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Federal Communications Commission
Office of the Secretary

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington D.C. 20554

In re Applications of	)	MM Docket No. 92-116
UHURU COMMUNICATIONS, INC.	)	File No. BRED-910230WF
For Renewal of License of Station WUCI-FM Binghamton, New York	)	
and	)	
WSKG PUBLIC TELECOMMUNICATIONS COUNCIL	)	File No. BPED-910501MB
For a Construction Permit For a New FM Station Binghamton, New York	)	
ARROWHEAD CHRISTIAN CENTER	)	File No. BPED-910501MC
For a Construction Permit For a New FM Station Binghamton, New York	)	

To: Administrative Law Judge
Arthur I. Steinberg

MASS MEDIA BUREAU'S COMMENTS ON MOTION TO DELETE ISSUE

1. On July 13, 1992, WSKG Public Telecommunications Council (WSKG) filed a petition to delete the site availability issue designated against WSKG in the **Hearing Designation Order (HDO)**, 7 FCC Rcd 3507 (1992). The Mass Media Bureau offers the following comments in support of WSKG's motion.

2. In adding a site availability issue against WSKG, the **HDO** noted that WSKG had proposed to operate at the same site as the renewal applicant. The **HDO** pointed out that the **Cameron**

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doctrine which permitted challengers to renewal applications to specify the renewal applicant's site on the presumption that it would be available to them, had been rescinded.[1] Because WSKG had not provided reasonable assurance that its proposed site would be available, the **HDO** added a site availability issue against WSKG.

3. It is well established that the Commission will not delete an issue absent unusual circumstances, such as where the Commission overlooked, misconstrued, failed to consider or acted without relevant information. **See**, **e.g.** **KOWL, Inc.**, 49 FCC 2d 505 (Rev. Bd. 1974); **Post-Newsweek Stations, Florida Inc.**, 52 FCC 2d 883 (Rev. Bd. 1975). Here, WSKG contends that, although it proposes to operate at the same site as Uhuru Communications, Inc., its selection of that site was not based on the **Cameron** doctrine. According to WSKG, in designating the site issue the Commission overlooked the fact that WSKG had specified different independently engineered facilities and did not propose to duplicate WSKG's technical facilities. Moreover, WSKG contends, Uhuru has no transmitter site it could specify pursuant to the **Cameron** doctrine.

4. It appears that in designating this case for hearing,

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[1] **See**, **George E. Cameron Jr. Communications**, 71 FCC 2d 460, 467 (1979). This presumption was eliminated in **First Report and Order in the Matter of Formulation of Policies and Rules Relating to... the Comparative Renewal Process**, 4 FCC Rcd 4780, 4788-89 (1989).

the Commission misconstrued WSKG's engineering showing. Although WSKG provided its own technical proposal, it specified the same site as that previously utilized by Uhuru. From this the Commission could not clearly ascertain whether WSKG had reasonable assurance of the availability of its own transmitter site or was simply relying on the **Cameron** presumption in specifying its site. WSKG has now clarified that it was not relying on the **Cameron** presumption and that, in any case, it has reasonable assurance of its own independently engineered

facilities. Given these facts the Bureau supports deletion of the site issue against WSKG specified in the **HDO**.[2]

Respectfully submitted,
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July 28, 1992

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[2] Even if deletion of the issue was not warranted, summary decision would be. WSKG submits a letter dated March 27, 1991, before WSKG filed its instant application, from the tower owner, in which he confirms that space will be available on the tower for WSKG's FM antenna.

CERTIFICATE OF SERVICE

Michelle C. Mebane, a secretary in the Hearing Branch, Mass Media Bureau, certifies that she has on this 28th day of July 1992, sent by regular United States mail; U.S. Government frank, copies of the foregoing **"Mass Media Bureau's Comments on Motion to Delete Issue"** to:

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