

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

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In the Matter of)	
)	
Amendment of Section 73.622(i),)	MB Docket No. 09-33
Final DTV Table of Allotments,)	RM-11521
Television Broadcast Stations)	
(Derby, Kansas))	

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: April 27, 2009

Released: April 30, 2009

By the Chief, Video Division, Media Bureau:

1. The Commission has before it a Notice of Proposed Rulemaking¹ issued in response to a petition for rulemaking filed by Entravision Holdings, LLC (“Entravision”), the permittee of KDCU-DT, DTV channel 46, Derby, Kansas, requesting the substitution of DTV channel 31 for post-transition DTV channel 46 at Derby. Entravision filed comments. No other comments were received.

2. We believe the public interest will be served by substituting DTV channel 31 for post-transition DTV channel 46 at Derby because it will increase KDCU-DT’s predicted service population and service area. Furthermore, this channel substitution will enable Entravision to purchase the DTV channel 31 digital transmission facilities of another station in the Wichita-Hutchison, Kansas, DMA that cannot use the facilities for its own post-transition operations.² In turn, Entravision will be able “to move forward promptly with the construction and operation of KDCU-DT,” because it will be able to avoid any delays associated with the acquisition of new equipment.³

3. DTV channel 31 can be substituted for post-transition DTV channel 46 at Derby, Kansas as proposed, in compliance with the principal community coverage requirements of Section 73.625(a) of the Commission’s rules, at coordinates 37-48-01 N. and 97-31-29 W. In addition, we find that this channel change meets the technical requirements set forth in Sections 73.616 and 73.623 of the Commission’s rules with the following specifications:

City and State	DTV Channel	DTV Power	Antenna HAAT	DTV Service Pop.
		(kW)	(meters)	(thous.)
Derby, Kansas	31	1000	345	748

4. We also conclude that good cause exists to make this channel change effective immediately

¹ Derby, Kansas, DA 09-638 (released March 19, 2009).

² Entravision Petition for Rulemaking at 2.

³ *Id.* at 3. Entravision’s construction permit for the Derby facility expires on September 20, 2009. See File No. BNPCDT-20060424ADF.

upon publication in the Federal Register, pursuant to Section 553(d)(3) of the Administrative Procedures Act.⁴ An expedited effective date is necessary in this case in order to expedite processing of the station's post-transition DTV application for DTV channel 31 and to ensure that it is able to timely complete construction of its new DTV facility.

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's rules, IT IS ORDERED, That effective immediately upon the date of publication of this Report and Order in the Federal Register, the DTV Table of Allotments, Section 73.622(i) of the Commission's rules, IS AMENDED, with respect to the community listed below, to read as follows:

<u>City and State</u>	<u>Channel No.</u>
Derby, Kansas	31

6. IT IS FURTHER ORDERED, That within 30 days of the effective date of this Order, Entravision Holdings, LLC shall submit to the Commission a minor change application for a construction permit (FCC Form 301) specifying DTV channel 31 in lieu of post-transition DTV channel 46.

7. The Commission will send a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. § 801(a)(1)(A).

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning the proceeding listed above, contact Adrienne Y. Denysyk, Media Bureau, (202) 418-1600.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

⁴ 5 U.S.C. § 553(d)(3).