

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

In the Matter of)	
)	
)	File No. 99TP016
Joy Public Broadcasting Corporation)	NAL/Acct. No. 915TP0004
Radio Station WJTF-FM)	
Panama City, Florida)	

MEMORANDUM OPINION AND ORDER

Adopted: January 25, 2001

Released: January 29, 2001

By the Chief, Enforcement Bureau:

1. In this *Memorandum Opinion and Order* (“*Order*”), we partially grant a petition for reconsideration filed by Joy Public Broadcasting Corporation (“*Joy*”), licensee of Station WJTF-FM, Panama City, Florida, of a *Memorandum Opinion and Order* issued in this proceeding on September 1, 2000.¹ This is the third petition for reconsideration filed by Joy in connection with a *Forfeiture Order*² which issued a \$3,000 forfeiture against Joy for violations of Sections 73.1350(c)(2), 73.1590(a)(1), and 73.1870(b)(3) of the Commission’s Rules (“*Rules*”).³ The noted violations involved Joy’s failure to make periodic calibrations of the station’s monitoring equipment, to make equipment performance measurements upon the initial installation of a new transmitter, and to designate the station’s chief operator in writing and post a copy of the designation with the station license.

2. In the instant petition for reconsideration, Joy does not raise challenges to the rule violations which gave rise to the \$3,000 forfeiture issued in the *Forfeiture Order*. Rather, Joy challenges the statement in the *Forfeiture Order* that the November 17, 1998, inspection of WJTF-FM by the FCC’s Tampa, Florida Field Office (“*Tampa Field Office*”) revealed a violation of Section 73.317(d) of the Rules, which provides that any emissions appearing on a frequency removed from the carrier by more than 600 kHz must be attenuated at least $43 + 10 \text{Log}_{10}$ (Power, in watts) dB below the level of the unmodulated carrier, or 80 dB, whichever is the lesser attenuation.⁴ Measurements taken by agents from the Tampa Field Office during the November 17, 1998, inspection indicated that WJTF-FM’s second and third harmonics were not attenuated to 80 dB below the fundamental frequency as required by Section 73.317(d) of the Rules, and the Tampa Field Office included this violation in a Notice of Violation issued to Joy on December 4, 1998. However, the Tampa Field Office did not include this violation in the *Notice of*

¹ 15 FCC Rcd 18255 (Enf. Bur., 2000). The September 1, 2000 *Memorandum Opinion and Order* denied Joy’s petition for reconsideration of a *Memorandum Opinion and Order* issued on March 9, 2000. See 15 FCC Rcd 8575 (Enf. Bur., 2000).

² 14 FCC Rcd 856 (Compl. & Inf. Bur., 1999).

³ 47 C.F.R. §§ 73.1350(c)(2), 73.1590(a)(1) and 73.1870(b)(3).

⁴ 47 C.F.R. § 73.317(d).

*Apparent Liability for a Forfeiture*⁵ issued to Joy on February 4, 1999, because measurements of the station's signal taken by FCC agents on January 20, 1999, showed no violation of Section 73.317(d). Joy argues in its petition for reconsideration that the finding of a violation of Section 73.317(d) in the *Forfeiture Order* is not supported by the facts in the record; that the measurements taken by the FCC agents during the November 17, 1998, inspection were taken improperly; and that neither the September 1, 2000, *Memorandum Opinion and Order* nor any of the prior orders indicate whether the finding of a violation of Section 73.317(d) will be held against Joy in the future.

3. We grant Joy's petition for reconsideration for the limited purpose of ruling that the Tampa Field Office's finding of a violation of Section 73.317(d) during the November 17, 1998, inspection will not be used against Joy in any future proceeding. In light of this ruling, the remaining arguments raised in Joy's petition for reconsideration are moot and we need not address them here. We note that this ruling does not alter our conclusion in the *Forfeiture Order* that Joy violated Sections 73.1350(c)(2), 73.1590(a)(1), and 73.1870(b)(3) of the Rules or affect the amount of the forfeiture assessed for those violations.

4. **ACCORDINGLY, IT IS ORDERED** that, pursuant to Section 405 of the Communications Act of 1934, as amended ("Act"),⁶ and Section 1.106 of the Rules,⁷ Joy Public Broadcasting Corporation's petition for reconsideration of the September 1, 2000, *Memorandum Opinion and Order* **IS GRANTED** to the extent indicated herein.

5. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules⁸ within 30 days of the release of this *Order*. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.⁹ Payment shall be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. referenced above. Requests for full payment under an installment plan should be sent to: Chief, Credit and Debt Management Center, 445 12th Street, S.W., Washington, D.C. 20554.¹⁰

⁵ *Notice of Apparent Liability for a Forfeiture*, NAL/Acct. No. 915TP00004 (Compl. & Inf. Bur., Tampa, Florida Field Office, released February 4, 1999).

⁶ 47 U.S.C. § 405

⁷ 47 C.F.R. § 1.106.

⁸ 47 C.F.R. § 1.80.

⁹ 47 U.S.C. § 504(a).

¹⁰ *See* 47 C.F.R. § 1.1914.

6. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by Certified Mail Return Receipt Requested to Joy Public Broadcasting Corporation, 341 S. Washington, Lancaster, Wisconsin 53813, and to its counsel, Timothy E. Welch, Esq., Hill & Welch, 1330 New Hampshire Avenue N.W., Suite 113, Washington, D.C. 20036.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau