

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

In re
RANCHO PALOS VERDES BROADCASTERS, INC.
For a License for Station KXLA-TV, Rancho Palos Verdes, California
RANCHO PALOS VERDES BROADCASTERS, INC.
For Modification of Station KXLA-TV, Rancho Palos Verdes, California
RANCHO PALOS VERDES BROADCASTERS, INC.
For Special Temporary Authority for Station KXLA-TV, Rancho Palos Verdes, California
RANCHO PALOS VERDES INC.
For Forfeiture
File No. BLCT-20001220ADV
Facility No. 55083
File No. BPCT-20010131ABS
Facility No. 55083
File No. BSTAV-20020215ABS
Facility No. 55083
NAL/Acct. No. BROADCASTERS, FRN- 0007519408
Facility No. 55083

MEMORANDUM OPINION AND ORDER
AND
NOTICE OF APPARENT LIABILITY

Adopted: March 19, 2003

Released: March 21, 2003

By the Chief, Media Bureau:

1. This refers to the above-captioned applications of Rancho Palos Verdes Broadcasters, Inc. (RPVB), licensee of KXLA-TV (formerly KRPA(TV)), Channel 44, Rancho Palos Verdes, California, for a license to cover construction of facilities, for permanent modification of its authorized facilities, for extension of special temporary authority (STA) to operate KXLA from its proposed modified transmitter site, and for modification of that STA. Channel 51 of San Diego, Inc. ("Channel 51"), licensee of station

KUSI-TV, Channel 51, San Diego, California, and Sunbelt Television, Inc. (Sunbelt), licensee of KHIZ-TV, Channel 64, Barstow, California, seek reconsideration of the June 22, 2001, grant of the KXLA license application. In addition, Sunbelt seeks “clarification” of the previously granted STA, and objects to the pending STA extension request and the modification application. As discussed in greater detail below, we herein affirm the grant of the license application and STA request, and grant the subject modification application.¹ In addition, this Order serves as a NOTICE OF APPARENTLY LIABILITY FOR FORFEITURE for false certifications.

Background

2. On December 20, 2000, RPVB filed the subject license application (BLCT-20001220ADV) advising the Commission that the station commenced broadcasting under program test authority (PTA) pursuant to Section 73.1620 of the Commission’s Rules from a site on Santa Catalina Island. However, on January 12, 2001, RPVB amended its license application to report that subsequent to the construction of the station’s facilities, it learned that KXLA’s antenna structure was not built as authorized in the construction permit. Moreover, on February 26, 2001, RPVB advised the Commission, pursuant to Section 73.1560(d) of the Rules, that on February 13, 2001, it reduced the station’s transmitter output power below the required 80 percent level. This action was taken in order to reduce predicted radio frequency (RF) radiation in the vicinity of the station’s transmitter. It reported that an FCC field engineer requested that the station reduce its output power, and although its engineering consultant advised it that KXLA was operating within the Commission’s RF guidelines, it nevertheless “elected to cooperate with the Commission and voluntarily reduced transmitter output power.”

3. RPVB’s license application was opposed by Channel 51, the Santa Catalina Island Conservancy (Conservancy), and Gulf-California Broadcast Company, licensee of station KESQ-TV, Channel 42, Palm Springs, California (collectively Objectors). The Objectors alleged that RPVB failed to construct the station as authorized prior to the expiration of its construction permit. They also argued that the operation of KXLA resulted in the production of excessive RF radiation to humans beyond prescribed guidelines, which is inconsistent with the certifications RPVB made in its underlying construction permit and license applications. The Objectors, therefore, maintained that the license application should be dismissed or denied, the KXLA authorization should be rescinded or revoked, and further transmissions should be halted.

4. RPVB’s license application was granted by the Media Bureau (then the Mass Media Bureau) (Bureau) by letter dated June 22, 2001. The Bureau concluded that relatively minor errors had occurred during the construction of the KXLA facilities on Santa Catalina Island, but that they were promptly reported and rectified by the permittee and that such *de minimis* errors did not warrant denial of the license application.² The Objectors’ allegations with respect to RF radiation were referred to the Commission’s Enforcement Bureau for further investigation.

5. While its license application was pending, on January 31, 2001, RPVB filed the subject minor modification application (BPCT-20010131ABS) to relocate KXLA’s transmitter site from Santa Catalina Island to a common site with its authorized DTV facility at an antenna farm on Mt. Wilson. In addition, on February 23, 2001, RPVB applied for STA to operate on a temporary basis from an existing tower on Mt. Wilson (BSTATV-20010223ABB). On March 23, 2001, RPVB amended its STA request to modify the location of the STA facility from one antenna supporting structure on Mt. Wilson to

¹ By virtue of the grant of the modification application, RPVB’s requests to extend and modify its STA are rendered moot and will therefore be dismissed.

² In addition, RPVB was admonished for its relatively brief operation of the station at variance from its authorized facilities contrary to Section 309(c) of the Communications Act of 1934, as amended, and Section 73.1620 of the Commission’s Rules, until it was able to correct construction.

another.³ In support of the amended STA request, RPVB noted that it was continuing to operate at reduced power due to the RF concerns, and that rather than continue to engage in disputes over its use of the Santa Catalina Island site, it proposed to move to Mt. Wilson where there is no question of RF exposure compliance. In addition, RPVB submitted engineering data purporting to show that the proposed Grade B signal contour of the requested STA would be “nearly identical” with the Grade B contour from its authorized site on Santa Catalina Island, except that two lobes would extend northward to uninhabited areas within the Los Angeles National Forest and the San Gabriel Mountains.

6. On July 2, 2001, the request for STA, as amended, was granted by the Bureau, which noted that the proposed STA operation with reduced facilities (601 kW ERP, 922 meters HAAT) from the proposed STA site, less than .1 km from its proposed site for permanent operation, would not have an adverse interference impact to any existing television stations. Immediately following the grant of that STA, RPVB sought a modification of that authority, specifying a lower position on the same tower due to the “unavailability” of the tower height originally specified for its STA. The Bureau granted that modified STA on July 17, 2001. On February 1, 2002, RPVB filed a request to extend its STA operation, and on February 15, 2002, it filed the request to modify the existing STA (BSTAV-20020215ABS) to operate at increased power as specified in its pending modification application.

Pleadings

7. On July 30, 2001, Channel 51 filed a “Petition for Reconsideration” of the June 22, 2001, grant of RPVB’s license application.⁴ It maintains that the Bureau failed to address its allegations concerning allegedly false information concerning RF radiation contained in the underlying construction permit application. Channel 51 claims that because the construction permit application contained such false information, it was improperly granted, and must now be rescinded.

8. On August 16, 2001, Sunbelt also filed a “Petition for Clarification” regarding the modified STA issued on July 17, 2001; on November 9, 2001, it filed an “Informal Objection” to RPVB’s January 31, 2001, application to modify the authorized facilities of KXLA; and on February 20, 2002, Sunbelt filed a “Petition to Deny” RPVB’s request for extension of STA. In these pleadings, Sunbelt states grant of RPVB’s applications may “potentially effect” the ability of KHIZ-DT to maximize its DTV coverage in the future on its co-channel DTV Channel 44 at Barstow, California. RPVB has opposed each of these pleadings on procedural and substantive grounds, and Sunbelt has replied thereto.

9. RPVB also alleges that Sunbelt’s pleadings are “strike” pleadings designed to thwart its efforts to expand KXLA service and are therefore an abuse of the Commission’s process. However, we will not infer the existence of a primary purpose to delay from the mere filing of a petition. *See Radio*

³ RPVB attributed the need to relocate to a decision by the antenna farm landlord to provide the originally designated site to another tenant.

⁴ In addition, on August 6, 2001, Sunbelt filed a “Petition for Reconsideration” of the June 22, 2001, grant of RPVB’s license application. Sunbelt was not a party to the earlier proceeding involving RPVB’s license application. Sunbelt states that it had been “monitoring that proceeding and is an interested party that has been adversely affected” in that the commencement of KXLA’s operations may impact the future operation of KHIZ-DT. Sunbelt concedes, however, that it did not raise an objection to the license application earlier, and did not participate in the proceeding surrounding these allegations. Section 1.106(b)(1) of the Commission’s Rules provides that if such a petition is filed by a person who is not a party to the proceeding, however, shall show, among other things, good cause why it was not possible for it to have participated in the earlier stages of the proceeding. In light of Sunbelt’s admission that it was aware of and monitoring that proceeding concerning these matters, we conclude that it fails to establish good cause why it was not possible for it to participate earlier, and its reconsideration petition will be dismissed. Nevertheless, as part of our review of the issues raised by Channel 51, Sunbelt’s allegations will be addressed herein.

Carrollton, 69 FCC 2d 1139, 1150-51 (1978), *clarified* 69 FCC 2d 424 (1978), *aff'd sub nom., Faulkner Radio, Inc. v. F.C.C.*, No. 79-1749 (D.C. Cir. 1980), *cert. denied*, 450 U.S. 1041 (1981). Among the factors we consider to determine whether delay is a petitioner's primary purpose are: (1) statements admitting an obstructive purpose; (2) withholding of relevant information; (3) the absence of any reasonable basis for the allegations raised; (4) economic motivation indicating a delaying purpose; and (5) other conduct of the objector. *Id.* 69 FCC 2d at 1151. We do not agree with RPVB's assessment of Sunbelt's conduct or believe its objections evidence the factors indicating strike pleadings. Accordingly, we conclude these pleadings are not "strike" pleadings and we will consider them on their merits as informal objections. To ensure that the matters raised are fully considered, we will also address Sunbelt's allegations directed to the grant of the KXLA license application.

The License Application

10. Channel 51 and Sunbelt allege that the Bureau did not directly address Objectors' allegations and acted arbitrarily and capriciously by granting a license application that contained false information and was otherwise not ripe for grant. In addition to the construction deviation and RF concerns raised by Objectors, Sunbelt asserts that at the time the license application was filed, RPVB had only a six-month lease for the Santa Catalina Island transmitter site and did not intend to locate there permanently, as evidenced by the later-filed modification application and STA request to operate from Mt. Wilson. Sunbelt asserts that although RPVB claimed that adverse relations with the Conservancy necessitated its proposed move off Santa Catalina Island, that move was actually prompted by the short-term nature of its lease. Therefore, Sunbelt charges that the Bureau not only inappropriately granted the license application despite the fact that operation of KXLA at fully authorized power was unsafe, but also did so for a site RPVB had already announced it was abandoning. Moreover, Channel 51 and Sunbelt claim that the Bureau acted arbitrarily and capriciously by deferring and referring the RF issue to the Enforcement Bureau after it had already been determined that operation of KXLA at full power was unsafe. Finally, Channel 51 and Sunbelt allege that to the extent RPVB was not candid with or misrepresented facts to the Commission concerning the location and operation of KXLA at Santa Catalina Island, an investigation was necessary prior to the Bureau's grant of the license application.

11. In opposition, RPVB claims that Channel 51 and Sunbelt merely repeat previously raised and resolved allegations. It claims that the RF issue attendant to its site on Santa Catalina Island is now moot in light of the July 2, 2001 grant of STA for KXLA to operate from Mt. Wilson where no such RF concerns are present, and its pending application to relocate the station's transmitter there permanently. Nevertheless, it states that it did not submit deceptive RF information in its construction permit application. Rather, it contends that OET Bulletin 65 offers various options for calculating predicted RF radiation limits based on a series of assumptions and that computer modeling alone may not provide accurate assessments. RPVB asserts that the Objectors and Sunbelt merely disagree with its engineer's assumptions. It further asserts that when computer models do not match actual environmental assessment results, a broadcaster must reduce power, which it did when it became aware of the RF concerns in this case.⁵ In any event, RPVB states that Channel 51 and Sunbelt misconstrue the licensing issue that was properly before the Bureau, *i.e.*, whether the KXLA facility was constructed in accordance with the terms of the construction permit, versus the post-construction RF issue considered by the

⁵ As to its lease for the Santa Catalina Island site, RPVB states that it was a lease renewable on a six-month basis. It claims that there is no Commission requirement for a "formal" lease, let alone one for any specified term. Moreover, it states that there is no Commission provision that would prevent a party from seeking a modification of facilities, and given the opposition to its use of the Santa Catalina Island site and the Commission's promotion of the use of antenna farms in highly populated and congested areas such as Southern California, there was nothing untoward about its pursuit of a transmitter site on Mt. Wilson.

Enforcement Bureau, *i.e.*, whether the station, operating as authorized, resulted in RF radiation in excess of Commission guidelines.⁶

12. Discussion. As to the KXLA license application granted on June 22, 2001, we conclude that Channel 51 and Sunbelt have not set forth any specific erroneous findings of fact or conclusions of law in the staff's action that now requires it to be set aside. On the basis of the materials before us then, as well as now, the KXLA facility was, with the exception of *de minimis* variances brought promptly to the Commission's attention, built as authorized in its construction permit.⁷ That RF concerns later arose does not detract from the fact that the station was constructed as authorized or *per se* require denial of the license application. The Commission's Enforcement Bureau was investigating the resulting RF concerns and had the ability to take the appropriate enforcement action. Upon reflection, a better course may have been to withhold action on the license application until the RF issues were resolved. However, in light of the fact that RPVB was cooperating with the Enforcement Bureau and promptly reduced its power to safe levels and maintained them, the staff's action granting the license application prior to the resolution of those matters did not prejudice the petitioner or the public.⁸ We conclude that no further action with respect to the grant of RPVB's license application is required.

STA Requests

13. Sunbelt also objects to the issuance of the amended STA and the grant of the modified STA on July 17, 2001, under which KXLA is presently operating from the Mt. Wilson site, claiming that the STAs improperly extend the station's coverage area significantly beyond KXLA's licensed Grade B contour (*i.e.*, from its "authorized" Santa Catalina Island site). Although RPVB acknowledged an increase in the areas served to the north, it claimed that these are uninhabited areas and that no population would be added to KXLA's coverage area. Sunbelt claims, however, that the STAs significantly changed KXLA's antenna pattern and further increased the station's Grade B signal coverage beyond "uninhabited" areas to highly populated areas to the north such as Los Angeles and San Bernardino. It also maintains that KXLA's signal contour now overlaps with KHIZ's transmitter site, potentially intrudes upon KHIZ's future DTV service, and may "have an impact on the potential for interference" to other television stations beyond that which was studied and accepted. Sunbelt claims that there is no indication that the Bureau considered these matters before issuing the STAs. Sunbelt therefore requests that we "clarify" what STA parameters were actually granted (*e.g.*, which tower and height, power and antenna pattern) to ensure that RPVB is operating facilities in compliance with Commission requirements.

14. Sunbelt subsequently filed a "petition to deny" RPVB's request to extend the STA. It believes that extension of the STA will compound previous errors allegedly made. Moreover, Sunbelt asserts

⁶ Channel 51 and Sunbelt assert that because the Bureau did not first resolve the RF issues referred to the Enforcement Bureau, there was no public interest basis to grant the license application. Moreover, Sunbelt states that while there is nothing to prevent a licensee from seeking a new transmitter site, it questions whether a license for RPVB at its former Santa Catalina Island site should have been issued or held in abeyance until its new permanent site was constructed.

⁷ Sunbelt's conclusion that the license application had to be denied because RPVB had only a temporary six-month lease for the Santa Catalina Island site is both erroneous and irrelevant. Sunbelt has not challenged RPVB's assertion that that lease was a renewable six-month lease and we perceive no basis to conclude otherwise. We are unaware of, and Sunbelt has not cited, any Commission requirement that a long-term lease is necessary to have reasonable assurance of a transmitter site or is a condition precedent to the grant of a license application.

⁸ The Enforcement Bureau took no further action with respect to the RF concerns at RPVB's Santa Catalina Island site.

that, in light of RPVB's admission that it did not "lose" its authorized antenna site on Santa Catalina Island, but rather chose to relocate to a site on Mt. Wilson, there was no basis for issuance of the STA in the first place. In this regard, Sunbelt maintains that Section 309(f) of the Communications Act of 1934, as amended, permits the issuance of STA only if it is found that there are extraordinary circumstances requiring temporary operations in the public interest, and that such authority to relocate a transmitter site is only appropriate when the authorized site is lost through circumstances beyond the licensee's control. Sunbelt asserts that such is not the case here, as RPVB has abandoned its authorized site on Santa Catalina Island and moved to the Mt. Wilson site for its "convenience" until the modification application is granted. Accordingly, Sunbelt urges that RPVB's request to extend the STA be denied and KXLA be directed to relocate to its authorized site on Santa Catalina Island.

15. RPVB dismisses Sunbelt's allegations and asserts that there have been no material undisclosed changes in its STA requests and that no "clarification" of the Commission's action is necessary. It states that there has been no change of antenna pattern, and that Sunbelt is simply misreading the technical portions of its STA requests. With respect to the antenna pattern reflected in the July 5, 2001, modified STA submission and the technical basis for the current STA, RPVB denies that it was acting to increase interference or other effects beyond what the Commission first authorized on July 2, 2001. RPVB states that "the net effect of the change was to lower the antenna height without a compensating increase in power, thereby reducing the potential for interference, [and] no further explanation or interference analysis was required." RPVB also denies that the STA will interfere with KHIZ-TV's paired DTV channel, noting that even at KHIZ's proposed maximized facilities, its engineering analysis, using Longley-Rice terrain sensitive methodology prescribed in OET Bulletin 69, demonstrates that the move of KXLA from Santa Catalina Island to Mt. Wilson will reduce slightly potential, but otherwise non-objectionable, interference to KHIZ.⁹

16. Discussion. We are not persuaded that the staff erred by issuing RPVB STAs to operate from Mt. Wilson. We do not agree with Sunbelt that an "involuntary loss" of its authorized transmitter site was claimed by RPVB or is a condition precedent to the issuance of an STA to operate at a different transmitter site. As Sunbelt notes, Section 309(f) of the Communications Act of 1934, as amended, permits the issuance of STA only if it is found that there are extraordinary circumstances requiring temporary operations in the public interest and that the delay in the institution of such temporary operations would seriously prejudice the public interest. Sunbelt cites a number of staff-level cases where specific STA requests were denied because it was determined that the applicant had not "lost" its site, but rather was using the STA process to circumvent established modification procedures, enhance the facility or make operation more convenient for the broadcaster. However, there is no indication that such is the case here. In the July 2, 2001, letter granting the amended STA, we indicated that it was issued not premised on the loss of the authorized Santa Catalina Island site, but rather to satisfy concerns raised regarding RF radiation at that site. Although RPVB did have a modification proposal pending to locate its authorized transmitter site at or near the location for its STA on Mt. Wilson, the issued STA required RPVB to operate KXLA at reduced facilities so as not to prejudge assessment of the modification application. Inasmuch as that STA was granted to temporarily continue KXLA's service that was curtailed as a result of the RF problems arising from operation from the Santa Catalina Island site, there is no indication that this is a case of a broadcaster attempting to circumvent routine processes to effectuate a modification of its license, as was found in the cases cited by Sunbelt. Accordingly, we conclude that the July 2, 2001, grant of the STA was consistent with Section 309(f), and Sunbelt has demonstrated nothing to the contrary.

⁹ In its reply pleadings, KHIZ states that RPVB's modified STA request contained only tower height information so that, given its numerous amendments, it is not clear exactly what the staff granted. It also reiterates that RPVB move from the Santa Catalina Island site was voluntary and, therefore, that there was no basis for its original issuance or any basis to extend it.

17. Similarly, Sunbelt has not demonstrated a basis to conclude that by its July 5, 2001, request to modify its STA, RPVB was attempting to expand its service area beyond that authorized in the STA issued on July 2nd. Although RPVB did not undertake a new study of its proposed Grade B signal contour in connection with that modification request, having indicated that it was simply lowering its antenna height to accommodate the space made available to it by the antenna owner, we agree with RPVB that there is nothing to indicate that it sought to expand its coverage area or increase interference to other stations. The parameters of KXLA's STA are clearly set forth in that authorization, and Sunbelt has failed to proffer any showing that KXLA is not operating under its STA as authorized. Accordingly, we neither agree with Sunbelt that there is any confusion surrounding the terms or issuance of the modified STA, nor discern any need to now "clarify" that action.

The Modification Application

18. Just over ten months after RPVB filed its modification application to permanently relocate KXLA's transmitter site to Mt. Wilson, Sunbelt filed its "informal objection" thereto. It alleges, among other things, that RPVB certified in its application that its proposed facilities provide the requisite 80 dBu principal community signal coverage set forth in Section 73.685 (a)(1) of the Commission's Rules, and that there is direct line-of-sight with no "major obstruction" between the proposed antenna site and its transmitter as required by Section 73.685(b) of the Rules. Sunbelt contends that its own engineering studies conclude that KXLA will provide no city-grade service to the community of license due to the intervention of a "major obstruction" in the form of the Rancho Palos Verdes Hills, which extend 1200-1300 feet above ground level and prevent a direct line-of-sight between the Mt. Wilson site and the community of Rancho Palos Verdes.¹⁰ Sunbelt states that RPVB has not requested a waiver of these rules, and that no such waivers could be justified. Sunbelt also asserts that RPVB's proposal deviates from other Commission requirements without adequate justification.¹¹ Accordingly, it believes that the modification application must be denied and KXLA directed to resume operations with its licensed Santa Catalina Island facility. Sunbelt also states that a serious question exists whether RPVB provided intentionally false or misleading information in an effort to secure the grant of this application that call into question RPVB's qualifications to be a Commission licensee.

19. In its opposition, RPVB maintains that Sunbelt's allegations are erroneous or meritless. It challenges the accuracy of the Sunbelt's engineering study, claiming that it misplaces the location of the Rancho Palos Verdes Hills in relation to the community of Rancho Palos Verdes. It states that Rancho Palos Verdes is not "merely a point on the map . . . [but rather] surrounds and includes the Rancho Palos Verdes Hills within its borders, extending more or less equally on all sides of those hills and intertwining with a number of neighboring communities." RPVB maintains that, as a result, it is not possible to cover the community of Rancho Palos Verdes with the requisite 80 dBu principal community signal from any transmitter location. Nevertheless, RPVB claims that the Commission has already studied and approved

¹⁰ Sunbelt similarly maintains that this obstruction also calls into question the ability of KXLA-DT to provide required service from the same site as already authorized and the propriety of the grant of RPVB's DTV application. See File No. BPCDT-19991101AIZ. Sunbelt alleges that in that application, RPVB also improperly certified that its proposed facility's DTV coverage contour will encompass the principal community pursuant to Section 73.625 of the Rules. Finally, Sunbelt states that these same obstruction and disclosure problems arise with respect to RPVB's STA requests.

¹¹ Specifically, Sunbelt states that RPVB proposes the use of an "illegal" antenna pattern with a maximum-to-minimum ratio of 44.4 dB, in excess of the 15 dB value permitted by Section 73.685(e) of the Rules, and greater than the 22 dB reported in the modification application. As a result, Sunbelt contends that without tremendous suppression of its proposed antenna pattern, which RPVB has not demonstrated is possible, KXLA may exceed FCC interference standards with respect to KHIZ-DT. Finally, Sunbelt notes that this proposal is short spaced to other stations, and that RPVB has sought waivers with respect to those stations.

the coverage issues raised here, and the lack of appropriate signal coverage should not prevent this application from being granted.

20. RPVB states that it previously raised these matters in the KXLA-DT construction permit application. Therein, it relates, it disclosed in a statement attached to the application that with respect to the Mt. Wilson site, the digital facility

[D]oes deliver the minimum required field strength over the entire principal community to be served. . . .

Separate studies using shadowing techniques demonstrate, however, that there is a certain amount of blockage of Rancho Palos Verdes when served from Mt. Wilson. . . . To put the amount of blockage in context, . . . similar studies show a decrease in blockage (increase in service) [to about 1,000 households] when moving from Santa Catalina Island to Mt. Wilson.

Studies of the terrain in the area show that there are no practical locations from which it might be possible to provide service to all of Rancho Palos Verdes without some amount of blockage. It is well known that it is not possible to construct any antenna supporting structures in the Los Angeles area except at the few existing antenna farms, of which Mt. Wilson is the principal one. Given that there are numerous benefits to the public in improving [the] coverage [to be] achieved, and given the Commission's acknowledgement of the benefit of common facilities, it is submitted that the amount of obstruction involved is sufficiently small so as not to constitute a "major obstruction" Should the Commission reach a different conclusion, then a waiver of the obstruction requirement is hereby requested.¹²

Given this disclosure, RPVB denies Sunbelt's allegation it was attempting to conceal this information. RPVB claims that the Commission granted the construction permit for the KXLA-DT facilities on Mt. Wilson knowing of the difficulties faced in serving Rancho Palos Verdes and without issuing a waiver. It further maintains that this information was not submitted in the KXLA NTSC modification application because it had been submitted previously, and that there was no attempt on its part to be misleading.

21. RPVB further argues that, contrary to Sunbelt's assertions, as a result of the proposed relocation to Mt. Wilson, KXLA will actually offer more interference protection to KHIZ-DT than it would experience from KXLA operating from the licensed Santa Catalina Island site. In this regard, RPVB states that KXLA and KHIZ-DT are separated by mountains reaching more than 670 meters higher than the KHIZ-DT radiation center, and almost 860 meters higher than the proposed KXLA radiation center on Mt. Wilson, and the path profile between the two sites shows a single obstruction within the San Gabriel Mountain range in the direct path of the two antennas extending over more than 18 kilometers. As a result, RPVB states that the path from each station to the other's service area is essentially blocked by terrain. It specifically notes that it designed its proposed antenna to take advantage of this terrain, by placing maximum signal coverage into desired areas without a reduction of power to limit coverage to undesired areas, where KXLA's signal will be blocked by terrain.¹³

¹² BPCDT-19991101AIZ, Technical Statement.

¹³ RPVP points out that, contrary to Sunbelt's claim, it has requested a waiver of Section 73.685(e) of the Commission's Rules with respect to its proposed antenna pattern premised on the public interest benefits of its proposed move to an antenna shared with its paired DTV station, and the service benefits to be derived therefrom. Moreover, RPVB maintains that after reviewing Sunbelt's allegations, it conducted additional testing to conclude that interference to KHIZ-DT will be reduced. Specifically, RPVB states that it undertook further testing using more stringent data for modification of its antenna pattern to provide no more than 15 dB, 10 dB and 0 dB (*i.e.*,

22. In its reply, Sunbelt contends that RPVB has conceded that it will not provide requisite city-grade service to Rancho Palos Verdes and that there is a “major obstruction” preventing a line-of-sight between its proposed transmitter site and its community of license. It argues that RPVB’s certifications to the contrary constitute deliberate misrepresentations. Sunbelt reiterates that its engineering studies indicate that no city-grade signal coverage will be provided to Rancho Palos Verdes. Moreover, Sunbelt notes that upon its own study of KXLA’s engineering data, it concludes that the station will provide a city-grade signal to only approximately 58 percent of the community’s population. It rejects RPVB’s claim that the Commission approved such a shortfall when it granted RPVB’s digital application. Sunbelt maintains that although RPVB stated that there would be “some degree of [signal] blockage,” there was nothing to indicate that city-grade service would be reduced below that required by the Commission’s Rules.

23. Sunbelt asserts that, contrary to RPVB’s characterization, the blockage referred to in the KXLA-DT application is significant. Sunbelt claims that RPVB misled the Commission when it falsely certified in both the digital and the instant modification application (and by extension in the STA requests) that it was in compliance with city-grade service and line-of-sight requirements. Sunbelt states that there is no indication that the Commission was previously aware of or countenanced such shortfalls. It notes that no waiver was granted with respect to the digital facility, although the shortfalls in question exceed those for which the Commission has specifically waived its rules in the past.

24. Sunbelt further argues that, even if RPVB had sought a waiver of these requirements in the instant modification application, no such waiver is justified. It maintains that RPVB has not demonstrated, as is required for such waivers, the unavailability of other sites from which more complete city-grade service might be provided. Similarly, with respect to the spacing waivers for those stations to which KXLA would be short-spaced, Sunbelt states that RPVB has not demonstrated that other, less short-spaced sites, including the authorized Santa Catalina Island site, are not available to it. Sunbelt contends that numerous towers exist on top of the Rancho Palos Verdes Hills that would allow KXLA to provide requisite city-grade service, and would reduce to two the number of short-spacing waivers necessary to effectuate such a proposal.¹⁴ It also maintains that the KXLA’s authorized site on Santa Catalina Island remains available, is fully-spaced, and provides superior city-grade service than is achieved from Mt. Wilson. In any event, Sunbelt maintains that the financial desirability of the Mt. Wilson site to RPVB is not an adequate basis to waive these Commission technical requirements.

25. Discussion. Before addressing the specifics of RPVB’s modification application, it is necessary to discuss generally the initial allocation of channel 44 to the community of Rancho Palos Verdes. Section 307(b) of the Communications Act requires the Commission to make a “fair, efficient,

omnidirectional radiation) suppression in any direction. It asserts that those “worst-case scenarios” studies conclude that even when full power of KXLA is radiated omnidirectionally from the Mt. Wilson site, no loss of population is caused to KHIZ-DT’s service area. RPVB further asserts that by virtue of the move of KXLA from Santa Catalina Island to Mt. Wilson, the population loss to KHIZ-DT is actually reduced by “a miniscule amount.”

¹⁴ After Sunbelt filed its reply, RPVB submitted supplemental comments to indicate that, as a result of Sunbelt’s assertions about the availability of more desirable transmitter sites on the Rancho Palos Verdes Hills, it explored the availability of space on such towers and whether they might meet RF and/or FAA requirements. It states that its engineering consultant determined that none of those sites were available to KXLA, and would otherwise not comply with FCC and FAA technical requirements. In addition, even if such space were available, RPVB concludes that Rancho Palos Verdes residents at the base of the Rancho Palos Verdes Hills would not receive an adequate signal. It also reiterates that no other sites exist which would allow it to provide better service to its community of license, and that more people will be served by KXLA operating from the proposed Mt. Wilson site than would be the case from the Santa Catalina Island site.

and equitable distribution of radio service.” For full-service analog television stations, this is accomplished through the Television Table of Allotments, Section 73.606 of the Commission’s Rules, where channels are assigned to specific communities. It is the primary obligation of licensees on those channels to serve their assigned communities. The actual assignment of a channel to a community, as was the case for Rancho Palos Verdes, is based upon a hypothetical set of reference coordinates and only a theoretical fully-spaced transmitter site location. The Commission does not consider actual transmitter sites, with specific antenna heights or operating powers, from which a potential station on that channel might be operated.¹⁵

26. When a party files an application to construct its actual facility, the Commission then assesses that proposal in terms of its technical requirements and service obligations. As the policies concerning local service obligations have evolved, the Commission has increasingly looked to, among other things, the provision of a requisite broadcast signal to the community of license as defined by Section 73.685 of the Commission’s Rules to ensure that a licensee will primarily serve its community of license.¹⁶ Section 73.685(a) of the Commission’s Rules requires that a transmitter site must be selected so that, on the basis of the effective radiated power and antenna height, a minimum field strength of (80 dBu for channels 14-69) is placed over the entire community of license. Further, Section 73.685(b) requires that a line-of-sight can be obtained from the antenna over the principal community to be served and “in no event should there be a major obstruction in this path.”¹⁷

27. In order to assure compliance with these rules, the Commission relies on the certifications made by applicants in their applications. In this regard, the applications contain “yes” and “no” checkbox certifications and afford applicants the opportunity to explain their response, as needed. As detailed in the instructions to each application form, applicants may only affirmatively certify to questions when they are certain that the response is correct. A “no” response is required when an applicant is either requesting a waiver or is unsure that it fully complies with the pertinent rule or policy.¹⁸ In the KXLA modification application, RPVB affirmatively certified its compliance with Section 73.685 with respect to city-grade signal coverage and line-of-sight antenna location and did not proffer any explanation of that affirmative certification. Only in response to Sunbelt’s objections, however, did RPVB reference its digital television application where it similarly certified its compliance with signal coverage requirements. Review of that digital application reveals that RPVB also checked the “yes” box without proffering any exhibit explaining that certification – in fact, RPVB indicated that such an explanation was not necessary.¹⁹ Nevertheless, RVPB did include a statement in its application

¹⁵ In fact, in allocating channel 44 to Rancho Palos Verdes, the reception problems due to shadowing caused by the area’s mountainous terrain was acknowledged. Nevertheless, using the reference points on Santa Catalina Island that might be used to provide requisite service to Rancho Palos Verdes, the Commission concluded that the public interest would be served by providing that community’s first local service. *See Amendment of Section 73.606(b), Table Of Assignments, TV Broadcast Stations (Rancho Palos Verdes, California)*, BC Docket No. 82-567 (released December 29, 1982), *recon. denied*, (released July 13, 1983).

¹⁶ *See, e.g., Main Studio and Program Origination Rules*, 2 FCC Rcd 3215, 3218 (1987); *Suburban Community Policy, The Berwick Doctrine, and the De Facto Reallocation Policy*, 93 FCC 2d 436, 456 (1983), *recon. denied*, 56 RR 2d 835, 839 (1984).

¹⁷ In addition, Section 73.685(c) states that in cases of questionable antenna locations, it is desirable to conduct propagation tests to indicate the field strength expected in the principal community to be served and other areas, particularly where severe shadowing problems may be expected.

¹⁸ *See 1998 Biennial Regulatory Review—Streamlining of Mass Media Applications, Rules, and Processes*, 13 FCC Rcd 23056, 23067 (1998), *clarified*, 14 FCC Rcd 17525 (1999).

¹⁹ Specifically, RPVB indicated “N/A” on the application where it provides an applicant the opportunity to explain its certification.

which contained the aforementioned vague language regarding “some degree” of unspecified signal blockage. RPVB further indicated that it was not certain that it complied with signal coverage and transmitter location requirements, and to the extent that the Commission might reach a “different conclusion,” it asked the digital coverage rules be waived to accommodate its proposal. Although that showing was not contained in or even referenced in the subject analog modification application, RPVB asserts that the Commission had already reviewed the issue of its station’s coverage in the digital application and had determined that it complied with our technical requirements. We disagree.

28. RPVB’s digital application did not clearly set forth the significant signal shortfall problems that are now apparent, and its showing contained no information, specific or otherwise, to permit the Commission to understand or assess the level of signal coverage proposed in its digital application. RPVB was simply not forthright in this regard in its digital application or the instant analog modification application. RPVB does not dispute that its proposed analog facility will not provide the requisite signal coverage and antenna location. Additionally, inasmuch as its DTV facility is located at a lower position on that same antenna structure, it is clear that the KXLA-DT facility suffers from the same technical infirmities.

29. Nevertheless, we believe that the instant analog modification application should be granted. Based on our analysis of the pleadings and engineering information before us, we conclude that RPVB’s modification presents the best possibility to provide as much service as is realistically possible to the community of Rancho Palos Verdes. As pointed out by Sunbelt and confirmed by our analysis, the Rancho Palos Verdes Hills act as a major obstruction to hinder the actual provision of requisite city-grade service to that community. Sunbelt proffers nothing to the contrary. Although the allocation of channel 44 to this community is based on the theoretical possibility of a fully-spaced transmitter site without consideration of actual tower height or operating powers, both parties agree that a fully compliant site on Mt. Wilson is not available to RPVB. Sunbelt suggests that, under the circumstances, KXLA should be forced to return to the authorized Santa Catalina Island site or demonstrate that lesser short-spaced sites, such as those atop the Rancho Palos Verdes Hills, are unavailable. However, due to the RF concerns at the Santa Catalina Island site, KXLA would realistically have to reduce its operating power to such an extent that service to Rancho Palos Verdes is further and substantially compromised. In addition, RPVB has shown that there are no lesser short-spaced sites available to it. In this regard, it states that even if sites atop the Rancho Palos Verdes Hills were available to KXLA, there would still be substantial shadowing to a significant population in Rancho Palos Verdes living at the base of those hills.

30. The Commission allotted channel 44 to serve Rancho Palos Verdes and, therefore, the public interest is best served by optimizing that service under present circumstances. Sunbelt maintains that the financial desirability of the Mt. Wilson site to RPVB is not a sufficient basis to waive the city-grade coverage rule. In support, it cites *PZ Entertainment Partnership, L.P.*, 6 FCC Rcd 1240 (1991), *recon. denied*, 7 FCC Rcd 2696 (1992), wherein the Commission declined to waive city-grade coverage rules in order to permit a modification applicant to locate to an economically advantageous site atop a mountain at the expense of city-grade signal coverage to the community of license located in a valley below. *PZ Entertainment Partnership, L.P.*, however, is not controlling. Therein, the Commission explained that because there were available sites in the valley which would allow the provision of requisite service to the community intended to receive that service, it would not waive the rule merely for the applicant’s benefit. That is not the case here, where it has been shown that there is no technically adequate or available sites from which full coverage to Rancho Palos Verdes can be achieved. Moreover, directing RPVB to return to Santa Catalina Island and operating KXLA at authorized facilities will not place a better signal over Rancho Palos Verdes and will result in harmful levels of RF contrary to the public interest.

31. We acknowledge that a waiver of this magnitude is unprecedented, but is nevertheless warranted for this particular community. As initially allotted, channel 44 was sited on Santa Catalina Island, a fully spaced location from which compliant service to Rancho Palos Verdes was possible. The extended efforts of the permittee to secure an actual site for its facility, however, encountered substantial environmental concerns and lengthy litigation delays. As noted, the site finally selected and constructed resulted in significant RF problems and a consequent reduction in power. Attempts to locate an alternative site on Santa Catalina Island that would serve Rancho Palos Verdes were unsuccessful. Indeed, given developments in the area since the initial allotment of this channel in 1982, there does not appear to be an alternative Santa Catalina Island site available from which Rancho Palos Verdes could be fully served. Although it objects to RPVB's proposed relocation to Mt. Wilson, Sunbelt does not suggest or demonstrate that a viable alternative site on Santa Catalina Island exists.²⁰ Given that the Mt. Wilson site appears to provide better levels of coverage to Rancho Palos Verdes than other available sites, and given the collocation benefits inherent in the Mt. Wilson site, we conclude that a waiver to permit its use is warranted.

32. RPVB's proposal is short-spaced to the collocated facilities of KXPB-TV, San Bernardino, KFTR-TV, Ontario, KVEA-TV, Corona, KTVB-TV, Santa Ana, and KCLS-TV, Los Angeles, California, which are situated at or near the KXLA site on Mt. Wilson. However any resulting interference will not be caused to those stations, but will potentially affect KXLA's signal in the area immediately surrounding the transmitter site, which is uninhabited. Accordingly, we will waive Section 73.610 of the Rules with respect to these stations. Moreover, as to RPVB's proposed use of an antenna pattern with a maximum-to-minimum ratio of 44.4 dB, in excess of the 15 dB value permitted by Section 73.685(e) of the Rules, it has requested a waiver of the rule in light of the increased signal coverage toward Rancho Palos Verdes and the natural terrain obstruction that acts to suppress its signal in the direction of KHIZ-DT. We agree with RPVB that the characteristics and location of the KXLA transmitter site will provide the claimed degree of signal suppression protection, and Sunbelt has offered nothing specific to the contrary. Section 73.685(e) of the Commission's Rules will, therefore, be waived to permit the use of this antenna pattern in this case. Based on the foregoing, we conclude that the public interest would be served by grant of the KXLA modification application.

RPVB's Disclosures

33. Notwithstanding the above determinations, we are concerned that RPVB apparently improperly certified its compliance with Section 73.685(a)(1) of the Commission's Rules with respect to its city-grade coverage and Section 73.685(b) with respect to its tower location in both KXLA's digital television and its modification applications. It has acknowledged that the proposed facility will not provide requisite city-grade service and that there is an obstruction preventing a direct line-of-sight between its proposed transmitter and its community of license. No information was sufficiently disclosed in either application to support RPVB's certifications and its interpretation of its compliance with the Commission's technical requirements. Given RPVB's representations that KXLA-DT "[D]oes deliver the minimum required field strength over the entire principal community to be served" and that "the amount of obstruction involved is sufficiently small so as not to constitute a 'major obstruction,'" we find disingenuous RPVB's claimed belief that the staff, in granting the KXLA-DT application also implicitly waived the applicant's non-compliance with the Commission's rules.

34. Section 73.1015 of the Commission's Rules requires, in pertinent part, that "[n]o applicant . . . shall . . . in any application, pleading, or report or any other written statement submitted to the Commission, make any misrepresentation or willful omission bearing on any matter within the

²⁰ While Sunbelt argues that RPVB's authorized Santa Catalina Island site would provide "superior city-grade service," it does not address the fact that RF problems preclude operation at that site at the power levels necessary to provide such service.

jurisdiction of the Commission.” Although RPVB claims that the information was publicly available, as it was previously disclosed in other applications, it is clear that RPVB did not disclose *all* material facts necessary to properly evaluate either the instant modification application or the earlier filed KXLA-DT application.

35. While nondisclosure of this information in the subject modification application was willful, RPVB’s actions in this regard do not rise to the level of a pattern of misconduct so as to warrant exploration of its conduct in an evidentiary hearing. Nevertheless, applicants do not have the discretion to omit material information because it is contained in other Commission filings. Full and clear disclosure of all material facts in every application is essential to the efficient administration of the Commission’s licensing process, and proper analysis of an application is critically dependent on the accuracy and completeness of information and data which only the applicant can provide. While RPVB was remiss in this regard, we conclude based upon the information before us that the grant of the DTV application does not exonerate RPVB for failing to ensure that the information contained in the NTSC modification application it subsequently submitted was true, correct, and complete to the best of its knowledge, information and belief. A substantial and material question of fact has not been raised with respect to RPVB’s qualifications to remain a Commission licensee. We believe, however, that RPVB should be sanctioned for its false certifications, and that a monetary forfeiture should be imposed for the apparent violation of Section 73.1015 of the Commission’s Rules.

36. Section 503(b) of the Communications Act of 1934, as amended, and Section 1.80(a) of the Commission’s Rules each state that any person who willfully or repeatedly fails to comply with the provisions of the Communications Act or the Commission’s rules shall be liable for a forfeiture penalty. RPVB’s conduct in this regard was both “willful” and “repeated” within the meaning of Section 503(b)(1)(B) of the Communications Act and Section 1.80(a)(2) of the Commission’s Rules. As the Commission has held, an act or omission is “willful” if it is a conscious and deliberate act or omission, whether or not there is any intent to violate the rule. *See Southern California Broadcasting Company*, 6 FCC Rcd 4387 (1991), *recon. denied*, 7 FCC Rcd 3453 (1992). Further, a continuing violation is “repeated” if it lasts more than one day. *Id.* at 4388.

37. In *Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Commission’s Rules*, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999), the Commission adopted guidelines for assessing forfeitures. However, these guidelines do not enumerate a base forfeiture amount for a willful material omission. Under these circumstances, the forfeiture amount must be assessed, taking into account the relevant statutory factors in Section 503(b)(2) of the Communications Act, including “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.” Based on our assessment of these factors, we conclude that RPVB’s apparent violations of Section 73.1015 with respect to both KXLA’s and KXLA-DT’s signal coverage and transmitter location warrants this Notice of Apparent Violation for Forfeiture in the amount of \$5,000 for each violation, or a total of \$20,000. *See WRKL Rockland Radio, L.L.C.*, 14 FCC Rcd 1042 (MMB 1999).

Conclusions and Ordering Clauses

38. Based on our review of the facts and circumstances as set forth above, IT IS HEREBY ORDERED, That Channel 51’s Petition for Reconsideration of the June 22, 2001, grant of the KXLA license application (BLCT-20001220ADV) IS DENIED, Sunbelt’s Petition for Reconsideration of that license application IS DISMISSED, and the grant of that application IS AFFIRMED.

39. IT IS FURTHER ORDERED, That, Sunbelt’s Informal Objection to the KXLA modification application (BPCT-20010131ABS) IS DENIED, and that application IS GRANTED as indicated herein.

40. IT IS FURTHER ORDERED, That Sunbelt's Petition for Clarification of the July 17, 2001, grant of Special Temporary Authority IS DISMISSED, and the grant of that application IS AFFIRMED. Moreover, Sunbelt's "Petition to Deny" the request to extend KXLA's STA authority and KXLA's application to modify its STA (BSTAV-20010215ABS) ARE DISMISSED as moot.

41. IT IS FURTHER ORDERED, That pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.283, and 1.80 of the Commission's Rules, Rancho Palos Verdes Broadcasters, Inc. is hereby NOTIFIED of its APPARENT LIABILITY FOR FORFEITURE in the total amount of twenty thousand dollars (\$20,000) for willfully and repeatedly violating Section 73.1015 of the Commission's Rules.

42. IT IS FURTHER ORDERED, That pursuant to Section 1.80 of the Commission's Rules, within thirty days of the release date of this Notice, Rancho Palos Verdes Broadcasters, Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, and addressed to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois, 60673-7482. The payment MUST INCLUDE the FCC Registration Number (FRN) referenced above and also must note the NAL/Acct. No. referenced above. Other relevant provisions of Section 1.80(f)(3) of the Commission's Rules are summarized in the attachment to this Notice.

43. IT IS FURTHER ORDERED, That a copy of this Notice of Apparent Liability for Forfeiture SHALL BE SENT, by Certified Mail – Return Receipt Requested, to Rancho Palos Verdes Broadcasters, Inc., 15304 Sunset Boulevard, Suite 204, Pacific Palisades, CA 90272, and to its counsel, Barry A. Friedman, Thompson Hine LLP, 1920 N Street NW, Washington, D.C. 20036.

FEDERAL COMMUNICATIONS COMMISSION

W. Kenneth Ferree
Chief, Media Bureau

Enclosures

NOTICE OF APPARENT LIABILITY ATTACHMENT**IMPORTANT - READ INSTRUCTIONS AND RETURN ATTACHED FORM**

- A. The document you have received is a **Notice of Apparent Liability (NAL)**. You may take any of the following actions under Section 1.80 of the Commission's Rules:

(a) You may pay the full amount of the forfeiture within thirty (30) days of the date of the NAL. If you elect to follow this course, you should complete the appropriate sections of the attached form and send it, along with a check or similar instrument for the amount specified, made payable to the Federal Communications Commission. To assure that your payment is properly recorded, **please enter on your check your FCC Registration Number and the Collections and Billing Customer Number appearing in the upper right hand corner of the attached form**, and return the extra copy of the NAL that is attached, together with the check, to:

**Federal Communications Commission
Post Office Box 73482
Chicago, IL 60673-7482**

(b) Within thirty (30) days of the date of the NAL you may file a statement, in duplicate, as to why the proposed forfeiture should be reduced. The statement must be signed by the licensee; or by a partner, if the licensee is a partnership; or by an officer, if the licensee is a corporation; or by a duly elected or appointed official, if the licensee is an unincorporated association. The statement must be supported by pertinent documents and affidavits. The statement may include any justification or any information that you desire to have considered. If you elect to follow this course, you should complete the appropriate section of the attached form, and send it along with your statement. Upon consideration of your statement, it will be determined whether any forfeiture should be imposed, and, if so, whether the forfeiture should be imposed in full or reduced to some lesser amount. An order stating the result will be issued. If using United States Postal Service first-class mail, Express mail, and Priority mail, address your statement for delivery to:

**Federal Communications Commission
Video Division, Media Bureau
445 12th Street, S.W., Room 2-A665
Washington, DC 20554**

If hand-delivering or messenger-delivering your statement, address it for delivery to:

**Federal Communications Commission
Video Division, Media Bureau
236 Massachusetts Avenue, NE, Suite 110
Washington, DC 20002**

(c) You may take no action. In this case, a Forfeiture Order will be issued after expiration of the 30-day period ordering that you pay the forfeiture in full. If you decide to take no action, you need not return the attached form.

- B. If, in response to this NAL, you claim a financial inability to pay the full amount of the forfeiture, you must furnish data to support your claim. The supporting data should include, but need not be limited to, a profit and loss statement that has been prepared under generally accepted accounting principles. The statement that you furnish should contain no data older than one year from the date of your response. Items in the statement should include income from broadcast or cable operations, expenses from broadcast or cable operations (including noncash expenses, such as amortization and depreciation) and payments to principals (including salaries, commissions, management fees, interest, rents, etc.). If you are an individual or company with multiple station holdings, you should furnish separate profit and loss statements for each entity that you own or control, or a consolidated profit and loss statement. You are advised that all financial data furnished with your response will be routinely available for public inspection absent a request for nondisclosure setting forth the reasons therefor, pursuant to Section 0.457(d)(2) of the Commission's Rules.

If you have any questions concerning this forfeiture proceeding, please communicate them in writing to:

**Federal Communications Commission
Video Division, Media Bureau
445 12th Street, S.W., Room 2-A665
Washington, DC 20554**

or contact Commission staff personnel by telephone at **(202) 418-1600**; or by FAX at (202) 418-2827

NOTICE TO INDIVIDUAL REQUIRED BY THE PRIVACY ACT

Sections 308(b) and 503(b) of the Communications Act of 1934, as amended, authorize the Commission to request this information, the purpose of which is to determine your liability for a monetary forfeiture.

The Commission's staff will use all relevant and material information before it, including the information disclosed in your statement to determine whether the forfeiture should be cancelled, reduced, or paid in full. Notices of Apparent Liability are a matter of public record.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P.L. 93-579, December 31, 1974, 5 U.S.C. §532a(e)(3).

knalatch.mnt

COLLECTIONS AND BILLINGS
CUSTOMER NUMBER

X- - - - -

**Federal Communications Commission
Washington, DC 20554**

In response to a **Notice of Apparent Liability** for monetary forfeiture under the provisions of Section 503(b) of the Communications Act of 1934, as amended, and Section 1.80 of the Commission's Rules:

- [] I am returning a copy of the Notice of Apparent Liability and enclosing a check or similar instrument, drawn to the order of the Federal Communications Commission, in payment of the full forfeiture amount as indicated in the Notice of Apparent Liability. I have entered my **FCC Registration Number** and the **Collections and Billings Customer Number** appearing in the upper right corner of this page on my check, and am submitting it to:

**Federal Communications Commission
Post Office Box 73482
Chicago, IL 60673-7482**

- [] I am submitting a detailed statement of facts and reasons why I believe the forfeiture as assessed in the Notice of Apparent Liability is not warranted, or should be reduced, to:

If using United States Postal Service first-class mail, Express mail, and Priority mail:

**Federal Communications Commission
Video Division, Media Bureau
445 12th Street, S.W., Room 2-A665
Washington, DC 20554**

If hand-delivering or messenger-delivering:

**Federal Communications Commission
Video Division, Media Bureau
236 Massachusetts Avenue, NE, Suite 110
Washington, DC 20002**

Name of Licensee

Call Letters, City, State

Signature of Authorized Official

Date

Amount of Forfeiture Specified in NAL