

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

|                                  |   |                          |
|----------------------------------|---|--------------------------|
| In the Matter of                 | ) |                          |
|                                  | ) |                          |
| <b>ENTRAVISION HOLDINGS, LLC</b> | ) | File No. BPH-20190723AAN |
|                                  | ) | Facility ID No. 2750     |
| For Construction Permit          | ) |                          |
| KDVA(FM), Buckeye, AZ            | ) |                          |
|                                  |   |                          |
| To: Office of the Secretary      |   |                          |
| Attention: Media Bureau          |   |                          |

**OPPOSITION TO MOTION TO STRIKE**

Prescott Valley Broadcasting Co. Inc. (“PVBC”), by its counsel, hereby files this Opposition to the Motion to Strike (“Motion”) filed by Entravision Holdings, LLC (“Entravision”) on March 7, 2022.

On March 4, 2022, PVBC filed a routine update (“March 4 Update”) to its Report Regarding Preliminary Assessment of Legitimate and Prudent Expenses, filed on February 24, 2022 (“February 24 Report”). The March 4 Update very clearly explained the practical and legal reasons justifying why the Commission must consider it.

The Memorandum Opinion and Order released by the Commission on January 25, 2022 (FCC 22-4) (“January 2022 Order”) stated that PVBC was to provide a list of its reimbursable legitimate and prudent expenses it expects to incur to implement the forced channel change of KPPV(FM), Prescott Valley, Arizona (Facility No. 53414) (“KPPV”) by February 24, 2022. **Importantly, PVBC satisfied that deadline.** However, circumstances beyond PVBC’s control prevented PVBC from providing copies of all estimates and invoices associated with such legitimate and prudent costs as of February 24. The sole purposes of the March 4 Update were to: (a) provide estimates and invoices that PVBC received between February 24 and March 4, 2022; and (b) update

certain expected costs. There simply is no good reason for the Commission to strike the March 4 Update.

As explained in the March 4 Update, it is very common for the Commission to provide relief to a licensee when there are circumstances beyond its control preventing full satisfaction of a given directive.<sup>1</sup> The March 4 Update further set forth that there is no harm caused to any party by virtue of providing a complete picture of the items that Entravision must reimburse to PVBC pursuant to *Circleville*.<sup>2</sup> Like the television station licensees who are unable to submit invoices and other items relating to the channel changes following the Commission's incentive auction of television spectrum by the Commission's deadline due to circumstances beyond their control, PVBC was unable to submit invoices and other items relating to its forced channel change by February 24, 2022 due to circumstances beyond its control. Those circumstances are set forth in the March 4 Update.

The Commission also regularly allows the filing of routine updates after established deadlines. For example, in every auction of new broadcast spectrum that the Commission has conducted, the Commission has established a hard deadline for the submission of an applicant's short form ("Form 175") application. However, in each such auction proceeding, the Commission also has allowed "minor" amendments to be filed to those Form 175 applications after the deadline.<sup>3</sup> In addition, the Media Bureau regularly considers supplements that are filed to Petitions to Deny, Oppositions thereto, and Replies thereto, in each case well after the deadlines established by the Commission's rules. That is because it is the Bureau's policy to fully consider all of the "facts" in a given proceeding before rendering a decision, and because there usually are good reasons why the

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<sup>1</sup> See, e.g., *Incentive Auction Task Force and Media Bureau Report on Status of the Post-Incentive Auction Reimbursement Program, Announce Final Allocation and Post-Implementation Site Visit Validation Program, and Remind Stations of Invoice Filing Deadlines*, Public Notice, MB Docket 16-306, GN Docket 12-268, DA 22-191, rel. February 24, 2022, at ¶18.

<sup>2</sup> *Amendment of Section 73.202, Table of Assignments (Leitchfield, KY, et al.)*, 8 FCC 2d 159 (1967).

<sup>3</sup> See, e.g., *Auction of Construction Permits for Full Power Television Stations*, Public Notice DA 22-125, rel. Feb. 10,

supplements are necessary. The same holds true here. The March 4 Update simply provides the Commission with all of the information necessary to evaluate PVBC's complete response to the January 2022 Order. It would be grossly unfair to penalize PVBC simply because certain third party vendors did not provide information by February 24 intended to match up with the items on the list of PVBC's legitimate and prudent expenses (which list indeed was prepared and submitted by February 24).

Importantly, Entravision did not even attempt to refute PVBC's claim that no harm would befall Entravision by accepting the March 4 Update. That is because no harm exists. Instead, Entravision rested its case upon its own misunderstanding of PVBC's request for an extension of time to submit the February 24 Report.

The January 2022 Order contained two separate requests for documents by February 24, 2022: (1) for PVBC and Entravision to provide a status report regarding the negotiations of the legitimate and prudent costs that PVBC would incur as a result of the channel change of market-leader KPPV being forced upon PVBC by Entravision; and (2) if no agreement between the parties was reached by that date, for PVBC to provide a list of its reimbursable legitimate and prudent expenses, along with justifications and documentation in support thereof.

At 7:48 AM, on February 22, 2022, undersigned counsel transmitted an e-mail to counsel for Entravision, inquiring whether Entravision would not object to a request for a one-week extension of time in which PVBC would respond to the January 2022 Order. At 8:14 AM, Entravision's counsel responded, indicating that **Entravision indeed would not object to such a request.** At 10:45 AM, PVBC's counsel transmitted the request for extension via e-mail to the Chief of the Media Bureau. At 11:20 AM, the Chief of the Audio Division responded, indicating that the extension request could

not be granted, and that it was the Division’s “expectation that the parties will adhere to the deadlines set out in the Order.”

Thus, it is clear that the Commission only turned down PVBC’s request to extend the deadline by which it was to submit a list of all legitimate and prudent costs; at no time did the Commission reject the concept of providing an update to the backup documentation associated with those legitimate and prudent costs. Entravision is flat wrong when it claims that PVBC was “aware that [the March 4 Update]” would not be entertained (Motion at 1), and Entravision’s bizarre “baseball” analogy (Motion at 3) is wholly misguided. It bears repeating that PVBC indeed did adhere to the February 24 deadline set forth in the January 2022 Order.

Frankly, it is baffling why Entravision would oppose the submission on March 4, 2022 of such updated backup documentation. That is especially the case here, when Entravision itself already had consented to an extension of time – until March 3, 2022 – for PVBC to submit such information. A real question must be raised as to the reasoning behind Entravision’s change of heart. Indeed, even the most cursory examination of the substantive differences between the February 24 Report and the March 4 Update would reveal that the only changes are to certain amounts proposed to be reimbursed. Indeed, some of the initial cost estimates actually decreased following PVBC’s receipt of certain invoices!

Throughout every step of this proceeding, Entravision has sought to thwart PVBC’s reasonable requests for reimbursement of its legitimate and prudent expenses. This is the case even though reimbursing PVBC’s legitimate and prudent expenses would be a literal drop in the bucket for Entravision, given Entravision’s vast market capitalization, which remains well north of \$500,000,000.00.<sup>4</sup> It seems obvious that Entravision’s true purpose is for PVBC to expend funds to

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<sup>4</sup> Indeed, Entravision has set its sights on earning One Billion Dollars (\$1,000,000,000.00) in revenue. See [https://www.insideradio.com/free/entravision-aims-to-become-a-billion-dollar-revenue-company/article\\_141918f0-a5bd-](https://www.insideradio.com/free/entravision-aims-to-become-a-billion-dollar-revenue-company/article_141918f0-a5bd-)

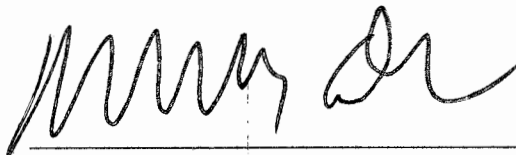
implement the forced channel change of KPPV, for which PVBC will never see one dime of reimbursement from Entravision.

In the end, any rational application of *Circleville* will yield that PVBC's list of reimbursable legitimate and prudent expenses is reasonable. The only purpose behind the March 4 Update was to provide backup documentation that was unavailable to PVBC on February 22, 2022 due to circumstances beyond PVBC's control. Based on the foregoing, the Commission must deny the Motion and consider the March 4 Update.

Respectfully submitted,

**PRESCOTT VALLEY BROADCASTING CO. INC.**

By:



Mark B. Denbo  
Its Attorney

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March 18, 2022

**CERTIFICATE OF SERVICE**

I, Mark B. Denbo, do hereby certify that a copy of the foregoing "Opposition to Motion to Strike" was mailed by First Class U.S. Mail, postage prepaid, this 18<sup>th</sup> day of March, 2022 to the following:

Barry A. Friedman, Esq.  
Thompson Hine LLP  
1919 M Street, NW, Suite 700  
Washington, DC 20036  
(Counsel to Entravision Holdings, LLC)

A handwritten signature in black ink, appearing to read 'Mark B. Denbo', written over a horizontal line.

Mark B. Denbo