

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

In the Matter of)	
)	
KFTR-DT, Ontario, California)	File No. BPCDT-20100426ACW
Application for Construction Permit)	
)	
KUVE-DT, Green Valley, Arizona)	File No. BPCDT-20110629ADT
Application for Construction Permit)	
To: Chief, Media Bureau		

REQUEST FOR WAIVER

Telefutura Los Angeles LLC, licensee of Spanish-language digital television station KFTR-DT, Ontario, California, an affiliate of the UniMás network (“KFTR”), and Univision Tucson LLC, licensee of Spanish-language digital television station KUVE-DT, Green Valley, Arizona, an affiliate of the Univisión network (“KUVE”) (together, “Univision”), hereby amend the captioned applications (the “Applications”) to request a waiver of the “freeze” announced by the Media Bureau on April 5, 2013.¹

Grant of the Applications would enable Univision to provide more robust digital over-the-air service to viewers of both stations. Specifically, KFTR seeks to maximize its post-transition DTV service from an existing maximum average effective radiated power (“ERP”) of 370 kW to a maximum average ERP of 745 kW, which will significantly improve reception throughout the Los Angeles area. KUVE seeks to establish a DTS system by adding a new transmission site at Tucson Mountain, across Tucson from its main site at Mt. Bigelow, an

¹ See *Public Notice*, “Media Bureau Announces Limitations on the Filing and Processing of Full Power and Class A Television Station Modification Applications, Effective Immediately, and Reminds Stations of Spectrum Act Preservation Mandate,” DA 13-618 (April 5, 2013) (“*Freeze Notice*”).

addition that will bring high-definition service to the Oro Valley (shadowed from Mt. Bigelow) and eliminate the need for use of a Class A station, on a separate channel, to serve that area.

The Media Bureau has stated that it will grant requests for waiver of the freeze “on a showing of good cause and when grant of the waiver will serve the public interest.”² Univision filed the Applications in good faith and believes they comply with all applicable legal, regulatory and technical requirements, including the terms of the Memorandum of Understanding between the FCC and Mexico’s Secretaría de Comunicaciones y Transportes (the “MOU”).³ However, processing of the Applications has been delayed pending coordination pursuant to the MOU, a factor that obviously does not affect processing of applications filed by non-border stations. Grant of this Request and permitting the Applications to be processed and granted upon receipt of Mexican concurrence would serve the public interest by ensuring that KFTR and KUVI are not disadvantaged vis-à-vis similar applicants that are not subject to coordination. Further, grant of this Request and prompt processing of the Applications would enable KFTR and KUVI to improve their service to the Hispanic communities in the Los Angeles and Tucson markets, which depend disproportionately on free, over-the-air digital television.

² *Freeze Notice* at 1. *See also* 47 C.F.R. § 1.3.

³ *See* Memorandum of Understanding between the Federal Communications Commission of the United States of America and the Secretaría de Comunicaciones y Transportes of the United Mexican States Related to the Use of the 54-72 MHz, 76-88 MHz, 174-216 MHz and 470-806 MHz Bands for Digital Television Broadcasting Service Along the Common Border (signed July 22, 1998), available at <http://transition.fcc.gov/ib/sand/agree/files/mex-bc/mex-dtv2.pdf>.

I. GRANTING THE REQUEST WOULD ENSURE THAT THE APPLICATIONS ARE PROCESSED EQUITABLY IN COMPARISON TO SIMILAR APPLICATIONS BY NON-BORDER STATIONS.

For stations such as KFTR and KUVF located near the southern border of the United States, coordination with the Mexican government can be a lengthy process that stretches on for years, even where (as here) the applications comply fully with the Commission's rules and the technical requirements contained in the MOU. To ensure that processing of the Applications is conducted on an equitable basis, the Commission should grant the requested waiver, allow the coordination process to conclude, and grant the Applications as expeditiously as possible thereafter.

Even though the Applications seek technically compliant facilities, KFTR and KUVF have experienced significant delay due to the need for international coordination. KFTR filed its maximization application on April 26, 2010—more than three years ago. Yet the application remains pending due to coordination delays with Mexico, even though Univision believes this proposal complies fully with the MOU's technical requirements. Similarly, KUVF filed its fully compliant DTS application on June 29, 2011, and submitted a minor amendment on June 27, 2012. That application also remains pending due to the vagaries of the Mexican coordination process pursuant to the MOU.⁴

The public interest would be served by processing the Applications as promptly as practicable consistent with the MOU. This would ensure that the stations are treated equitably in comparison to their non-border counterparts whose applications for similar modifications were granted prior to the imposition of the freeze.

⁴ These delays are not atypical in Univision's experience. For instance, approval of KFTR's sister-station KMEX-DT's maximization application was delayed for more than four years as it made its way through the process of coordination with Mexico pursuant to the MOU. *See* File No. BMPCDT-20080620AGO.

II. GRANTING THE REQUEST WOULD BENEFIT UNIVISION’S SPANISH-SPEAKING VIEWERS, WHO DEPEND ON OVER-THE-AIR TELEVISION SERVICE.

Prompt processing of the Applications to allow implementation of the proposed service improvements would uniquely serve the public interest, because the Spanish-language viewers of KFTR and KUVB depend disproportionately on free, over-the-air television as their primary source for news, public affairs, entertainment and sports programming, and emergency alerts.⁵ According to a 2012 report by the research firm GfK Knowledge Networks, 26 percent of all Hispanic households—or 3.3 million U.S. households—rely on free, over-the-air television, rather than subscribing to multichannel video programming distribution services.⁶ GfK Networks also reports that, among Hispanic households that prefer to speak Spanish at home, one-third rely on over-the-air television.⁷ Meanwhile, Nielsen reports that 49 percent of the households watching UniMás in the Los Angeles DMA (*i.e.*, watching KFTR) and 41 percent of the households watching Univisión in the Tucson DMA (*i.e.*, watching KUVB) do so over the air.⁸

KFTR and KUVB serve markets with especially large Hispanic communities.

KFTR serves over 7 million Hispanics living in the Los Angeles market—the largest Hispanic

⁵ Letter from the Chairs of the Cong. Tri-Caucus to Julius Genachowski, Chairman, Fed. Commc’ns Comm’n (Sept. 21, 2012), http://www.nab.org/documents/newsRoom/pdfs/092112_TriCaucus_spectrum_letter.pdf (“Tri-Caucus Letter”).

⁶ *GfK-KnowledgeNetworks Home Technology Monitor Survey* (Spring 2012).

⁷ *Id.*

⁸ The Nielsen Company, Local Custom Toolbox, NSI Impressions, Feb. 2013 sweep (Jan. 31, 2013 to Feb. 27, 2013), Live+7 data (Live+1 in Diary Markets), Based on Total Day viewing (Mon-Sun 6am-2am); Feb. 2013 Nielsen NSI Media Related Universe Estimates.

community in the United States.⁹ KUVB serves Tucson, the twenty-fifth largest Hispanic DMA.¹⁰ Moreover, America's Hispanic households represent a significant and growing portion of the population and will be an increasingly important viewing audience in the digital era, making Univision's efforts to provide robust over-the-air service in communities such as Los Angeles and Tucson even more important.¹¹

⁹ Comments of Univision Communications Inc., In the Matter of Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket No. 12-268, Jan. 25, 2013, at 10, <http://apps.fcc.gov/ecfs/document/view?id=7022112278>.

¹⁰ TVB, Nielsen Local Television Market Universe Estimates: Hispanic or Latino TV Homes, Estimates as of Jan. 1, 2013, http://www.tvb.org/media/file/TVB_Market_Profiles_Nielsen_Hispanic_DMA_Ranks2.pdf.

¹¹ The 2010 U.S. Census reports that there are more than 50 million Hispanics, representing 16 percent of the nation's total population and by 2020, there will be nearly 64 million U.S. Hispanics, representing 19 percent of the total population. Press Release, Univision, "Univision Insights: 2010 Census Shows Hispanic Population at 50 Million Strong and Accounting for 56 Percent of U.S. Population Growth" (Mar. 2011), <http://corporate.univision.com/2011/press/univision-insights-2010-census-shows-hispanic-population-at-50-million-strong-and-accounting-for-56-percent-of-u-s-population-growth/>; U.S. Census Bureau, *2012 National Projections* (Dec. 2012).

CONCLUSION

For the reasons stated herein, the public interest would be served by permitting the processing and grant of the Applications upon receipt of Mexican concurrence. Accordingly, Univision respectfully requests a waiver of the freeze and prompt processing of the Applications.

Respectfully submitted,

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