

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

In the Matter of	)	
	)	
Cherokee Broadcasting Company, Inc.	)	File Number EB-00-NF-309
WCVP (AM)	)	
P.O. Box 280	)	
Murphy, North Carolina	)	NAL/Acct. No. 200132640001

**FORFEITURE ORDER**

**Adopted: February 23, 2001**

**Released: February 27, 2001**

By the Chief, Enforcement Bureau:

**I. INTRODUCTION**

1. In this Forfeiture Order (“Order”), we issue a monetary forfeiture in the amount of six thousand five hundred dollars (\$6,500) against Cherokee Broadcasting Company, Inc. (“Cherokee Broadcasting”), licensee of WCVP (AM), Murphy, North Carolina for willfully violating section 11.35(a) of the Commission’s Rules (“Rules”).<sup>1</sup> The noted violation involves Cherokee Broadcasting’s July 2000 operation of WCVP without working Emergency Alert System (“EAS”) equipment in place.

2. On October 19, 2000, the Enforcement Bureau’s Norfolk, Virginia Resident Agent Office issued a Notice of Apparent Liability (“NAL”) for Forfeiture in the amount of eight thousand dollars (\$8,000).<sup>2</sup> Cherokee Broadcasting filed a response on November 17, 2000.

**II. BACKGROUND**

3. On July 1, 2000, a resident agent from the Commission’s Norfolk, Virginia Resident Agent Office inspected WCVP. The resident agent found that, among other things, Cherokee Broadcasting had not installed EAS equipment at WCVP.

**III. DISCUSSION**

4. Cherokee Broadcasting concedes that it did not have operational EAS equipment in place during the resident agent’s inspection on July 1, 2000. Cherokee Broadcasting contends that its violation was due to the fact that the terrain around WCVP prevented it from monitoring its two EAS sources. Cherokee Broadcasting alleges that on several occasions it unsuccessfully

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<sup>1</sup> 47 C.F.R. § 11.35(a).

<sup>2</sup> *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200132640001 (Enf. Bur., Norfolk Resident Agent Office, rel. Oct. 19, 2000).

attempted to have its State EAS Coordinator change its two assigned EAS sources. Accordingly, Cherokee Broadcasting asks us to rescind or substantially reduce the proposed forfeiture.<sup>3</sup>

5. We do not believe that rescission or reduction of the forfeiture is warranted because Cherokee Broadcasting allegedly could not get the State EAS Coordinator to change its two assigned EAS sources. Section 11.52(d)(1) of the Rules states as follows:

If the required EAS sources cannot be received, alternative arrangements or a waiver may be obtained by written request to the FCC EAS office. In an emergency, a waiver may be issued over the telephone with a follow up letter to confirm temporary or permanent reassignment.<sup>4</sup>

Cherokee Broadcasting presents no evidence that it attempted to contact the FCC EAS office prior to the inspection.<sup>5</sup>

6. Cherokee Broadcasting also asks us to cancel or substantially reduce the \$8,000 forfeiture because of its demonstrated history of complying with the Rules during its approximately twenty-year operation of WCVP. During our review of FCC records, we found that Cherokee Broadcasting had a history of overall compliance with the Rules. Consequently, in this case, we will reduce the \$8,000 forfeiture to \$6,500.

#### IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED THAT**, pursuant to Section 503(b) of the Communications Act of 1934 (“Act”), as amended,<sup>6</sup> and sections 0.111, 0.311, and 1.80(f)(4) of the Rules,<sup>7</sup> Cherokee Broadcasting **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of \$6,500 for willfully violating Section 11.35(a) of the Rules requiring it to have operating EAS equipment in place.<sup>8</sup>

8. Payment of the forfeiture shall be made in the manner provided for in section 1.80 of the Rules,<sup>9</sup> 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

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<sup>3</sup> According to Cherokee Broadcasting, as of July 7, 2000, “all EAS equipment was installed and was fully operational. . . .” Response to *Notice of Apparent Liability for Forfeiture*, Blakemore Declaration.

<sup>4</sup> 47 C.F.R. § 11.52(d)(1).

<sup>5</sup> Cherokee Broadcasting indicates that it contacted the FCC EAS office, which provided assistance in resolving the matter, after the inspection.

<sup>6</sup> 47 U.S.C. § 503(b).

<sup>7</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

<sup>8</sup> 47 C.F.R. § 11.35(a).

<sup>9</sup> 47 C.F.R. § 1.80.

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to section 504(a) of the Act.<sup>10</sup> Payment may 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. 200132640001 referenced above. Requests for full payment under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>11</sup>

9. **IT IS FURTHER ORDERED** that copies of this Forfeiture Order shall be sent by Certified Mail Return Receipt Requested to Cherokee Broadcasting Company, Inc., P.O. Box 280, Murphy, North Carolina 28906, and to Timothy K. Brady, Esq., counsel for Cherokee Broadcasting, at P.O. Box 71309, Newnan, Georgia 30271.

**FEDERAL COMMUNICATIONS COMMISSION**

David H. Solomon  
Chief, Enforcement Bureau

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<sup>10</sup> 47 U.S.C. § 504(a).

<sup>11</sup> See 47 C.F.R. § 1.1914.