

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

In the Matter of
County of Surry
Licensee of Public Safety Land Mobile
Station KDP344
Dobson, North Carolina
File No.: X20EF0019

MEMORANDUM OPINION & ORDER

Adopted: April 27, 2000

Released: April 28, 2000

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. This Memorandum Opinion & Order ("Order"), rescinds a monetary forfeiture in the amount of two thousand dollars (\$2,000) that was issued against the County of Surry ("Surry") for apparent violation of Section 301 of the Communications Act of 1934 ("Act"), as amended, former Section 90.113 of the Commission's Rules ("Rules"), and current section 1.903(a) of the Rules. The forfeiture had been assessed for Surry's operation of the above-captioned station with an expired license for approximately seventeen months.

2. On November 5, 1999, the Chief of the former Enforcement and Consumer Information Division of the Wireless Telecommunications Bureau ("WTB") issued a Notice of Apparent Liability for Forfeiture in the amount of two thousand dollars (\$2,000) to Surry. Surry filed a response on December 3, 1999.

II. BACKGROUND

3. Surry's authorization for the captioned station expired on March 28, 1998. Surry applied for and was granted Special Temporary Authority ("STA") to continue operating Station KDP344, effective August 27, 1999. WTB issued a new license for Surry's operation of the station on November 24, 1999.

4. In its response, Surry states that the frequencies for Station KDP344 are used by the Office of the Sheriff for Surry County to dispatch and coordinate the activities of law enforcement

1 47 U.S.C. § 301.

2 47 C.F.R. § 90.113.

3 47 C.F.R. § 1.903(a). On February 12, 1999, the rules implementing the Commission's new Universal Licensing System became effective. The requirement to have an authorization, formerly contained in Section 90.113 of the Rules, is now contained in Section 1.903(a) of the Rules. See In the Matter of the Biennial Regulatory Review - Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97 and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing Service in the Wireless Telecommunications Services, 13 FCC Rcd 21027 (1998). Section 90.113 of the Rules was the applicable rule from May 6, 1998 to February 11, 1999.

4 Notice of Apparent Liability for Forfeiture, DA 99-2460 (WTB, released November 5, 1999).

personnel, and that its failure to renew the license in a timely fashion resulted in part due to a mailing address error. The licensed frequencies at issue have been in continuous use by Surry for more than 25 years, and Surry has not previously had any problems or violations related to these licensed frequencies or their use. The Commission sent Surry an application to renew the license prior to its expiration in 1998, but the application was sent to the wrong address, and Surry therefore never received it. That address has now been corrected in the Commission's records. As soon as Surry became aware of the problem, it began taking steps to determine how it occurred and to correct it. Surry also voluntarily disclosed the violation to the Commission. In an effort to ensure that such violations do not recur, Surry has assigned a new person within the Office of the Sheriff as the point of contact for all matters related to the license, and has notified the Commission of this assignment.

III. DISCUSSION

5. Upon review of the particular circumstances in this case, and in accordance with the discretion afforded to the Commission by Section 504(b) of the Act,⁵ and implemented by Section 1.80(i) of the Rules,⁶ we have determined that rescission of the forfeiture is warranted.

IV. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED**, pursuant to Section 504(b) of the Act, and Sections 0.111, 0.311 and 1.80 of the Rules,⁷ that the forfeiture issued against County of Surry **IS RESCINDED**.

7. **IT IS FURTHER ORDERED** that, a copy of this Order shall be sent by Certified Mail Return Receipt Requested to the County of Surry, and its counsel, Fred J. Folger, at Folger & Folger, 129 Moore Avenue, P.O. Box 428, Mount Airy, North Carolina 27030.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

⁵47 U.S.C. § 504(b).

⁶47 C.F.R. § 1.80(i).

⁷47 C.F.R. §§ 0.111, 0.311, and 1.80.