

## REQUEST FOR WAIVER

Entravision Holdings, LLC (“Entravision”), the licensee of Station KVSN-DT, Pueblo, Colorado (Facility ID No. 166331) (“KVSN” or “Station”) hereby requests a waiver of Sections 73.3517 and 73.3518 of the Commission’s Rules, in order to permit it to file the instant application which may be considered as a contingent, inconsistent, or conflicting application, with the construction permit, in FCC File No. 0000028375 (“KVSN Permit”), to operate on Channel 25. Entravision submits that good cause exists for the submission of such an application, while the KVSN Permit remains outstanding.

The FCC may grant, pursuant to Section 1.3 of the Commission’s Rules, a waiver for good cause shown. A waiver is appropriate where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Tel. Co. v. FCC*, 897 F. 2d 1164, 1166 (D.C. Cir. 1990). The relevant bases in acting upon a waiver request are hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F. 2d 1155 (D.C. Cir 1969), cert. denied, 409 U.S. 1027 (1972). A waiver will be granted where the proponent meets this high hurdle and evidences that the public interest will be served. Entravision submits that this is such an instance.

This waiver request arises from the reassignment of commonly-owned Station KCEC(TV), Denver, Colorado (Facility ID N. 24514), as a result of the repacking process attendant to the recently completed incentive auction process,<sup>1</sup> to Channel 14. As the Commission is well aware, owing to interference concerns, under Section 73.623(e) of the Commission’s Rules, television stations are generally not given Channel 14-20 allotments absent sufficient distances separating digital television operations and land mobile operations. The Commission’s repack model disfavored Channel 14 assignments for this reason. However, processing exigencies appear to have resulted in KCEC being reassigned to Channel 14.

In connection with the Commission’s repacking process, Entravision presented informal and formal communications to the Commission evidencing the significant land mobile operations in the vicinity of KCEC’s proposed transmitter site and the potential impact on the Station’s ability to serve its current viewers, owing to the need to protect land mobile operations. Such an inability to serve viewers stands at odds with the Commission’s responsibilities under the Spectrum Act to ensure that all television stations are granted post-incentive auction facilities that serve to replicate their pre-incentive auction service contours. Consequently, Entravision requested a waiver of the deadline for the filing of a post-auction construction permit application for its Channel 14 reassigned channel. The Commission granted Entravision’s request and permitted Entravision to file for a construction permit, in the first priority window, on or before September 8, 2017 (which was subsequently extended to September 15, 2017).

In the Extension Letter, the Commission suggested, as a first step, that Entravision seek an alternate channel to operate on. While Entravision was unable to find an alternate channel that would serve that purpose, it was advised, in consultation with Commission, that a three-way

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<sup>1</sup> Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §6403(b)(2) 126 Stat. 156 (2012).

channel exchange would enable KCEC to operate on a channel other than Channel 14. This three-way proposal would involve KCEC, KOAA-TV, and KVSN-DT.

The proposed changes being requested by Entravision are as follows;

1. Reassign Station KCEC(TV), Denver, Colorado (Facility ID No: 24514) , from Channel 14 to Channel 28.
2. Reassign Station KOAA-TV, Pueblo, Colorado (Facility ID No. 59014), from Channel 28 to Channel 25.<sup>2</sup>
3. Reassign Station KVSN-DT, Pueblo, Colorado, from Channel 25 to Channel 27.

Consistent therewith, KCEC, on September 15, 2017, submitted a major modification application requesting the substitution of Channel 28 for Channel 14. FCC File No. 0000029913.

Following the submission of the major modification, Entravision has been in discussions with the licensee of the third station to the exchange, Sangre, in order to secure its cooperation. Entravision and Sangre have agreed in principle to participate in the channel exchange and will be submitting their major modification application simultaneously herewith. The parties are memorializing their understanding and will amend their applications upon full execution of the agreement.

Entravision is joining in this process for KVSN. However, it does not wish to jeopardize the Channel 25 assignment the Station until there is certainty that the Commission will issue the permits necessary for the exchange among KCEC, KOAA-TV and KVSN. It asks the KVSN Permit remain valid and outstanding.

In sum, grant of the requested waiver would afford Entravision and the Commission staff additional time to consider the viability of the proposed channel exchange, while preserving the status of the KVSN Permit. The unique circumstances of this recent and that it will allow the incentive auction process to proceed forward justifies grant of a waiver.

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<sup>2</sup> Station KOAA-TV is licensed to Sangre de Cristo Communications, LLC (“Sangre”).