

ORIGINAL

BEFORE THE  
**FEDERAL COMMUNICATIONS COMMISSION**

ORIGINAL  
FILE

WASHINGTON, D.C.

In re Application of  
UHURU COMMUNICATIONS, INC.  
For Renewal of License  
of Station WUCI-FM  
Binghamton, New York  
and  
WSKG PUBLIC  
TELECOMMUNICATIONS COUNCIL  
For a Construction Permit  
for a New FM Station  
Binghamton, New York  
ARROWHEAD CHRISTIAN  
CENTER  
For a Construction Permit  
for a New FM Station  
Binghamton, New York

) MM DOCKET NO. 92-116

) File No. BRED-910230WF

RECEIVED

AUG 4 1992

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

) File No. BPED-910501MB

) File No. BPED-910501MC

TO: Administrative Law Judge  
Arthur I. Steinberg

**SUPPLEMENT TO MOTION TO DISMISS**

WSKG Public Telecommunications Council ("WSKG") and  
Arrowhead Christian Center ("Arrowhead"), by their attorneys and  
pursuant to Section 73.3568(b) of the Commission's Rules, supplement  
their Motion to Dismiss the application of Uhuru Communications, Inc.

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(Uhuru). On July 23, 1992, WSKG and Arrowhead moved to dismiss Uhuru's application for failure to abide by orders of both the Commission and the presiding officer.

Since the filing of that Motion and despite efforts by counsel for WSKG and Arrowhead to arrange a meeting, Uhuru has again failed to comply with the presiding officer's directive for the parties to meet and discuss settlement, share-time arrangements, the scope of the issues, and joint document production and deposition schedules. Uhuru has also failed to respond to the Motion to Enlarge Issues filed by WSKG on July 13, 1992.

In compliance with the presiding officer's Order Prior to Prehearing Conference, FCC 92 M-754 (released July 6, 1992), and in order to more fully accommodate Uhuru after its failure to attend the meeting of counsel on July 22, 1992, counsel for WSKG and Arrowhead immediately arranged a second meeting on July 31, 1992 at 10:00 a.m. at the offices of Verner, Liipfert, Bernard, McPherson & Hand. This was the last possible date for a meeting complying with the Order. As shown by the attached letter, counsel for WSKG provided ample notice of the time and place of the meeting to counsel for Uhuru and requested that word of the meeting be passed along to the appropriate contact person at Uhuru. See Attachment 2.<sup>1/</sup>

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<sup>1/</sup> At the time the second meeting was scheduled, Mr. Winston had not yet tendered his withdrawal as counsel for Uhuru, although he had informally advised counsel for WSKG of his intent to do so.

Uhuru failed to attend this second meeting. At 9:15 a.m. on July 31, 1992, counsel for WSKG received a telephone call from Gladys Cordeaux, the Uhuru contact person listed on James L. Winston's Notice of Withdrawal of Counsel. Ms. Cordeaux stated that she had not received notice of the July 31, 1992 meeting in time to attend.

WSKG and Arrowhead are frustrated by Uhuru's failures to participate as ordered by the presiding officer and to provide any meaningful notification to opposing counsel about its inability to attend. Counsel for WSKG and Arrowhead decided to meet anyway to further explore the issues for discussion elaborated in the Order, including joint document production and deposition schedules.<sup>2/</sup> However, while WSKG and Arrowhead reached tentative agreement as between themselves on these matters, their agreement is meaningless without Uhuru's participation.

Since the filing of the Motion to Dismiss on July 23, 1992, Uhuru has failed in another respect to prosecute its application in this hearing. On July 13, 1992, WSKG filed a Motion to Enlarge Issues against Uhuru, documenting a number of serious charges against Uhuru's stewardship of the station for which it seeks renewal. Uhuru's opposition to that Motion was due July 28, 1992. As of now, no such opposition has been received, and the charges are not refuted.

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<sup>2/</sup> We note that the scope of the issues concerning Uhuru, as the renewal applicant, are the most unsettled. Until the scope of these issues is fixed, document production and discovery schedules cannot be finalized.

WSKG and Arrowhead are not strangers to the unresponsiveness of Uhuru. Both parties also petitioned to deny Uhuru's renewal application on July 1, 1991, and received repeated, procedurally defective requests by Uhuru for extensions of time to respond to the respective allegations. See Attachments 3 and 4. Ultimately, Uhuru failed to respond at all.

Moreover, as detailed in the original Motion, Uhuru failed to submit any environmental assessment within the 30 day amendment period required by the Commission's Hearing Designation Order ("HDO"), 7 FCC Rcd 3507 (1992).<sup>3/</sup> It has indeed failed to take any substantive action in this proceeding to date.

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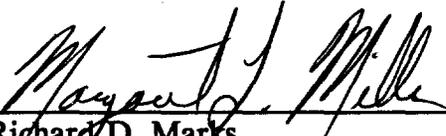
<sup>3/</sup> We note that Uhuru has been on notice of its renewal application's incomplete environmental assessment since April 17, 1991, as shown by the attached letter from the Mass Media Bureau's Audio Services Division. Thus, there is no excuse for its failure to meet the environmental amendment deadline.

We further note that July 29, 1992, the extended time period requested in Uhuru's Motion for Postponement of Procedural Dates (denied by the presiding officer) has passed without any new filings by Uhuru.

For all of these reasons, WSKG and Arrowhead move again for dismissal of Uhuru's application. We respectfully request that Uhuru's application be dismissed with prejudice.

Respectfully submitted,

**WSKG PUBLIC TELECOMMUNICATIONS  
COUNCIL**

By:   
Richard D. Marks  
Todd D. Gray  
Margaret L. Miller

**ARROWHEAD CHRISTIAN CENTER**

By:  / by   
William H. Crispin  
Dean R. Brenner

Their Attorneys

**DOW, LOHNES & ALBERTSON**  
1255 Twenty-third Street, N.W.  
Suite 500  
Washington, D.C. 20037  
(202) 857-2500

August 4, 1992

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

17 APR 1991

IN REPLY REFER TO:

8900-LJY

UHURU Communications, Inc.  
WUCI(FM)  
P.O. Box 1492, 5 Whitney Ave.  
Binghamton, NY 13902

In re: WUCI(FM)  
Binghamton, NY  
BRH-910130WF

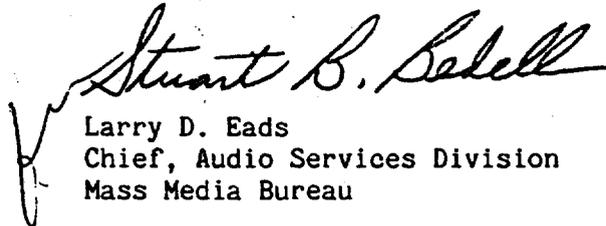
Dear Licensee:

Review of the above-referenced renewal application indicates that it -  
is deficient in the manner described below:

[X] explanative information pursuant to 47 C.F.R. Section 1.1307  
regarding the station's environmental impact (including radio  
frequency radiation) has not been provided (see enclosed  
clarification);

Processing of the application cannot be completed until the noted deficiency  
has been corrected. Accordingly, please submit the required information as  
an amendment to the application, in duplicate, to Room 302 of the Commission,  
attention Lakisiha J. Young. If you have any questions concerning the above,  
please contact Ms. Young at (202) 632-6485.

Sincerely,

  
Larry D. Eads  
Chief, Audio Services Division  
Mass Media Bureau

Enclosure

**DOW, LOHNES & ALBERTSON**

ATTORNEYS AT LAW

1255 TWENTY-THIRD STREET

WASHINGTON, D. C. 20037

TELEPHONE (202) 857-2500

FACSIMILE (202) 857-2900

CABLE "DOWLA"  
TELEX 425546

TODD D. GRAY

DIRECT DIAL NO.

857-2571

July 24, 1992

**VIA FACSIMILE**

James L. Winston, Esquire  
Rubin, Winston, Diercks, Harris  
& Cooke  
1730 M Street, N.W.  
Suite 410  
Washington, D.C. 20036

Re: Binghamton FM Case

Dear Jim:

Despite your absence Wednesday at the scheduled meeting of counsel in the Binghamton FM comparative renewal hearing, Bill Crispin, counsel for Arrowhead Christian Center, and I met to discuss settlement, discovery and the scope of the issues as ordered by Judge Steinberg. Unfortunately, it was impossible for us to have effective discussions, much less agreements, on these matters without the participation of Uhuru Communications. In order to accommodate Uhuru, we have scheduled another meeting at 10:00 a.m. on Friday, July 31, at Bill Crispin's office. Under the Judge's order, that is the last date by which counsel have been directed to confer.

Based on our telephone conversation on Wednesday, I understand that you intend to withdraw as counsel for Uhuru in this proceeding. However, in view of the necessity for a quick response, we request that you refer this letter and the notice about the July 31 meeting to the appropriate contact person for Uhuru. I would also appreciate being informed concerning the identity of that person.

We look forward to hearing from you or from some other representative of Uhuru concerning the July 31 meeting.

Sincerely,



Todd D. Gray  
Counsel for WSKG Public Telecommunications  
Council

TDG/cdh  
cc: Mr. Bill Crispin

ATTACHMENT A

Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

In re Application of: )  
UHURU COMMUNICATIONS, INC. ) File No. BRED-910130WF  
Binghamton, New York )  
For Renewal of License for )  
WUCI-FM, Binghamton, NY )  
To: Chief, Mass Media Bureau

MOTION FOR EXTENSION OF TIME

Uhuru Communications, Inc. ("Uhuru"), licensee of non-commercial educational FM Broadcast Station WUCI-FM, Binghamton, New York, herewith requests a thirty (30) day extension of time to oppose petitions to deny filed against the renewal application by WSKG Public Telecommunications Council ("WSKG") and by David A. Martin, Executive Director of Arrowhead Ministries, Inc. ("Arrowhead"). In support, the following is shown:

1. Both petitions to deny are lengthy and quite detailed. In order to prepare appropriate responses to the various allegations additional time is required. Moreover, Uhuru notes that both WSKG and Arrowhead have filed applications (File Numbers BPED-910501MB and BPED-910501MC) mutually exclusive with the WUCI-FM renewal application. Thus, at this juncture, regardless of the Commission's resolution of the petitions to deny,

a comparative hearing is expected.

2. Furthermore, Uhuru must retain counsel to assist it in connection with not only the opposition to the petitions to deny, but also in connection with that expected comparative hearing. Uhuru is in the process of seeking counsel, but additional time is required.

WHEREFORE, Uhuru requests that the time to oppose the petitions to deny be extended to and including July 1, 1991.

Respectfully Submitted,

UHURU COMMUNICATIONS, INC.

by   
Gladys Cordeaux, President

May 30, 1991

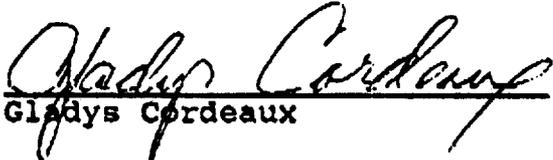
56 Whitney Avenue  
Binghamton, New York 13901

**CERTIFICATE OF SERVICE**

I, Gladys Cordeaux, do hereby certify that I have caused to be mailed First Class postage prepaid this 30 day of May, 1991, copies of the foregoing "Motion For Extension Of Time" to the following:

Richard D. Marks, Esquire  
Todd D. Gray, Esquire  
Margaret L. Miller, Esquire  
Dow, Lohnes and Albertson  
1255 23rd Street, N. W.  
Washington, D. C. 20037

William H. Crispin, Esquire  
Jacqueline R. Kinney, Esquire  
Verner, Lipfert, Bernhard,  
McPherson & Hand, Chtd.  
901 15th Street, N. W.  
Suite 700  
Washington, D. C. 20005

  
Gladys Cordeaux  
Gladys Cordeaux

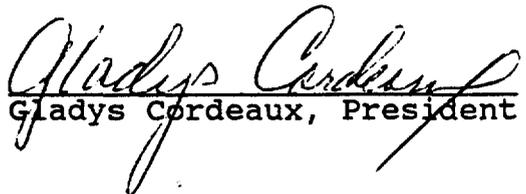


WHEREFORE, Uhuru requests that the time to oppose the petitions to deny be extended to and including August 1, 1991.

Respectfully submitted,

UHURU COMMUNICATIONS, INC.

By:

  
Gladys Cordeaux, President

July 9, 1991

Ely Park V-2  
Binghamton, New York 13905

34662 MOTEXT:441

**CERTIFICATE OF SERVICE**

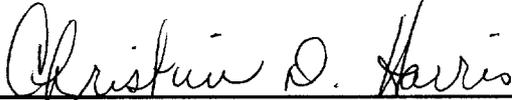
I, Christine D. Harris, secretary in the law firm of Dow, Lohnes & Albertson, do hereby certify that the foregoing "Supplement to Motion to Dismiss" was mailed first-class, postage prepaid, this 4th day of August, 1992, to the following:

- \* Mr. Arthur I. Steinberg  
Administrative Law Judge  
2000 L Street, N.W., Room 214  
Washington, D.C. 20554
- \* Mr. Robert Zauner  
Hearing Branch  
Mass Media Bureau  
Federal Communications Commission  
2025 M Street, N.W., Room 7212  
Washington, D.C. 20554

James L. Winston, Esquire  
Rubin, Winston, Diercks,  
Harris & Cooke  
1730 M Street, N.W., Suite 412  
Washington, D.C. 20036  
Attorney for Uhuru Communications, Inc.

Ms. Gladys Cordeaux  
Chairman of the Board of Directors  
Uhuru Communications, Inc.  
Ely Park  
V-2  
Binghamton, New York 13905

William H. Crispin, Esquire  
Verner, Liipfert, Bernhard,  
McPherson and Hand  
901 15th Street, N.W., Suite 700  
Washington, D.C. 20005-2301  
Attorney for Arrowhead Christian Center

  
\_\_\_\_\_  
Christine D. Harris

\* **HAND DELIVERED**