

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

DOCKET FILE COPY ORIGINAL

77820

In the Matter of)
)
Advanced Television Systems and) MB Docket No. 87-268
Their Impact Upon the Existing)
Television Broadcast Service)
)

MAILED
NOV 9-2009

FCC Mail Room

SECOND MEMORANDUM OPINION AND ORDER ON RECONSIDERATION

Adopted: November 3, 2009

Released: November 5, 2009

By the Commission:

I. INTRODUCTION

1. In this item, the Commission grants a petition for reconsideration filed by Meredith Corporation ("Meredith") for WHNS-DT, Greenville, South Carolina with respect to the final DTV Table of Allotments for WHNS-DT. The petition was filed in response to the *Memorandum Opinion and Order on Reconsideration of the Seventh Report and Order* in the DTV Table proceeding, adopted on March 3, 2008.¹ The final DTV Table established the channels and facilities necessary to complete the nation's transition to digital transition. No opposition to the Meredith petition has been filed.

II. DISCUSSION

2. Congress mandated that after June 12, 2009, full-power television broadcast stations must transmit only digital signals and may no longer transmit analog signals.² In the *Second DTV Periodic Report and Order*, the Commission adopted a three-round channel election and repacking process through which eligible broadcasters selected their ultimate DTV channel inside the core spectrum (channels 2-

¹ See *Memorandum Opinion and Order on Reconsideration of the Seventh Report and Order and Eighth Report and Order, Advanced Television Systems and their Impact Upon the Existing Television Broadcast Service*, 23 FCC Rcd 4220 (2008) ("First Order on Reconsideration").

² See DTV Delay Act, Pub. L. No. 111-4, 123 Stat. 112 (2009). In the Digital Television and Public Safety Act of 2005 ("DTV Act"), which is Title III of the Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4 (2006) ("DRA") (codified at 47 U.S.C. §§ 309(j)(14) and 337(e)), Congress amended Section 309(j)(14) of the Communications Act to establish February 17, 2009 as a hard deadline for the end of analog transmissions by full-power stations. In the DTV Delay Act, Congress extended the date for the completion of the nationwide DTV transition from February 17, 2009 to June 12, 2009. In response to the DTV Delay Act, the Commission extended the analog license terms and adjusted the construction permits for the full power television stations on February 13, 2009. See *Implementation of the DTV Delay Act, Report and Order and Sua Sponte Order on Reconsideration*, MB Docket No. 09-17, 24 FCC Rcd 1607 (2009).

51).³ The channel election process culminated in the adoption of the final, post-transition DTV Table in August 2007.⁴ The *Seventh Report and Order* in the DTV Table proceeding specified DTV channels and facilities (in Appendix B) for all eligible broadcasters and reflected, to the extent possible, the channel elections made by broadcasters through the channel election process. In March 2008, the Commission revised the final DTV Table of Allotments to respond to petitions for reconsideration filed in response to the *Seventh Report and Order*.⁵

3. Meredith was an analog licensee of WHNS-TV on channel 21. Meredith's pre-transition digital permit for WHNS-DT was on channel 57, and it is currently assigned post-transition digital channel 21. In the Commission's *First Order on Reconsideration*, it granted Meredith's petition for a change to its Appendix B facility in a manner consistent with our treatment of other stations that argued that their allotted facilities would not allow them to replicate their analog coverage.⁶ Meredith now petitions us to restore the WHNS-DT post-transition Appendix B facility to what it was in the *Seventh Report and Order* and undo the modifications made to its Appendix B facility in the *First Order on Reconsideration*.⁷ We grant Meredith's request as being consistent with the public interest, and restore the WHNS-DT Appendix B facility to what it was in the *Seventh Report and Order*.⁸

4. We hereby revise Appendix B to include the following technical information for WHNS:

<u>City and State</u>	<u>DTV Channel</u>	<u>DTV Power</u>	<u>Antenna HAAT</u>	<u>Antenna ID</u>	<u>Latitude</u>	<u>Longitude</u>
Greenville, SC	21	496 kW	744 meters	70350	35-10-56	82-40-56

III. PROCEDURAL MATTERS

A. Regulatory Flexibility Act

5. No supplemental Final Regulatory Flexibility Analysis is required in connection with this *Second Memorandum Opinion and Order on Reconsideration* as no changes have been made herein to the Commission's rules, apart from the changes to the DTV Table of Allotments Appendix B, or to the

³ *Report and Order, In the Matter of Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, 19 FCC Rcd 18279, 18292, ¶ 33 (2004) ("*Second DTV Periodic Report and Order*").

⁴ See *Seventh Report and Order and Eighth Further Notice of Proposed Rule Making, In the Matter of Advanced Television Systems and their Impact Upon the Existing Television Broadcast Service*, 22 FCC Rcd 15581 (2007) ("*Seventh Report and Order*"). The Commission proposed the final DTV Table as an amendment to Section 73.622 in the *Seventh Further Notice* in MB Docket 87-268. *Seventh Further Notice of Proposed Rule Making, In the Matter of Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, 21 FCC Rcd 12100 (2006) ("*Seventh Further Notice*"). In general, in the *Seventh Report and Order*, we granted commenters' requests for changes to the proposed DTV Table to the extent possible consistent with the standards outlined in the *Seventh Further Notice*, and particularly the 0.1 percent interference standards. See *Seventh Report and Order*, 22 FCC Rcd at 15592, ¶ 25.

⁵ See *First Order on Reconsideration*.

⁶ *First Order on Reconsideration*, 23 FCC Rcd at 4243, ¶45; *id.* at 23 FCC Rcd at 4377-4378, Appendix D3.

⁷ Meredith Corporation, Petition for Partial Reconsideration (Apr. 21, 2008) at 2.

⁸ Since filing its Petition for Reconsideration, Meredith has also filed a maximization application, which is currently pending. Meredith Corporation, Application for Construction Permit for Commercial Broadcast Station, BMPCDT-20080619AFO (accepted June 23, 2008). Our grant of Meredith's Petition for Reconsideration facilitates its requested maximization application. The facilities requested in WHNS' petition for reconsideration will permit the station to serve all of its former analog viewers, as well as facilitating expanded service as requested in the station's application for maximization.

information contained in the Final Regulatory Flexibility Analysis contained as part of the *Memorandum Opinion and Order on Reconsideration of the Seventh Report and Order* in MB Docket 87-268.⁹

B. Paperwork Reduction Act

6. This *Second Memorandum Opinion and Order on Reconsideration* was analyzed with respect to the Paperwork Reduction Act of 1995 ("PRA")¹⁰ and does not contain any information collection requirements.¹¹

C. Congressional Review Act

7. The Commission will include a copy of this *Second Memorandum Opinion and Order on Reconsideration* in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act.¹²

D. Accessible Formats

8. To request information in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to fcc504@fcc.gov or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This document can also be downloaded in Word and Portable Document Format (PDF) at: <http://www.fcc.gov>.

IV. ORDERING CLAUSES

9. IT IS ORDERED that, pursuant to the authority contained in Sections 1, 4(i) and (j), 7, 301, 302, 303, 336, and 337 of the Communications Act of 1934, 47 U.S.C §§ 151, 154(i) and (j), 157, 301, 302, 303, 336, and 337, this *Second Memorandum Opinion and Order on Reconsideration* IS ADOPTED.

10. IT IS FURTHER ORDERED that the petition for reconsideration of the *Memorandum Opinion and Order on Reconsideration of the Seventh Report and Order* in MB Docket 87-268 filed by Meredith Corporation is GRANTED.

11. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this *Second Memorandum Opinion and Order on Reconsideration* to the Chief Counsel for Advocacy of the Small Business Administration.

⁹ See 5 U.S.C. § 604.

¹⁰ The Paperwork Reduction Act of 1995, Pub .L. No. 104-13, 109 Stat 163 (1995) (*codified in Chapter 35 of Title 44 U.S.C.*).

¹¹ See *Seventh Report and Order*, 22 FCC Rcd at 15643, ¶ 158. See also *Seventh Further Notice*, 21 FCC Rcd at 12119, ¶ 56.

¹² See 5 U.S.C. § 801(a)(1)(A).

12. IT IS FURTHER ORDERED that the Commission SHALL SEND a copy of this *Second Memorandum Opinion and Order on Reconsideration* in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, see 5 U.S.C. § 801(a)(1)(A).

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in cursive script, reading "Marlene H. Dortch".

Marlene H. Dortch
Secretary