

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

In the Matter of )  
 )  
Expanding the Economic and Innovation ) Docket No. 12-268  
Opportunities of Spectrum through Incentive )  
Auctions )  
 )

To: The Commission

**COMMENTS**

Barry A. Friedman  
Thompson Hine LLP  
1919 M Street, N.W.  
Suite 700  
Washington, DC 20036  
(202) 331-8800

*Counsel to Entravision Holdings., LLC*

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## SUMMARY

As the Commission lays the groundwork for its historic spectrum incentive auction, Entravision Holdings, LLC, the licensee of full power, Class A and low power Spanish-language broadcast television stations, urges the Commission to focus on maximizing broadcaster participation in the auction and on ensuring the integrity and viability of broadcast television operations post-auction.

The Commission can maximize broadcaster participation by offering broadcast licensees the proper incentives, including: (i) fair bidding prices for full power and Class A broadcast television stations, based on operating facilities as of the date of auction rather than February 22, 2012, the date the Spectrum Act was enacted; (ii) straightforward auction requirements ensuring that minor matters, such as routine indecency complaints, enforcement actions, confidentiality concerns and communications issues, do not deter broadcaster participation; and (iii) flexible spectrum usage rights for participating broadcasters, including a channel sharing option that permits participating stations to change their communities of license.

Post-auction, the Commission must put in place pragmatic policies that will expand rather than limit opportunities for broadcasters. Of chief concern to Entravision are low power television stations and the minority audiences that rely upon them. As the Commission is aware, low power television stations play an important role in bringing local news, public affairs and entertainment programming to minority communities. Entravision encourages the Commission to grant low power television licensees as much flexibility as possible to navigate the post-auction spectrum landscape and to protect low power television services to the fullest extent possible under the law.

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Entravision Holdings, LLC (“Entravision”), the licensee of full-power, Class A, and low power Spanish-language television stations, hereby submits these Comments in Response to the Commission's Notice of Proposed Rulemaking in the above-referenced proceeding.<sup>1</sup> In the Middle Class Tax Relief and Job Creation Act of 2012,<sup>2</sup> enacted on February 22, 2012, Congress granted the Commission authority to conduct a voluntary incentive auction for purposes of reclaiming broadcast television spectrum and repurposing it for mobile wireless services. As the Commission begins crafting rules for the incentive auction, Entravision urges the Commission to keep in mind two fundamental priorities: (i) the Commission must maximize broadcaster participation in order to maximize spectrum recovery; and (ii) the Commission must safeguard the viability and integrity of broadcast operations post-auction, particularly for those populations who still rely heavily on over-the-air television. To achieve the former, the Commission should

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<sup>1</sup> See *Expanding the Economic and Innovation Opportunities of Spectrum through Incentive Auctions*, Notice of Proposed Rulemaking, Docket No. 12-268 (rel. Oct. 2, 2012) (“NPRM”).

<sup>2</sup> Pub. L. No. 112-96, § \_\_\_\_, 125 Stat. \_\_\_\_ (2012) (“Spectrum Act”).

value Stations fairly; it should lower the bars to entry to the auction and ensure that routine, non-substantive matters do not derail broadcaster participation; and it should devise pragmatic rules that expand rather than limit post-auction broadcast possibilities. To achieve the latter priority, the Commission should focus not only on preserving existing full-power and Class A television station coverage areas and populations served, but also on protecting, to the fullest extent possible, the vital services provided by LPTV stations. In support thereof, Entravision states as follows.

## **I. MAXIMIZING BROADCASTER PARTICIPATION**

The goal of the spectrum auction is to reclaim and repurpose broadcast television spectrum for mobile broadband use. To achieve a supply of television spectrum equal to the purported demand for spectrum for broadband services, the Commission must offer sufficient incentives to broadcasters, particularly to those broadcasters who remain committed to broadcast operations yet are on the fence with respect to the VHF channel and channel-sharing options set forth in the Spectrum Act.<sup>3</sup>

To begin with, the Commission must offer broadcasters a fair price in exchange for all or some of the broadcasters' usage rights. Contrary to the Commission's proposals in the NPRM, a fair price entails the true value of a Station's operation at the time of commencement of the auction, including those facilities that licensees invested in both before and after passage of the Spectrum Act, but that were not officially licensed as of February 22, 2012. Next, the

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<sup>3</sup> Pursuant to Section 6403(a) of the Spectrum Act, broadcast television licensees may bid the amount of compensation they would accept to relinquish the following spectrum usage rights: (i) "all usage rights with respect to a particular television channel without receiving in return any usage rights with respect to another television channel"; (ii) "all usage rights with respect to [a UHF] television channel in return for receiving usage rights with respect to a [VHF] television channel"; and (iii) "usage rights in order to share a television channel with another licensee." Spectrum Act § 6403(2). *See also* NPRM at ¶ 28.

Commission must ensure that minor matters, such as routine indecency complaints, enforcement actions, confidentiality concerns and communications issues do not stand in the way of broadcaster participation in the auction. Finally, the Commission must craft pragmatic rules with respect to the VHF channel option and the channel sharing option that demonstrate flexibility and opportunity and reassure broadcasters that pursuing such options does not require sacrificing the quality or scope of their broadcast operations. These issues are discussed, in turn, below.

#### **A. Station Valuation**

Entravision urges the Commission to abandon its current position tying bidding prices<sup>4</sup> to broadcast facilities licensed as of February 22, 2012, the date the Spectrum Act was enacted.<sup>5</sup> The Commission explains this position as a logical response to the Spectrum Act mandate to make all reasonable efforts to preserve coverage areas and populations served as of the Spectrum Act enactment date.<sup>6</sup> However, as the Commission's proposed treatment of Class A stations and stations with original construction permits as of February 22, 2012 indicates, the Spectrum Act provides a general standard rather than an absolute rule in this context. As the Commission itself notes in the NPRM: "[a]lthough § 6403(b)(2) mandates preservation only of certain licensed

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<sup>4</sup> In the NPRM, the Commission floats the concept of "reserve price," the maximum payment the Commission would assign to a particular station based upon characteristics such as population or viewership. *See* NPRM at ¶ 53. Entravision uses the terms 'bidding price' and 'reserve price' interchangeably herein to mean the maximum amount the Commission would pay for a particular station.

<sup>5</sup> In the NPRM, the Commission proposes entertaining bids only on the spectrum usage rights associated with licenses held by full power stations as of February 22, 2012, thereby excluding full power facilities based on outstanding modification permits to modify facilities or pending applications for such modifications. *See* NPRM at ¶ 79. The Commission does propose to allow entities holding original construction permits for full power television stations as of February 22, 2012 to participate in the auction so long as such entities have their licenses by commencement of the auction. *See id.* at ¶ 77. The Commission also proposes to treat Class A television stations differently than full power stations, allowing Class A stations to participate based on facilities licensed as of commencement of the reverse auction, given that Class A stations are in the middle of the Class A digital transition. *See id.* at ¶ 80.

<sup>6</sup> *See* NPRM at ¶ 79 (citing Spectrum Act § 6403(b)(2)).

facilities, we do not interpret it to prohibit the Commission from granting protection to additional facilities where appropriate.”<sup>7</sup> The Spectrum Act sets a floor – coverage areas and populations served as of February 22, 2012 – without imposing a ceiling. Thus, for purposes of establishing fair and accurate reserve prices for stations, the Commission has authority to take into account post-Spectrum Act changes in coverage areas and populations.

Accordingly, Entravision believes the Commission should base its bid prices for full power stations on the station facilities in place at time of the auction rather than upon those facilities licensed as of February 22, 2012. The equitable considerations underscoring the Commission’s proposed treatment of Class A stations – namely, that many Class A licensees are in the midst of modifying their facilities pursuant to the Commission’s digital television policies<sup>8</sup> – apply to a number of other licensees with outstanding construction permits or pending applications. Like Class A licensees, these full power licensees have invested substantial time and resources into modifying their facilities, efforts undertaken with an eye to Commission policy and the public interest rather than the Spectrum Act. Those licensees who have pursued changes actively promoted by the Commission have a particularly strong equitable case to make, such as licensees in the process of developing Distributed Transmission System (“DTS”) facilities.<sup>9</sup> Such licensees have relied upon Commission policies in making investment decisions. By lightly dismissing this reliance, the Commission undercuts the integrity of its own policies and procedures and signals that taking the Commission at its word amounts to a risky investment strategy.

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<sup>7</sup> NPRM at ¶ 113.

<sup>8</sup> See NPRM at ¶ 115 (explaining proposal to protect Class A facilities not licensed as of February 22, 2012 as function of Class A licensees making digital transition plans “in reliance on” Commission rules).

<sup>9</sup> *In the Matter of Digital Television Distributed Transmission System Technologies*, Report and Order, 23 FCC Rcd 16731 (2008) (“DTS R&O”).

The February 22, 2012 cutoff proposed in the NPRM not only discounts the weight of licensee reliance on Commission policy and process, it also discounts the true value of such stations. The coverage areas and populations served by stations at commencement of the auction reflect the stations' true value, not artificial, out-of-date numbers reflecting only an arbitrary point of reference in the past. The Commission's current bidding proposal only makes sense if one assumes that the broadcast industry came to a standstill as of February 22, 2012, i.e., that the Spectrum Act marked the end of broadcasters' ongoing efforts to bring better service to more viewers. By dismissing broadcasters' efforts and investments, it discourages broadcasters' ambitions and diminishes the future. In other parts of the NPRM, the Commission properly rejects such a dim view of broadcasting's future.<sup>10</sup> Entravision urges the Commission to abandon its current bidding proposal and adopt station valuation procedures in line with its professed commitment to a robust future for broadcast television.

#### **B. Barriers to Full Participation**

In order to maximize broadcaster participation, the Commission must ensure that routine, non-essential matters do not block or unnecessarily complicate entry to the auction. Discussed below are a number of potential barriers to entry that Entravision believes the Commission can effectively overcome through pragmatic policies.

*Licensees Facing Pending Renewal Applications or Enforcement Actions.* Entravision supports the Commission's proposal to allow licensees with a pending renewal application or an

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<sup>10</sup> "Broadcast television stations provide free video programming that is often highly responsive to the needs and interests of the communities they serve." NPRM at ¶ 13. "A small but significant segment of the Nation's population relies solely on over-the-air broadcast television." *Id.* "The broadcast television business continues to evolve to keep pace with technological and marketplace changes." *Id.* at ¶ 15.

enforcement action to participate in the auction.<sup>11</sup> The public interest in recovering and repurposing spectrum trumps the Commission's ordinary exercise of caution in the case of pending renewals or enforcement actions.<sup>12</sup> The everyday deterrence effect of the Commission's rules will not suffer because the Commission eases eligibility requirements for an extraordinary event such as the spectrum auction.

*Licensees Appealing License Revocations or Renewal Denials.* The Commission should reconsider its proposal to make a full power or Class A licensee with an expired, cancelled or revoked license ineligible to participate in the auction, even if such action is under appeal.<sup>13</sup> Under the same public interest rationale the Commission applies to licensees with pending renewals or enforcement actions – namely, that the public interest in a successful auction outweigh the potential detriments of allowing such licensees to participate – affected full power and Class A television licensees should not be deemed ineligible. Instead, their appeals should be expedited and their participation secured if either (i) they win their appeal, or (ii) the Commission is unable to resolve the matter prior to the auction. If affected licensees win their appeals, they will not have been wrongfully denied participation in the auction and their spectrum will have been accounted for in the Commission's repacking efforts.<sup>14</sup> Further, the

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<sup>11</sup> See NPRM at ¶ 81.

<sup>12</sup> See *id.* The Commission appropriately analogizes this approach to the Commission's occasional waiver of the ban on sale of a station subject to a pending renewal application or an enforcement action absent the proposed buyer's agreement to assume liability. As the public interest in granting certain transactions outweighs the potential detriments of waiving the ban, so here the public interest justifies less stringent eligibility criteria for the spectrum auction. To quote the Commission: "[o]ur proposed approach will maximize opportunities for broadcasters to participate in the reverse auction and avoid the administrative burdens and potential delays that would be associated with requiring resolution of such matters prior to the commencement of the reverse auction process." *Id.*

<sup>13</sup> See NPRM at ¶ 78, n. 112.

<sup>14</sup> Private parties entering into channel sharing arrangements with licensees facing revocation proceedings obviously do so at their own risk.

Commission can condition any auction payment to an affected licensee on successful appeal – any licensee that loses its appeal must return any auction-related compensation it received.

*Confidentiality and Auction Communications.* Entravision believes strong confidentiality provisions and sensible auction-related communications policies will encourage more broadcasters to participate in the auction, particularly broadcasters interested in the channel sharing option. Entravision applauds the Commission’s sensitivity to these issues,<sup>15</sup> and urges the Commission to adopt policies permitting broadcasters to participate in the auction without fear that such participation will be used against them. Below are a number of the confidentiality and communications proposals included in the NPRM that Entravision supports.

- providing individual notification to qualified auction applicants rather than public notice;<sup>16</sup>
- erring on the side of caution and protecting non-identifying information about licensees as well as clearly identifying information;<sup>17</sup>
- protecting confidential licensee data beyond the effective completion of the reverse and forward auctions and the reassignments and reallocations occasioned thereby;<sup>18</sup>
- prohibiting, to the extent permitted by law, applicants and parties to the auction from disclosing any confidential identifying information that could reveal the

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<sup>15</sup> See 47 C.F.R. § 1.419 (anonymous electronic filings require attorney of record contact information); 47 C.F.R. § 1.415 (no analogous requirement for anonymous paper filings). See also *Media Bureau Releases Additional Guidance to Broadcasters Wishing to File Anonymous Comments in the Expanding the Economic and Innovation Opportunities of Spectrum through Incentive Auctions Proceeding*, Public Notice, GN Docket No. 12-268, DA-12-2040 (rel. Dec. 18, 2012).

<sup>16</sup> See NPRM at ¶ 255.

<sup>17</sup> See NPRM at ¶ 258.

<sup>18</sup> See NPRM at ¶¶ 260-261.

confidential information and identities of other applicants participating in the auction;<sup>19</sup>

- prohibiting communications among applicants located in the same DMA, subject to the general exemption discussed below;<sup>20</sup> and
- providing a general exemption to the rule prohibiting certain communications that would permit communications between parties that have entered into an agreement, arrangement or understanding relating to spectrum usage rights and disclosed such relationships to the Commission.<sup>21</sup>

Entravision notes that, with respect to channel sharing arrangements, confidentiality and communications issues are especially difficult. Licensees interested in such arrangements may be wary of approaching potential channel-mates as likely channel partners may also constitute the competition. Unwelcome advances could easily be exploited by competitors to the detriment of the station seeking a channel sharing arrangement.

One way to cut through the thorny confidentiality and communications issues in this situation would be for the Commission itself to match stations interested in channel sharing arrangements. Licensees could indicate their interest in channel sharing to the Commission, and the Commission could identify suitable potential channel-mates and put them in contact with one another. Once introduced by the Commission, the parties could manage the process of negotiating a suitable channel sharing agreement, and all such negotiations would remain subject to the Commission's confidentiality requirements. While this approach might generate more

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<sup>19</sup> See NPRM at ¶ 262.

<sup>20</sup> See NPRM at ¶ 264.

<sup>21</sup> See NPRM at ¶ 267. For example, this exemption should be broad enough to ensure that stations considering a channel sharing arrangement are able to communicate with one another as well as to prevent brokers dealing with multiple parties in the auction from being accused of collusion.

work for the Commission in the short run, it could convince many reluctant broadcasters to give channel sharing a chance and thereby improve the auction outcome.

### **C. Practical Rules for Usage Rights Options**

The success of the auction will depend on the size of the spectrum haul, and the size of the spectrum haul will reflect, in part, how comfortable broadcasters are with the post-auction usage rights defined by the Commission. As set forth below, the Commission should adopt pragmatic, flexible rules for the VHF channel and channel sharing options. Thoughtful, operations-oriented usage rights policies will appeal to the many broadcasters interested in the auction as a means to generate capital, but also worried that alternative usage rights mean sacrificing the quality or scope of their broadcast operations. The Commission should also adopt a bidding option pursuant to which broadcasters can agree to accept additional interference. Increasing the options open to broadcasters in the bidding context as well as the post-auction world will encourage more broadcasters to participate in the auction and yield greater spectrum returns.

*VHF Channel.* Entravision supports the Commission's proposals to allow licensees to limit their bids to a "high VHF channel," or to choose to relinquish a high VHF channel for a low VHF channel.<sup>22</sup> Entravision believes this approach will encourage more broadcasters to participate in the auction by bringing in licensees unwilling to operate on a low VHF channel or share spectrum with another station. And a number of licensees may be actively encouraged to pursue the low VHF channel option, as that category becomes more self-selective among broadcasters and more valuable to the Commission.

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<sup>22</sup> NPRM at ¶¶ 85, 86.

Further, Entravision supports the Commission's proposal to adopt a policy in favor of granting waivers of VHF power and height limits for winning UHF-to-VHF bidders that experience coverage problems on their VHF channels.<sup>23</sup> In the case of low VHF channel bidders, the Commission should establish a rebuttable presumption that such waivers are in the public interest.

*Channel Sharing.* Entravision opposes the Commission's proposal to forbid channel sharing bids involving changes in a station's community of license.<sup>24</sup> The Commission suggests that this restriction is necessary to prevent potential Section 307(b) issues from complicating the Commission's consideration of channel sharing bids. Entravision respectfully suggests that the Commission's adherence to a traditional 307(b) analysis in the auction context is misplaced.

Through the incentive auction, Congress and the Commission are actively encouraging at least some broadcasters to abandon service to their communities altogether.<sup>25</sup> With that purpose in mind, and looking with a practical eye to the repacking process, the Commission asks in the NPRM if it should consider "whether a given broadcaster going off the air would create areas without any commercial or noncommercial broadcast television service."<sup>26</sup> In framing this question, the Commission further states that "[a]dding an additional technical constraint would increase the complexity of the repacking process, possibly requiring additional time and resources and limiting the efficiency of the outcome."<sup>27</sup> Faced with the extraordinary circumstances of the auction and the daunting task of repacking the spectrum, the Commission obviously would like to dispense with its usual white/gray area analyses. Similarly, in

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<sup>23</sup> See NPRM at ¶ 85.

<sup>24</sup> See NPRM at ¶ 89.

<sup>25</sup> See Spectrum Act § 6403(2). See also NPRM at ¶ 28.

<sup>26</sup> NPRM at ¶ 48.

<sup>27</sup> *Id.*

interpreting the Spectrum Act's mandate to preserve a station's population served, the Commission proposes focusing on total number of viewers rather than specific viewers, and justifies its proposal as follows: the benefit in "facilitating an efficient repacking of television stations would significantly outweigh disruptive effects to specific viewers..."<sup>28</sup> Once again, the Commission appears inclined to prioritize auction outcomes over traditional policy constraints.

Entravision supports the Commission's proposals on grounds that the public interest in a productive, efficient auction justifies departures from the Commission's ordinary standards. Entravision urges the Commission to subject its community of license requirement to such a public interest test as well, as the very same logic supports allowing stations to change communities of license in order to achieve suitable channel sharing arrangements.

There is nothing particularly sacred about Section 307(b) or the Commission's community of license standards preventing the Commission from devising flexible channel sharing rules to attract as many broadcasters as possible. The Commission has previously modified its 307(b) analyses to advance overarching public interest concerns.<sup>29</sup> Here as well, the Commission can justifiably invoke the public interest to sanction community of license changes in the channel sharing arrangements, just as the Commission proposes invoking the public interest to depart from other traditional policies in the auction context. In any case, allowing channel sharing bidders to change communities of license is not so far removed from existing Commission precedent. The Commission has recognized that television service is an area-wide service and that focusing on the community of license fails to reflect the reality that television stations service their market and not particular communities. Likewise, during the full power

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<sup>28</sup> NPRM at ¶ 105.

<sup>29</sup> See, e.g., *Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990).

DTV transition, the Commission enthusiastically endorsed the use of common transmitter sites and antenna farms in order to provide for a prompt and effective digital transition, especially where television transmission sites were limited, such as in Coastal California. *See, KRCA License Corp.*, 15 FCC Rcd. 1794 (1999). In short, so as to maximize broadcaster participation in the auction, the Commission should allow qualified Stations to change freely their communities of license within their Designated Market Areas (“DMAs”), including where the station may be the only station licensed to the community, waive the minimum coverage requirement in Section 73.625 of the Commission’s Rules with respect to such Stations, and allow Stations to accomplish community coverage by alternative means including LPTV stations, DTS service, or multicast service using the facilities of another station. The Commission should still require stations seeking to change their community of license for channel sharing purposes to remain within their existing DMA, but so long as the DMA is preserved, the stations should have flexibility in where they locate their transmitter sites. Just as the Commission is permitting a station to remove itself from the service it is providing to the community, the FCC should enable stations that continue to operate to comply with Section 307(b) in a variety of ways and not be locked into their current transmitter sites and resulting contours. This result will help limit any abuse involving DMA moves while encouraging stations to engage in channel sharing arrangements while still being able to secure DMA-based MVPD carriage.

In regard to MVPD carriage, Entravision urges the Commission to revisit Part 76 and to provide that post-auction MVPD must-carry carriage will be on a DMA basis and not on a coverage contour basis. Such a change will encourage broadcasters to participate in the auction process by entering sharing arrangements that might affect their must-carry status while

providing local stations with access to MVPDs. There should be no harm to MVPDs, since their obligations for broadcast carriage will decrease as the ranks of local broadcasters are thinned by the return of spectrum to the Commission.

*Bidding to Accept Additional Interference.* Entravision urges the Commission to allow eligible licensees to bid to accept additional interference from other broadcast stations or reduce their coverage area or population served by a specified amount. Entravision believes this approach will appeal to broadcasters interested in scaling down their operations in exchange for compensation, and it will facilitate a smoother repacking process by allowing the Commission to clear more spectrum.<sup>30</sup>

For the same reasons, Entravision also supports the Commission's proposal to allow broadcast stations to accept interference from wireless broadband providers.<sup>31</sup>

## **II. POST-AUCTION BROADCASTING MATTERS**

Post-auction, the Commission must put in place flexible, pragmatic policies that will expand rather than limit opportunities for broadcasters. Below, Entravision discusses a number of the Commission's post-auction proposals. Of chief concern to Entravision are LPTV stations and the minority audiences that rely upon them. Entravision encourages the Commission to grant LPTV licensees as much flexibility as possible to navigate the post-auction spectrum landscape and to protect LPTV services to the fullest extent possible under the law.

*Channel Substitution Opportunity.* Entravision supports the Commission's proposal to allow stations receiving new channel assignments to file applications to change their channels.<sup>32</sup>

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<sup>30</sup> See NPRM at ¶ 87.

<sup>31</sup> See NPRM ¶ 88.

<sup>32</sup> See NPRM at ¶ 318.

Entravision agrees with the Commission the successful UHF-to-VHF bidders should not be permitted to request substitution of a UHF channel.<sup>33</sup>

*Construction Deadlines.* Entravision believes the Commission's proposed 18-month construction deadline is reasonable for winning bidders, whether termination bidders, UHF-to-VHF bidders or channel-sharing bidders.<sup>34</sup> Waivers should be available to those winning bidders whose individual transitions pose unique challenges. With respect to stations forced to relocate, Entravision does not believe it would be fair to force such stations to relocate prior to receipt of reimbursement funds.<sup>35</sup> If reimbursement in an individual station's case approaches the three year deadline imposed by the Spectrum Act, then that station should not be required to complete its relocation in less than three years.

*Election of Estimate or Actual Cost Approach.* Entravision supports the Commission's proposal to allow stations to choose reimbursement of their eligible relocation costs on the basis of either estimated costs or out-of-pocket expenditures,<sup>36</sup> as well the Commission's commitment to providing advance payments to those broadcasters electing reimbursement on the basis of estimated costs.<sup>37</sup>

*Low Power Television Stations.* As indicated in related proceedings,<sup>38</sup> Entravision regards its LPTV stations as a critical piece of its broadcast efforts to serve Latino viewers. As previously noted by Entravision, amid all of the changes in the communications industry in the

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<sup>33</sup> *Id.* at ¶ 319.

<sup>34</sup> *See* NPRM at ¶ 322.

<sup>35</sup> *See id.* This concern would not apply to stations allowed to choose reimbursement for their actual out-of-pocket expenditures as opposed to estimated costs.

<sup>36</sup> *See id.* at ¶ 338.

<sup>37</sup> *See id.* at ¶ 340.

<sup>38</sup> *See* Comments of Entravision Holdings, LLC, *Innovation in the Broadcast Television Bands: Allocations, Channel Sharing and Improvements to VHF*, ET Docket No. 10-235 (filed March 18, 2011).

last decade, including growing MVPD penetration rates and the DTV Transition, Latino over-the-air (“OTA”) viewership remains quite high – 15.3 percent of Latino households rely upon OTA service compared to approximately 10 percent of all U.S. households.<sup>39</sup> The Commission itself has recognized the continued reliance on OTA services among members of vulnerable and marginalized communities.<sup>40</sup> The provision of OTA Spanish-language programming via LPTV Stations has become an increasingly important avenue for providing specialty programming to often underserved audiences, and Entravision, like many other Spanish-language broadcasters, has invested considerable resources in expanding its LPTV services and preparing its LPTV stations for digital operations. As the Commission considers how to address LPTV stations post-auction, Entravision urges the Commission to keep in mind the role LPTV stations in particular play in bringing local news, public affairs and entertainment programming to minority communities.

Accordingly, Entravision supports the Commission’s proposals to authorize channel sharing among LPTV stations and to promote the use of available digital capacity on full power and Class A stations, MVPD systems and/or the Internet to distribute LPTV programming.<sup>41</sup> Similarly, Entravision supports the Commission’s proposals to open an initial filing window for

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<sup>39</sup> Nielsen Television Ownership Report 2009 and State of the Media TV Usage Trends: Q3 and Q4 2010.

<sup>40</sup> See Statement of Julius Genachowski, Chairman, Federal Communications Commission, Before the United States Senate Committee on Commerce, Science and Transportation, Hearing on "Rethinking the Children's Television Act for a Digital Media Age" (July 22, 2009) (recognizing that broadcast television is "the exclusive source of video programming relied upon by millions of households in the country"). See also *DTV Consumer Education Initiative*, MB Docket No. 07-148 ("DTV Consumer Education Initiative"); National Telecommunications and Information Administration, *Implementation and Administration of a Coupon Program for Digital-to-Analog Converter Boxes*, Docket No. 060512129-6129-01 ("NTIA Converter Box Proceeding"); *Over-the-Air Broadcast Television Viewers*, MB Docket No. 04-210 ("Over-the-Air Proceeding").

<sup>41</sup> See NPRM at ¶ 359.

LPTV displacement applications following completion of the full power and Class A repacking, to allow displaced LPTV to file displacement applications without satisfying ordinary interference requirements, and to prioritize the processing of displacement applications over that of previously-filed LPTV new station and LPTV modification applications.<sup>42</sup> In short, Entravision encourages the Commission to devise flexible policies that will enable LPTV stations to continue operating to the fullest extent possible.

WHEREFORE, Entravision Holdings, LLC respectfully requests that the Commission adopt the policies and procedures set forth above.

Respectfully submitted,

**ENTRAVISION HOLDINGS, LLC**



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Barry A. Friedman  
Thompson Hine LLP  
1919 M Street, NW  
Washington, DC 20036

January 25, 2013

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<sup>42</sup> See NPRM at ¶¶ 359-360. The Commission notes that it afforded displaced LPTV stations similar treatment during the DTV transition.