

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

In re Applications of

<b>HUGHES COMMUNICATIONS, INC</b>	)	File No. BNPED-20071012AES
For a Construction Permit For a New	)	Facility ID No. 137411
NCE-FM Station at Sulphur Springs, Texas, and	)	
	)	
	)	
<b>THE JOHNSON FOUNDATION</b>	)	File No. BNPED-20071018ANJ
For a Construction Permit For a New	)	Facility ID No. 176249
NCE-FM Station at Sulphur Springs Texas	)	

To: Chief, Media Bureau

**JOINT REQUEST FOR APPROVAL OF UNIVERSAL SETTLEMENT**

The above-referenced applicants, pursuant to Section 73.3525 of the Commission's Rules, respectfully request that the Commission approve a universal settlement among them which resolves the mutual exclusivity of their applications and results in the grant of one of the applications. In support of this request, the following is respectfully submitted.

1. The parties' applications comprise the comprehensive universe of a discrete group of mutually exclusive proposals. The Agreement of the parties (Exhibit A) contemplates the grant of the application of Hughes Communications, Inc. ("HCI") at Sulphur Springs, and dismissal of the application of The Johnson Foundation ("TJF") at Sulphur Springs.

2. The Agreement is executed by the respective principals and is subject to

prior Commission approval. It provides that HCI shall reimburse TJF for the legitimate and prudent expenses it incurred in the preparation, filing, and prosecution of its application, in an amount not to exceed Six Hundred Dollars. (\$600).

3. The declarations of the parties (Exhibit B) show that no party filed its application for the purpose of negotiating or reaching a settlement agreement; they contain an itemized accounting of expenses incurred; and they state why the agreement serves the public interest.

4. Grant of the application for Arroyo will further the fair, efficient, and equitable distribution of radio service among the several States and communities, as required by Section 307(b) of the Communications Act of 1934, as amended. HCI proposes to provide a first transmission service to Sulphur Springs.

5. Dismissal of the TJF application will enable grant of the HCI application. Because the TJF proposal for Raymondville precludes HCI's proposal for Arroyo, and since its dismissal enables the authorization of a new noncommercial service, this request and the agreement are consistent with Section 307(b).

6. Accordingly, and on the basis of the foregoing, the Commission is requested to: (a) approve the universal settlement represented by the parties' Settlement Agreement; (b) dismiss the TJF application; and (c) grant the HCI application. These actions are in the public interest.

Respectfully submitted,

**Hughes Communications, Inc.**

By: Billy Hughes  
Billy Hughes

**The Johnson Foundation.**

By: James E. Johnson  
~~James E. Johnson~~ J. Johnson

Date: July 29, 2008

EXHIBIT A

SETTLEMENT AGREEMENT

EXHIBIT B  
DECLARATIONS

## DECLARATION

The Johnson Foundation ("TJF") affirms and declares the truth of the following matters as required by 47 CFR §73.3525:

1. TJF has determined that it is in the public interest to enter into a settlement agreement to resolve the mutual exclusivity of its proposal with the proposal Believers International Broadcasting ("HCI"), at Sulphur Springs, Texas. Withdrawal of the TJF application will enable a grant of the HCI application to provide a first transmission service at Arroyo. Settlement will therefore serve the objectives of Section 307(b). In addition, settlement will conserve Commission resources in the consideration and processing of the proposals. It also will allow the earlier inauguration of a new noncommercial service at Somerville.
2. TJF did not file its application for the purpose of reaching or carrying out such an agreement.
3. HCI will reimburse TJF for the legitimate and prudent expenses it incurred in the preparation, filing, and prosecution of its application, in an amount not to exceed Six Hundred Dollars (\$600).
4. The settlement agreements entered into by the parties contain the entire understandings and undertakings between the parties pertaining to these matters.

AFFIRMED THIS \_\_\_\_ day of July 2008

The Johnson Foundation

By: 

## SETTLEMENT AGREEMENT

**THIS SETTLEMENT AGREEMENT** ("Agreement"), is entered into this \_\_\_\_ day of June, 2008, by and between Hughes Communications, Inc ("HCI"), and The Johnson Foundation ("TJF") (referred to collectively as the "Parties").

### WITNESSETH:

**WHEREAS**, the Parties have pending before the Federal Communications Commission ("FCC") applications for new noncommercial educational FM station as follows:

<i>Party</i>	<i>Community</i>	<i>File No.</i>	<i>Fac ID</i>	<i>Channel</i>
HCI	Sulphur Springs TX	20071012AES	137411	216
TJF	Sulphur Springs TX	20071018ANJ	176249	216

(collectively, the "Applications") and

**WHEREAS**, the Applications are mutually exclusive and cannot be granted without causing mutually destructive interference; and

**WHEREAS**, the Parties are willing to enter into a universal settlement that will resolve the mutual exclusivity of the Applications and that will result in the grant of the HCI application, and

**WHEREAS**, the Parties believe that a universal settlement will serve the public interest by expediting the inauguration of new noncommercial FM service at Sulphur Springs, Texas.

**NOW, THEREFORE**, in consideration of the mutual covenants, agreements, conditions, representations, and warranties contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Dismissal of Application.** Concurrently with the filing of this Agreement with the FCC, TJF shall enter into a joint request for approval of this Agreement with HCI requesting dismissal of its application.
2. **Filing of Joint Request.** On the date of this Agreement, the Parties shall jointly enter into a Joint Request for Approval of Settlement Agreement for filing with the FCC, seeking FCC approval of this agreement in its entirety, dismissal of the TJF application, and grant of the HCI application.
3. **Consideration.** In consideration of the agreement of TJF to dismiss its application, HCI will release to TJF by certified or cashier's check, the sum of Six Hundred Dollars. (\$600), or such lesser amount as approved by the FCC.

4. **Authorization and Binding Obligation.** The Parties hereto represent to one another that each of them has the power and authority to enter into and effectuate this Agreement and that this Agreement constitutes a valid and binding obligation of each of them in accordance with its terms.

5. **Further Assurances.** The Parties covenant to cooperate with each other and with the FCC to accomplish the objectives of this Agreement, including the submission of additional filings as may be requested by the FCC or as may reasonably necessary to effectuate this Agreement, and to refrain from taking any action with respect to each others' applications that would be inconsistent with the undertakings of the Parties in this Agreement.

6. **Termination.** In the event this Agreement is terminated for any reason, the Parties agree to cooperate in doing all things necessary and desirable to place themselves and the Applications in the *status quo ante*.

7. **Notices.** All notices, requests, demands, and other communications relating to this Agreement shall be in writing and shall be sent by first class, certified or registered mail, return receipt requested, postage prepaid and, pending the designation of another address, addressed as follows:

If to HCI:  
Hughes Communications, Inc.  
P.O. Box 576  
Little Elm, TX 75068

With copy to:  
Leo Ashcraft  
Nexus Broadcast  
502 E 3<sup>rd</sup> Street  
Mt Pleasant, TX 75455



If to TJF:  
The Johnson Foundation  
9705 Valley Lake Court  
Irving, TX 75063

8. **Entire Agreement.** Except as otherwise set forth herein, this Agreement constitutes the entire understanding of the Parties with respect to the subject matter hereof, and no other consideration, action or forbearance is contemplated or relied upon by them. This Agreement may not be amended or modified except by a writing signed by all Parties.

9. **Enforcement.** Should the Parties engage in litigation arising out of this Agreement, the prevailing party to such litigation shall be entitled to reasonable attorneys' fees and costs determined by the court. The Parties recognize that this Agreement confers a unique benefit, the loss of which cannot be compensated for through monetary damages. Thus, in the event of a breach of this Agreement, the Parties acknowledge that specific performance or other equitable relief would be an appropriate remedy, and agree to waive any defense that there is an adequate remedy at law for breach of this Agreement, and agree to waive any requirement for the posting of bond or other security in order to seek equitable relief or specific performance.

10. **Assignment and Binding Effect.** This Agreement shall inure to the benefit of, and shall be binding upon, the Parties hereto and their heirs, successors, executors, legal representatives, and assigns; provided, however, that neither party may voluntarily assign this Agreement without the express written consent of the other Party.

11. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas without application of conflicts of law principles. The Parties agree to accept the jurisdiction of the courts of the State of Texas for the resolution of any disputes under this Agreement.

12. **Headings.** The headings herein are included for ease of reference only and shall not control or affect the meaning or construction of the provisions of this Agreement.

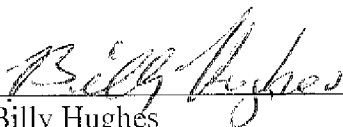
13. **Counterparts.** This Agreement may be executed in one or more counterparts and shall be binding when it has been executed by each of the Parties. This Agreement shall be effective and legally binding upon delivery of facsimile signatures.

[Signature page follows]

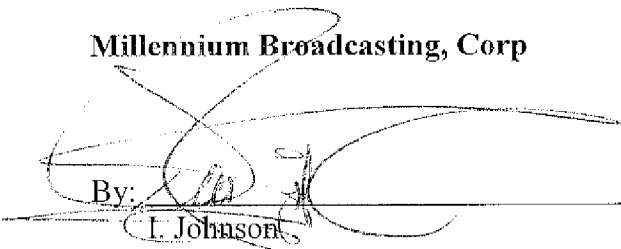
[Signature Page to Settlement Agreement]

**IN WITNESS WHEREOF**, the Parties have executed this Agreement or have caused this Agreement to be executed on their behalf as of the date first set forth above.

**Hughes Communications, Inc.**

By:   
Billy Hughes

**Millennium Broadcasting, Corp**

By:   
L. Johnson