

ORIGINAL

**BEFORE THE
Federal Communications Commission
WASHINGTON, D.C. 20554**

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JUN 16 2004

Federal Communication Commission
Bureau / Office

In the Matter of)
)
EDUCATIONAL BROADCASTING CORPORATION)
Application for Experimental Authority)
For ITFS Station WHR828)
New York, New York)

File No. 0090-EX-PL-2004
Call Sign WD2XJG

To: Office of Engineering and Technology

**OPPOSITION TO
HITN LIMITED OBJECTION AND REQUEST FOR CONDITIONS**

Educational Broadcasting Corporation (“EBC”) hereby opposes the Limited Objection and Request for Conditions filed June 10, 2004 by Hispanic Information and Telecommunications Network, Inc. (“HITN”) in the captioned proceeding.

HITN claims that it holds a construction permit for a co-channel ITFS station at Central Islip, Long Island, which “could be adversely affected by the proposed two-way experiment.” However, as shown below, the HITN facility is not operational; the proposed experiments are unlikely to cause interference to the HITN facility even if it were operational; and if interference to an operating HITN facility were to occur, EBC would immediately discontinue the harmful transmissions as required by the Commission’s Rules. Therefore, the Limited Objection should be dismissed.

DISCUSSION

1. **The HITN ITFS System Is Not Operational.** In response to a June 14, 2004 e-mail inquiry from the FCC's Anthony Serafini requesting the target operation date for the facilities that HITN asserts could receive interference, HITN's counsel responded that "we intend to begin operating these channels in a reasonably prompt manner. . . ." Not only does counsel fail to provide a projected on-air date, the permit in question does not expire for more than sixteen months: it reflects a construction deadline of October 30, 2005.¹ At this point, a claim of interference is mere speculation.

2. **There is Little Likelihood of Interference.** The spectrum in question is already licensed to EBC for high-power one-way operation from the top of the Empire State Building. It has been regularly utilized by EBC for many years to transmit several hours of instructional programming each day to a number of area schools. In contrast, the proposed experimental uses will be of short duration and, for the most part, at ground level. Therefore, even assuming the HITN facilities at issue were operational, it is unlikely that they would experience new interference from EBC's proposed experimental operations.

3. **If Harmful Interference to HITN Should Nevertheless Occur, EBC Will Immediately Cease Transmissions As Required by the FCC's Rules.** EBC is fully aware that FCC experimental authorizations are granted on a strict non-interference basis, and that experimental transmissions that cause harmful interference to a licensed service must be terminated. 47 C.F.R. §§ 5.85(c), 5.111(a)(2). If HITN's ITFS facility

¹ A reference copy of this permit is attached.

were operational and EBC's experimental operations were causing harmful interference to that facility, EBC would diligently adhere to the letter and spirit of the cited non-interference rules.

4. The Objectives of the HITN Limited Objection Disserve the Public Interest. The Limited Objection was plainly filed to gain leverage over EBC in the parties' related, but entirely separate, dispute concerning whether HITN's application for a Central Islip, NY ITFS facility should have been granted. Indeed, the Limited Objection requires EBC to agree to HITN's proposed resolution of that dispute before HITN will withdraw its objection to EBC's experimental application. However, there is no necessary legal, technical or other linkage between the two proceedings, and it is inappropriate for HITN to file a meritless objection in one proceeding to attempt to gain an advantage in another.

Moreover, despite HITN's claim that it "has no desire to inhibit a neighboring ITFS licensee from conducting tests of next generation two-way equipment with possible benefits for public safety in and around the New York City area," that is the precise intent and potential effect of the Limited Objection. As EBC's experimental application reflects, it has partnered with both the NYPD and the FDNY to test potential applications of its ITFS spectrum in various emergency response situations under a subcontract involving the National Geospatial-Intelligence Agency. The tests will occur in the market that felt the primary brunt of the September 11, 2001 terrorist attacks. HITN's self-serving attempt to derail these tests based on speculative injury to an unbuilt ITFS facility not only disserves the public interest, it is an unconscionable misuse of the Commission's processes.

CONCLUSION

For all of the foregoing reasons, the Commission should deny HITN's Limited Objection and Request for Conditions.

Respectfully submitted,

EDUCATIONAL BROADCASTING CORPORATION

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June 16, 2004

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**Federal Communications Commission
Wireless Communications Bureau**

Radio Station Authorization (Reference Copy)

This is not an official FCC license. It is a record of public information contained in the FCC's licensing database on the date that this reference copy was generated. In cases where FCC rules require the presentation, posting, or display of an FCC license, this document may not be used in place of an official FCC license.

LICENSEE: HISPANIC INFORMATION AND TELECOMMUNICATIONS NETWORK INC

HISPANIC INFORMATION AND TELECOMMUNICATIONS NETWORK INC
449 BROADWAY, THIRD FLOOR
NEW YORK, NY 10013

Call Sign: WQAB902
File Number:
Radio Service: VX
Grant Date: 04/30/2004
Expiration Date: 04/30/2014
Print Date: 06/15/2004

FRN: 0006620348
FAC ID: 81097

Facility Type: IF - INSTRUCTIONAL TELEVISION FIXED SERVICE

TRANSMITTER ANTENNA LOCATION:

Street:	WHEELER RD AND LONG ISLAND PKWY, CENTRAL ISLIP, SUFFOLK, NY	City:	CENTRAL ISLIP
State:	NY	County:	SUFFOLK
Latitude:	40-48-11.4 N	Longitude:	073-12-24.4 W
Ground Elevation:	34.1(meters)	Antenna Registration No:	1006410

ANTENNA:

No.	Make	Model	Azim	Beam Tilt	Ht to Ctr AGL(m)	POL
1	AND	HMD12VO	360.0		89.0	V
2	AND	HMD12VO	360.0	0.0	70.0	V

FREQUENCY:

CHNL	ANT	Frequency (MHZ)	Offset	EIRP (dBm)	Construction Deadline Date
C1	1	2548.00000 - 2554.00000	0	51.7	10/30/2005
C2	1	2560.00000 - 2566.00000	0	51.7	10/30/2005
C3	1	2572.00000 - 2578.00000	0	51.7	10/30/2005
C4	2	2584.00000 - 2590.00000	0	51.7	10/30/2005

EMISSION:

CHNL	ANT	Emission Designators	Modulation	Emission Designators	Modulation
C1	1	250KF3E		5M75C3F	
C2	1	250KF3E		5M75C3F	
C3	1	250KF3E		5M75C3F	
C4	2	5M75C3F		250KF3E	

PROTECTED SERVICE AREA:

56.33KM RADIUS OF 40-48-11.4 N,073-12-24.4 W

RECEIVE SITES:

No.	Latitude	Longitude	NAD	ANT	Make	ANT Model	POL Type
3	40-43-23.4 N	073-25-58.4 W	83	R	AND	49001A(H)	H
4	40-43-18.4 N	073-42-05.5 W	83	R	LAN	2572	H
5	40-43-16.4 N	073-42-27.5 W	83	R	LAN	2572	H
6	40-43-06.4 N	073-40-35.5 W	83	R	LAN	2572	H
7	40-42-38.4 N	073-32-35.5 W	83	R	AND	49001A(H)	H

8	40-42-28.4 N	073-40-32.5 W	83	R	LAN	2572	H
9	40-42-19.4 N	073-38-35.5 W	83	R	LAN	2548	H
10	40-42-10.4 N	073-35-48.5 W	83	R	MARK	HP25A72	H
11	40-41-59.4 N	073-40-52.5 W	83	R	LAN	2572	H
12	40-41-52.4 N	073-25-55.4 W	83	R	MARK	HP25A72	H
13	40-41-50.4 N	073-18-31.4 W	83	R	AND	49001A(H)	H
14	40-41-41.4 N	073-33-51.5 W	83	R	MARK	HP25A72	H
15	40-41-40.4 N	073-42-59.5 W	83	R	MARK	HP25A72	H
16	40-41-28.4 N	073-28-55.4 W	83	R	MARK	HP25A72	H
17	40-41-08.4 N	073-22-17.4 W	83	R	AND	49001A(H)	H
18	40-40-41.4 N	073-24-59.4 W	83	R	AND	49001A(H)	H
19	40-40-22.4 N	073-29-13.5 W	83	R	AND	49001A(H)	H
20	40-40-10.4 N	073-39-26.5 W	83	R	LAN	2572	H
21	40-40-00.4 N	073-28-11.4 W	83	R	AND	49001A(H)	H
22	40-39-59.4 N	073-31-37.5 W	83	R	AND	49001A(H)	H
23	40-39-41.4 N	073-41-50.5 W	83	R	LAN	2572	H
24	40-51-27.4 N	073-12-23.4 W	83	R	AND	49001A(H)	H
25	40-51-09.4 N	073-16-29.4 W	83	R	AND	49001A(H)	H
26	40-49-10.4 N	073-30-01.4 W	83	R	AND	49001A(H)	H
27	40-47-15.4 N	073-12-02.4 W	83	R	AND	49001A(H)	H
28	40-46-32.4 N	073-30-04.4 W	83	R	AND	49001A(H)	H
29	40-46-14.4 N	073-05-18.4 W	83	R	AND	49001A(H)	H
30	40-45-58.4 N	073-31-10.5 W	83	R	AND	49001A(H)	H
31	40-45-42.4 N	073-01-00.4 W	83	R	AND	49001A(H)	H
32	40-45-30.4 N	073-38-41.5 W	83	R	LAN	2548	H
33	40-45-20.4 N	073-14-40.4 W	83	R	AND	49001A(H)	H
34	40-45-18.4 N	073-19-40.4 W	83	R	AND	49001A(H)	H
35	40-45-17.4 N	073-35-35.5 W	83	R	LAN	2548	H
36	40-45-07.4 N	073-31-41.5 W	83	R	AND	49001A(H)	H
37	40-44-59.4 N	073-41-02.5 W	83	R	LAN	2572	H
38	40-44-41.4 N	073-38-11.5 W	83	R	LAN	2548	H
39	40-44-21.4 N	073-07-27.4 W	83	R	AND	49001A(H)	H
40	40-44-17.4 N	073-28-46.4 W	83	R	AND	49001A(H)	H
41	40-39-32.4 N	073-40-28.5 W	83	R	LAN	2572	H
42	40-39-29.4 N	073-41-07.5 W	83	R	LAN	2572	H
43	40-39-19.4 N	073-35-06.5 W	83	R	LAN	2548	H
44	40-43-52.4 N	073-41-16.5 W	83	R	LAN	2572	H
45	40-43-49.4 N	073-18-04.4 W	83	R	AND	49001A(H)	H
46	40-43-37.4 N	073-14-51.4 W	83	R	AND	49001A(H)	H
47	40-43-30.4 N	073-31-14.5 W	83	R	AND	49001A(H)	H
48	40-52-54.4 N	073-09-53.4 W	83	R	AND	49001A(H)	H
49	40-38-53.4 N	073-40-10.5 W	83	R	LAN	2572	H
50	40-38-25.4 N	073-38-46.5 W	83	R	LAN	2572	H
51	40-37-21.4 N	073-43-18.5 W	83	R	LAN	2572	H
52	40-35-05.4 N	073-41-05.5 W	83	R	LAN	2572	H
53	40-45-36.4 N	073-30-11.4 W	83	R	ANDREW	49011A	V

WAIVERS/CONDITIONS
Conditions

Pursuant to Section 309(h) of the Communications Act of 1934, as amended, 47 U.S.C. Section 309(h), this license is subject to the following conditions: This license shall not vest in the licensee any right to operate the station nor any right in the use of the frequencies designated in the license beyond the term thereof nor in any other manner than authorized herein. Neither the license nor the right granted thereunder shall be assigned or otherwise transferred in violation of the Communications Act of 1934, as amended. See 47 U.S.C. Section 310(d). This license is subject in terms to the right of use or control conferred by Section 606 of the Communications Act of 1934, as amended. See 47 U.S.C. Section 606.

License Special Conditions

Prior to the commencement of service on the C1 channel pursuant this authorization, the permittee/licensee shall pay all costs necessary to upgrade the WGM95 receive site antennas R10 (N Lat 41-00-25.0, W Long 73-44-10.0), R12 (N Lat 41-01-09.0, W Long 73-44-15.0), R14 (N Lat 40-37-51.0, W Long 73-44-09.0), R15 (N Lat 40-45-52.0, W Long 73-42-17.0), and R16 (N Lat 40-41-01.0, W Long 73-42-58.0) with Mark HP25A72 (or better) antennas.

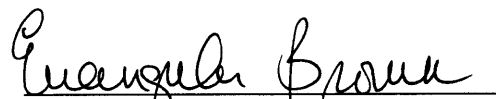
CERTIFICATE OF SERVICE

I, Evangula Brown, hereby certify that a copy of the foregoing "Opposition to HITN Limited Objection and Request for Conditions" was sent by first-class mail (unless otherwise indicated) this 16th day of June, 2004 to:

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