

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

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

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

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

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

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

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

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

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

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

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

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

3. Requests That Do Not Meet the Interference Standard

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

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

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

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

¹⁴⁷ See Hearst-Argyle petition at 4.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

¹⁵⁹ See *supra* ¶ 9.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

¹⁷⁴ *Id.* at Ex. 1, p.2.

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

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

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

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

¹⁷⁹ *See supra* ¶ 9.

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

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

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

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

E. Requests for Alternative Channel Assignments

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

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

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

¹⁸⁴ See *infra* Appendix D4.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

¹⁹⁴ *Id.*

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

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

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

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

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

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

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

²⁰⁰ See *id.* at 5-6.

²⁰¹ See *id.* at 6-8 and n.21.

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

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

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

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

²⁰² See *id.* at 8-9.

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

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

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

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

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

²⁰⁸ *Id.* at 2-4.

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

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

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

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

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

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

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

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

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

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

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

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

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

F. Changes That Should Be Requested During the Application Process

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

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

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

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

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

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

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

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

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

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

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

²²³ See *supra* Section II.B.

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

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

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

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

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

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

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

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

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

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

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

²³¹ *Id.* at Section V.E.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

²⁵⁰ *Id.* at 2.

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

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

²⁵³ *Id.* at 2.

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

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

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

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

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

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

²⁵⁷ *Id.*

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

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

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

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

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

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

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

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

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

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

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

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

²⁶⁵ *Id.*

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

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

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

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

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

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

²⁶⁸ Id. at 5.

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

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

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

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

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

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

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

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

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

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

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

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

²⁷⁷ *Id.*

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

²⁷⁹ *Id.*

²⁸⁰ *Id.*

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

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

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

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

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

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

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

²⁸⁴ *Id.* at 2.

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

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

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

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

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

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

²⁸⁷ *Id.* at 2.

²⁸⁸ *Id.* at 2.

²⁸⁹ *Id.* at 4.

²⁹⁰ *Id.*

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

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

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

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

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

²⁹⁴ *Id.* at 2.

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

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

²⁹⁷ *Id.*

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

²⁹⁹ *Id.* at 12118, ¶ 53.

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

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

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

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

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

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

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

H. Analog Singleton Stations

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

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

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

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

³⁰⁶ *Id.* at 2.

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