

BEFORE THE
Federal Communications Commission
WASHINGTON, D. C. 20554

In re Applications of)
)
GENERAL MOTORS CORPORATION and)
HUGHES ELECTRONICS CORPORATION,) MB DOCKET NO. 03-124
Transferors)
)
and)
)
THE NEWS CORPORATION LIMITED,)
Transferee)
)
For Authority to Transfer Control)

TO: The Commission

REPLY TO
OPPOSITION TO PETITION FOR RECONSIDERATION

Dennis J. Kelly

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April 5, 2004

NATIONAL HISPANIC MEDIA COALITION

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In re Applications of)
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GENERAL MOTORS CORPORATION and)
HUGHES ELECTRONICS CORPORATION,) MB DOCKET NO. 03-124
Transferors)
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THE NEWS CORPORATION LIMITED,)
Transferee)
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For Authority to Transfer Control)
Of "DirectTV")

TO: The Commission

REPLY TO
OPPOSITION TO PETITION FOR RECONSIDERATION

National Hispanic Media Coalition (NHMC), by its attorney, and pursuant to Section 405(a) of the Communications Act of 1934, as amended, 47 U.S.C. §405(a), and Section 1.106 of the Commission's Rules, 47 C.F.R. §1.106, hereby respectfully submits its Reply to the "Consolidated Opposition to Petitions for Reconsideration" filed by General Motors Corporation and the DIRECTV Group, Inc. (f/k/a Hughes Electronics Corporation) and The News Corporation Limited on March 19, 2004. In support whereof, the following is shown:

I. Preliminary Statement

1. Pegasus Development Corporation, the other party seeking reconsideration of the FCC's **Report and Order**, 19 FCC Rcd 486 (2004), requested an extension of time to and including April 5, 2004 in which to file a Reply pleading. The Commission's staff telephonically informed the undersigned that the extension of time would apply to NHMC as well.

II. Reply Statement

2. Contrary to the bombast contained in the "Consolidated Opposition", NHMC persists in the positions taken in its "Petition for Reconsideration". It would appear that two of the five commissioners agree with NHMC's position, otherwise they would not have dissented against the result reached by the three commissioner majority.

3. Clearly, as can be seen from the dissenting statements of Commissioners Copps and Adelstein, an adequate record was not developed in this case. Certainly, the record does not support the statutory finding that a grant of the above-captioned application would serve the public interest, convenience and necessity.

4. NHMC would like to respond to a statement of DIRECTV and News Corporation which appears on page 18 of the "Consolidated Opposition". In its "Petition for

Reconsideration", NHMC raised the issue as to the fairness of the way the decision was reached in this case, as apparently there was some heavy duty lobbying by the proponents of the three commissioner majority between the close of the written submissions and the release of the **Report and Order**. NHMC took the position that, pursuant to the ruling case precedent in **Cinderella Career and Finishing Schools, Inc. v. FTC**, 425 F.2d 583, 591 (D. C. Cir. 1990), the **Report and Order** ought to be vacated. NHMC continues to urge that the decision below be vacated, and that a hearing be held before an impartial administrative law judge.

5. DIRECTV and News Corporation posit that "to the Parties' knowledge, practically all recent transfer proceedings of any magnitude have been re-classified as permit-but-disclose". This does not comport with the Commission's *ex parte* rules, which, to the understanding of the undersigned, prohibit contact (other than on a status inquiry) by the applicant with decision-making personnel within the FCC as to the merits of the proceeding once a formal "Petition to Deny" has been filed.

6. The Commission **MUST** maintain the integrity and fairness of its processes, lest another extremely ugly situation such as that involving the step-daughter of one

of the most powerful political advisors in Washington, DC come to pass—a situation where the *ex parte* rules were violated. ***Rainbow Broadcasting Co.***, 9 FCC Rcd 2839 (1994) (subsequent history omitted).

III. Remedy Sought

7. NHMC seeks that the Commission designate the above-captioned applications for appropriate hearing issues, including but not limited to the following:

(1) Whether the public interest, convenience and necessity would be served by a grant of the above-captioned applications.

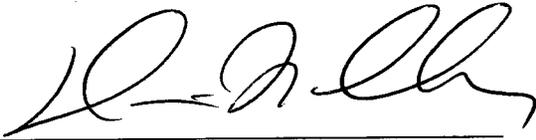
8. NHMC respectfully seeks to be named and recognized as an intervenor or a party to such a hearing, and to be given the right to conduct discovery and to question witnesses and adduce evidence at the hearing.

IV. Conclusion

WHEREFORE, the National Hispanic Media Coalition urges that this Petition for Reconsideration **BE GRANTED** and that the above-captioned applications **BE DESIGNATED FOR HEARING** upon the issue framed above and/or other appropriate hearing issues.

Respectfully submitted,

**NATIONAL HISPANIC MEDIA
COALITION**

By 
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Its Attorney

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DATED: April 5, 2004

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing "Petition to Deny" were served by e-mail, as indicated below, on this 5th day of April, 2004, upon the following:

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