



Federal Communications Commission  
Washington, D.C. 20554

March 31, 2006

**DA 06-754**

*In Reply Refer to:*

1800B3-MFW

NAL/Acct No: MB200641410033

FRN: 0001711175

Released: March 31, 2006

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Penny Allegood Smith and John L. McKnight,  
Independent Co-Executors  
KSLO Broadcasting Co., Inc.  
P.O. Box 1150  
Opelousas, LA 70571-1150

In re: **KSLO Broadcasting Co, Inc.**  
**KSLO(AM), Opelousas, LA**  
**Facility ID No. 35607**  
File No. BR-20050308ABU

Dear Ms. Smith and Mr. McKnight:

This letter refers to: (1) KSLO Broadcasting Company, Inc.'s ("KBC") captioned application for renewal of license for Station KSLO(AM), Opelousas, Louisiana. For the reasons set forth below, we issue a NOTICE OF APPARENT LIABILITY FOR FORFEITURE to KBC for its failure to timely file that application and for unauthorized operation of the station, and we grant KBC's license renewal application.

*Background/Violations.* An application for renewal of KSLO(AM)'s license should have been filed by February 1, 2004.<sup>1</sup> KBCI inadvertently failed to file a timely renewal application, and the KSLO(AM) license expired on June 1, 2004. Upon discovering this problem in March of 2005, KSLO(AM) filed its captioned license renewal application and subsequently tendered a request for special temporary authorization ("STA") to operate the station pending consideration of the untimely renewal application. The staff granted the STA request on April 4, 2005.<sup>2</sup> That authority expired on October 5, 2005; KBC did not seek an extension of the STA. KBC provides no explanation for its failure to timely file a license renewal application for KSLO(AM) in either its STA request or its late-filed license renewal application.

The guidelines contained in the Commission's *Forfeiture Policy Statement*<sup>3</sup> specify a base forfeiture amount of \$3,000 for a failure to file a required form. The guidelines also specify a base

<sup>1</sup> See 47 C.F.R. §§ 73.1020, 73.3539(c).

<sup>2</sup> Letter to Mr. Wandell Allegood, Reference 1800B3 (MB Apr. 4, 2005).

<sup>3</sup> Commission's *Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087, 17115 (1997), recon. denied, 15 FCC Rcd 303 (1999) ("*Forfeiture Policy Statement*"); see also 47 C.F.R. § 1.80(b).

forfeiture amount of \$10,000 for construction and/or operation without an instrument of authorization for the service.<sup>4</sup> Section 503(b)(2)(D) of the Communications Act of 1934, as amended (the “Act”),<sup>5</sup> 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, KBC failed to timely file the KSLO(AM) renewal application and continued station operations for more than nine months before filing the appropriate application and seeking STA to continue station operations. On the other hand, KBC had previously been licensed to operate Station KSLO(AM), so this transgression is not comparable to “pirate” wireless operations, which typically have been subject to forfeitures of approximately \$10,000. Taking into consideration these facts and all of the factors required by Section 503(b)(2)(D) of the Act and the *Forfeiture Policy Statement*, we will propose a forfeiture for the full \$3,000 amount for the failure to timely file the renewal application, but reduce the proposed forfeiture from \$10,000 to \$4,000<sup>6</sup> for the unauthorized operation. Thus, we propose a forfeiture in the total amount of \$7000.

*License renewal application/petition for reconsideration.* In evaluating an application for license renewal, the Commission’s decision is governed by Section 309(k) of the Act.<sup>7</sup> Section 309(k) provides that if, upon consideration of the application and pleadings, we find that (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Commission’s Rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse, we are to grant the renewal application.<sup>8</sup> If, however, the licensee fails to meet that standard, the Commission may deny the application – after notice and opportunity for a hearing under Section 309(e) of the Act – or grant the application “on terms and conditions that are appropriate, including a renewal for a term less than the maximum otherwise permitted.”<sup>9</sup>

We find that neither of KBC’s apparent violations constitute a “serious violation” of the Commission’s Rules warranting designation for evidentiary hearing. Moreover, we find that these violations, when considered together, do not evidence a pattern of abuse.<sup>10</sup> Further, we find that Station

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<sup>4</sup> A broadcast station requires an authorization from the Commission to operate. *See* 47 U.S.C. § 301.

<sup>5</sup> 47 U.S.C. § 503(b)(2)(D).

<sup>6</sup> *See, e.g., Discussion Radio Incorporated*, 19 FCC Rcd 7433, 7438 (2004); *Gospel Media, Inc.*, 19 FCC Rcd 15600 (MB 2004). Although in *Gospel Media* the Bureau imposed an NAL of \$3,000 for unauthorized operation, in that case the unauthorized operation lasted only two weeks and the applicant did not allow an STA for continued operations to expire. The \$4,000 NAL imposed here is analogous to use of an unauthorized frequency by a land mobile station holding a license for a different frequency. *See, e.g., In the Matter of Dave Mitchell*, DA 05-110, 2005 WL 123922 (EB Rel. Jan. 21, 2005); *In the Matter of Joselyn Gordon*, 19 FCC Rcd 23557 (EB 2004).

<sup>7</sup> 47 U.S.C. § 309(k).

<sup>8</sup> 47 U.S.C. § 309(k)(1). The renewal standard was amended to read as described by Section 204(a) of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). *See Order, Implementation of Sections 204(a) and 204(c) of the Telecommunications Act of 1996 (Broadcast License Renewal Procedures)*, 11 FCC Rcd 6363 (1996).

<sup>9</sup> 47 U.S.C. §§ 309(k)(2), 309(k)(3).

<sup>10</sup> For example, we do not find here that the licensee's station operation "was conducted in an exceedingly careless, inept and negligent manner and that the licensee is either incapable of correcting or unwilling to correct the

KSLO(AM) served the public interest, convenience, and necessity during the subject license term. We will therefore grant KBC's license renewal application below.

*Conclusion/Actions.* ACCORDINGLY, IT IS ORDERED that, pursuant to Section 503(b) of the Act<sup>11</sup> and Sections 0.283 and 1.80 of the Commission's Rules,<sup>12</sup> KBC is hereby advised of its apparent liability for a forfeiture of \$7,000 for willfully and repeatedly violating Section 73.3539 of the Commission's rules and Section 301 of the Communications Act of 1934, as amended.

IT IS FURTHER ORDERED, pursuant to Section 1.80 of the Commission's Rules, that within thirty days of the release of this Notice, KBC SHALL PAY to the United States the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

Payment of the proposed 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. (MB200641410033) and the FCC Registration Number ("FRN") (0001711175) as referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, Receiving Bank Mellon Bank, and Account Number 911-6106.

The response, if any, must be mailed to the Office of the Secretary, Federal Communications Commission, 445 12<sup>th</sup> Street, S.W., Room 2-A360, Washington, D.C. 20554, Attn: Peter H. Doyle, Chief, Audio Division, Media Bureau, and MUST INCLUDE the NAL/Account number (MB200641410033) and the FRN (0001711175) referenced in the caption of this document.

The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner'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.

Requests for payment of the full amount of the proposed forfeiture in this Notice under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.<sup>13</sup>

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operating deficiencies." *See Heart of the Black Hills Stations*, 32 FCC2d 196, 198 (1971). Nor do we find on the record here that "the number, nature and extent" of the violations indicate that "the licensee cannot be relied upon to operate [the station] in the future in accordance with the requirements of its licenses and the Commission's Rules." *Heart of the Black Hills Stations*, 32 FCC2d at 200. *See also Center for Study and Application of Black Economic Development*, 6 FCC Rcd 4622 (1991), *Calvary Educational Broadcasting Network, Inc.*, 7 FCC Rcd 4037 (1992).

<sup>11</sup> 47 U.S.C. § 503(b).

<sup>12</sup> 47 C.F.R. §§ 0.283 and 1.80.

<sup>13</sup> *See* 47 C.F.R. § 1.1914.

IT IS FURTHER ORDERED that the captioned application of KSLO Broadcasting Company, Inc. for renewal of license for Station KSLO(AM), Opelousas, Louisiana, IS GRANTED.

IT IS FURTHER ORDERED that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by first class mail and certified mail return receipt requested to Penny Allegood Smith and John L. McKnight, Independent Co-Executors, KSLO Broadcasting Co., Inc., P.O. Box 1150, Opelousas, Louisiana 70571-1150.

Sincerely,

Donna C. Gregg  
Chief, Media Bureau