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

In the Matter of	)	
	)	
VERIZON FLORIDA, INC.	)	File No. EB-00-TS-148
Licensee of Air-Ground Station KWU228	)	NAL/Acct. No. 200132100012
Tampa, Florida	)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: January 31, 2001 **Released:** February 1, 2001

By the Chief, Technical and Public Safety Division, Enforcement Bureau:

I. Introduction

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find that Verizon Florida, Inc. ("Verizon"),[1] has apparently violated Section 301 of the Communications Act of 1934, as amended ("Act"), [2] and Section 22.3 of the Commission's Rules ("Rules"),[3] by operating the captioned station without a valid Commission authorization. We conclude that Verizon is apparently liable for a monetary forfeiture in the amount of five thousand dollars ($5,000).

II. Background

2. Verizon's authorization for Air-Ground KWU228 expired on September 1, 1999. On March 10, 2000, Verizon filed an application for renewal of the authorization for that station and requested a waiver of Section 1.949(a) of the Rules.[4] Verizon's waiver request states that it operated the air-ground system without an authorization between September 1, 1999 and March 10, 2000. On April 20, 2000, the Commission's Wirless Telecommunications Bureau granted Verizon's waiver request and reinstated its authority to operate Station KWU228.

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[1] We note that the alleged violation occurred when the air-ground system was licensed to GTE Florida, Inc. However, on June 30, 2000, Bell Atlantic Corporation and GTE Corporation merged into one company, named "Verizon Communications," and GTE Florida, Inc. is now operating the captioned station as "Verizon Florida, Inc." *See, GTE Corporation and Bell Atlantic Corporation,* 15 FCC Rcd at 14032 (2000). Although we recognize that Verizon was not the named licensee at the time of the violation, we nonetheless refer to Verizon as the licensee throughout this NAL for the sake of consistency.

[2] 47 U.S.C. § 301.

[3] 47 C.F.R. § 22.3.

[4] 47 C.F.R. § 1.949(a). This Section provides, in pertinent part, that "[a]pplications for renewal of authorizations in the Wireless Radio Services must be filed no later than the expiration date of the authorization for which renewal is sought. . . ."

III. Discussion

3. Section 301 of the Act sets forth the general mandate that no person shall use or operate any apparatus for the transmission of energy or communications or signals by radio within the United States except under and in accordance with the Act and with a license. Section 22.3 of the Rules provides, in pertinent part, that a valid Commission authorization is necessary for one to operate a Public Mobile Service station such as an air-ground station. We conclude that Verizon operated an air-ground station without a valid license between September 1, 1999 and March 10, 2000, in apparent willful and repeated violation of Section 301 of the Act and Section 22.3 of the Rules.

4. In the *Universal Licensing System Memorandum Opinion and Order on Reconsideration* ("*MO&O*"), [5] the Commission noted that the Wireless Telecommunications Bureau, after reviewing the circumstances concerning a late filed renewal application, may, in its discretion, initiate enforcement action against a licensee for unauthorized operation.[6] Moreover, the Commission stated in the *MO&O* that applications for renewal received more than 30 days after the expiration of the license may lead to "more significant fines or forfeitures."[7] In this case, Verizon operated without a valid license for over six months after the license expired.

5. The guidelines contained in *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines,* 12 FCC Rcd 17087, 17113 (1997), *recon. denied,* 15 FCC Rcd 303 (1999) ("*Forfeiture Policy Statement*"), specify a base forfeiture amount of $10,000 for operation without an instrument of authorization for the service. Section 503(b)(2)(D) of the Act[8] requires the Commission to consider "the nature, circumstances, extent and gravity of the violation, and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require." In this case, Verizon failed to file an application for renewal and operated a station under circumstances where the Commission has envisioned "more significant fines or forfeitures" for violations in excess of 30 days. On the other hand, Verizon had previously been licensed, so this is not comparable to "pirate" wireless operations, (i.e., station operations that have never been licensed by the Commission), which have been subject to forfeitures of approximately $10,000.[9] Taking these facts into consideration in conjunction with the factors required by Section 503(b)(2)(D) of the Act and the *Forfeiture Policy Statement,* we conclude that a forfeiture of $5,000 is warranted.

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[5] *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 System in the Wireless Telecommunications Services, Memorandum Opinion and Order upon reconsideration*, 14 FCC Rcd 11476, 11485-11486 (1999).

[6] The enforcement responsibilities of the Wireless Telecommunications Bureau are now with the Enforcement Bureau. *See* 47 C.F.R. § 0.111.

[7] 14 FCC Rcd at 11486.

[8] 47 U.S.C. § 503(b)(2)(D).

[9] *See, e.g., Jean R. Jonassaint,* 15 FCC Rcd 10422 (Enf. Bur. 2000).

IV. Ordering Clauses

6. Accordingly, **IT IS ORDERED THAT**, pursuant to Section 503(b) of the Act[10] and Sections 0.111, 0.311 and 1.80 of the Rules,[11] Verizon is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of $5,000 for violation of Section 301 of the Communications Act of 1934, as amended, and Section 22.3 of the Commission's Rules. The amount specified was determined after consideration of the factors set forth in Section 503(b)(2)(D) of the Act and the guidelines enumerated in the *Forfeiture Policy Statement*.

7. **IT IS FURTHER ORDERED THAT**, pursuant to Section 1.80 of the Rules, within thirty days of the release of this **NOTICE OF APPARENT LIABILITY**, Verizon **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

8. Payment of the forfeiture may be made by a check, or similar instrument, payable to the order of the Federal Communications Commission, and mailed to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No.: 200132100012.

9. The response, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, Technical and Public Safety Division, 445 12th Street, S.W., Washington, D.C. 20554, Ref: EB-00-TS-148, NAL/Acct. No.: 200132100012.

10. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the respondent submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the respondent's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

11. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Credit and Debt Management Center, 445 12th Street, S.W., Washington, D.C. 20554.[12]

12. **IT IS FURTHER ORDERED THAT** this notice shall be sent, by certified mail, return receipt requested, to Verizon Florida, Inc.**,** Verizon Services Group, Attention Suzanne Carmel, 1850 M. Street, N.W., Suite 1200, Washington, DC, 20036.

FEDERAL COMMUNICATIONS COMMISSION

Joseph P. Casey
Chief, Technical and Public Safety Division
Enforcement Bureau

[10] 47 U.S.C. § 503(b).

[11] 47 C.F.R. §§ 0.111, 0.311, and 1.80.

[12] *See* 47 C.F.R. § 1.1914