

PUBLIC INTEREST STATEMENT

This Public Interest Statement is submitted in support of the application filed by Entravision Holdings, LLC (“Entravision”), licensee for Station KDCU-DT, Derby, Kansas (“Station”) requesting a modification of license for the Station. In the application, Entravision is proposing, as it embarks on the acquisition of a new transmitter for the Station, to reduce the Station’s ERP from 1,000kW to 100kW. As a result of the reduction in ERP, the Station’s coverage contour will be decreased and Entravision has been requested to submit a Public Interest Statement, along with a gain/loss study (being supplied simultaneously herewith) evidencing why the public interest would be served despite a reduction in the service area and population.

The Commission has established a policy that, in the case of proposed service area losses, it will consider the impact of such losses on a case-by-case basis. *Matter of Innovation in the Broadcast Television Bands: Allocations, Channel Sharing and Improvements to VHF*, 25 FCC Rcd 16498, 16507 (2010). In seeking a reduction in coverage area, through the case-by-case methodology, the applicant confronts a policy that it is *prima facie* inconstant with the public interest, but it is entitled to counterbalance it through the presentation of other factors. *West Michigan Telecasters, Inc.*, 22 FCC 2d 947 (1970), *recon. denied*, 26 FCC Rcd 668 (1970), *aff’d*, 460 F. 2d 883 (D.C. Cir. 1972).

Entravision submits that this policy, developed at a time when the Commission was seeking to ensure that the public received maximum over-the-air service, may no longer be relevant in a period where over-the-air television is striving to survive in a period where most television viewing is through MVPDs or streaming services, should not prevent its application from being granted. In that the Commission may not choose to change a long-standing policy in

the absence of a rulemaking¹, Entravision will show that a case-by-case approach supports the proposed loss in coverage by the Station.

As an initial matter, Entravision's proposal involves only a small reduction in relevant service. As indicated in the Engineering Study ("Study"), prepared by duTreil, Lundin & Rackley, Inc, just 43,382 persons, or 5.4%, of its current service contour of 796,170 persons, will lose the Station's service. Included in this reduction, are 121 persons with one other service, causing the creation of only a minimal gray area. Minor losses in service, such as 121 people in a gray area, have always been accepted. *Seabrook, Huntsville, Bryan, Victoria, Kenedy and George West, Texas*, 10 FCC Rcd 9360 (1995).²

Entravision submits that there is a further consideration that must be factored into the gain/loss analysis in this instance. The Station is a Spanish-language one, whose customary service is directed at and made use of by Latinos. Nielsen Media Research reports that, for Spring 2021, Wichita ranked as the 106th market and its Latino population consisted of 12.5% of the market, amounting to 64,700 people.

The Statement reports that the Latino population of the Wichita DMA would be well covered by the modified signal contour and that there is minimal loss in Latino coverage. Only four Latino individuals would become gray area viewers and the service loss to Latino viewers is considerably lower than to other viewers. Thus, when the gain/loss analysis is applied to the

¹ The Commission, in *In the Matter of Innovation in the Broadcast Television Bands: Allocations, Channel Sharing & Improvements to VHF*, 27 FCC Rcd 4616, 4629 (2012), indicated it would do just this but appears not to have yet done so.

² The Commission has granted construction permits in other cases where the loss areas were far more significant than this one. See Station KNLC(TV), St. Louis, Missouri (FIN: 48525), LMS No. 0000035663, granted March 4, 2020.

unique service offered by the Station, there is even less of a loss to factor into the case-by-case consideration.

Finally, there is another factor that serves to counterbalances the public interest effect of any loss the Commission might wish to consider. The Station requires a new transmitter in order to continue to operate within its licensed operating parameters, as its current transmitter has reached the end of its life span. Entravision has been quoted a cost of approximately \$1.23 million to replace its transmitter in order to deliver the 1,000kW signal. A transmitter that would produce a 100kW signal will only cost approximately \$225 thousand and would result in monthly electrical expense of 25% of the current monthly electrical expense.

Entravision faces a difficult decision. Either it can spend a substantial sum on hardware and electricity or utilize that same amount for program costs and its local newsgathering service. Entravision has long prided itself on its ability to deliver entertainment as well as news, sports, weather, and public affairs programming to its viewers and saving on capital and operating expenses, where such funds can support operations, is, in its opinion, a savings that can be utilized for broadcast service. The Commission itself has recognized, as a public interest benefit, a licensee's decision to modify its license and secure operational savings in support of its station's programming, as a factor supporting the creation of a loss area. *Eagle 22, Ltd.*, 7 FCC Rcd 5295, 5296 n. 9 (1992). This factor is of particular importance in smaller markets, as here, where stations have limited viewership and operational economics affect the ability of stations to serve their viewing public with unique programming.

Considering the circumstances presented, Entravision submits that allowing it to save the capital and operating expenses attendant to a transmitter providing a 1,000kW signal, in a DMA with a small Latino population, will enable it to continue to serve its Latino viewers with

programming that is needed by and relevant to that group. This is a clear public interest benefit and overcomes any concern over the loss area that will occur. Consequently, the application should be granted.