

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

In the Matter of)	
)	
Northland Cable Properties VII, LP)	File No. EB-03-AT-061
Operator of Cable Systems in Sandersville/ Tennille, Georgia)	NAL/Acct. No. 200332480026
Seattle, Washington)	FRN: 0004-5222-98

FORFEITURE ORDER

Adopted: December 22, 2004

Released: December 27, 2004

By the Assistant Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this *Forfeiture Order* (“*Order*”), we issue a monetary forfeiture in the amount of eight thousand dollars (\$8,000) to Northland Cable Properties VII, LP (“Northland”), operator of cable television systems in Sandersville and Tennille, Georgia (“Northland cable systems”) for willfully and repeatedly violating the cable television signal leakage standards of Sections 76.605(a)(12) and 76.611(a)(1) of the Commission’s Rules (“Rules”).¹

II. BACKGROUND

2. On a March 5, 2003, the Commission’s Atlanta, Georgia Field Office (“Atlanta Office”) conducted a cable signal leakage inspection of Northland’s cable systems. As a result of that inspection, the Atlanta Office released a *Notice of Apparent Liability for Forfeiture* (“*NAL*”).² The *NAL* found that that Northland’s cable systems experienced signal leaks at 38 locations on frequency 121.2625 MHz (which exceeded 20 microvolts per meter ($\mu\text{V}/\text{m}$) at a distance of at least 3 meters from each leakage), and that the measured leaks ranged from 84 to 931 $\mu\text{V}/\text{m}$ (which at a calculated cumulative index of (“*CLI*”) of 68.9, exceeded the permissible cumulative signal leakage performance criteria of 64). Based on these findings, the *NAL* proposed a \$8,000 forfeiture against Northland for apparent willful and repeated violation of Sections 76.605(a)(12) and 76.611(a)(1) of the Rules.

3. In its July 2, 2003 response to the *NAL*,³ Northland sought cancellation of the proposed forfeiture, arguing that the Atlanta Office’s measurements were inaccurate, that the company undertook immediate and prompt remedial measures, and, finally, that the leakage problems, for the most part, were attributable to customers premises equipment and inside wiring.

¹47 C.F.R. §§ 76.605(a)(12) and 76.611(a)(1).

²*Northland Cable Properties VII, LP*, NAL/Acct. No. 200332480026 (Enf. Bur., Atlanta Office, released June 10, 2003).

³See Letter from Jack Dyste, Senior Vice President Technical Service, Northland Communications Corporation to Office of Secretary, Federal Communications Commission (dated July 2, 2003) (“Response”).

III. DISCUSSION

4. The forfeiture amount proposed in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended (“Act”),⁴ Section 1.80 of the Rules,⁵ and the *Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*.⁶ In assessing forfeitures, Section 503(b)(2)(D) of the Act requires that we take into account 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.⁷ As discussed below, we have considered Northland’s response to the *NAL* in light of these statutory factors and have found that cancellation of the proposed forfeiture amount is not warranted.

5. Northland argued that the Atlanta Office’s signal strength measurements were incorrect and “overstated” the leakage problem.⁸ According to Northland, its staff’s measurements at the 38 subject locations at a distance of 10 feet of each leakage (the approximate equivalent of 3 meters) ranged from 15 $\mu\text{V}/\text{m}$ to 400 $\mu\text{V}/\text{m}$, and resulted in a CLI calculation of 56.9, below the maximum 64 allowed under Section 76.611(a)(1). The Commission established the cable signal leakage thresholds to address and control emissions that potentially could cause harmful interference to aeronautical frequencies and vital communications.⁹ Given the safety considerations involved, and the fact that Northland has not offered any explanation of why its measurements were significantly lower than the Atlanta Office’s measurements,¹⁰ we stand by the our Office’s measurements and findings and find no basis to cancel or reduce the proposed forfeiture in this regard.

6. Northland also argued that the *NAL* failed to take into account that it had cooperated through “immediate reduction of signal power” and “efforts to correct any and all leaks.”¹¹ The Commission “expects” full cooperation,¹² and subsequent correction of violations observed,¹³ during the course of its

⁴47 U.S.C. § 503(b).

⁵47 C.F.R. § 1.80.

⁶12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999) (“*Forfeiture Policy Statement*”).

⁷47 U.S.C. § 503(b)(2)(D).

⁸Response at 1, Exhibit A.

⁹*See Callais Cablevision, Inc.*, 16 FCC Rcd 1359, 1359 ¶ 2 (2001).

¹⁰*See* Response at 2; *see also* Letters from Jack Dyste, Senior Vice President Technical Service, Northland Communications Corporation to Fred L. Boce, District Director, Federal Communications Commission (dated March 27 and 10, 2003) (acknowledging the cable signal leakages detected by the Atlanta Office, and reporting on Northland’s subsequent repairs).

¹¹Response at 2.

¹²*See, e.g., Southern California Broadcasting Co.*, 6 FCC Rcd 4387, 4388 ¶ 5 (1991), *recon. denied*, 7 FCC Rcd 3454, 3455 ¶ 7 (1992); *MAPA Broadcasting, L.L.C.*, 17 FCC Rcd 10519, 10521 ¶¶ 8, 11 (Enf. Bur. 2002); *SBC Communications, Inc.*, 16 FCC Rcd 10963, 10969 ¶ 16 (Enf. Bur. 2001); *California Oregon Broadcasters*, 16 FCC Rcd 9281, 9281 ¶ 3 (CSB 2001); *Hart Telephone Co.*, 9 FCC Rcd 2501, 2501 ¶ 5 (WTB 1994).

investigations. Such cooperative and subsequent remedial efforts, however, do not mitigate or negate past violations and do not warrant reduction or cancellation of a proposed forfeiture.¹⁴ Further, we note that Northland was directed to reduce power by the Atlanta Office due to the potential for harmful interference to aeronautical frequencies.

7. Finally, Northland argued that “the probable cause of 75% of these leaks was customer premises equipment and inside wiring.” As the operator of the Georgia systems, Northland is charged with the responsibility of monitoring and correcting signal leaks “regardless of their cause to ensure that their systems comply with our cable leakage standards which serve a critical safety purpose.”¹⁵ We thus find that Northland’s argument is unavailing, and that reduction or cancellation of the proposed forfeiture is not warranted.

IV. ORDERING CLAUSES

8. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act, and Sections 0.111, 0.311 and 1.80(f)(4) of the Rules,¹⁶ Northland Cable Properties VII, LP **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of eight thousand dollars (\$8,000) for its failure to comply with the cable signal leakage standards, in willful and repeated violation of Sections 76.605(a)(12) and 76.611(a)(1) of the Rules.

9. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules 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.¹⁷ Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. Payment by overnight mail may be sent to Bank One/LB 73482, 525 West Monroe, 8th Floor Mailroom, Chicago, IL 60661. Payment by wire transfer may be made to ABA Number 071000013, receiving bank Bank One, and account number 1165259. 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. 20554.¹⁸

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¹³See, e.g., *AT&T Wireless Services, Inc.*, 17 FCC Rcd 7891 (2002), *forfeiture ordered*, 17 FCC Rcd 21866, 21875-76 ¶¶ 26-28 (2002); *Seawest Yacht Brokers*, 9 FCC Rcd 6099, 6099 ¶7 (1994); *TCI Cablevision of Maryland, Inc.*, 7 FCC Rcd 6013, 6014 ¶ 8 (1992); *Calvary Communications*, 18 FCC Rcd 18172, 18174 ¶ 10 (Enf. Bur. 2003).

¹⁴See notes 12-13 and accompanying text, *supra*.

¹⁵*Small Town Communications Partners I LP*, 19 FCC Rcd 11034, 11035 ¶ 7 (Enf. Bur. 2004).

¹⁶47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

¹⁷47 U.S.C. § 504(a).

¹⁸See 47 C.F.R. § 1.1914.

10. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class and Certified Mail Return Receipt Requested to Jack Dyste, Senior Vice President Technical Service, Northland Communications Corporation, 101 Stewart Street, Suite 700, Seattle, Washington 98101.

FEDERAL COMMUNICATIONS COMMISSION

George R. Dillon
Assistant Chief, Enforcement Bureau