

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

In the Matter of)
)
WHTV BROADCASTING CORP. d/b/a/) DA 06-968
DIGITAL TV ONE)
)
Request for Permanent Waiver of Commission)
Rules Regarding Transition of Broadband Radio)
Service and Educational Broadband Service to)
Revised Band Plan)
)
And)
)
CARIBBEAN UNIVERSITY) File No. 0002444563
)
Application to make Modifications to Educational)
Broadband Service Station WLX315)
)

MEMORANDUM OPINION AND ORDER

Adopted: January 29, 2007

Released: January 29, 2007

By the Deputy Chief, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. The Wireless Telecommunications Bureau (Bureau) has before it a request by WHTV Broadcasting Corp. d/b/a/ Digital TV One (Digital TV One), seeking a waiver of Section 27.1230-27.1239 of the Commission's rules for itself and all of its Broadband Radio Service (BRS) and Educational Broadband Service (EBS) licensees/lessors. Hispanic Information and Telecommunications Network, Inc. (HITN) and Sisterna Universitario Ana G. Mendez, Inc. (Mendez), both EBS licensees,

1 Waiver Request (filed Sept. 30, 2005) (Waiver Request). Sections 27.1230-27.1239 of the Commission's rules concern the transition of Broadband Radio Service (BRS) and Educational Broadband Service (EBS) to the band plan adopted by the Commission in the BRS/EBS Report and Order. 47 C.F.R. § § 27.1230-27.1239. See Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, Report and Order and Further Notice of Proposed Rulemaking, WT Docket No. 03-66, 19 FCC Rcd 14165 (2004) (BRS/EBS R&O and FNPRM as appropriate).

2 Digital TV One's nine licensees/lessors are as follows: Station WLX321 (Channels A1-A4/ Catholic Archdiocese of San Juan); Station WLX323 (Channels B1-B4/University of Puerto Rico); Station WLX315 (Channels C1-C4/Caribbean University); Station WLX322 (Channels D1-D4/ Puerto Rico Medical Association); Station WHT654 (E1-E4/Victor Ginorio Gomez); Station WHT655 (Channels F1-F4/Fundacion Sala, Inc.); Station WNTF632 (Channel H1/ Fundacion Sala, Inc.); Station WNTB423 (Channel H2/ Fundacion Sala, Inc.); and Station WNTB467 (Channel H3/ Fundacion Sala, Inc.). Waiver Request (filed Sept. 30, 2005) at 5 (Waiver Request).

3 Petition to Deny (filed Dec. 1, 2005) (HITN Opposition). HITN holds over 60 station authorizations in the EBS for facilities throughout the United States including the following B and D group stations in Puerto Rico: Fajardo (continued....)

filed oppositions. Islanet, Inc., a Mendez lessee, filed comments in support of Mendez's opposition.⁵ The Bureau also has before it an application filed by Caribbean University (Caribbean) to modify its license for EBS Station WLX315, which Digital TV One uses in connection with its wireless cable system, to add seven booster facilities to its license,⁶ as well as a petition to deny that application filed by HITN.⁷ For the reasons discussed below, the Bureau grants Digital TV One's Waiver Request, denies the HITN Petition to Deny, and directs the Bureau's Broadband Division to process the Booster Application.

II. BACKGROUND

2. On July 29, 2004, the Commission released a *Report and Order and Further Notice of Proposed Rulemaking (BRS/EBS R&O)* that revamped the rules and policies governing the licensing of services in the 2500-2690 MHz band.⁸ Prior to the *BRS/EBS R&O*, the technical rules and band plan for the 2500-2690 MHz band were designed primarily to promote wireless cable and educational television services, which resulted in licensees receiving interleaved channel groups instead of contiguous channel blocks.⁹ In most areas of the country, however, the deployment of wireless cable was not successful.

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(WNC698 and WNC706), Jayuya (WND680 and WND679), Maricao (WND557 and WND558) and Aguadilla (WNC700 and WNC725) *Id.* at 3. When the Commission increased the size of the protected service area from 15 miles to 35 miles, six of the PSAs awarded to HITN significantly overlap the PSAs of the relevant co-channel and adjacent channel San Juan stations. *Id.* at 4. Digital TV One filed an opposition on December 28, 2005. Opposition of Digital TV One to Petition to Deny (filed Dec. 28, 2005). HITN filed a reply on January 23, 2006. Reply to Opposition (filed Jan. 23, 2006). HITN also filed a Supplement to Reply on January 30, 2006. Supplement to Reply (filed Jan. 30, 2006) (HITN Supplement to Reply). After these pleadings were filed, the Wireless Telecommunications Bureau sought comment on the Waiver Request but noted that the HITN Opposition and responsive pleadings would be incorporated into the record and considered together with the Waiver Request. *See* Wireless Telecommunications Bureau Seeks Comment on Request by WHTV Broadcasting Company d/b/a Digital TV One For Waiver of Requirement to Transition to New BRS/EBS Band Plan, *Public Notice*, 21 FCC Rcd 5015, 5017 (WTB 2006) (*Comment Public Notice*).

⁴ Petition to Deny (filed Jan. 9, 2006) (Mendez Opposition). Mendez developed an island-wide EBS system connecting East University, Metropolitan University, and the University of Turabo as well as students at other campuses throughout Puerto Rico. *Id.* at 2. Mendez EBS network consists of nine EBS stations, which are located in the following municipalities throughout Puerto Rico: Jayuya (Station WLX661/A-group channels); Gurabo (Station WLX662/C-group channels); Aguadilla (Station WLX663/C-group channels); Ceiba (Station WNC703/C-group channels); Aguas Buenas, serving San Juan (Station WLX664/G-group channels); Cayey (Station WNC864/G-group channels); Maricao (Station WNC693/G-group channels); Humacao (Station WNC694/G-group channels); and Guayama (Station WNC695/G-group channels). *Id.* at 2.

⁵ Islanet, Inc. Comments (filed May 17, 2006) (Islanet Comments). Pursuant to the schedule established in the *Comment Public Notice*, Digital TV One opposed the Mendez Opposition and Islanet Comments on May 30, 2006. Opposition of Digital TV One to Petition to Deny and Comments (filed May 30, 2006).

⁶ File No. 0002444563 (Booster Application).

⁷ Petition to Deny (filed Jan. 30, 2006) (HITN Petition to Deny). Caribbean and Digital TV One jointly opposed the HITN Petition to Deny on February 13, 2006. Opposition to Petition to Deny (filed Feb. 13, 2006) (Caribbean Opposition). HITN filed a reply on February 23, 2006. Reply to Opposition (filed Feb. 23, 2006) (HITN Reply).

⁸ *See* Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, *Report and Order and Further Notice of Proposed Rulemaking*, WT Docket No. 03-66, 19 FCC Rcd 14165 (2004) (*BRS/EBS R&O* and *FNPRM* as appropriate).

⁹ In the EBS and BRS services, channels are usually licensed in groups of four. When EBS was created, EBS reception equipment could not receive adjacent channels without interference. Thus, the Commission interleaved the A block channels with the B block channels, the C block channels with the D block channels, the E block

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3. Consequently, in the *BRS/EBS R&O*, the Commission developed a new band plan and technical rules that permits a range of new and innovative wireless services in the 2500-2690 MHz band and gives licensees contiguous channel blocks.¹⁰ The new band plan consists of two low-power segments, the Lower Band Segment (LBS) and the Upper Band Segment (UBS), and a high-power segment, the Middle Band Segment (MBS).¹¹ The channel configuration and the technical rules for the LBS and UBS are designed to permit a range of wireless services.¹² The MBS, in contrast, consists of seven high-power channels and is designed for the transmission of video programming, for those licensees that still wish to provide such programming.¹³ The *BRS/EBS R&O* further established a plan to transition EBS and BRS licensees from their interleaved channel locations to their new channels locations in the LBS, UBS, or MBS.¹⁴ Not all licensees, however, are required to transition to the new band plan and technical rules. The *BRS/EBS R&O* permitted certain Multichannel Video Programming Distributors (MVPD) to seek a waiver from the Commission to “opt-out” of the transition, thus permitting them to continue high-power, high-site operations throughout the entire 2500-2690 MHz band.¹⁵ On April 27, 2006, the Commission released the *Third Memorandum Opinion and Order and Second Report and Order (3rd MO&O)*, in which it affirmed its decision to consider these waivers on a case-by-case basis.¹⁶

4. Digital TV One asks on behalf of itself and its licensees/lessors to “opt-out” of the transition of the 2500-2690 MHz band and seeks a waiver of Section 27.1230-27.1239 of the Commission’s rules for itself and all of its licensees/lessors.¹⁷ In addition, Digital TV One requests that the waiver state that:

- Digital TV one and its EBS and BRS channel lessors will have permanent authority to operate pursuant to Section 27.1209 on the “pre-transition” BRS/EBS band plan set forth in Section 27.5(i)(1);

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channels with the F block channels and the G block channels with the H block channels. See Amendment of Parts 1, 21, 73, 74 and 101 of the Commission’s Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, *Notice of Proposed Rulemaking and Memorandum Opinion and Order*, WT Docket No. 03-66, 18 FCC Rcd 6722, 6744 ¶ 47 (2003) (*NPRM*).

¹⁰ See *BRS/EBS R&O*, 19 FCC Rcd. 14165, 14168 ¶ 4.

¹¹ *Id.* at 14169 ¶ 6.

¹² *Id.* at 14168 ¶ 4.

¹³ *Id.* at 14185-14186 ¶ 4.

¹⁴ *Id.* at 14197-14198 ¶ 72.

¹⁵ *Id.* at 14199-14200 ¶ 77.

¹⁶ Amendment of Parts 1, 21, 73, 74 and 101 of the Commission’s Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, *Third Memorandum Opinion and Order and Second Report and Order*, WT Docket No. 03-66, 21 FCC Rcd. 5606, 5645 ¶ 72 (2006) (*3rd MO&O*). In the *3rd MO&O* the Commission also granted WATCH TV’s request to opt-out of the transition of the 2.5 GHz band in Lima, Ohio. *Id.* at ¶ 84.

¹⁷ Waiver Request at Executive Summary. Sections 27.1230-27.1239 of the Commission’s rules concern the transition of BRS and EBS to the band plan adopted by the Commission in the *BRS/EBS R&O*. 47 C.F.R. § § 27.1230-27.1239. See Amendment of Parts 1, 21, 73, 74 and 101 of the Commission’s Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, *Report and Order and Further Notice of Proposed Rulemaking*, WT Docket No. 03-66, 19 FCC Rcd 14165 (2004) (*BRS/EBS R&O* and *FNPRM* as appropriate).

- Digital TV One and its EBS and BRS channel lessors must participate in good faith in any transition planning process relating to any geographic area that overlaps their GSAs. In conjunction with any transition, Digital TV One and its EBS and BRS channel lessors will subsequently make such modifications to their facilities at the proponent's expense as the proponent may reasonably request in an effort to reduce interference to licensees in other markets that are transitioning, provided that such modifications can be accomplished without cumulatively resulting in more than *de minimus* reduction in Digital TV One's ability to serve its then-existing subscribers;
- Every main, booster, and base station currently used in conjunction with Digital TV One's system shall be permitted to continue operating under the maximum EIRP limits set forth for "pre-transition" operations in Section 27.50(h)(1)(i) and (ii);
- Any channels used for the transmission of digital video programming on Digital TV One's system shall be permitted to continue operating under the "pre-transition" emission limits for digital video programming channels set forth in Section 27.53(l)(3);
- Consistent with Section 27.55(a)(4)(i), all of the BRS and EBS channels in Digital TV One's system will be permitted to operate at any point along their respective GSA boundaries at the greater signal strength of 47 dBu or the strength authorized in their underlying licenses as of January 10, 2005;
- Section 27.1220 (regarding the 5.5 MHz wide channels in the LBS and UBS) and 27.1222 (regarding the establishment of guardbands around the MBS) shall not be applicable to Digital TV One and its EBS and BRS channel lessors; and
- Digital TV One and its EBS and BRS channel lessors shall not be subject to the height benchmarking obligations set forth in Section 27.1221.

5. Mendez and HITN argue that permitting Digital TV One to opt-out of the transition will prohibit all other BRS and EBS licensees in Puerto Rico from transitioning.¹⁸ Mendez further argues that the opt-out option was originally presented in the BRS/EBS proceeding as a possible escape valve for systems that, by virtue of their rural and isolated nature, would have little or no impact on other systems and licensees, and by virtue of their limited subscriber base, would not easily support the re-investment necessary to rebuild more efficient and effective facilities.¹⁹ Mendez further states that permitting a waiver here – in the major metropolis of San Juan with over 2 million inhabitants – and then by necessity throughout the entire island of Puerto Rico, would stand these public interest considerations on their heads.²⁰

6. On January 12, 2006, Caribbean University, the licensee of EBS Station WLX315 and an entity that leases its excess capacity to Digital TV One, filed an application to add seven booster facilities throughout its geographic service area.²¹ HITN filed a petition to deny that application on January 30,

¹⁸ Mendez Opposition at 1, HITN Opposition at 2.

¹⁹ Mendez Opposition at 7.

²⁰ *Id.* at 7-8.

²¹ Booster Application. Normally, a licensee may add booster facilities within its geographic service area without seeking individual Commission approval. 47 C.F.R. § 27.1209(b). In this case, however, because notification is required to the Arecibo Observatory in Puerto Rico, a separate application is required. 47 C.F.R. §§ 1.924(d), 27.1209(b)(1)(iii).

2006.²² HITN argues that if Station WLX315 is allowed to opt out of the transition and if HITN's Station WLX706 transitions to the new band plan, Station WLX315 would become co-channel to Station WLX706.²³ HITN contends that the facilities proposed in the Booster Application would result in signal levels within the GSA of Station WLX706 in excess of those permitted under Section 27.55 of the Commission's Rules.²⁴ In response, Caribbean University and Digital TV One contend that HITN's objection should be dismissed as speculative because HITN has not shown that it will transition to the new band plan and because HITN does not dispute that the proposed facilities currently comply with the signal strength limitations contained in Section 27.55 of the Commission's Rules.²⁵ The parties also dispute whether the proposed facilities would comply with Section 27.55 of the Commission's Rules if an opt-out waiver was granted to Digital TV One and HITN transitioned to the new band plan.²⁶

III. DISCUSSION

7. In the *BRS/EBS R&O*, the Commission found that it is in the public interest to consider waivers of the rules requiring licensees to transition to the new band plan and to comply with the new technical rules.²⁷ Specifically, the Commission found that it is in the public interest to consider waivers on a case-by-case basis for those operators or their affiliates that meet the definition of a multichannel video programming distributor in Section 522 of the Communications Act of 1934, as amended, and that provide MVPD service to five percent or more of the households within their respective geographic service areas (GSAs) (the calculation made in accordance with the requirements Section 76.905(c)²⁸ of the Commission's Rules).²⁹ The Commission further found that it is in the public interest to consider waivers for any BRS or EBS licensee that is co-located with any qualified MVPD licensee that elects to opt-out.³⁰ The Commission further found that it is in the public interest to consider waivers for those BRS licensees that have a viable business for high-powered operations, but who need more than seven digitized high-powered MBS channels to deliver their service to their customers.³¹

8. In reviewing requests to waive the rules, the Commission stated that it would consider the actions taken by MVPD or BRS licensees to minimize the affect of interference on neighboring markets, as well as the licensee's explanation as to why it cannot work within the transition rules adopted by the Commission.³² The Commission stated that waivers will be granted if it is shown that: (i) the underlying purpose of the rules(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or (ii) in view of the unique or unusual

²² HITN Petition to Deny.

²³ HITN Petition to Deny at 2.

²⁴ HITN Petition to Deny at 2.

²⁵ Caribbean Opposition.

²⁶ Compare Caribbean Opposition, Engineering Statement of James C. Cornelius in Opposition of a Petition to Deny by HITN and HITN Reply, Technical Statement of Jeffrey C. Gehman of the Firm of Kessler and Gehman Associates, Inc. Consulting Engineers in Support of a Reply to Opposition to Petition to Deny by HITN.

²⁷ *BRS/EBS R&O*, 19 FCC Rcd. 14165, 14199 ¶ 77.

²⁸ 47 CFR § 76.905(c).

²⁹ *BRS/EBS R&O*, 19 FCC Rcd. 14165, 14199 ¶ 77.

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.³³

9. The Bureau believes that Digital TV One has shown that requiring it to transition to the new band plan and technical rules would be inequitable, unduly burdensome or contrary to the public interest. First, Digital TV One has shown that it cannot transition to the new band plan because its BRS/EBS system uses more than seven digitized channels to deliver digitally compressed multichannel video service programming.³⁴ Digital TV One uses all of the BRS spectrum and all but the four G-group EBS³⁵ channels at 2500-2690 MHz band in and around San Juan, PR to provide over 110 channels of video and audio service to thousands of subscribers, in addition to wireless broadband internet access service.³⁶ As stated above, under the *BRS/EBS R&O*, Digital TV One is not required to show that it provides service to at least five percent of the households within its geographic service area if it can show that it needs more than seven digitized channels and has a viable business for high-powered operations. The Bureau therefore rejects the arguments made by HITN and Mendez that Digital TV One's waiver request is defective because Digital TV One did not show that it provides service to at least five percent of the households within its geographic service area.³⁷

10. Second, Digital TV One has shown that it has developed a viable business. Unlike most wireless cable providers, Digital TV One has been able to establish a successful business providing wireless cable to the citizens of San Juan, Puerto Rico. For the past eighteen years, Digital TV One has spent millions of dollars to transform its service from an initial 8-channel analog video-only service to a service that provides over 110 channels of digital video programming and wireless broadband internet service.³⁸ Although Mendez argues that Digital TV One should be required to provide the number of its video subscribers and whether that number is rapidly declining, the Bureau declines to require such information in this instance.³⁹ As indicated above, the Bureau believes that Digital TV One has established that it is a viable business because it has been able to establish a wireless cable business when most other entities could not, it has remained in business for eighteen years, and has continued its commitment to developing its business by, for instance, being one of the first commercial systems in the United States and its territories to deploy digital wireless cable service.

11. In that regard, the Bureau notes that HITN and Mendez contend that allowing Digital TV One to opt out of the transition will make it more difficult for them to transition to the new band plan and limit the services they can provide.⁴⁰ While they have shown that such difficulties exist, they do not offer any alternative short of requiring Digital TV One to cease operating its existing system. The Bureau finds that the resulting impact on Digital TV One's customers, employees, and owners would not be in the public interest. The Bureau rejects Mendez's suggestion that the Commission intended to limit opt-outs to rural, isolated areas.⁴¹ While impact on neighboring licensees is a factor to consider in connection with opt out requests, the Commission never limited such requests to rural or isolated areas. Indeed, the waiver granted to WATCH TV for Lima, Ohio was not for an isolated area.

³³ Id. at 14199-14200, ¶ 77. 47 C.F.R. § 1.925(b)(3).

³⁴ Waiver Request at 2.

³⁵ The G-group channels are used by the Mendez system. Mendez Opposition at 2-3.

³⁶ Waiver Request at Executive Summary.

³⁷ Mendez Petition at 5, HITN Petition at 6-7.

³⁸ Waiver Request at 6.

³⁹ See Mendez Petition at 8.

⁴⁰ See HITN Opposition at 7-10, HITN Supplement to Reply, Mendez Opposition at 6-8.

⁴¹ Mendez Opposition at 7.

12. The Bureau also notes that Digital TV One represents that it is prepared to participate in the transition planning process in good faith, and to subsequently make such modifications to its facilities at the proponent's expense as the proponent may reasonably request in an effort to reduce interference to licensees in other markets that are transitioning, provided that such modifications can be accomplished without effecting more than a *de minimis* reduction in Digital TV One's ability to serve its then existing subscribers.⁴² The Bureau therefore rejects HITN's argument that Digital TV One must show that that its proposed operations will not adversely impact the operations of neighboring potentially affected licensees.⁴³ In light of Digital TV One's overall showing of a need for a waiver, the Bureau finds that Digital TV One's representation is sufficient to meet this condition.

13. The Bureau also disagrees with HITN and Mendez that Digital TV One's waiver is defective because it is not supported by a signature or affidavit of a Commission licensee.⁴⁴ In this particular instance, Digital TV One's waiver request was placed on Public Notice and any of its licensees/lessors that wished to object could have submitted comments in response to the Public Notice. None of the licensees/lessors did so. Finally, the Bureau has reviewed the waiver conditions proposed by Digital TV One and determined that they strike the appropriate balance between maintaining service to Digital TV One's customers and minimizing disruption to neighboring licensees. Accordingly, Digital TV One and the EBS licensees that lease Digital TV One excess capacity will be granted a permanent waiver to opt-out of the transition to the new BRS/EBS band plan, subject to conditions described above.

14. With respect to the Booster Application, the Bureau denies the HITN Petition to Deny and directs the Bureau's Broadband Division to process the Booster Application. HITN does not allege that, under the current band plan, the facilities proposed in the Booster Application would interfere with Station WNC706's authorized operation. Because Caribbean is not transitioning to the new band plan, the rules allow it to operate with a signal strength "the greater of that permitted under the licensee's Commission authorizations as of January 10, 2005 or 47 dB mV/m."⁴⁵ HITN contends that the proposed facilities would violate that rule if HITN transitions to the new band plan because Caribbean would place a signal in excess of the levels contained in the rule within the GSA of HITN's Station WNC706.⁴⁶ Assuming arguendo that such an argument provides a basis for denying the Booster Application, HITN fails to make a *prima facie* case of a rule violation because it does not attempt to establish that the facilities proposed in the Booster Application would increase the signal strength in the direction of Station WNC706 over Caribbean's currently authorized facilities. Furthermore, while allowing Caribbean to continue to operate at higher power levels may affect HITN's ability to offer service using Station WNC706, the Bureau has concluded that the benefits of allowing Digital TV One to maintain its existing operations outweigh any impact on neighboring licensees. Accordingly, the Bureau denies the Petition.

IV. CONCLUSION AND ORDERING CLAUSES

15. The Bureau concludes that Digital TV One has justified a waiver. It has shown that it has a viable business for high-powered operations and that it needs more than seven digitized high-powered MBS channels to deliver its service to its customers. The Bureau also concludes that requiring Digital TV One to transition to the new band plan would be inequitable, unduly burdensome and contrary to the public interest because it would be required to discontinue its existing service to customers. While the

⁴² Waiver Request at 9.

⁴³ HITN Opposition at 7.

⁴⁴ HITN Opposition at 6, Mendez Opposition at 3-4.

⁴⁵ 47 C.F.R. § 27.55(a)(4)(i).

⁴⁶ HITN Petition to Deny at 2.

parties opposing the Waiver Request have shown that granting a waiver will have an impact on their ability to transition, the Bureau concludes that the benefits of allowing Digital TV One to maintain its operations outweigh any impact on other licensees.

16. ACCORDINGLY, IT IS ORDERED, pursuant to Section 4(i) of the Communications Act of 1934, 47 U.S.C. § 154(i), and Section 1.925 of the Commission's Rules, 47 C.F.R. § 1.925, that the "Request for Waiver" filed by WHTV Broadcasting Corp. d/b/a/ Digital TV One on September 30, 2005 IS GRANTED.

17. 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 1.939 and 27.55 of the Commission's Rules, 47 C.F.R. §§ 1.939, 27.55, that the Petition to Deny filed by Hispanic Information and Telecommunications Network, Inc. on January 30, 2006 IS DENIED.

18. 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 Section 1.924 of the Commission's Rules, 47 C.F.R. § 1.924, that the Broadband Division of the Wireless Telecommunications Bureau SHALL PROCESS the modification application filed by Caribbean University on January 12, 2006 (File No. 0002444563), as amended, in accordance with this letter and the Commission's rules and policies.

FEDERAL COMMUNICATIONS COMMISSION

Cathleen A. Massey
Deputy Chief, Wireless Telecommunications Bureau