

FCC MAIL SECTION

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

DISPATCHED BY

FCC 92M-875

In re Applications of)	MM DOCKET NO. 92-33 ✓
)	
CENTRAL FLORIDA EDUCATIONAL FOUNDATION, INC.))	File No. BPED-881207MA
Channel 202C3)	
Union Park, Florida)	
)	
BIBLE BROADCASTING NETWORK, INC.)	File No. BPED-890412MJ
Channel 202C2)	
Conway, Florida)	
)	
SOUTHWEST FLORIDA COMMUNITY RADIO, INC.)	File No. BPED-891127MC
Channel 202C2)	
Conway, Florida)	
)	
HISPANIC BROADCAST SYSTEM, INC.)	File No. BPED-891128ME
Channel 202C3)	
Lake Mary, Florida)	
)	
For Construction Permit for a New, Noncom-)	
mercial, Educational FM Station)	

MEMORANDUM OPINION AND ORDER

Issued: August 12, 1992; Released: August 13, 1992

1. Under consideration are Motion for Suspension of Procedural Dates, filed August 7, 1992 by Central Florida Educational Foundation, Inc., Bible Broadcasting Network, Inc., Southwest Florida Community Radio, Inc. and Hispanic Broadcast Systems, Inc. and Motion to Enlarge Issues, filed July 27, 1992 by Hispanic Broadcast System, Inc.

Motion to Enlarge Against Central

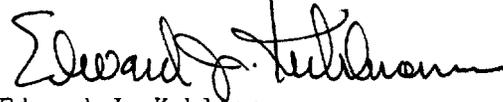
2. Hispanic moves to enlarge issues to determine whether Central's tower site was suitable for its proposal when it filed its application. Hispanic also moved for a site availability issue but in light of Central's opposition, that part of the motion has been

withdrawn. Hispanic argues that Central could not designate the tower it did without diplexing since it was apparent that there was no room on the tower. Hispanic relies on letters from the engineer for the tower, Robert K. Diehl, to three other applicants, refusing use of the tower because there was no room. Central submits a statement from Diehl in which he states that he gave Central permission; he does not, however, explain whether he gave Central permission to locate on the tower without diplexing. Diehl has provided an enigmatic response in which he only states that diplexing was never discussed. His statement only raises a question about what was discussed since he did write to other applicants and say there was no room on the tower. Diehl's response does not show, however, that Central did not have reason to believe the WCPX-TV tower was not suitable or that it was aware of Diehl's letters which might have made it believe its proposal was unsuitable. Hispanic maintains that it does not urge that Central acted in bad faith. Hispanic also concedes that Central amended as of right to propose a diplex transmission from the WCPX-TV tower and that its current proposal is suitable. Without more there is insufficient support for an issue at this late date, after the close of the record. The motion to enlarge is denied.

ACCORDINGLY, IT IS ORDERED that the motion to enlarge issues, filed July 27, 1992 by Hispanic Broadcast System, Inc. IS DENIED.

IT IS FURTHER ORDERED that the motion for suspension of procedural dates, filed August 7, 1992 by Central Florida Educational Foundation, Inc., Bible Broadcasting Network, Inc., Southwest Florida Community Radio, Inc. and Hispanic Broadcast System, Inc. IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Edward J. Kuhlmann
Administrative Law Judge