



Federal Communications Commission
Washington, D.C. 20554

March 31, 2006

DA 06-756

In Reply Refer to:

1800B3-SS

NAL/Acct No.: MB200641410035

FRN: 0005068556

Released: March 31, 2006

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Felipe Ramirez, General Manager
Bilingual Broadcasting Foundation
4010 Finley Avenue
Santa Rosa, CA 95407

In re: Bilingual Broadcasting
Foundation, Inc.
KBBF(FM), Santa Rosa, CA
Facility ID: 5310
File No. BRED-20050729DLU

Dear Mr. Ramirez:

This letter refers to the captioned application of Bilingual Broadcasting Foundation, Inc. (“BBF”) for renewal of license for non-commercial educational Station KBBF(FM), Santa Rosa, California. For the reasons set forth below, we issue a NOTICE OF APPARENT LIABILITY FOR FORFEITURE to BBF for its apparent violation of the Commission’s rule regarding a broadcast station’s public inspection file, Section 73.3527 of the Commission’s Rules,¹ and we grant the KBBF(FM) license renewal application.

Public file rule violation. Section III, Item 3 of the license renewal application form, FCC Form 303-S, requests that the licensee certify that the documentation required by Section 73.3526 or 73.3527, as applicable, has been placed in the station’s public inspection file at the appropriate times. BBF indicated “No” to that certification, filing an Exhibit and three amendments indicating that the quarterly issues/programs lists from the third quarter of 1998 through the first quarter of 2002 were routinely placed in the public file but were missing from the file at the time the renewal application was filed. BBF states that the reports have since been reconstructed and placed back into the public file. BBF also states that the issues/programs lists from the third quarter of 2003 through the third quarter of 2005 were not prepared because the information from the Radio Bilingue, Inc. (“RBI”) network program “Linea Abierta”² was not forwarded to affiliate KBBF(FM). Finally, BBF recently amended the application to

¹ 47 C.F.R. § 73.3527.

² BBF indicates that “Linea Abierta” is a daily Spanish-language talk show produced by RBI that addresses issues of interest to the community. BBF states that RBI prepared reports for use in the compilation of issues/programs lists for stations it owned, but until recently, had not been forwarding them routinely to its affiliates.

indicate that the missing information has been forwarded; the lists have been prepared; and all lists are now in the public file.

Section 73.3527 of the Commission's Rules requires noncommercial educational broadcast licensees to maintain a public inspection file containing specific types of information related to station operations. The purpose of this requirement is to provide the public with timely information at regular intervals throughout the license period.³ In this regard, where lapses occur in maintaining the public file, neither the negligent acts nor omissions of station employees or agents, nor the subsequent remedial actions undertaken by the licensee, excuse or nullify a licensee's rule violation.⁴

Section 503(b) of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 503(b) and Section 1.80(a) of the Commission's Rules,⁵ each state that any person who willfully or repeatedly fails to comply with the provisions of the Act or the Commission's Rules shall be liable for a forfeiture penalty. For purposes of Section 503(b) of the Act, the term "willful" means that the violator knew it was taking the action in question, irrespective of any intent to violate the Commission's rules.⁶ A continuing violation is "repeated" if it lasts more than one day.⁷

The Commission's *Forfeiture Policy Statement* sets a base forfeiture amount of \$10,000 for public file violations.⁸ In this case, the violations were admitted to the Commission by BBF in the context of the license renewal application, and the licensee has corrected the violations that occurred and has instituted measures to prevent their recurrence. On the other hand, the violations continued for more than two and one-half years. Considering the record as a whole, we believe that a proposed forfeiture of \$4000 is appropriate for the violation in this case.⁹

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.¹⁰ If, however, the licensee fails to meet that standard, the Commission may deny the

³ Cf. *Letter to Kathleen N. Benfield from Linda B. Blair, Chief, Audio Services Division*, 13 FCC Rcd 4102 (1997) citing *License Renewal Applications of Certain Commercial Radio Stations*, 8 FCC Rcd 6400 (1993).

⁴ See *Padre Serra Communications, Inc.*, 14 FCC Rcd 9709 (1999)(citing *Gaffney Broadcasting, Inc.*, 23 FCC2d 912, 913 (1970) and *Eleven Ten Broadcasting Corp.*, 33 FCC 706 (1962)); *Surrey Front Range Limited Partnership*, 71 RR 2d 882 (FOB 1992).

⁵ 47 U.S.C. § 503(b); 47 C.F.R. § 1.80(a).

⁶ See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387, 4387-4388 (1991).

⁷ *Id.* at 4388.

⁸ *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Commission's Rules*, 12 FCC Rcd 17087, 17113 (1997), *recon. denied*, 15 FCC Rcd 303 (1999); see also 47 C.F.R. § 1.80(b).

⁹ See *KLDT-TV 55, Inc.*, 10 FCC Rcd 3198 (1995); see also *Barry D. Wood, Esq.*, 7 FCC Rcd 6262 (FOB 1992).

¹⁰ 47 U.S.C. § 309(k)(1). The renewal standard was amended to read as described by Section 204(a) of 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.”¹¹

The public inspection file rule serves the critical function of making available to the public important information regarding programs that provided a station’s most significant treatment of community issues during the license term. On balance, however, we find that BBF’s apparent violation of Section or 73.3527 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.¹² Further, we find that Station KBBF(FM) served the public interest, convenience, and necessity during the subject license term. We will therefore grant the license renewal application.¹³

Conclusion/Actions. ACCORDINGLY, IT IS ORDERED that, pursuant to Section 503 (b) of the Act and Sections 0.283 and 1.80 of the Rules,¹⁴ BBF is hereby advised of its apparent liability for a forfeiture of \$4,000 for willfully and repeatedly violating Section 73.3527.

IT IS FURTHER ORDERED, pursuant to Section 1.80 of the Commission’s Rules, that within thirty days of the release of this Notice, BBF 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 may be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the FCC Registration Number (“FRN”) (0005068556) and the NAL/Acct. No. (MB200641410035) referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251. 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., Washington, D.C. 20554, Attn: Peter H. Doyle, Chief, Audio

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).

¹¹ 47 U.S.C. §§ 309(k)(2), 309(k)(3).

¹² 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).

¹³ See 47 U.S.C. § 309(k).

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

Division, Media Bureau, and MUST INCLUDE the NAL/Account number referenced in the caption of this document (MB200641410035) and the FCC Registration Number (FRN) (0005068556) referenced above.

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 of Apparent Liability 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. 20554.¹⁵

IT IS FURTHER ORDERED that the application (File No. BRED-20050729DLU) of Bilingual Broadcasting Foundation, Inc. for renewal of license for station KBBF(FM), Santa Rosa, California, as amended, 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 Felipe Ramirez, General Manager, Bilingual Broadcasting Foundation, 4010 Finley Avenue, Santa Rosa, California 95407.

Sincerely,

Donna C. Gregg
Chief, Media Bureau

cc: Melodie A. Virtue, Esq.

¹⁵ See 47 C.F.R. § 1.1914.