduce the signal level of one station relative to another.

449. As stated above, we are generally not changing the DTV allotment of one broadcaster at the request of another. We have provided for parties to negotiate allotment changes and will typically grant requested changes only where all affected parties agree. We have reviewed the situation discussed by ABC and find that there are no changes that can be made for WMBC-TV that would improve this situation for all involved stations. This is one of the most congested areas of the country, and we find that the allotments provided for these

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stations are the most appropriate under our DTV allotment policies. With regard to WTTG-TV, we have granted Fox's request to change the DTV allotment of WTTG and believe that this addresses ABC's concerns. Accordingly, ABC's request that the DTV allotment of WMBC-TV be changed is denied and its request that the DTV allotment of WTTG-TV be changed is now moot. We have also examined ABC's concern with regard to the adjacent channel DTV 52 and 53 allotments in Chicago. Our analysis indicates that DTV operations on these allotments will be able to satisfactorily replicate the existing service areas of the respective stations. We further believe that the improved out-of-band emissions requirements will ensure that any interference is minimized. Accordingly, we are not making a change to eliminate this adjacent channel situation.

450. Finally, ABC states that its KFSN-TV, channel 30 in Fresno, California was assigned DTV channel 9. It requests that the DTV Table be amended to make Fresno an all-UHF DTV market. It states that, while it has no interference or replication concerns, the Fresno market is an all-UHF NTSC TV market and that most viewers there have receive antennas designed for UHF reception only. ABC believes that UHF allotments for DTV service in this market would make sense because the installed base of UHF antennas will help reduce or eliminate the viewer's need to install an antenna for DTV reception.

451. We note that the Fresno market was allotted two DTV channels in the VHF band. While it would be possible to change one of those allotments to a UHF channel, it would not be possible to create two additional UHF DTV allotments without creating unacceptable interference or creating additional out-of-core concerns. We therefore will retain the present DTV allotments for the Fresno market and are denying ABC's request.

452. Acme Television Licenses of Oregon, L.L.C. Petition. Acme Television Licenses of Oregon, L.L.C. (Acme) is the proposed assignee of KWBP-TV, channel 32 in Salem, Oregon. In its petition, it requests that its station be allotted DTV channel 31, which was proposed in the Sixth Further Notice, rather than DTV channel 33, as contained in the Sixth Report and Order. Acme states that it recently purchased a transmitter that would be compatible with operations on channel 31. It argues that forcing it to relocate to channel 33 will result in a significant increased expense to KWBP-TV with no apparent gain. Acme did not submit a supplemental filing.

453. We find that Acme's request to substitute DTV channel 31 for channel 33 conflicts with a request by California Oregon Broadcasting, Inc. (COBI) to use channel 31 to address DTV-to-DTV adjacent channel interference. As discussed above, we are granting COBI's request. We find that addressing and eliminating potential interference is on balance more important than preventing the additional expense that Acme may incur in its DTV implementation. We note that we cautioned parties that the DTV Table of Allotments presented in the Sixth Further Notice was a draft and that the DTV allotments for individual stations were subject to change. We therefore are not granting allotment change requests based on premature plans or commitments by broadcasting parties. Accordingly, Acme's request that its KWBP-TV be allotted channel 31 rather than channel 33 is denied.

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454. AK Media Group, Inc. Petition and Supplemental Filing. AK Media Group, Inc. (AK Media) is the licensee of KFTY-TV, channel 50 in Santa Rosa, California. It states that the assignment of out-of-core DTV channel 54 to KFTY-TV puts its station at a competitive disadvantage, and it asks that KFTY-TV be provided a DTV channel within the core spectrum.¹⁵⁰ In its supplemental filing, AK Media requests that KFTY be allotted DTV channel 11, with 3.2 kW ERP. It submits that DTV channel 11 would fully replicate KFTY-TV's current NTSC service area and that the potential interference either caused or received by KFTY-TV would be minimal and within our allowable limits. AK Media reports that the station that would receive the most interference from this change would be the NTSC service of KNTV-TV in San Jose, California, which is licensed to Granite Broadcasting Corporation (Granite). AK Media submits that there would be an 8% increase in predicted interference to KNTV-TV, but that the increased interference would occur only in sparsely populated mountainous areas and would likely affect less than 5% of the total population served by KNTV-TV. It also states that KFTV-TV's operation on channel 11 would provide DTV service to almost 600,00 additional people.

455. Granite opposes AK Media's request that the DTV allotment KFTY-TV be changed from channel 54 to channel 11. Granite states that this change would cause co-channel interference to KNTV's channel 11 operations and that AK Media underestimates its extent. Granite states that AK Media calculates increased interference to less than 5% of its population coverage, while its own analysis suggests an impact to 9.2% of the population.

456. Throughout this proceeding, we have stated that we intend to provide broadcasters with the flexibility to develop alternative allotment approaches and plans.¹⁵¹ We specifically stated that we would consider alternative allotment/assignment plans that are the result of negotiations and coordination among broadcasters and other parties within their communities. We stated, however, that such changes must have the agreement of all affected broadcasters and must not result in additional interference to other stations or allotments. We find that AK Media's request to change its KFTY-TV's DTV channel from channel 54 to channel 11 would cause increased interference to other stations, such as Granite's KNTV-TV in San Jose, and that such interference would not meet our standards for *de minimis* additional interference. We further find that AK Media has not obtained the consent of any such affected stations. Accordingly, we are denying AK Media's request that the DTV allotment for its KFTY-TV be changed from channel 54 to channel 11.

457. AK Media, in its supplemental filing, also states that its studies show that the DTV service of its KVOS-TV in Bellingham, Washington on channel 35 would receive interference from the DTV channel 36 operation of KSTW-TV in Tacoma, Washington. It states that at this

¹⁵⁰ As discussed previously, AK Media requested alternatively that stations which have both a DTV and NTSC channel within the range 7-46 be required to identify their permanent DTV channel so that stations like KFTY can select their ultimate DTV channel now; it also requested that we address certain compensation issues.

¹⁵¹ See, for example, Sixth Report and Order at para. 172.

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time no alternative channel for either station is readily apparent. In order to avoid the predicted interference between these DTV operations, AK Media requests that we review the DTV allotments provided for KVOS-TV and KSTW-TV.

458. We have reviewed the allotments provided for KVOS-TV and KSTW-TV and find that those allotments are consistent with the allotment principles and policies adopted in the Sixth Report and Order. We find that the DTV channel 35 provided for AK Media's KVOS-TV in Bellingham, Washington would provide for 99.7% service replication and would significantly improve both the station's service area coverage and its population served. Accordingly, we deny AK Media's request that the DTV allotments for KVOS-TV or KSTW-TV be changed.

459. Allbritton Communications Company Petition and Supplemental Filing. In its petition for reconsideration, Allbritton Communications Company (Allbritton) asks that its stations KTUL-TV in Tulsa, Oklahoma; WHTM-TV in Harrisburg, Pennsylvania; WCIV-TV in Charleston, South Carolina; WSET-TV in Lynchburg, Virginia; and WJSU-TV in Anniston, Alabama, be permitted to retain their out-of-core DTV channels after the transition. Alternatively, it asks that we either require the spectrum auction winner to compensate these stations for relocating back into the core spectrum or consider alternative proposals for new allotments for these stations within 90 days of issuing OET Bulletin No. 69.

460. In its supplemental filing, Allbritton submits that the non-core DTV channels allotted to these five stations are unnecessary and that, as demonstrated in technical studies by its consulting engineers, DTV allotments within the core spectrum are available for each of these stations. It further asserts that these substitute allotments will not cause unacceptable levels of interference and therefore requests that the DTV Table be amended, as follows: 1) allot DTV channel 27 for KTUL-TV in Tulsa, rather than channel 58; 2) allot DTV channel 42 for WHTM-TV in Harrisburg, rather than channel 57; 3) allot DTV channel 42 for WCIV-TV in Charleston, rather than channel 53; 4) allot DTV channel 34 for WSET-TV in Lynchburg, rather than channel 56; and 5) allot DTV channel 40 for WJSU-TV in Anniston, rather than channel 58, and increase the assigned power and antenna height for this allotment to 222 kW ERP and 396 m HAAT to ensure that WJSU-TV's DTV signal is able to replicate its NTSC service. Allbritton states that WJSU-TV's construction permit was recently modified to permit the station to operate with a substantially higher ERP and antenna height. It states that to permit replication of the area to be served by the modified WJSU-TV NTSC operation, both the power and antenna height specifications for the station's DTV allotment need to be increased. In its attached engineering statement, Allbritton indicates that these proposed changes would not satisfy some of the minimum distance requirements, but that most of the co-channel and adjacent channel operations are located far enough away so that there would not be any significant impact.¹⁵²

¹⁵² For example, Allbritton's engineering statement indicates that the channel 27 allotment for KTUL-TV would be short spaced 47.5 km to the co-channel DTV service of KFOR-TV, Oklahoma City, OK. The channel 42 allotment for WHTM-TV would be short spaced 25.7 km to the co-channel NTSC service of WVPY-TV, Front Royal, VA, short-spaced 48.4 km to the co-channel DTV service of WPMT-TV, Annapolis, MD, and short-spaced

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461. We have reviewed Allbritton's requests. With regard to Allbritton's objection to the fact that its DTV allotments are outside the core spectrum, we note that we generally are not granting requests by broadcasters to change their DTV allotments based solely on their preference for an in-core allotment. Because of the limited availability of spectrum, along with the need to accommodate and replicate existing facilities with minimal interference, it was not possible to give every broadcaster an allotment in the core spectrum. We continue to believe that the DTV allotments made for Allbritton's stations are appropriate for service replication. With regard to Allbritton's requested increases in the power level and antenna height specified for its WJSU-TV in Anniston, we note that our service replication policy takes into account facilities licensed as of April 3, 1997, and that the power and antenna height allotted for WJSU-TV adequately replicates its facilities licensed as of that date. To the extent that Allbritton desires to improve WJSU-TV's DTV facilities, we have stated that such requests are to be addressed under our procedures for maximization of DTV facilities.

462. Benedek License Corporation Petition. In its petition, Benedek License Corporation (Benedek), the licensee of WHSV-TV, channel 3 in Harrisonburg, Virginia, requests that we modify the DTV allotment provided for this station. It submits that operation of WHSV-TV's DTV service on channel 49 with 91.1 kW ERP, as provided in the Sixth Report and Order, would result in loss of service to roughly 100,000 viewers due to avoidable interference. Benedek points out that operation on this channel would allow WHSV-TV to replicate only 76.1 percent of the station's service area. It further states that population growth is expected in the area not replicated. Benedek submits that it is studying the available VHF channels but that because of the limited time available for engineering evaluation and the unavailability of OET Bulletin No. 69, it has not been able to determine the most appropriate alternative. Benedek states it will supplement its filing once concrete engineering analysis becomes available. Benedek did not submit a supplemental filing.

463. Allbritton opposes Benedek's request that we change the DTV allotment for WHSV-TV to a VHF channel to the extent that such a change might create interference to the channel 7 NTSC service of Allbritton's WJLA-TV, Washington, DC. Allbritton states that, as Benedek did not specify which VHF channel it wished to be assigned to WHSV-TV, we should be able to resolve Benedek's request without endangering WJLA-TV. It requests that we take all necessary steps to protect WJLA-TV from interference.

464. We have reviewed Benedek's request. Our analysis indicates that there are no available VHF channels that could be allotted to WHSV-TV without causing significant interference to other stations. Although we attempted to provide for full service replication for all stations, this was not always possible. Service replication of low VHF stations is very

47.3 km to the co-channel DTV service of WTXF-TV, Philadelphia, PA. The channel 34 allotment for WSET-TV would be short spaced 37.9 km to a new co-channel NTSC station at Raleigh, NC. The channel 40 allotment for WJSU-TV would be short spaced 26.6 km to the +7 UHF channel 47 DTV service of WDEF-TV, Chattanooga, TN, and short spaced 14.7 km to the +7 UHF taboo channel 47 service of WTVM-TV, Columbus, GA.

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difficult at UHF frequencies, particularly where terrain is a factor, as it is in the Harrisonburg area. We therefore deny Benedek's request that WHSV-TV be allotted a VHF DTV channel.

465. Brazos Broadcasting Company Petition. Brazos Broadcasting Company (Brazos), the licensee of KBTX-TV, channel 3 in Bryan, Texas, seeks reconsideration of its allotted DTV channel 59. Brazos states that it would be better able to serve the public in the Bryan-College Station region were it to operate on DTV channel 17. It states that channel 17 will not conflict with any other DTV allocation. Brazos did not submit a supplemental filing.

466. We have reviewed Brazos' request. Our analysis indicates that the change requested by Brazos would impact and cause unacceptable interference to other stations. We therefore are denying Brazos' requested change for its station KBTX-TV.

467. Cannell Cleveland, L.P. Petition and Supplemental Filing. Cannell Cleveland, L.P. (Cannell), the licensee of WUAB-TV, channel 10 in Lorain, Ohio, originally argued that we should not finalize the DTV Table until broadcasters have had the opportunity to comment on OET Bulletin No. 69. In its supplemental filing, Cannell states that, using the technical criteria provided in the Bulletin, it has confirmed that the DTV operations of WTVS-TV on channel 43 in Detroit and WGGN-TV on channel 42 in Sandusky, Ohio will cause significant interference to WUAB-TV's existing NTSC service. It requests that we take steps to ensure against this type of interference. In its engineering statement, Cannell estimates that WGGN-TV's operation on DTV channel 42 will cause interference in an area within WUAB-TV's Grade B contour compromising 69,000 households and 183,000 individuals. It estimates that the interference from WTVS-TV's DTV operation on channel 43 will be even more significant, affecting 215,000 households and 586,000 individuals within WUAB-TV's Grade B service area. Cannell requests that neither WTVS-TV nor WGGN-TV be permitted to increase DTV power until WUAB-TV has ceased NTSC operation. Cannell argues that, where such interference is predicted or actual, stations should be able to rely on FCC rules to protect their NTSC service areas. It states that a case-by-case approach will not provide stations with sufficient certainty, and it urges the adoption of rules to govern interference to NTSC operations during the DTV implementation period.

468. The Detroit Educational Television Foundation (DET Foundation) opposes Cannell's request that its WTVS-TV not be allowed to increase power until WUAB-TV has ceased NTSC operation. The DET Foundation states that Cannell's adjustments to propagation calculations in the Great Lakes region are not recognized in the Commission's rules and are unjustified. It states that the rules already provide protection with regard to power increases and that no further restrictions are warranted.

469. We agree with the DET Foundation that Cannell's estimates of the impact of interference on its station WUAB-TV are overstated. In the Sixth Report and Order, we estimated that WUAB-TV will receive interference to 5.1% of the station's existing NTSC coverage area affecting 2.3% of the population now served. We continue to believe that these