



FEDERAL ELECTION COMMISSION
Washington, DC 20463

VIA CERTIFIED MAIL
AND ELECTRONIC MAIL
RETURN RECEIPT REQUESTED

July 29, 2020

Cris Ericson

Chester, VT 05143

RE: MUR 7619
Vermont ETV, Inc. d/b/a Vermont PBS

Dear Ms. Ericson:

The Federal Election Commission has considered the allegations contained in your complaint dated June 17, 2019. On July 21, 2020, based upon the information provided in the complaint, and information provided by the respondents, the Commission decided to exercise its prosecutorial discretion to dismiss the allegations as to Vermont ETV, Inc. d/b/a Vermont PBS, and closed its file in this matter. The General Counsel's Report, which more fully explains the basis for the Commission's decision, is enclosed.

Documents related to the case will be placed on the public record within 30 days. *See Disclosure of Certain Documents in Enforcement and Other Matters*, 81 Fed. Reg. 50,702 (Aug. 2, 2016), effective September 1, 2016.

The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 52 U.S.C. § 30109(a)(8). If you have any questions, please contact Don Campbell, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Lisa J. Stevenson
Acting General Counsel

A handwritten signature in blue ink, appearing to read "Jeff S. Jordan".

BY: Jeff S. Jordan
Assistant General Counsel

Enclosure
General Counsel's Report

BEFORE THE FEDERAL ELECTION COMMISSION
ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT

MUR: 7619

Respondent: Vermont ETV, Inc. d/b/a
Vermont Public Broadcasting System¹

Complaint Receipt Date: June 21, 2019

Response Date: July 31, 2019

Alleged Statutory Regulatory Violations: **52 U.S.C. §§ 30104(f)(3)(B)(iii); 30116(a)(1)(A); 30121
11 C.F.R. §§ 110.13; 114.4(f); 110.20**

The Complaint alleges that Vermont Public Broadcasting System (“Vermont PBS”) excluded the Complainant² from its candidate debates because she was an independent candidate.³ Specifically, the Complaint alleges that Vermont PBS favored Democratic and Republican Party candidates over independent candidates, and by doing so made in-kind contributions to the Democratic and Republican Party candidates.⁴ In response, Vermont PBS states that the U.S. House of Representatives candidates’ debate that it aired complied with the Commission’s candidate debate staging regulations, using pre-established selection criteria that were in no way designed to

¹ Vermont PBS is the Public Broadcasting Service member network for the state of Vermont, and is owned by Vermont ETV, Inc., a domestic nonprofit corporation.

² Complainant Cris Ericson was a candidate to represent Vermont in the U.S. House in 2018. She lost in the November 6, 2018, general election with 3.3% of the vote. She describes herself as a “perennial political candidate” who has run for federal office every two years since 2004. Compl. at 1 (June 21, 2019).

³ Compl. at 2-3.

⁴ Compl. at 3. Complainant also alleges that because Vermont PBS is able to be viewed in Canada, it is possible that Vermont PBS received donations from Canadian citizens, and may have used those funds to finance televised debates, and by doing so may have facilitated foreign national contributions to the candidates that participated in the debates. *Id.* at 3-5. The Complainant also questions whether Canadian lawyers or lobbyists paid Vermont PBS specifically to exclude her from the 2018 debates, due to her stated opposition to foreign nationals voting in U.S. elections. *Id.* at 4-5. The Complaint does not provide any information supporting these claims.

1 result in the selection of pre-chosen candidates.⁵ Respondent also asserts that it did not accept any
2 funds donated for the purpose of staging the debate at issue or any candidate debate.⁶

3 Based on its experience and expertise, the Commission has established an Enforcement
4 Priority System using formal, pre-determined scoring criteria to allocate agency resources and
5 assess whether particular matters warrant further administrative enforcement proceedings. These
6 criteria include (1) the gravity of the alleged violation, taking into account both the type of activity
7 and the amount in violation; (2) the apparent impact the alleged violation may have had on the
8 electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in
9 potential violations and other developments in the law. This matter is rated as low priority for
10 Commission action after application of these pre-established criteria. Given that low rating, the
11 lack of available information to support the Complaint's assertions, and Vermont PBS's assertions
12 that it used pre-established objective selection criteria for the debate, we recommend that the
13 Commission dismiss the Complaint consistent with the Commission's prosecutorial discretion to
14 determine the proper ordering of its priorities and use of agency resources.⁷ We also recommend
15 that the Commission close the file and send the appropriate letters.

16 Lisa J. Stevenson
17 Acting General Counsel

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20 Charles Kitcher
21 Acting Associate General Counsel
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⁵ Resp. at 1-2 (July 31, 2019). *See* 11 C.F.R. §§ 110.13 and 114.4(f). Respondents assert that Vermont ETV is a nonprofit organization which does not endorse, support, or oppose political candidates or political parties (*see* 11 C.F.R. § 110.13(a)(1)) and is a broadcaster that is not owned or controlled by a political party, political committee or candidate (*see* 11 C.F.R. § 110.13(a)(2)). *Id.* Respondents further state that the debate included at least two candidates and was not structured to promote or advance one candidate over another (*see* 11 C.F.R. § 110.13(b)); and pre-established objective criteria were used to determine which candidates participated in the debate (*see* 11 C.F.R. § 110.13(c)). *Id.*

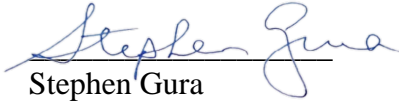
⁶ *Id.* *Cf.* 11 C.F.R. § 114.4(f).

⁷ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

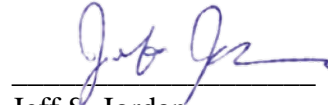
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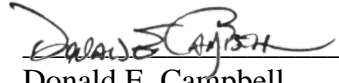
BY:



Stephen Gura
Deputy Associate General Counsel



Jeff S. Jordan
Assistant General Counsel



Donald E. Campbell
Attorney