

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

In the Matter of	)	
	)	
Great Plains Television Network, LLC	)	Facility ID No. 190120
Licensee of Station KGPT-CD	)	NAL/Acct. No.: 201441420030
Wichita, Kansas	)	FRN: 0015843998

**FORFEITURE ORDER**

**Adopted: September 15, 2015**

**Released: September 15, 2015**

By the Chief, Video Division, Media Bureau:

**I. INTRODUCTION**

1. In this *Forfeiture Order*, issued pursuant to Sections 0.61(f)(1) and 1.80(a)(1) and (2) of the Commission's rules ("Rules"),<sup>1</sup> we find that Great Plains Television Network, LLC is willfully and/or repeatedly violating Section 73.3539(a) of the Rules by failing to file in a timely manner its application for license renewal (Form 303-S). Based on our review of the facts and circumstances, we find the Licensee liable for a forfeiture of one thousand, five hundred dollars (\$1,500.00).

**II. BACKGROUND**

2. On September 23, 2013, the Video Division ("Division") issued a Notice of Apparent Liability for Forfeiture ("*NAL*")<sup>2</sup> to the Licensee for its apparent willful and/or repeated violations of (1) Section 73.3526(e)(11)(i) for failing to file electronically the Station's quarterly TV issues/programs lists in a timely manner;<sup>3</sup> (2) Section 73.3526(e)(11)(iii) for failing to file timely with the Commission the Station's Children's Television Programming Reports (FCC Form 398);<sup>4</sup> (3) Section 73.3539(a) for failing to file timely the Station's license renewal application;<sup>5</sup> and (4) Section 73.3514(a) for failing to report certain violations in its license renewal application.<sup>6</sup> The Division proposed a monetary forfeiture in the amount of \$19,000. In a timely Response filed October 10, 2014,<sup>7</sup> the Licensee states that all documents, with the exception of its license renewal application, were filed with the Commission and/or placed in the Station's electronic public file in a timely manner.

<sup>1</sup> 47 C.F.R. §§ 0.61(f)(1), 1.80(a)(1),(2).

<sup>2</sup> *Great Plain Television Network, LLC*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 10559 (Vid. Div. 2014).

<sup>3</sup> 47 C.F.R. § 73.3526(e)(11)(i).

<sup>4</sup> 47 C.F.R. § 73.3526(e)(11)(iii).

<sup>5</sup> 47 C.F.R. § 73.3539(a).

<sup>6</sup> 47 C.F.R. § 73.3514(a).

<sup>7</sup> *Great Plain Television Network, LLC*, Response to Notice of Apparent Liability for Forfeiture (filed Oct. 10, 2014) ("*Response*").

### III. DISCUSSION

3. The Commission is authorized to license radio and television broadcast stations and is responsible for enforcing the Commission's rules and applicable statutory provisions concerning the operation of those stations. Under section 503(b)(1) of the Communications Act of 1934, as amended, any person who is determined by the Commission to have willfully or repeatedly 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.<sup>8</sup> In order to impose a forfeiture penalty, the Commission must issue a notice of apparent liability, the notice must be received, and the person against whom the notice has been issued must have an opportunity to show, in writing, why no such penalty should be imposed.<sup>9</sup> The Commission will then issue a forfeiture order if it finds by a preponderance of the evidence that the person has violated the Act or a Commission rule.<sup>10</sup>

4. In the *NAL*, the Division proposed a total forfeiture in the amount of \$19,000, which included \$10,000 for the Licensee's failure to upload to the Station's electronic public file copies of its quarterly TV issues/programs lists for 26 quarters. In its Response, the Licensee contends that documents in the Station's electric public file "disappeared" when the Station converted from analog to digital operations. According to the Licensee this may have been caused by the change in the Station's facility identification number (from Facility ID No. 35255 to 190120).<sup>11</sup> The Division has confirmed that as the result of a technical glitch the Station's documents were inadvertently deleted (or unlinked) from its electronic public file as the Licensee claims. Therefore, we find that the Licensee did not violate Section 73.3526(e)(11)(i) of the Rules.<sup>12</sup> In addition, upon review of the Station's electronic public file we find that it only filed one Children's Television Programming Report late, which we consider to be a *de minimis* violation of Section 73.3526(e)(11)(iii),<sup>13</sup> which does not warrant forfeiture.<sup>14</sup> In light of these findings, we also find that the Licensee should not be liable for any violation of Section 73.3514(a) of the Rules for failing to report a single late filed Children's Television Programming Report.<sup>15</sup>

5. In its Response, the Licensee admits that it failed to file the Station's license renewal application in a timely manner.<sup>16</sup> The Station's license was scheduled to expire on June 1, 2014, and

<sup>8</sup> 47 U.S.C. § 503(b)(1)(A),(B); 47 C.F.R. § 1.80(a)(1),(2).

<sup>9</sup> 47 U.S.C. § 503(b); 47 C.F.R. § 1.80(f).

<sup>10</sup> See, e.g., *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7591 (2002).

<sup>11</sup> Response at p. 1.

<sup>12</sup> 47 C.F.R. § 73.3526(e)(11)(i).

<sup>13</sup> 47 C.F.R. § 73.3526(e)(11)(iii),

<sup>14</sup> Upon initial review staff found that four Children's Television Programming Reports had been filed late: first quarter 2009, third quarter 2010, first quarter 2011 and third quarter 2013. Upon reexamination, which included additional information provided by the Licensee, we have found that the reports for both first quarter 2009 and first quarter 2011 were in fact initially filed on-time, but inadvertently overwritten by subsequently filed reports. In addition, although the report for third quarter 2010 was filed on October 11, 2010, it was filed on-time because the 10<sup>th</sup> of the month fell on a weekend. Accordingly, the filing was due on the next business day following the filing date. See 47 C.F.R. § 1.4 (computation of time). Therefore, the only Children's Television Programming Report that was filed late was third quarter 2013, which was filed over two months late – taking into account the extension provided to licensees following the federal government shutdown. *Revised Filing Deadlines Following Resumption of Normal Commission Operations*, Public Notice, 28 FCC Rcd 14091 (2013) (requiring filings that were originally due between October 7 and October 16 to be filed within 16 days after the original filing date).

<sup>15</sup> 47 C.F.R. § 73.3514(a).

<sup>16</sup> Response at p. 2.

the Licensee required to file its license renewal application on or before February 1, 2014.<sup>17</sup> The license renewal application was not filed with the Commission until March 19, 2014—45 days late.<sup>18</sup> The Division proposed a forfeiture in the amount of \$3,000 for this apparent violation of the Rules.<sup>19</sup> The Commission's *Forfeiture Policy Statement* and the note to Section 1.80(b)(8) of the Rules establish a base forfeiture amount of \$3,000 for failure to file a required form or information. 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.”<sup>20</sup> In light of the fact and circumstances before us, including the nature of the violation coupled with the Licensee's history of compliance, we find that reduction of the base forfeiture amount is appropriate. Accordingly, the Licensee is liable for a forfeiture in the amount of \$1,500 for its violation of Section 73.3539(a) of the Rules.<sup>21</sup>

#### IV. ORDERING CLAUSES

6. **ACCORDINGLY, IT IS ORDERED THAT**, pursuant to section 503(b) of the Communications Act of 1934, as amended, and Sections 0.61(f)(1) and 1.80(a)(1),(2) of the Commission's rules,<sup>22</sup> Great Plains Television Network, LLC, SHALL FORFEIT to the United States the sum of One Thousand, Five Hundred Dollars (\$1,500) for its apparent willful and/or repeated violation of Section 73.3539(a) of the Commission's Rules.<sup>23</sup>

7. Payment of the forfeiture shall be made in the manner provided for in Section 1.80(h) of the Commission's rules within thirty (30) calendar days after the release date of this Forfeiture Order. If the forfeiture is not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to Section 504(a) of the Communications Act of 1934, as amended.<sup>24</sup>

8. Payments of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the FRN referenced above. Electronic notification of payments should also be sent to Alison Nemeth at [Alison.Nemeth@fcc.gov](mailto:Alison.Nemeth@fcc.gov) on the date payments are made. Regardless

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<sup>17</sup> Section 73.3539(a) of the Rules requires a broadcast television license renewal application to be filed “not later than the first day of the fourth full calendar month prior to the expiration date of the license sought to be renewed....” 47 C.F.R. § 73.3539(a).

<sup>18</sup> The application was due on February 1, 2014, however, because that fell on the weekend the application was not due until the next business day, Monday, February 3. See 47 C.F.R. § 1.4 (computation of time).

<sup>19</sup> 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); 47 C.F.R. § 1.80(b)(8), note to paragraph (b)(8), Section I.

<sup>20</sup> 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)(8), note to paragraph (b)(8), Section II.

<sup>21</sup> 47 C.F.R. § 73.3539(a); See e.g., WDKA Acquisition Corp., Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 13731 (Vid. Div. 2013)(proposing a forfeiture in the amount of \$1,500 for filing a license renewal application just over one month late).

<sup>22</sup> 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.61(f)(1) & 1.80(a)(1),(2).

<sup>23</sup> 47 C.F.R. § 73.3539(a).

<sup>24</sup> 47 U.S.C. § 504(a)

of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.<sup>25</sup> When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters “FORF” in block number 24A (payment type code). Below are additional instructions you should follow based on the form of payment you select:<sup>26</sup>

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

9. **IT IS FURTHER ORDERED** that copies of this *NAL* shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Great Plains Television Network, LLC, 100 South Main, Suite 300, Wichita, Kansas, 190120, and to its counsel, Richard C. Goetz, R&L Media Systems, Inc., 135 N Country Club Drive, Hendersonville, Tennessee, 37075.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

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<sup>25</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

<sup>26</sup> Questions regarding payment procedures, it should contact the Financial Operations Group Help Desk by phone at 1-877-480-3201, or by e mail at [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov).