

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

In the Matter of Application of)
)
HISPANIC INFORMATION &) File No. IF-20030225AAA
TELECOMMUNICATIONS NETWORK, INC.)
)
For Authority to Make Major Changes to)
Instructional Television Fixed Service Station)
WLX362, Orlando, Florida)
)

MEMORANDUM OPINION AND ORDER

Adopted: February 19, 2004

Released: February 20, 2004

By the Deputy Chief, Broadband Division, Wireless Telecommunications Bureau:

1. In this Memorandum Opinion and Order, we address the Hispanic Information & Telecommunication Network's (HITN) above-captioned application to modify and operate an Instructional Television Fixed Service (ITFS) station on Channels B1 through B4 in Orlando, Florida. Additionally we address the petition to deny filed by Radio Training Network, Inc. (RTN) and the University of Central Florida (UCF) against HITN's application. For the reasons stated below, we grant RTN's and UCF's consolidated petition to deny.

2. Background. ITFS stations are intended primarily to provide a formal educational and cultural development in aural and visual form. The Commission's Rules envision that ITFS licensees will make extensive use of the spectrum to provide formal classroom instruction, distance learning, and videoconference capability to a wide variety of users. HITN filed an ITFS application for major change on February 25, 2003. HITN's application was accepted for filing on March 5, 2003. On April 11, 2003, RTN and UCF, the respective licensees of ITFS Stations WLX385, Lakeland, Florida and WHR493, Orlando, Florida filed a joint petition to deny against HITN's application. On April 24, 2003,

1 The B Group channels are located at 2506-2612 MHz, 2518-2524 MHz, 2530-2536 MHz, and 2542-2648 MHz. See 47 C.F.R. § 74.902(a).

2 Petition to Deny filed by Radio Training Network, Inc. and the University of Central Florida (filed Apr. 11, 2003) (Petition).

3 47 C.F.R. § 74.931.

4 Id.

5 File No. IF-20030225AAA.

6 Wireless Telecommunications Bureau Multipoint Distribution Service and Instructional Television Fixed Service Applications Accepted for Filing, Public Notice, Report No. 1431 (rel. Mar. 5, 2003).

7 Petition (filed Apr. 11, 2003).

HITN filed a consolidated opposition and request to hold processing in abeyance.⁸ On May 6, 2003, RTN and UCF filed a reply.⁹

3. Petitioner RTN is the licensee of ITFS Station WLX385 (operating on the B Group channels in Lakeland, Florida). On December 3, 1991, RTN was granted a construction permit for its facilities at a site in Lakeland, Florida.¹⁰ On December 3, 2001, RTN's license for Station WLX385 was renewed.¹¹

4. Petitioner UCF is the licensee of ITFS Station WHR493 (operating on the C Group¹² channels in Orlando, Florida). On July 22, 1983, UCF was granted a construction permit for its facilities at a site in Orlando, Florida.¹³ The license for Station WHR493 expires on July 29, 2007.¹⁴

5. *Discussion.* In their petition, RTN and UCF provide an engineering statement that purports to show that HITN's proposed facility will cause harmful interference to Station WLX385 and WHR493.¹⁵ In its opposition, HITN agrees with the RTN's and UCF's claims of interference while stating that more time is needed to obtain consent agreements.¹⁶ In its reply, RTN and UCF reiterate their objection to HITN's application.¹⁷

6. Section 74.903(a)(1) and 74.903(a)(2) of the Commission's Rules requires the applicant to engineer its ITFS system(s) to provide at least 45 dB of co-channel interference protection and 0 dB of adjacent channel interference protection, respectively, within the protected service area (PSA) of all other authorized or previously proposed stations.¹⁸ We conclude that RTN's and UCF's petition proves that HITN's application is defective. The engineering statement attached to the petition provides maps showing predicted interference and the results of the engineer's calculations. Moreover, as noted above, HITN concedes that its application does not comply with the Commission's interference rules.

7. We deny HITN's request that we leave its application in abeyance while it attempts to negotiate with RTN and UCF. Pursuant to Section 74.903 of the Commission's Rules,¹⁹ an application for an ITFS station must protect previously proposed facilities from interference and will not be granted if interference is predicted to occur. It is vital that applicants demonstrate compliance with Section 74.903

⁸ Opposition (filed Apr.24, 2003).

⁹ Reply (filed May. 6, 2003) (Reply).

¹⁰ File No. BPIF-19910122BB (granted Dec. 3, 1991).

¹¹ File No. BRIF-20010622AAB (granted Dec. 3, 2001). See Mass Media Bureau Multipoint Distribution Service and Instructional Television Fixed Service Applications Accepted for Filing, *Public Notice*, Report No. 605 (rel. Dec. 6, 2001).

¹² The C Group channels are located at 2548-2554 MHz, 2560-2566 MHz, 2572-2578 MHz, and 2584-2590 MHz. See 47 C.F.R. § 74.902(a).

¹³ File No. BPIF-19830526DG (granted Jul. 22, 1983).

¹⁴ See License for Station WHR493.

¹⁵ Petition, Engineering Statement of Jeffrey C. Gehman Associates, Inc.

¹⁶ Opposition at 1, 2.

¹⁷ See Reply.

¹⁸ 47 C.F.R. §§ 74.903(d)(1), (2).

¹⁹ 47 C.F.R. § 74.903.

at the time the original application is filed. Since HITN's application was defective when filed, we will dismiss that application.²⁰

8. Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309, and Section 74.912 of the Commission's Rules, 47 C.F.R. § 74.912, that the Petition to Deny filed by Radio Training Network, Inc. and University of Central Florida on April 11, 2001, against the above-captioned application IS GRANTED.

9. IT IS FURTHER ORDERED, pursuant to Sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309, and Sections 74.903 and 74.912 of the Commission's Rules, 47 C.F.R. §§ 74.903, 74.912, that the application filed by Hispanic Information & Telecommunications Network, Inc. (File No. IF-20030225AAA) SHALL BE DISMISSED consistent with this *Memorandum Opinion and Order*.

FEDERAL COMMUNICATIONS COMMISSION

John J. Schauble
Deputy Chief, Broadband Division
Wireless Telecommunications Bureau

²⁰ See Educational Television Association of Metropolitan Cleveland, Inc., *Memorandum Opinion and Order*, 18 FCC Rcd 15117, 15120 ¶ 7 (2003); Hispanic Information and Telecommunications Network, Inc., *Memorandum Opinion and Order*, 18 FCC Rcd 19300, 19303 ¶ 11 (WTB PSPWD 2003); Hispanic Information and Telecommunications Network, Inc., *Memorandum Opinion and Order*, 18 FCC Rcd 19296, 19298 ¶ 7 (WTB PSPWD 2003) (*applications for review pending*).