

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

In the Matter of)	
)	
Amendment of Section 73.622(b),)	MB Docket No. 02-66
Table of Allotments,)	RM-10252
Digital Television Broadcast Stations.)	
(Rutland, Vermont))	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: September 2, 2004

Released: September 10, 2004

By the Chief, Video Division:

1. At the request of Vermont ETV, Inc. (“Vermont ETV”), licensee of noncommercial educational station WVER(TV), Rutland, Vermont, the Commission has before it the Notice of Proposed Rule Making, 17 FCC Rcd 5799 (2002), proposing the substitution of DTV channel *9 for DTV channel *56 at Rutland. Vermont ETV filed comments. No other comments were received.

2. In support of its proposal, Vermont ETV states that allowing WVER to move to channel *9 will avoid the unnecessary use of an out-of-core channel DTV during the transition of DTV. Vermont ETV also advises that adopting its channel change will significantly reduce the financial burden of the DTV transition for station WVER by permitting the station to construct one, not two, DTV facilities on its existing tower. Vermont ETV also notes that operation on DTV channel *9 will also reduce the long term operating expenses because of the lower power costs and increased economies associated with operating on a VHF channel.

3. We believe the public interest would be served by substituting DTV channel *9 for DTV channel *56 since it will enable station WVER to operate on an in-core channel. DTV channel *9 can be allotted to Rutland, Vermont, as proposed, in compliance with the principle community coverage requirement of Section 73.625(a) at coordinates 43-39-32 N. and 73-06-25 W. Since the community of Rutland is located within 400 kilometers of the U.S.-Canadian border, concurrence from the Canadian government was obtained for this allotment.¹ In addition, we find that this channel is acceptable under the 2 percent criterion for *de minimis* impact that is applied in evaluating requests for modification of initial DTV allotments under Section 73.623(c)(2) for Station WVER-DT with the following specifications:

¹ Initially, Vermont ETV proposed to operated DTV channel *9 at 30 kW ERP. However, at this power level, Vermont ETV proposal failed to adequately protect channel 9 at Sherbrooke, Quebec. Subsequently, Vermont ETV modified its proposal to specify power at 15 kW ERP to reduce the interference to channel 9 at Sherbrooke.

<u>State & City</u>	<u>DTV Channel</u>	<u>DTV power (kW)</u>	<u>Antenna HAAT (m)</u>	<u>DTV Service Pop. (thous.)</u>
VT Rutland	*9	15	411	595

4. 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 October 25, 2004, the DTV Table of Allotments, Section 73.622(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Rutland, Vermont	*9

5. IT IS FURTHER ORDERED, That within 45 days of the effective date of this *Order*, Vermont ETV, Inc. shall submit to the Commission a minor change application for a construction permit (FCC Form 340) specifying DTV Channel *9 in lieu of DTV Channel *56 for station WVER-DT.

6. IT IS FURTHER ORDERED, that this proceeding IS TERMINATED.

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

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
 Chief, Video Division
 Media Bureau