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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In The Matter Of	)	
	)	MM Docket No. 00-10
Establishment of a Class A	)	MM Docket No. 99-292
Television Service	)	RM-9260

To: The Commission

PETITION FOR RECONSIDERATION

Entravision Holdings, LLC ("Entravision"), by and through its counsel and pursuant to Section 1.429 of the Commission's Rules, hereby petitions for reconsideration of that portion of the *Report and Order* in MM Docket No. 00-10, 65 *Fed. Reg.* 29985 (2000)[1], wherein the Commission refused to provide rules permitting alternative eligibility criteria for LPTV stations, not otherwise qualifying for Class A status, to secure such standing. In support thereof, Entravision states as follows:

Entravision is the licensee of both full service and low-power television stations. Its television stations are affiliated with the Univision Network, the principal Spanish-language television network. Entravision disseminates, through its full service and LPTV stations, Spanish-language programming to and serves the needs of Hispanic individuals who rely on Entravision's stations not only for entertainment, but also for news and public affairs programming of importance. Entravision's LPTV stations retransmit Univision Network programming and, in a number of markets, provide original news and public affairs programming as well as public service announcements and other forms of assistance to the Hispanic community.

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[1] The instant Petition is timely filed as it is being submitted within 30 days of the publication of the *R&O* in the *Federal Register* on May 10, 2000. See Section 1.429(d).

Entravision has supported the establishment of Class A television licenses. According primary status to qualifying LPTV stations will remove much of the uncertainty presently confronting LPTV stations, including those licensed to it, thus improving their economic health and ability to serve their broadcast audiences. As the licensee of both full service and LPTV stations, Entravision has recognized that institution of the Class A service was of importance and should be provided to LPTV stations that were serving the public.

In connection with the issue of qualifications for Class A status, Entravision took note, soon after passage of the CPBA, that Congress had seen fit, in drafting the statute, to provide a standard mechanism for qualification but did not make this an absolute requirement. Section (f)(2)(B) of the CBPA specifically permits the Commission to establish alternative eligibility criteria for Class A designation. Thus, if a party did not meet the standard criteria, involving the broadcast for at least 18 hours per day, an average of 3 hours per week of market produced programming and compliance with LPTV rules, there could be an alternative mechanism for securing Class A status. In the *NPRM*, the Commission sought comment on alternative criteria and made particular note, at Paragraph 21, that it was considering establishing "a different set of criteria for certain types of stations, such as foreign language stations that have converted to low power status, that cannot meet the locally produced programming or other statutory eligibility criteria." This was a clear indication to the LPTV community that the Commission recognized that not every station could meet the standard test and there were groups within the community who were clearly entitled to receive Class A treatment.

Entravision, in its Comments, expressed strong support for such alternative eligibility provisions. In particular, it made note that while certain of Entravision's stations would meet the

standards, others would not. The only area where this would arise was in regard to the 3 hours of locally produced programming. Entraivsion noted that meeting the 3 hour test was a difficult one for foreign language stations such as Entravision's. Such stations have a difficult time in undertaking their own programming and have to rely on network or producer suppliers, as origination of programming is a time-consuming and expensive process. The cost of producing such programs has to be considered by the Commission, as LPTV stations are generally limited to over-the-air transmission and viewers who can be reached by such transmission, since, except in limited situations, they are not entitled to must-carry status on cable television and cable television systems rarely will broadcast stations not entitled to must-carry status. Thus, LPTV stations should not be expected to originate much in the way of programming and the Commission should remain cognizant of the problem.

Despite the well-reasoned submissions of Entravision and others, the Commission chose to ignore such alternative eligibility criteria. At Paragraph 24 of the *R&O*, the Commission specifically rejected any special provisions for foreign language stations or for others equally worthy who have been serving the public interest and deserve Class A treatment. In so doing, the Commission inexplicably chose to ignore the arguments of foreign language broadcasters who, as the Commission noted, evidenced their "valuable service" and established why such service should be protected as the broadcast spectrum becomes more concentrated with fewer channels and additional users, including digital television stations.

As the only basis for denying the alternative eligibility provision, the Commission concluded that the Congressional intent was to limit Class A status to "a small class of existing LPTV stations that were providing local programming." Id. Premised on this thin reed, the

Commission rejected the opportunity for LPTV stations, including ones that had partially met the test, to secure Class A status by alternative means. Entravision strongly disagrees with this arbitrary result.

The CPBA did not mandate that the Class A community be a restricted and exclusive club. Section (f)(2)(B) of the CPBA permitted the Commission to establish alternative eligibility criteria provided that the Commission reached a determination "that the public interest, convenience, and necessity would be served by treating the station as a qualifying low-power television station for purposes of this section, or for other reasons determined by the Commission." Despite this explicit authorization, the Commission abdicated its responsibility by failing to permit any alternative eligibility criteria, other than such minor and limited ones as deviations that were "insignificant"[2] or "compelling circumstances" that appear related only to *force majeure* events (e.g., natural disasters).

Entravision submits that the Commission was given a duty by the Congress to determine what alternative criteria would best serve the public interest. Instead of carrying out this responsibility, it chose to ignore the opportunity to permit the worthy foreign language broadcast community the chance to preserve their stations and the valuable service they provide. This was done in the face of a record that met the public interest standard approved by Congress. As the Commission noted, the foreign language community provides a valuable service and faces problems in being able to secure full-power facilities and needs Class A status to protect its operations. This service should be protected by Class A standing, not rejected in an effort to limit the number of Class A stations.

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[2] What an "insignificant" variance is was not defined in the *R&O*.

The failure to recognize the significant public interest benefits that would have arisen from such alternative eligibility criteria cries out for reconsideration. Entravision urges the Commission to take a new, and fresh, look at the question of alternative eligibility criteria. In making specific note of what alternative criteria might qualify a station for Class A status in the *NPRM,* the Commission was cognizant of the perils faced by the foreign language broadcaster. The record clearly and fully evidenced the need for special consideration for the foreign language broadcaster. The record also represents an ample basis under Section (f)(2)(B) for the Commission to decide that alternative eligibility criteria will serve the public interest. Why the Commission chose to ignore it is a result Entravision is at a loss to comprehend. Therefore, the Commission should reconsider its arbitrary conclusion reached in the *R&O* and, on reconsideration, permit foreign language broadcasters the opportunity to secure Class A authority.

Respectfully submitted,

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By:_____

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