

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

In the Matter of	)	
	)	
Amendment of Parts 1, 22, 24, 27, 74, 80, 90,	)	
95, and 101 To Establish Uniform License	)	
Renewal, Discontinuance of Operation, and	)	
Geographic Partitioning and Spectrum	)	
Disaggregation Rules and Policies for Certain	)	WT Docket No. 10-112
Wireless Radio Services	)	
	)	
Imposition of a Freeze on the Filing of	)	
Competing Renewal Applications for Certain	)	
Wireless Radio Services and the Processing of	)	
Already-Filed Competing Renewal	)	
Applications	)	

**Comments of Hispanic Information and Telecommunications Network, Inc.**

Hispanic Information and Telecommunications Network, Inc. (“HITN”), by its counsel, hereby submits these comments in response to the above-captioned Federal Communications Commission’s (“FCC” or “Commission”) Notice of Proposed Rulemaking (“Notice”). HITN supports the Commission’s goal to create standardized requirements for renewal and discontinuation of service, but only to the extent that such requirements and procedures will promote the public interest. In implementing new requirements and procedures, HITN recommends the Commission heed the unique nature of the Educational Broadband Service (“EBS”) and the investment-backed expectations EBS licensees hold given recent Commission decisions particular to EBS.

**I. Introduction**

HITN was established in 1983 as a non-profit organization, which provides engaging, educational, and entertaining programming. HITN's mission is dedicated to using telecommunications technologies for the advancement of Hispanic Americans and other minority

audiences. The network invites individuals and families to live fuller lives and enables them to serve as an ever-growing engine of intellectual power and progress. Individuals can view the networks on: DirectTV; Dish Network; Time Warner Cable (NY, NJ, and TX); Comcast (IL, CO); Charter (CA, NV, WA, and GA); AT&T U-verse and Verizon FiOS nationwide. HITN is also the largest holder of EBS spectrum in the United States, with spectrum in more than 80 markets covering over 100 million people in the U.S. and Puerto Rico. Through a partnership with Clearwire Corporation, HITN is in the process of making available WiMAX 4G wireless services to educational institutions and non-profits nationwide using this spectrum.

## **II. Discussion**

EBS uniquely serves the public interest in that it is the only spectrum licensed exclusively to educational entities for the purpose of promoting their educational missions. As such, EBS licensees generally do not have the financial capabilities equivalent to other wireless licensees. This makes compliance with overly detailed regulations very difficult. EBS is also unique to other wireless service spectra because the Commission recently decided to transition the band in order to encourage development and deployment of new and innovative wireless services.<sup>1</sup> To facilitate this transition, the Commission allowed EBS licensees to discontinue service,<sup>2</sup> and required that EBS licensees would need to make a substantial service showing by May 1, 2011.<sup>3</sup>

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<sup>1</sup>See Notice at ¶ 30 (citing Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, *et al.*, WT Docket Nos. 03-66, *et al.*, *Report and Order and Further Notice of Proposed Rulemaking*, 19 FCC Rcd 14165 (2004)).

<sup>2</sup>*Id.* See also 47 C.F.R. § 27.1234.

<sup>3</sup>Amendment of Parts 1, 21, 73, 74, and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, WT Docket No. 03-66, *Order on Reconsideration and Fifth Memorandum Opinion and Order and Third Memorandum Opinion and Order and Second Report and Order*, FCC 06-46, 21 FCC Rcd 5606 at ¶ 303 (2006).

### **A. Renewal for EBS Should Be Directly Related to Section 27.14(o)**

The Commission has proposed that renewal requirements for various wireless radio services be based on the model for the 700 MHz Commercial Services Band.<sup>4</sup> As the Commission acknowledges, “modification of [this] renewal showing proposal is appropriate to address the unique circumstances of the Broadband Radio Service (BRS) and Educational Broadband Service (EBS).”<sup>5</sup> The Commission tentatively concludes that EBS licensees not be required to make a renewal showing if their licenses expire on or before May 1, 2011 (the EBS substantial service deadline).<sup>6</sup> HITN agrees that it would be inappropriate for the Commission to impose the new renewal framework to EBS licensees before May 1, 2011 as many EBS licensees are either still in the process of self-transitioning or working on constructing and activating post-transition transmission facilities. HITN also believes that the proposed detail intensive renewal requirements would be improper for EBS licensees (even after May 1, 2011) as EBS licensees have relied on the substantial service obligations, Section 27.14(o) of the Commission’s Rules, recently decided by the Commission. Many EBS licensees have begun investing in constructing facilities suitable to meet these previously decided requirements. To now change the requirement would place an undue burden on these educational entities. Instead, EBS renewal showings after May 1, 2011 should be directly related to the EBS substantial service requirements. Specifically, HITN recommends that if an EBS licensee can show that it satisfied Section 27.14(o) of the Commission’s Rules throughout its license term, its license should be routinely renewed.

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<sup>4</sup> Notice at ¶ 2.

<sup>5</sup> Notice at ¶ 30.

<sup>6</sup> Notice at ¶ 32.

## **B. Proposed Regulatory Compliance Demonstrations Would Be Unduly Burdensome on Educational Entities**

The Commission has proposed that in addition to a showing of substantial service, renewal applicants should also be required to demonstrate regulatory compliance.<sup>7</sup> To this end, the Commission tentatively concludes that “an applicant must file copies of all FCC orders finding a violation or an apparent violation of the Communications Act or any FCC rule or policy by the licensee, an entity that owns or controls the licensee, an entity that is owned or controlled by the licensee, or an entity that is under common control with the licensee.”<sup>8</sup> This requirement would be extremely burdensome on EBS licensees, which, as non-profits and educational entities, cannot always afford to hire legal counsel or dedicate staff to obtain and put together all this documentation. Therefore, HITN recommends that if the Commission is to implement such a requirement, that it limit this requirement to the specific license for which renewal is sought.

## **C. Discontinuation of Service Should Remain at 365 Days For EBS Entities**

The Commission has proposed that permanent discontinuance of service for EBS should be defined as 180 consecutive days without operations.<sup>9</sup> HITN recommends that the Commission instead define permanent discontinuation of service for EBS as 365 consecutive days without service, as is consistent with the prior applicable EBS rule.<sup>10</sup> A 365 day rule would better accommodate the yearly budget cycles particular to schools. In addition, HITN recommends that the discontinuance of service rule also include a process by which a licensee can request an extension of the deadline in exigent circumstances.

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<sup>7</sup> Notice at ¶ 37.

<sup>8</sup> Notice at ¶ 38.

<sup>9</sup> Notice at ¶ 56.

<sup>10</sup> 47 C.F.R. § 74.932(d) (2004).

### III. Conclusion

For the foregoing reasons, HITN respectfully requests that in considering new requirements for wireless services, the Commission appreciate the unique nature of EBS and adhere to the recent Commission decisions related to EBS substantial service on which EBS licensees have relied.

Respectfully Submitted,

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