

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

In the Matter of
HISPANIC CHRISTIAN COMMUNITY NETWORK, INC., aka HCCN
ANTONIO CESAR GUEL
Former President of HCCN
and
JENNIFER JUAREZ, aka Jenifer Juarez,
Licensee of Low Power Television Stations
Application for Renewal
KHDE-LD, Denver, CO
KJTN-LP, Abilene, TX
KZAB-LP, Abilene, TX
KZTE-LD, Fulton, AR
KTEQ-LP, Fulton, AR
WESL-LP, Jamestown, KY
KRPO-LD, Quartzite, AZ
MB Docket No. 23-267
NAL/Acct. No. 202341420025
FRNS: 0014120505; 0013410998
NAL/Acct. No. 202341420026
FRNS: 0006568448; 0023037682
NAL/Acct. No. 202341420027
FRN: 0024126237
Facility ID No. 189604
LMS File No. 0000176579
Facility ID No. 127351
CDBS File No. BRTTL-20160411AAZ and
LMS File No. 0000192978
Facility ID No. 130088
CDBS File No. BRTTL-20160412ABN and
LMS File No. 0000192977
Facility ID No. 128037
LMS File No. 0000132447
Facility ID No. 130047
LMS File No. 0000132448
Facility ID No. 128034
LMS File No. 0000142902
Facility ID No. 128964
LMS File No. 0000192826

ORDER RE SUBPOENA REQUESTS

Issued: April 25, 2024

Released: April 25, 2024

1. On April 23 and 24, 2024, the Presiding Judge received from the FCC's Enforcement Bureau subpoena forms for her signature in the above-captioned hearing proceeding. The proposed subpoenas are directed at individuals who are not parties to this proceeding, and each of the forms includes both a subpoena ad testificandum and a subpoena duces tecum. In accord with section 1.333(d)

of the Commission's rules, 47 CFR § 1.333(d), the forms were properly submitted in triplicate. Notably, section 1.333(d) specifies that such requests are not required to be served on the parties to the proceeding.

2. Section 1.333(e) of the Commission's rules, 47 CFR § 1.333(e), provides that a request for issuance of a subpoena ad testificandum "need not be accompanied by a showing that relevant and material evidence will be adduced, but merely that the person will be examined regarding a nonprivileged matter which is relevant to the hearing issues." The Presiding Judge is satisfied that it is the Bureau's intention to depose the nonparties that are the subjects of these subpoena requests regarding nonprivileged matters relevant to the hearing issues. The requests for testimony, however, are combined with subpoenas seeking document production from those nonparties that the Presiding Judge finds is significantly broader than appropriate under the Commission's hearing rules. As a result, she is unable to approve the subpoena requests as currently configured.

3. Section 1.333(e) provides for contemporaneous issuance of a subpoena ad testificandum and a subpoena duces tecum, but the latter type is subject to the requirements of the Commission's discovery rules. In particular, that rule refers to section 1.311 of the Commission's rules, 47 CFR § 1.311, which permits examination of nonprivileged issues that "appears reasonably calculated to lead to the discovery of admissible evidence." Moreover, section 1.333(b) of the Commission's rules, 47 CFR § 1.333(b), directs that requests for a subpoena duces tecum "shall specify with particularity the books, papers, and documents desired and the facts expected to be proved thereby." The subpoenas requested by the Enforcement Bureau ask the subject nonparties to produce almost 20 years' worth of emails and other documents, in some cases merely "referring or relating to" another family member. No indication is given with respect to the facts that the requested information is expected to prove.

4. The recent order in this proceeding that denied the Enforcement Bureau's Motion to Enlarge the issues declined to add parties beyond Hispanic Christian Community Network and Antonio Cesar Guel. That order allowed for the issuance of subpoenas to nonparties for testimony and documents, but the scope of that additional inquiry was limited to information "aimed at evaluating the veracity of Mr. Guel's filings in this proceeding."¹ The Presiding Judge cautioned that, "discovery must be reasonably calculated to lead to admissible evidence regarding the issues that remain in this proceeding; this is not an invitation to engage in broad discovery that is arguably not relevant."² The Presiding Judge finds that the subpoenas to the subject nonparties, in their current form, are overbroad in terms of the substance of the items requested as well as the applicable time frame. She is also concerned that the subjects be afforded a reasonable time to locate and produce the requested documents. The Presiding Judge therefore finds that the Bureau has failed to comply with section 1.333(b) and declines to issue the requested subpoenas as currently drafted.

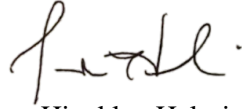
5. Accordingly, **IT IS ORDERED** that the subpoena forms presented to the Presiding Judge by the Enforcement Bureau on April 23 and 24, 2024, **ARE RETURNED** to the Enforcement Bureau, without prejudice.

¹¹ *Hispanic Christian Community Network, Antoinio Cesar Guel, and Jennifer Juarez*, Order Re Motion to Enlarge, MB Docket No. 23-267, FCC 24M-03, 2024 WL 1526709 (ALJ Apr. 4, 2024) at para. 18 (footnotes omitted).

² *Id.* It has long been the case that subpoenas duces tecum must be tailored to obtaining specific, relevant information and that the requestor must show some likelihood that the documents sought contain that information. See, e.g., *Revocation of License of Radio Station WTIF, Inc.*, 45 F.C.C. 1657 (Rev.Bd. 1964).

6. This Order is issued pursuant to section 1.335 of the Commission's rules, 47 CFR § 1.335, which requires "[p]rompt notice, including a brief statement of the reasons therefor" when a request for subpoena is denied.

FEDERAL COMMUNICATIONS COMMISSION



Jane Hinckley Halprin
Administrative Law Judge