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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In re)
)
The Global Service Center) File No. 1800B3-VM
for Quitting the Chinese Communist Party)
License of WQEQ-LP, Flushing, NY)
)

To: Secretary
Attn.: Chief, Media Bureau

RESPONSE TO OPERATIONAL STATUS INQUIRY LETTER

I. Introductory Statement

The Global Service Center for Quitting the Chinese Communist Party (“Global Center”), licensee of low power FM radio station WQEQ-LP, Flushing, NY, by its attorneys, hereby responds to the Operational Status Inquiry (“OSI”) sent to Global Center on August 4, 2021, by the Chief, Audio Division, Media Bureau.¹ The OSI directs Global Center to provide information and supporting documents concerning its operations since January 1, 2020, particularly as to allegations the station has not broadcast for more than three hundred sixty-five consecutive days. This pleading is in response to the OSI.

II. QPTV Standing

The OSI does not state what prompted it, but the Commission’s records include a copy of a “Complaint and Request for Relief” (“Complaint”) filed on behalf of Queens Public Communications Network (“QPTV”), February 18, 2021. QPTV describes itself as the

¹ See *Operations Status Inquiry*, 1800B3-VM, dated, August 4, 2021.

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“manager of four public television channels in the Borough of Queens, New York City.” It appears that QPTV is the programmer of public access channels in Queens.

In its Complaint, QPTV alleges that WQEQ-LP has failed to broadcast for more than one year. OSI, p. 1, par. 1. QPTV asks the Commission to revoke the license for WQEQ-LP.² QPTV apparently mistakenly believes that, if the Commission revokes the license of WQEQ-LP, QPTV will automatically become able to obtain the license. QPTV appears to be unaware of the Commission’s filing window procedures for making the frequency of a revoked license available for applications by the general public. Indeed, as Global Center will demonstrate below, this lack of awareness has been driving QPTV to send threatening correspondence to Global Center for more than two years. In the correspondence, QPTV has demanded that Global Center grant it rights to share WQEQ-LP licensed broadcast hours or transfer the license to it. See Attachments K-1, K-1A, and K-2.

Global Center submits that the QPTV Complaint is equivalent to an informal objection to Global Center continuing to hold the license for WQEQ-LP. The Commission’s informal objection rule is frequently used as a catch-all rule that permits consideration by the Commission of pleadings that fail to comply with the Commission’s rules for formal pleadings. However, the Commission has made clear that even informal objections must meet certain minimum standards. In *Area Christian Television, Inc.*, FCC 86-298, 60 R.R.2d 862, 864 (“Area Christian”), the Commission stated:

Notwithstanding the obvious distinctions between petitions to deny and informal objections (compare Sections 73.3584 and 73.3587 of the Commission’s Rules), informal objections like petitions to deny must also contain adequate and specific factual allegations sufficient to warrant the relief requested. (Citations omitted).

² Complaint, p. 5.

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The QPTV Complaint fails to provide adequate and specific factual allegations to meet even this minimum standard for consideration. It fails to even allege residency, or some substitute, in the WQEQ-LP service area, which is the minimum that should be alleged to make a showing of standing to seek the relief requested. In addition, the filing by QPTV makes numerous unsupported factual allegations and provides no evidence to support any of them. Therefore, on this basis alone, the Complaint should be dismissed or denied.

Additionally, prior to filing its complaint, QPTV pointedly advised Global Center that it would file its allegations with the Commission if Global Center declined to provide QPTV with broadcast time and/or otherwise allow QPTV to program WQEQ-LP. Sun Declaration, at Par 24, Attachment K-1. See also, Letter to Global Center from Cohen Law Group on behalf of QPTV, and Global Center's counsel's response thereto at Attachments K-1A and K-2. The QPTV demands, threats, and intimidation are a blatant violation of Commission Rules. Those rules prohibit QPTV from demanding control of a station under threat of a petition to deny, informal objection, or other demand. See § 73.3589 of the Commission Rules, 47 CFR § 73.3589. Indeed, such demands made by mail, telephone, or impacting interstate commerce, could be considered violations of federal statutes, disqualifying QPTV from operating telecommunications services.³ Under no circumstances should the Commission reward QPTV for its efforts.

In addition to the lack of standing and improper demands, on the merits, the QPTV allegations should be dismissed.

III. Nonprofit Context

Nonprofits play a vital role in their communities and society by providing critical services that contribute to economic stability and mobility. They fill a void left by government

³ See, 18 U.S.C. § 873, Blackmail.

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and larger businesses. *Nonprofit Organization: A Strong Nonprofit Sector is Key to Thriving Communities*, Aspen Institute March 7, 2016, at p. 1.⁴ It is axiomatic that nonprofits also operate informally and in cooperation with other nonprofits. Cooperation consists of informal and shared low-risk relationships based around an exchange of tangible assets such as office space and physical software, and intangible assets such as information and ideas.⁵ This is to increase organizational efficiency and effectiveness.

Recognizing the role of nonprofits, Congress has mandated and the Commission has implemented regulations to foster and protect the LPFM radio service to create new voices on the airwaves and to allow local nonprofits to provide programming responsive to local community needs and interests.⁶ The Commission has committed to include ongoing changes to strengthen and promote the long-term viability of the LPFM service, localism and diversity goals that this service is intended to advance.⁷ In administering the LPFM service in major urban frequency congested areas, the Commission has noted the extreme difficulty of protecting other broadcasters against objectionable interference.⁸

As Global Center will demonstrate below, while QPTV is of the mistaken impression that it has exposed a failure of WQEQ-LP to broadcast, what QPTV has actually exposed is the lack of adequate facilities licensed to WQEQ-LP by the Commission. This proceeding demonstrates that WQEQ-LP is unable fully serve its community of license because of interference to WQEQ-

⁴ <https://www.aspeninstitute.org/blog-posts/a-strong-nonprofit-sector-is-key-to-thriving-communities/>

⁵ <https://philanthropynewsdigest.org/columns/the-sustainable-nonprofit/why-and-how-do-nonprofits-work-together>

⁶ *Creation of a Low Power Radio Service*, 15 FCC Rcd 2205 (2000), par. 4-5.

⁷ *Id.* at par. 6.

⁸ *Id.* at par. 58.

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LP by other stations⁹ and by pirate operators.¹⁰ That interference overrides a weak WQEQ-LP signal in Flushing. It is that weak signal that has prompted QPTV to file its completely erroneous Complaint.

Because WQEQ-LP was licensed with such limited facilities, Global Center is investigating with its engineering consultant a remedial engineering request that would enable WQEQ-LP to provide a listenable broadcast service throughout Flushing, its community of license.

IV. General Response to OSI

Global Center submits herewith the information and documentation requested in the OSI. In support of that information, Global Center submits the Declaration of Cindy Zhang Sun, Vice President and Operations Manager of WQEQ-LP. Attachment A.

First, Global Center denies the allegation in the Complaint that WQEQ-LP has failed to broadcast for any consecutive period of 365 days, including since January 1, 2020, to the present. Global Center acknowledges there have been periods of the failure to broadcast for hours and days.¹¹

Second, the OSI suggests that WQEQ-LP broadcasts from unauthorized facilities. That is not true as to the licensed site of the primary transmission array which has remained unchanged since grant of the WQEQ-LP license. However, it is true as to the use of a booster facility that operated temporarily from the rooftop of the WQEQ-LP studio location.¹²

⁹ See Engineering Statement, dated September 8, 2021, of Kevin Fisher, Appendix A.

¹⁰ See Declaration of Cindy Zhang Sun, par. 19.

¹¹ *Id.* at par. 13-16.

¹² As Ms. Sun explains in her Declaration, the operation of an unauthorized booster resulted from a mistaken interpretation of the Commission's recent rule change. Sun Declaration at par. 17.

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As more fully detailed below, the information, documentation, and photographs requested in the OSI are provided herein. Collectively, this information, documents, and photographs, together with the statement of Ms. Sun, demonstrates that the QPTV allegations are false and that the station has not been off the air for 365 days.

V. Specific Responses

The OSI directs Global Center to provide evidence documenting the Station's operational status since January 1, 2020, to indicate: (a) the location, effective radiated power and antenna height above ground level for all periods of operation from January 1, 2020, to the present; (b) copies of all leases, personnel records (including payroll records appropriately redacted to protect the privacy of individual employees), engineering records, station records, including EAS logs; and (c) photos of the station's studio and transmission facilities; and coordinates. The requested information and documentation, and photographs are provided as attachments.

A. Transmission System Location

1. Specifications

For the period since grant of the license to include from January 1, 2020, to the present, the station's licensed transmission system including the transmitter, tower, antenna, and associated array is in the parking lot on a site at 7200 Douglaston Parkway, Douglaston, NY, owned by the Roman Catholic Diocese of Brooklyn, which is the share time licensee of WDMB-LP, Flushing. Sun Declaration at par. 8, Attachment A. As shown on the station's license, the height above average terrain, effective radiated power, and exact coordinates are 131 feet, 19 watts, 40-44-51.8 N; and 73-43-59.9 W (NAD83). Sun Declaration, par. 8.

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2. Interference

The WQEQ-LP signal in Flushing is subject to substantial interference from other nearby full power radio stations and area pirate stations.

Kevin Fisher, the WQEQ-LP consulting engineer, states that the Flushing neighborhood is outside the station's protected contour, which he confirms with maps depicting the protected contour. Engineering Statement, Appendix A. He also states that the interference to the WQEQ-LP signal is heavily and adversely affected by interference from three other facilities, predominantly cochannel WDHA (FM), Dover, New Jersey, and secondarily from cochannel Translator W288DL, Stamford, CT, and tertiarily from WBBY(FM), Patterson, New York. Engineering Statement, Appendix A.

Cindy Zhang Sun declares that while riding in a vehicle through multiple locations in Flushing, she made lay tests of the WQEQ-LP signal strength. Her tests showed the station's signal was not listenable in 60% of the locations tested. Sun Declaration, at par. 20.

The Commission has acknowledged the presence and persistence of pirate operators in the New York urban area.¹³ Indeed, in 2019, then-Commissioner O'Rielly reported there were 100-150 pirate radio operations in the New York City area.¹⁴ The problem has been so prevalent that the Commission urged Congress and Congress thereafter passed the Preventing Illegal Radio Abuse through Enforcement Act ("PIRATE" Act)¹⁵ tightening enforcement provisions.

¹³ See "Mapping Brooklyn's Diverse Pirate Radio Scene," *The New Yorker*, July 2, 2018,

¹⁴ http://www.insideradio.com/free/o-rielly---pirates-still-operate-in-new-york/article_345ba174-8116-11e9-bde1-2fdd5c0504da.html

¹⁵ 47 U.S.C. § 511.

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Further, the New York City nonprofit sector¹⁶ has enabled the creation of the Brooklyn Pirate Radio Sound Map, an online interactive map that identifies 84 pirate operations in the New York metro by name, frequency, culture, nationality, language, music, and religion. .¹⁷ One of the stations on the Brooklyn Pirate Radio Sound map, Crossroads Family Radio is listed as operating on the WQEQ-LP frequency; three more are listed as operating on the second adjacent WQEQ-LP channel frequency.¹⁸

While the Commission has made significant efforts to discourage and eliminate pirate radio operations, the problem remains persistent and prevalent.

B. Records

WQEQ-LP operates on an informal basis. The station does not have any written leases for its office-studio location or antenna site. Sun Declaration, pars. 9 and 12. The station has no paid employees and thus does not maintain personnel records or payroll records. The station operates with a volunteer staff of eight. Sun Declaration, par. 7. The informality is normal for most small nonprofits. Many nonprofits do not have paid staff. They operate with small budgets, very small professional staff, and an active group of volunteers. See, *Popular Government: A Primer on Nonprofit Organizations* at p. 3.¹⁹

For the period specified by the OSI, the station operated on an income budget of [REDACTED]. Sun Declaration, par. 27, Attachment M. On an annualized basis that equals [REDACTED] or [REDACTED].

¹⁶ Funding for the service is provided by the Greater New York Arts Development Fund of the New York City Department of Cultural Affairs and administered by Brooklyn Arts Council (BAC).

<https://storymaps.arcgis.com/stories/d56d204b1e4d4e7fbc506e0ee09bbab3>

¹⁷ Ibid.

¹⁸ See, <https://map.pirateradiomap.com/>

¹⁹ https://www.sog.unc.edu/sites/www.sog.unc.edu/files/articles/article3_4.pdf

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monthly. This is not unusual. Eighty percent of 501(c)(3) nonprofits, such as Global Center, have annual budgets under [REDACTED].²⁰

Payment records of the station's independent contractors are shown at Attachment N.²¹ Engineering records are shown at Attachments E, F, and G. The engineering records include logs from the station's studio-based media server and the transmitter-based ones. The station no longer has automated alarm logs for all the time between January 1, 2020, to present. Sun Declaration, at Par 16. However, pivotally the transmitter logs include a screenshot of the cumulative number of hours the transmitter has broadcast since installation on August 12, 2019.²² Those hours reflect the transmitter has been off the air since that date for a cumulative 34.5 days, not 365 days whether cumulative or seriatim. EAS logs are shown at Attachment I.

C. Photos

The OSI directed Global Center to submit photographs of the station's studio, transmission facilities and coordinates. Photographs of the station's studios and offices are shown at Sun Declaration, Attachments C, and D. Photos of the station's transmission facility to include the tower, antenna, transmitter, and associated equipment are shown at Sun Declaration, Attachments A-1, A-2, A-3, respectively. The coordinates for the antenna site are 40° 44' 51.80"

²⁰ *Id.*

²¹ Sound of Hope Radio Network Inc., licensee of KQEB-LP, San Francisco provides some programming and donations to WQEQ-LP. Sun Declaration, at 12. In its Complaint for Relief, p. 3, QPTV noting the cooperation between the two entities, implies but does not detail, an improper relationship. Clearly, there is nothing unique or improper about a network-affiliate relationship. Nonetheless, the Supreme Court two months ago made it clear that donor contributions to nonprofits without more is protected private information not subject to government regulation, lest that violate First Amendment rights. See *Americans for Prosperity Foundation v Bonta*, 594 US ___ (2021), 141 S. Ct. 2373, ___ (2021).

²² Sun Declaration, par. 23. Pete Trish Statement, Appendix B.

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N; 73° 43' 59.90" W, Sun Declaration, at 8, Attachment A-1. Further, the station's consulting engineer confirms the site coordinates and associated data. See Appendix C.

D. Booster

Global Center advises the Commission that between June 15, 2020, and September 7, 2021, it operated a booster station atop the office building at its studio site in Flushing. That installation and operation was because of a misreading of the new LPFM rules the Commission announced on April 23, 2020. Station volunteers because of language barriers inadvertently misinterpreted the rules to permit booster operations within its *community of license* but failed to understand a booster antenna site had to be within the station's protected contour, which does not encompass its community of license, and that advance Commission approval before installation was required. Sun Declaration, at 17. A photograph of the formerly used booster array together with the operating parameters are shown at Attachment H.

VI. Promote and Protect

The Commission has committed to both promote and protect LPFMs to better enable the stations to serve their respective communities.²³ The limitations as to 100 watts of power and omnidirectional antenna may well serve some communities, especially those in compact rural and suburban areas without high rise buildings. However, these restrictions fail to promote and protect LPFMs in densely populated major urban areas where terrain factors, including high-rise buildings, block already weak signal propagation. For this reason, New York City is a most difficult urban area for low power FM propagation.

Given the extensive operations by pirate operators who degrade and eliminate full power and especially LPFM signals, Global Center is investigating with its engineering consultant

²³ 15 FCC Rcd, *supra*, at par. 4-5.

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possible remedial engineering solutions. Global Center submits that, given these factors in New York, the Commission should evaluate how better to protect the LPFM service in New York and other similarly impacted areas.

VII. Conclusion

Global Center submits that the foregoing has demonstrated WQEQ-LP has not been off the air for 365 consecutive days. Global Center submits that QPTV has been misled by the absence of a WQEQ-LP signal in many parts of Flushing. Global Center urges the Commission to consider engineering solutions that would enable WQEQ-LP to provide an adequate signal to its community of license. Accordingly, Global Center submits that the QPTV Complaint should be dismissed, and the inquiry initiated by the OSI should be terminated.

Respectfully submitted,

**THE GLOBAL SERVICE CENTER FOR
QUITTING THE CHINESE COMMUNIST
PARTY**

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