

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

In re Application of)	
)	
ENID PUBLIC RADIO ASSOCIATION)	Facility I.D. No. 124554
)	NAL/Acct. No. MB-201041410011
For Renewal of License for)	FRN: 0007446396
Station KEIF-LP)	File No. BRL-20050131AAR
Enid, Oklahoma)	

**MEMORANDUM OPINION AND ORDER
AND
NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

Adopted: July 12, 2010

Released: July 13, 2010

By the Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. The Commission has before it the captioned application of Enid Public Radio Association (the "Licensee"), for renewal of its license for Station KEIF-LP, formerly KUAL-LP, Enid, Oklahoma (the "Station"). In this *Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture* ("NAL"), issued pursuant to Sections 309(k) and 503(b) of the Communications Act of 1934, as amended (the "Act"), and Section 1.80 of the Commission's Rules (the "Rules"),¹ by the Chief, Audio Division, Media Bureau ("Bureau"), by authority delegated under Section 0.283 of the Rules,² we find that the Licensee apparently willfully violated Sections 73.503(d) and 73.811 of the Rules,³ as well as Section 399B of the Act,⁴ by willfully and repeatedly interrupting regular programming with unauthorized commercial announcements and operating at antenna height greater than that authorized. Based upon our review of the facts and circumstances before us, we conclude that the Licensee is apparently liable for a monetary forfeiture in the amount of ten thousand dollars (\$10,000). We further grant the captioned KEIF-LP renewal application for the limited term of six (6) years, as conditioned herein.

II. BACKGROUND

2. Licensee applied for a new low-power FM ("LPFM") radio station on June 8, 2000.⁵ Its application for a construction permit was granted June 4, 2001, and a minor modification application granted October 24, 2002.⁶ Licensee filed its application for a license on November 14, 2002, and the

¹ 47 U.S.C. §§ 309(k), 503(b); 47 C.F.R. § 1.80.

² See 47 C.F.R. § 0.283.

³ See *id.* §§ 73.503(d), 73.811.

⁴ See 47 U.S.C. § 399B.

⁵ File No. BNPL-20000608AGL.

⁶ File No. BMPL-20020724AAG.

license application was granted on May 20, 2003.⁷ On January 31, 2005, Licensee timely filed an application to renew the license of the station (the “Application”).⁸

3. On May 2, 2005, Chisholm Trail Broadcasting Co. (“Chisholm Trail”) timely filed a Petition to Deny the Application (“Petition”), and served the Petition on Licensee.⁹ Chisholm Trail alleges that Licensee was operating the Station at a height above average terrain (“HAAT”) of 61.94 meters, 22.82 meters higher than that authorized, and with an effective radiated power (“ERP”) of 155 watts, 73 watts greater than that authorized and 55 watts greater than the maximum ERP for an LPFM station. Chisholm Trail also alleges that Licensee has been interrupting its regular programming with commercial advertisements, in violation of the Commission’s rules, and that it regularly sells advertising time in conjunction with other stations in the area. In connection with that allegation, Chisholm Trail also alleges that the “classic rock” format broadcast by the Station does not qualify for nor correspond with the educational mission described in Licensee’s original application. Finally, Chisholm Trail alleges that Licensee has engaged in an unauthorized transfer of control. It contends that chief engineer Scott Clark controls Licensee’s board of directors, because two directors had resigned their positions, and because Scott Clark “assumed a position on [Licensee’s] board without having been approved by the principals of [Licensee].”¹⁰ Although the Petition was served on Licensee, Licensee has not filed an opposition or other responsive pleading.¹¹

4. A petition to deny must, pursuant to Section 309(d) of the Act,¹² provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be *prima facie* inconsistent with Section 309(k) of the Act,¹³ which governs our evaluation of an application for license renewal. Specifically, Section 309(k)(1) provides that we are to grant the renewal application 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 Rules; and (3) there have been no other violations that, taken together, constitute a pattern of abuse.¹⁴ If, however, the licensee fails to meet that standard, the Commission may

⁷ File No. BLL-20021114ABH.

⁸ File No. BRL-20050131AAR.

⁹ A petition to deny an application for renewal of license of an existing broadcast station will be considered as timely filed if it is tendered for filing by the end of the first day of the last full calendar month of the expiring license term. 47 C.F.R. § 73.3516(e). As the KEIF-LP license expired June 1, 2005, and as May 1, 2005, fell on a Sunday, Chisholm Trail’s May 2, 2005, petition to deny was timely filed.

¹⁰ Petition at 16.

¹¹ See, e.g., *Columbia Broadcasting System*, Memorandum Opinion and Order, 56 F.C.C. 2d 313, 314 (1975) (a licensee’s failure to respond to a petition to deny is at its own peril, but such silence is neither deemed to be an admission of the allegations nor triggers an automatic hearing).

¹² 47 U.S.C. § 309(d).

¹³ *Id.*, § 309(k). See, e.g., *WWOR-TV, Inc.*, Memorandum Opinion and Order, 6 FCC Rcd 193, 197 note 10 (1990), *aff’d sub nom. Garden State Broadcasting L.P. v. FCC*, 996 F.2d 386 (D.C. Cir. 1993), *reh’g denied* (D.C. Cir. Sept. 10, 1993).

¹⁴ *Id.*, § 309(k)(1). The renewal standard was amended to read as described in the text by Section 204(a) of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). See *Implementation of Sections 204(a)*

deny the application, after notice and opportunity for a hearing under Section 309(d) 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.”¹⁵

III. DISCUSSION

5. *Unauthorized Transfer of Control.* We find that the record does not support Chisholm Trail’s allegations that there has been an unauthorized transfer of control. Licensee’s original application listed five members, each with a 20 percent voting interest in Licensee: Bruce Sutherland, Carol Clark, Richard Cox, Ron Anderson, and Steve Allen. Chisholm Trail presents letters sent to the Commission’s Enforcement Bureau from Cox, stating that he and Allen resigned from Licensee’s board due to their belief that Scott Clark was “lying” to the Commission, along with evidence of their resignation on or about July 5, 2002.¹⁶ We note, however, that Cox’s statements are not under oath, nor are the attachments (an acknowledgment of the resignations by the program director and a revocation of bank signature authority) authenticated. At most, then, there is evidence of a change of 40 percent of Licensee’s board at one time.¹⁷ This does not constitute a major change in ownership.¹⁸ With regard to the allegations of Scott Clark’s alleged control of the board, Chisholm Trail provides no evidence to support its assertion that Mr. Clark joined the board without observing corporate formalities. Moreover, its allegations concerning Scott Clark’s misrepresentations to the Commission are based upon a former board member’s statement which, as noted above, is not presented under penalty of perjury. We cannot find, based on this record, that there has been an unauthorized transfer of control of Licensee.

6. *Operation at Variance with Licensed Facilities.* We find that Chisholm Trail has demonstrated that Licensee operated the Station with greater antenna height than that authorized, but has not shown that Station is operating with power in excess of its authorization. Chisholm Trail presents the declaration, under penalty of perjury, of engineer William H. Nolan, who testifies to having performed a site inspection of the Station’s facilities on January 21, 2005, to the extent possible without gaining access to the Station’s transmitter. He notes that the Station’s antenna is mounted on a 15-story building.¹⁹ By visual inspection, use of laser assisted measuring equipment, and consultation with various terrain databases, Mr. Nolan testifies that he established the height of Station’s antenna as 55.77 meters above ground level, or 61.94 meters above average terrain. The Station is authorized to operate at a HAAT of 33 meters. Chisholm Trail has thus demonstrated that Station’s antenna is almost 30 meters higher than authorized and, as noted, Licensee has not challenged Chisholm Trail’s allegation. However, Nolan’s methodology for making field strength measurements of Station’s signal, from which he concludes that Station is operating at excessive power, does not comport with the methodology prescribed by Section

and 204(c) of the Telecommunications Act of 1996 (*Broadcast License Renewal Procedures*), Order, 11 FCC Rcd 6363 (1996).

¹⁵ 47 U.S.C. §§ 309(k)(2), 309(k)(3).

¹⁶ See Exhibit E to Petition.

¹⁷ Given that Chisholm only presents evidence that two of the five members of Licensee’s board resigned, we assume that Bruce Sutherland, Carol Clark, and Ron Anderson remained. The loss of two members of a five-member board is a 40 percent change. Even assuming, *arguendo*, that only one of the resigning members was replaced by Scott Clark, that would still leave a four-member board of which three individuals, or 75 percent, were original board members.

¹⁸ 47 C.F.R. § 73.871(b)(3).

¹⁹ See Engineering Statement, Exhibit A to Petition, at 4 n.1.

73.314 of the Commission's Rules.²⁰ Additionally, while Nolan alludes to field strength measurements of the Station's signal, he does not provide data sufficient for us to confirm his conclusions. Thus, we find that Chisholm Trail has established Licensee's operation of the Station is at variance with its licensed facilities with regard to antenna height, but has not established that the Station's ERP is greater than that authorized.²¹

7. *Violation of Underwriting Rules.* Chisholm Trail alleges that Licensee operates its noncommercial educational ("NCE") LPFM station as a "classic rock" station, and regularly interrupts its programming with commercial advertisements that go beyond the limitations on NCE station underwriting or sponsorship announcements established for NCE stations. Chisholm Trail attaches transcripts of several such announcements to its Petition. Further, Chisholm Trail produces a rate card with Licensee's name, setting forth several "Sponsorship Clubs and Categories," each of which sets forth the number of announcements per day and days per week, along with weekly and monthly amounts for such announcements. Chisholm Trail also produces an advertising package consisting of advertising rates for KXOK-LP, a low-power television station, the www.kxoktv.com Website, and radio station "KXOK," which is labeled as "Enid's Home for Classic Rock," with the frequency 104.7 FM. The radio card sets forth rates for "commercial" spots as well as "ads" on the day of an on-air interview, also stating that the "classic rock" format offers "great results for your advertising dollar." We note that while there is no licensed radio station with the call sign "KXOK," the Station is the only FM radio station in Enid or the surrounding area operating on 104.7 MHz. The Station's online program stream confirms that its format is "Classic Rock All Day Long on 104.7, The Rocket."²² Moreover, the Station's programming confirms Chisholm Trail's allegations regarding the type of announcements being played at the time it filed the Petition, as well as the fact that such announcements interrupt regular programming.²³

8. Moreover, as Chisholm Trail notes, Licensee has previously been admonished for violations of program underwriting rules.²⁴ In *Enid Public Radio*, the Commission's Enforcement Bureau noted the same types of violations documented by Chisholm Trail in its Petition, and Licensee did not dispute the material facts at issue there. The Enforcement Bureau stated in that case that Licensee represented that it had "initiated procedures to ensure that underwriting announcements will undergo more stringent staff review prior to broadcast."²⁵ At the time, the Enforcement Bureau declined to assess a monetary forfeiture, due to Licensee's "blemish-free enforcement record."²⁶

9. Although the rate cards produced by Chisholm Trail antedate *Enid Public Radio*, the transcripts produced were based on spots broadcast in November and December of 2004, and March and

²⁰ 47 C.F.R. § 73.314.

²¹ *Id.* § 73.811(a).

²² Programming heard via online streaming audio at <http://www.enidradio.org>, May 4 and May 7, 2007.

²³ We generally defer to a licensee's editorial judgment as to what constitutes "educational" programming, unless that judgment is arbitrary or unreasonable. *WQED Pittsburgh and Cornerstone Television, Inc.*, Order on Reconsideration, 15 FCC Rcd 2534, 2535 (2000). We therefore decline, at this time, to consider Chisholm Trail's allegation that Station's programming in no way resembles that described in its original programming statement.

²⁴ *Enid Public Radio Association*, Memorandum Opinion and Order, 19 FCC Rcd 16324 (EB 2004) ("*Enid Public Radio*").

²⁵ *Id.* at 16325.

²⁶ *Id.* at 16326.

April of 2005, after *Enid Public Radio* was released on August 23, 2004. Both this information, and the Station programming heard by Commission staff in May of 2007, substantially call into question Licensee's representation that it has, in fact, instituted the reforms it promised in the wake of *Enid Public Radio*. Some of the advertisements transcribed by Chisholm Trail in 2004 and 2005 were still airing in May of 2007, with the identical wording. That wording appears to violate the Commission's guidelines prohibiting comparative or qualitative descriptions of the donor's products or services, calls to action, or inducements to buy, sell, rent, or lease.²⁷ For example, an announcement that describes Dusty of Dusty's Mobile Lock and Key as "bonded and insured, and always conducts his business in a friendly, professional, and legal manner," is qualitative in nature, and the statement to "[c]all Dusty for all your home, business, auto, etc. lock and key needs," is a prohibited call to action.²⁸ Likewise, descriptions of Big O Tires's "speedy service" and "lowest prices in town" are comparative and qualitative, and thus proscribed.²⁹ Another announcement, for Speed Tech Automotive, described "Doug" of Speed Tech as having "more than ten years' experience and his name and reputation speaks for itself," concluding by encouraging listeners to "call Doug at Speed Tech Automotive," followed by the company's phone number.³⁰ These three announcements, of over two dozen discrete underwriters' acknowledgments that were logged and transcribed by Chisholm Trail in its Petition, were verified by Commission staff based on listening to the Station's streamed programming. This confirms that at least some announcements continued to be aired almost three years after Licensee was admonished for doing so. While we expect licensees only to exercise their reasonable, good faith judgments as to whether underwriting announcements are promotional rather than identifying,³¹ we emphasize that the Enforcement Bureau has already determined that many of these same announcements "seek to promote their underwriters through comparative and qualitative descriptions and references that one could not reasonably believe would be permitted under section 399B of the Act and the Commission's pertinent rules, and are thus prohibited."³² Moreover, Licensee has failed to respond or to contradict the evidence proffered by Chisholm Trail. We tentatively conclude, then, that Licensee is in violation of Section 399B of the Act as well as Sections 73.503(d) and 73.801 of the Commission's Rules.³³

10. *Proposed forfeiture.* This *NAL* is issued pursuant to Section 503(b)(1)(B) of the Act. Under that provision, any person who is determined by the Commission to have willfully or repeatedly

²⁷ See *Commission Policy Concerning the Noncommercial Nature of Educational Broadcasting Stations*, Public Notice, 7 FCC Rcd 827, 827-28 (1992). See also *Minority Television Project, Inc.*, Forfeiture Order, 18 FCC Rcd 26611, 26613-15 (EB 2003), *review denied*, 19 FCC Rcd 25116 (2004), *recon. denied*, 20 FCC Rcd 16923 (2005) (announcements that heavily dwell on underwriters' products or services at length and/or encourage patronage are clearly promotional rather than identifying).

²⁸ See Appendix C to Exhibit B to Petition. This announcement was heard by Commission staff at 3:22 p.m. (CDT) on May 4, 2007.

²⁹ *Id.* This announcement was also heard by Commission staff, at 4:24 p.m. (CDT) on May 4, 2007.

³⁰ *Id.* Commission staff heard this announcement at 9:34 a.m. (CDT) on May 7, 2007.

³¹ *Xavier University*, Memorandum Opinion and Order, 5 FCC Rcd 4920, 4921 (1990).

³² *Enid Public Radio*, 19 FCC Rcd at 16326.

³³ 47 C.F.R. §§ 73.503(d), 73.801. Section 73.503(d) prohibits noncommercial educational broadcasters from broadcasting promotional announcements on behalf of for-profit entities at any time in exchange for the receipt, in whole or in part, of consideration to the licensee, its principals, or employees, and further precludes even acknowledgments of contributions to interrupt regular programming. This rule is applied to LPFM stations by incorporation in Section 73.801.

failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.³⁴ Section 312(f)(1) of the Act defines willful as “the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate” the law.³⁵ The legislative history to Section 312(f)(1) of the Act clarifies that this definition of willful applies to both Sections 312 and 503(b) of the Act,³⁶ and the Commission has so interpreted the term in the Section 503(b) context.³⁷ Section 312(f)(2) of the Act provides that “[t]he term ‘repeated,’ when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.”³⁸

11. The Commission's *Forfeiture Policy Statement* and Section 1.80(b)(4) of the Rules establish a base forfeiture amount of \$5,000 for exceeding authorized antenna height.³⁹ The guidelines also specify a base forfeiture amount of \$2,000 for violation of enhanced underwriting requirements.⁴⁰ In determining the appropriate forfeiture amount, we may adjust the base amount upward or downward by considering the factors enumerated in Section 503(b)(2)(D) of the 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.”⁴¹

12. In this case, the Licensee has apparently exceeded its authorized antenna height. As we have no record of prior violations of this rule, there is no reason to adjust the base forfeiture amount. However, Licensee was previously admonished for violations of our underwriting rules, and represented that it had taken steps to prevent further rule violations, yet has apparently continued its prior conduct with regard to the broadcast of commercial announcements. While we consider the volume and frequency of the apparent commercial advertisements reported by Chisholm Trail, we base our adjustment primarily on those announcements confirmed by Commission staff, and more importantly on the fact that Licensee continued to air such announcements despite prior Commission admonishment. We also consider the lack of any explanation or other response from Licensee. Based on these factors, we conclude that the base amount of the forfeiture for violation of the enhanced underwriting requirements should be adjusted upward.⁴² 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 propose a forfeiture for the full

³⁴ 47 U.S.C. § 503(b)(1)(B). *See also* 47 C.F.R. 1.80(a)(1).

³⁵ 47 U.S.C. § 312(f)(1).

³⁶ *See* H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982).

³⁷ *See Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991).

³⁸ 47 U.S.C. § 312(f)(2).

³⁹ *See Forfeiture Policy Statement and Amendment of Section 1.80(b) of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17113-15 (1997) (“*Forfeiture Policy Statement*”), *recon. denied*, 15 FCC Rcd 303 (1999). *See also* 47 C.F.R. § 1.80(b)(4), note to paragraph (b)(4), Section I, “Base Amounts for Section 503 Forfeitures.”

⁴⁰ *Id.* § 1.80(b)(4), note to paragraph (b)(4), Section I, “Violations Unique to the Service.”

⁴¹ 47 U.S.C. § 503(b)(2)(D); *see also Forfeiture Policy Statement*, 12 FCC Rcd at 17100-01; 47 C.F.R. § 1.80(b)(4); 47 C.F.R. § 1.80(b)(4), note to paragraph (b)(4), Section II, “Adjustment Criteria for Section 503 Forfeitures – Upward Adjustment Criteria.”

⁴² *See id.* (upward adjustment factors include egregious misconduct, intentional violation, and prior violations).

\$5,000 amount for exceeding antenna height, and increase the proposed forfeiture for violation of enhanced underwriting rules from the \$2,000 base amount to \$5,000.⁴³ Thus, we propose a forfeiture in the total amount of \$10,000.

13. *License Renewal Application.* As noted above, in evaluating an application for license renewal, the Commission's decision is governed by Section 309(k) of the Act.⁴⁴ We reiterate that if the licensee fails to meet the applicable 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.”⁴⁵

14. We find that the Licensee's apparent violations of Sections 73.503(d) and 73.811 of the Rules, and Section 399B of the Act, while not warranting designation for evidentiary hearing, are sufficiently serious to warrant renewal for a term less than the maximum otherwise permitted, and on certain conditions. Specifically, we find sufficient evidence of violations of the Commission's enhanced underwriting and technical rules that, when considered together, evidence a pattern of abuse. As discussed above, “the number, nature and extent” of the violations on the record, coupled with Licensee's apparent disregard for a prior admonition regarding those violations and refusal to address the allegations, 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.”⁴⁶ Accordingly, we grant renewal of the KEIF-LP license for a period of six (6) years from the expiration of its previous license on June 1, 2005, or until June 1, 2011. Within 90 days of the date of this *NAL*, Licensee must file a report demonstrating that the Station's antenna has been lowered to its authorized height, and must include operating logs indicating that the Station is otherwise in compliance with its authorization and all applicable Commission technical rules. Further, beginning 180 days from the date of this *NAL*, and every 180 days thereafter until grant of Station's next license renewal, if granted and if on renewal the Commission does not continue this requirement, Licensee must file with the Bureau a report containing (a) a list of all program underwriters and other persons or entities whose donations, payments, or contributions have been acknowledged on-air during the 180-day period of the report; (b) a list of the times and dates of all on-air announcements acknowledging or aired in exchange for donations, program underwriting, or other receipts of goods, services, or other consideration by Licensee; (c) the text of all on-air announcements listed in response to item (b); and (d) operating logs indicating that the Station has been operating at all times in compliance with its authorization and all applicable Commission technical rules.

⁴³ See, e.g., *Agape Broadcasting Foundation*, Notice of Apparent Liability for Forfeiture, 13 FCC Rcd 13154, 13154-55 (MMB 1998) (\$5,000 forfeiture proposed for willful and repeated violations of Section 399B of the Act, after prior forfeitures levied and upon concession of some violations; Bureau found several statements to be qualitative in nature despite licensee's disagreement, and cautioned against “non-identifying verbosity” and “a tendency to exceed identification by dwelling at length on the usefulness, convenience, or advantages of the products or services mentioned,” citing *Penfold Communications, Inc.*, Notice of Apparent Liability for Forfeiture, 8 FCC Rcd 78 (MMB 1992)).

⁴⁴ 47 U.S.C. § 309(k). See *supra* paragraph 4.

⁴⁵ 47 U.S.C. §§ 309(k)(2), 309(k)(3).

⁴⁶ See *Heart of the Black Hills Stations*, Decision, 32 F.C.C. 2d 196, 200 (1971). See also *Center for Study and Application of Black Economic Development*, Hearing Designation Order, 6 FCC Rcd 4622 (1991), *Calvary Educational Broadcasting Network, Inc.*, Hearing Designation Order, 7 FCC Rcd 4037 (1992).

IV. ORDERING CLAUSES

15. Accordingly, IT IS ORDERED, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Section 1.80 of the Commission's Rules, that Enid Public Radio Association is hereby NOTIFIED of its APPARENT LIABILITY FOR FORFEITURE in the amount of ten thousand dollars (\$10,000) for its apparent willful violation of Sections 73.503(d) and 73.811 of the Commission's Rules and willful and repeated violation of Section 399B of the Communications Act of 1934, as amended.

16. IT IS FURTHER ORDERED, pursuant to Section 1.80 of the Commission's Rules, that, within thirty (30) days of the release date of this *NAL*, Enid Public Radio Association SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

17. 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. and FRN No. referenced in the caption above. Payment by check or money order may be mailed to Federal Communications Commission, at P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank—Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank: TREAS NYC, BNF: FCC/ACV--27000001 and account number as expressed on the remittance instrument. If completing the FCC Form 159, enter the *NAL*/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). Licensee will also send electronic notification on the date said payment is made to Michael.Wagner@fcc.gov and Thomas.Nessinger@fcc.gov. Requests for payment of the full amount of this Forfeiture Order under an installment plan should be sent to: Associate Managing Director-Financial Operations, Room 1-A625, 445 12th Street, S.W., Washington, D.C. 20554.

18. The response, if any, must be mailed to Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington D.C. 20554, ATTN: Thomas S. Nessinger, Audio Division, Media Bureau, and MUST INCLUDE the *NAL*/Acct. No. referenced above.

19. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the respondent 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 respondent'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.

20. Requests for full payment of the forfeiture proposed in this *NAL* under the installment plan should be sent to: Associate Managing Director-Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.⁴⁷

21. IT IS FURTHER ORDERED that, pursuant to Section 309(k) of the Communications Act of 1934, as amended, the license renewal application of Enid Public Radio Association for Station KEIF-LP, Enid, Oklahoma (File No. BRL-20050131AAR) IS GRANTED FOR A PERIOD OF SIX YEARS FROM JUNE 1, 2005. Enid Public Radio Association shall file an application for renewal of its license no later than February 1, 2009. Grant is conditioned upon Enid Public Radio Association's filing, within 90 days of the date of this *NAL*, a report demonstrating that the KEIF-LP antenna has been

⁴⁷ See 47 C.F.R. § 1.1914.

lowered to its authorized height of 33 meters above average terrain, and including operating logs indicating that KEIF-LP is otherwise operating in compliance with its authorization and all applicable Commission technical rules. Grant is further conditioned on Enid Public Radio Association's filing with the Media Bureau, Audio Division, 180 days from the date of this Grant, and every 180 days thereafter until grant of Station's next license renewal, if granted and if on renewal the Commission does not continue this requirement, a report containing (a) a list of all program underwriters and other persons or entities whose donations, payments, or contributions have been acknowledged on-air during the 180-day period of the report; (b) a list of the times and dates of all on-air announcements acknowledging donations, program underwriting, or other receipts of goods, services, or other consideration by Licensee; (c) the text of all on-air announcements listed in response to item (b); and (d) operating logs indicating that the Station has been operating at all times in compliance with its authorization and all applicable Commission technical rules.

22. IT IS FURTHER ORDERED that copies of this *NAL* shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Enid Public Radio Association, 2122 West Maine, Enid, Oklahoma 73703-5320, and to Chisholm Trail Broadcasting Co., c/o Andrew S. Kersting, Esq., Dickstein Shapiro LLP, 1825 Eye Street, N.W., Washington, DC 20006.

FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle, Chief
Audio Division, Media Bureau