

Federal Communications Commission

DA 02-2518

RECEIVED &amp; INSPECTED

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

OCT 10 2002

FCC-MAILROOM

In the Matter of )

)

Amendment of Section 73.606(b), )

)

Table of Allotments, )

)

Television Broadcast Stations. )

)

(Topeka, Kansas) )

MB Docket No. 02-154

RM-10490

**REPORT AND ORDER**

(Proceeding Terminated)

Adopted October 3, 2002

Released October 10, 2002

By the Chief, Video Division:

1. At the request of Davis Television Topeka, LLC ("Davis"), an applicant for a construction permit for new station to operate on channel 43 at Topeka, Kansas, the Commission has before it the Notice of Proposed Rule Making, 17 FCC Rcd 12727 (2002), proposing the substitution of channel 22 for channel 43.<sup>1</sup> Davis filed comments affirming its continuing interest in applying for channel 22, if allotted. Montgomery Communications, Inc. ("Montgomery"), filed comments.<sup>2</sup>

2. We believe the public interest would be served by substituting channel 22 for channel 43. A staff engineering analysis indicates that channel 22 can be allotted to Topeka with a plus offset consistent with the minimum distance separation requirements of Sections 73.610 and 73.698.<sup>3</sup> With regard to Montgomery's concern, after the effective date of this channel substitution, the Commission will open a window to afford parties an opportunity to file competing applications.

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, **IT IS ORDERED**, That effective November 25, 2002, the TV Table of Allotments, Section 73.606(b) of the Commission's Rules, **IS AMENDED**, with

<sup>1</sup> Davis filed its petition pursuant to the provisions outlined in the Commission's Public Notice ("**Public Notice**") released on February 6, 2002. In that **Public Notice**, the Commission announced a window filing opportunity to allow applicants with certain pending requests for new analog television stations on channels 52-59 to modify their requests. Davis on July 17, 2000, had filed a petition for rule making seeking the allotment of NTSC channel 55 in lieu of channel 43. However, since the Commission reallocated channels 52-59, Davis amended its petition to specify channel 22 in lieu of channel 55. See **Reallocation and Service Rules for 698-746 MHz Spectrum Band (Television Channels 52-59)**, Report and Order in GN Docket No. 01-74, 17 FCC Rcd 1022 (2002).

<sup>2</sup> Montgomery states that it is a prospective applicant for the channel, whether it remains 43 or changes to 22 and wants assurance that a filing window will be opened for competing applications.

<sup>3</sup> The coordinates for channel 22 at Topeka are North Latitude 39-00-00 and West Longitude 96-07-45.

respect to the community listed below, to read as follows:

	<u>Channel No.</u>
Topeka, <b>Kansas</b>	<b>*11, 13+, 22+, 27. 49</b>

**4.** IT IS FURTHER ORDERED, That within **45** days of the effective date of **this Order**, Davis Television Topeka, LLC shall submit to the Commission a minor change application for a construction permit (FCC Form **301**) specifying TV Channel **22+** in lieu of TV Channel **43**.

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

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

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau