



Federal Communications Commission
Washington, D.C. 20554

March 31, 2006

DA 06-755

In Reply Refer to:

1800B3-MFW

NAL/Acct No: MB200641410034

FRN: 0012576740

Released: March 31, 2006

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Oakes Community Christian Broadcasting
915 Highway #1
Oakes, ND 58474

In re: **Oakes Community Christian Broadcasting
K240CJ(FX), Oakes, ND
Facility ID No. 49932
File No. BRFT-20050127AFK**

Dear Applicant:

This letter refers to the captioned application of Oakes Community Christian Broadcasting (“OCCB”) for renewal of license for FM translator Station K240CJ, Oakes, North Dakota. For the reasons set forth below, we issue a NOTICE OF APPARENT LIABILITY FOR FORFEITURE to OCCB for violation of Section 73.3539 of the Commission’s Rules regarding the timing for filing license renewal applications, and we grant the K240CJ license renewal application.

Section 73.3539 violation. OCCB’s renewal application for the current K240CJ license term was due on December 1, 2004, four months prior to the April 1, 2005 license expiration date.¹ The application was not filed until January 27, 2005. OCCB provides no explanation for its failure to timely file the license renewal application for K240CJ.

The guidelines contained in the Commission’s *Forfeiture Policy Statement*² specify a base forfeiture amount of \$3,000 for a failure to file a required form. Section 503(b)(2)(D) of the Communications Act of 1934, as amended (the “Act”),³ 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, OCCB failed to timely file the K240CJ license renewal application. Taking into consideration these facts, including the fact that the renewal application was filed prior to expiration of the station’s license, and all of the factors required by Section 503(b)(2)(D) of the Act and the *Forfeiture Policy*

¹ See 47 C.F.R. §§ 73.1020, 73.3539(a).

² *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.

³ 47 U.S.C. § 503(b)(2)(D).

Statement, we will reduce the proposed forfeiture to \$1,500 for the late filing.⁴ We will not excuse the violation, because licensees are responsible for the timely submission of required forms, and untimely renewal applications disrupt the orderly processing of renewal applications in accordance with Section 73.1020 of the Commission's Rules.

License renewal application. In evaluating an application for license renewal, the Commission's decision is governed by Section 309(k) of the Act. That section 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.⁵ 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.”⁶

We find that OCCB's apparent violation of Section 73.3539 for Station K240CJ does not constitute a “serious violation” of the Commission's Rules warranting designation for evidentiary hearing. Moreover, we find no evidence of violations that, when considered together, evidence a pattern of abuse.⁷ Further, we find that Station K240CJ served the public interest, convenience, and necessity during the subject license term. We will therefore grant the captioned license renewal application.⁸

Conclusion/Actions. ACCORDINGLY, IT IS ORDERED, that, pursuant to Section 503(b) of the Act, and Sections 0.283 and 1.80 of the Commission's Rules,⁹ OCCB is hereby advised of its apparent liability for a forfeiture of \$1,500 for willfully and repeatedly violating Section 73.3539 with respect to Station K240CJ.

IT IS FURTHER ORDERED, pursuant to Section 1.80 of the Commission's rules, that within thirty days of the release of this Notice, OCCB SHALL PAY to the United States the full amount of the

⁴ See *Discussion Radio, Inc.*, FCC 04-94 (rel. Apr. 16, 2004) at ¶ 15.

⁵ 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).

⁶ 47 U.S.C. §§ 309(k)(2), 309(k)(3).

⁷ 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 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).

⁸ See 47 U.S.C. § 309(k).

⁹ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.283, 1.80.

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. (MB200641410034) and the FCC Registration Number (“FRN”) (0012576740) 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 12th 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 (MB200641410034) and the FRN (0012576740) 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 forfeiture proposed 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. 20554.¹⁰

IT IS FURTHER ORDERED that the application (File No. BRFT-20050127AFK) of Oakes Community Christian Broadcasting for renewal of license for FM translator station K240CJ, Oakes, North Dakota, 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 Oakes Community Christian Broadcasting, 915 Highway #1, Oakes, North Dakota 58474.

Sincerely,

Donna C. Gregg
Chief, Media Bureau

cc: John R. Wilner, Esq.

¹⁰ See 47 C.F.R. § 1.1914.