

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

In the Matter of	)	
	)	
Power Ministries	)	File No. EB-10-TP-0085
	)	Facility ID No.133335
Licensee of Station WRLE-LP,	)	NAL/Acct. No. 201132700008
Dunnellon, Florida	)	FRN 0005344668
	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

Adopted: September 7, 2011

Released: September 7, 2011

By the District Director, Tampa Office, South Central Region, Enforcement Bureau:

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find that Power Ministries (“Power”), licensee of Station WRLE-LP, in Dunnellon, Florida (the “Station”), apparently willfully and repeatedly violated sections 73.1660(a)(2) of the Commission’s rules (“Rules”)<sup>1</sup> by failing to operate with an FCC (“Federal Communications Commission”) certified transmitter. We conclude that Power is apparently liable for a forfeiture in the amount of twelve thousand dollars (\$12,000).

**II. BACKGROUND**

2. On June 11, 2010, in response to a complaint of interference from the Federal Aviation Administration’s (“FAA’s”) Jacksonville Center to its Air Traffic Control frequency 133.75 MHz, agents from the Enforcement Bureau’s Tampa Office (“Tampa Office”) used direction-finding techniques to locate the source of the interference to spurious emissions emanating from Station WRLE-LP. Agents from the Tampa Office explained to a representative of the station, the only person present at the station, that it was causing interference to the FAA and was creating an ongoing safety hazard. The representative refused to turn off the transmitter. An agent spoke to the station owner on the telephone, reiterating the safety of life hazard and requesting that the station turn off its transmitter. The station owner refused to turn off the transmitter or instruct his station representative to do so, unless his station engineer was present. After a considerable delay, almost thirty minutes after the agents first arrived, the station owner arrived and allowed the agents to inspect the station. The agents observed that the Station was using a transmitter that was not certified by the FCC.<sup>2</sup> After the station owner shut down the transmitter, the spurious emissions and interference to the FAA ceased.

3. On August 10, 2010, the Tampa Office issued a Letter of Inquiry to Power.<sup>3</sup> In its response, Power admitted that its non-certified transmitter, consisting of an amplifier and exciter, were in

<sup>1</sup> See 47 C.F.R. § 73.1660(a)(2).

<sup>2</sup> The agent observed a PTEK amplifier, model FM250E, and a CSI exciter, model EX20F, in use.

<sup>3</sup> See Letter from Ralph Barlow, District Director, Tampa Office, to Anthony Downes, President of Power Ministries, dated August 10, 2010.

use from March 19, 2010 until the inspection on June 11, 2010.<sup>4</sup> Power stated that an FCC certified transmitter was fully operational at Station WRLE-LP on July 9, 2010.<sup>5</sup>

### III. DISCUSSION

4. Section 503(b) of the Communications Act of 1934, as amended (“Act”),<sup>6</sup> provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or of any rule, regulation or order issued by the Commission thereunder, shall be liable for a forfeiture penalty. 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.<sup>7</sup> 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,<sup>8</sup> and the Commission has so interpreted the term in the section 503(b) context.<sup>9</sup> The Commission may also assess a forfeiture for violations that are merely repeated, and not willful.<sup>10</sup> The term “repeated” means the commission or omission of such act more than once or for more than one day.<sup>11</sup>

5. Section 73.1660(a)(2) of the Rules states that an LPFM transmitter shall be certified for compliance with the requirements of this part following the procedures described in part 2 of this chapter.<sup>12</sup> On June 11, 2010, an agent from the Tampa Office observed Station WRLE-LP using a transmitter that was not certified by the Commission. It was this transmitter that apparently was causing direct interference with air traffic control. Power admitted that the station used this transmitter from March 19, 2010 until June 11, 2010. Thus, based on the evidence before us, we find that Power apparently willfully and repeatedly violated section 73.1660(a)(2) of the Rules by utilizing a non-certified LPFM transmitter.

6. Pursuant to the Commission’s *Forfeiture Policy Statement* and section 1.80 of the Rules, the base forfeiture amount for operating with unauthorized equipment is \$5,000.<sup>13</sup> In assessing the

<sup>4</sup> See Letter from Anthony Downes, President, Power Ministries, to Tampa Office, dated August 14, 2010.

<sup>5</sup> *Id.*

<sup>6</sup> See 47 U.S.C. § 503(b).

<sup>7</sup> See 47 U.S.C. § 312(f)(1).

<sup>8</sup> See H.R. Rep. No. 97-765, 97<sup>th</sup> Cong. 2d Sess. 51 (1982) (“This provision [inserted in section 312] defines the terms ‘willful’ and ‘repeated’ for purposes of section 312, and for any other relevant section of the act (e.g., section 503). . . . As defined[,] . . . ‘willful’ means that the licensee knew that he was doing the act in question, regardless of whether there was an intent to violate the law. ‘Repeated’ means more than once, or where the act is continuous, for more than one day. Whether an act is considered to be ‘continuous’ would depend upon the circumstances in each case. The definitions are intended primarily to clarify the language in sections 312 and 503, and are consistent with the Commission’s application of those terms . . .”).

<sup>9</sup> See, e.g., *Application for Review of Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991) (“*Southern California Broadcasting Co.*”).

<sup>10</sup> See, e.g., *Callais Cablevision, Inc.*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359, 1362 ¶ 10 (2001) (“*Callais Cablevision, Inc.*”) (proposing a forfeiture for, *inter alia*, a cable television operator’s repeated signal leakage).

<sup>11</sup> Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which also applies to violations for which forfeitures are assessed under section 503(b) 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.”

<sup>12</sup> See 47 C.F.R. § 73.1660(a)(2).

<sup>13</sup> See *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997) (“*Forfeiture Policy Statement*”), *recon. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80.

monetary forfeiture amount, we must also take into account the statutory factors set forth in section 503(b)(2)(E) of the Act, which include the nature, circumstances, extent, and gravity of the violations, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.<sup>14</sup> In this case, we find that the violation was particularly egregious, warranting a \$7,000 upward adjustment in the base forfeiture.<sup>15</sup> The violation in this instance was particularly serious because the interference to FAA operations posed a hazard to the safety of life and property. The violation was further exacerbated because Power – through the conduct of the representative available at the Station at the time the agents arrived, and later by its owner – deliberately disregarded the FCC agents’ request that it immediately turn off the Station’s transmitter in order to abate the ongoing safety hazard to air traffic control. Applying the *Forfeiture Policy Statement*, section 1.80 of the Rules, and the statutory factors to the instant case, we conclude that Power is apparently liable for a forfeiture of \$12,000.

#### IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Communications Act of 1934, as amended, and sections 0.111, 0.204, 0.311, 0.314 and 1.80 of the Commission’s Rules, Power Ministries is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of twelve thousand dollars (\$12,000) for violations of section 73.1660(a)(2) of the Rules.<sup>16</sup>

8. **IT IS FURTHER ORDERED** that, pursuant to section 1.80 of the Commission’s Rules, within thirty days of the release date of this Notice of Apparent Liability for Forfeiture, Power Ministries **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

9. Payment of the forfeiture must be made by credit card, check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the Account Number and FRN Number referenced above. Payment by check or money order may be mailed to Federal Communications Commission, 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, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When 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). Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.<sup>17</sup> If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov). Power Ministries shall send electronic notification on the date said payment is made to [SCR-Response@fcc.gov](mailto:SCR-Response@fcc.gov).

10. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to sections 1.80(f)(3) and 1.16 of the Rules. Mail the written statement to Federal Communications Commission, Enforcement Bureau, South Central Region, Tampa Office, 4010 W. Boy Scout Blvd. Suite 425, Tampa, Florida 33607 and include the NAL/Acct. No. referenced in the caption. Power Ministries also shall email the written response to [SCR-Response@fcc.gov](mailto:SCR-Response@fcc.gov).

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<sup>14</sup> See 47 U.S.C. § 503(b)(2)(E).

<sup>15</sup> The base forfeiture amount for causing interference is \$7,000. See 47 C.F.R. § 1.80.

<sup>16</sup> See 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80, 73.1660(a)(2).

<sup>17</sup> See 47 C.F.R. § 1.1914.

11. 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.

12. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by both Certified Mail, Return Receipt Requested, and regular mail, to Power Ministries at 3092 SW Harbor Hills Road, Dunnellon, Florida 34431.

FEDERAL COMMUNICATIONS COMMISSION

Ralph M. Barlow  
District Director  
Tampa Office  
South Central Region  
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