

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

In the Matter of)	
)	
Life on the Way Communications, Inc.)	File No.: EB-SED-12-00000906
)	NAL/Acct. No.: 201332100005
)	FRN: 0009016239

FORFEITURE ORDER

Adopted: March 20, 2015

Released: March 23, 2015

By the Chief, Spectrum Enforcement Division, Enforcement Bureau:

I. INTRODUCTION

1. We impose a penalty of \$18,000 against Life on the Way Communications, Inc. (Life on the Way), licensee of domestic fixed satellite service earth station E970117, Van Nuys, California, for operating the station without Commission authority for more than eight years. We also affirm our admonishment against Life on the Way for engaging in the unauthorized assignment of the license of station E970117. We take this action as part of our duty to ensure that persons do not transmit radio signals within the U.S. territorial boundaries without Commission authority. By operating the station without Commission authority, Life on the Way risked causing interference to authorized users of the spectrum and by not receiving prior approval to assign its license risked operation by potentially unqualified parties or in a manner that might otherwise be inconsistent with the public interest. Life on the Way does not deny the violations, but requests that we cancel both the proposed forfeiture and the admonishment because, among other things, it claims we failed to act within the one-year statute of limitations and failed to credit that any violation was not intentional. As discussed further below, our action occurred within the statute of limitations and our finding that there was a violation of our rules does not depend on whether there was any intent to do so. Thus, after reviewing Life on the Way’s response to the *NAL*, we find no reason to cancel, withdraw, or reduce the proposed penalty, and we therefore assess the full \$18,000 forfeiture and admonishment previously proposed by the Bureau.

II. BACKGROUND

2. Life on the Way acquired and operated earth station E970117 for several years without seeking or obtaining proper authority, before securing Special Temporary Authority on February 22, 2012.¹ On February 21, 2013, the Division issued the *Notice of Apparent Liability for Forfeiture and Admonishment* proposing an \$18,000 forfeiture against Life on the Way for its apparent willful and repeated violation of Section 301 of the Communications Act of 1934, as amended (Act),² and Section 25.102(a) of the Commission’s Rules (Rules)³ by operating earth station E970117 without Commission

¹ See *Public Notice, Satellite Communications Services Information, Actions Taken*, Report No. SES-01429, Feb. 29, 2012.

² 47 U.S.C. § 301.

³ 47 C.F.R. § 25.102(a).

authority for more than eight years.⁴ The Division also admonished Life on the Way for its willful violation of Section 310(d) of the Act⁵ and Section 25.119 of the Rules⁶ in connection with assignment of the license for earth station E970117 without prior Commission consent.⁷

3. On March 22, 2013, Life on the Way filed a response to the *NAL* and requested cancellation of the proposed forfeiture and admonishment.⁸ In its *NAL* Response, Life on the Way argues that the proposed forfeiture was improperly imposed for conduct occurring more than one year from the date of the *NAL* in violation of Section 503(b)(6) of the Act.⁹ Life on the Way also contends that its operation of earth station E970117 without Commission authority was not willful.¹⁰ Life on the Way repeats assertions previously presented in response to the Division's inquiries,¹¹ and argues that the *NAL* does not take into account Life on the Way's mistaken belief that the license for earth station E970117 had been assigned to it and it was authorized to operate the earth station.¹² Finally, Life on the Way notes that on September 28, 2012, the Commission released a *Notice of Proposed Rulemaking*¹³ initiating a review of its Part 25 rules governing the licensing and operation of space stations and earth stations and therefore argues that it should not be held responsible for its errors in the case.¹⁴

III. DISCUSSION

4. The Division assessed the proposed forfeiture amount in accordance with Section 503(b) of the Act,¹⁵ Section 1.80 of the Rules,¹⁶ and the Commission's *Forfeiture Policy Statement*.¹⁷ In examining Life on the Way's *NAL* Response, we "take into account the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior

⁴ *Life on the Way Communications, Inc.*, Notice of Apparent Liability for Forfeiture and Admonishment, 28 FCC Rcd 1346 (Enf. Bur. 2013) (*NAL*). The *NAL* includes a more complete recitation of the facts and history of this case and is incorporated herein by reference.

⁵ 47 U.S.C. § 310(d).

⁶ 47 C.F.R. § 25.119.

⁷ See *NAL*, 28 FCC Rcd at 1346, para. 1.

⁸ See *Life on the Way Communications, Inc.*, Petition for Reconsideration in Notice of Apparent Liability for Forfeiture and Admonishment (March 22, 2013) (on file in EB-SED-12-00000906) (*NAL* Response or petition for reconsideration). Life on the Way's pleading was captioned as a "petition for reconsideration," rather than a response to the *NAL*. Consistent with Section 1.80(f)(3) of the Rules, with respect to the *NAL* we will treat this pleading as a response to the *NAL*, but as a request for reconsideration of our issuance of the Admonishment.

⁹ See *NAL* Response 2-3.

¹⁰ See *id.* at 4.

¹¹ See *id.* 5-7.

¹² See *id.*

¹³ See *Comprehensive Review of Licensing and Operating Rules for Satellite Services*, Notice of Proposed Rulemaking, 27 FCC Rcd 11619 (2012) (*Notice of Proposed Rulemaking*).

¹⁴ See *NAL* Response at 9.

¹⁵ 47 U.S.C. § 503(b).

¹⁶ 47 C.F.R. § 1.80.

¹⁷ *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, 17113 (1997), *recon. denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999) (*Forfeiture Policy Statement*).

offenses, ability to pay, and such other matters as justice may require.”¹⁸ As discussed below, we are not persuaded by Life on the Way’s arguments for cancellation of the proposed forfeiture amount and admonishment. We therefore conclude that Life on the Way is liable for a forfeiture in the amount of \$18,000 for willfully violating Section 301 of the Act and Section 25.102(a) of the Rules¹⁹ and an admonishment is appropriate for willfully violating Section 310(d) of the Act and Section 25.119 of the Rules.

A. Unauthorized Operation of Earth Station License

5. Section 301 of the Act and Section 25.102(a) of the Rules prohibit the use or operation of any apparatus for the transmission of energy or communications or signals by an earth station except under and in accordance with a Commission granted authorization.²⁰

1. We issued the NAL within the Statute of Limitations Period

6. In its NAL Response, Life on the Way argues the actual release date of the NAL was February 22, 2013, since the NAL was sent to Life on the Way by facsimile on February 21, 2013 after 6:00 p.m. which it believes to be after the “close of business,” and it was included in the Daily Digest of February 22, 2013.²¹ As a matter of law, however, the date of issuance of a notice of apparent liability is the date of its public notice, which in this case was the date the Commission released the document.²²

¹⁸ 47 U.S.C. § 503(b)(2)(E).

¹⁹ 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. *Id.* § 312(f)(1). The legislative history of Section 312 clarifies that this definition of willful applies to Sections 312 and 503 of the Act, H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982) (Conf. Rep.), and the Commission has so interpreted the term in the Section 503(b) context. *See So. Cal. Broad. Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4387–88, para. 5 (1991) (*So. Cal.*), *recons. denied*, 7 FCC Rcd 3454 (1992); *see also Telrite Corporation*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 7231, 7237, para. 12 (2008); *Regent USA*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 10520, 10523, para. 9 (2007).

²⁰ 47 U.S.C. § 301; 47 C.F.R. § 25.102(a). Section 25.121(c) of the Rules provides that the license term for an earth station is specified in the instrument of authorization. 47 C.F.R. § 25.121(c). Section 25.121(e) of the Rules requires the licensee of an earth station to file its renewal application “no earlier than 90 days, and no later than 30 days, before the expiration date of the license.” *Id.* § 25.121(e). Absent a timely filed renewal application, an earth station license automatically terminates at the end of the license period. *Id.* § 25.161.

²¹ *See* NAL Response at 4 (citing <http://www.fcc.gov/contact-us>).

²² *Cf.* 47 C.F.R. § 1.4(b)(2). Life on the Way is correct that the Commission did not list the NAL on its electronic daily list of releases until February 22, 2013. Life on the Way also states that the NAL was faxed at 6:14 p.m. on February 21, 2013. *See* NAL Response at 4. The NAL, however, appeared along with other releases under the boldface heading “ADDENDA: THE FOLLOWING ITEMS, RELEASED FEBRUARY 21, 2013, DID NOT APPEAR IN DIGEST NO. 35,” *i.e.*, the agency’s daily list of releases for the preceding day. Daily Digest, Vol. 32, No. 36 (Feb. 22, 2013). The documents were released the preceding day by operation of the Commission’s procedures. At that same time, the Commission also made the documents available to the public. The Commission routinely provides information electronically about some documents the day after they are released. The date of issuance of a non-rulemaking document like the NAL is however the date of release, the date the Commission makes the full text of the document available to the public. *See* 47 C.F.R. § 1.102(b)(1). As to Life on the Way’s argument that 6:14 p.m. is outside the Commission’s official business hours, Life on the Way is incorrect. As pointed out by Life on the Way, while certain telephone services (*e.g.*, information and technical support) may not be available after 5:30 p.m., the Commission’s operating hours are not so limited. *See e.g.*, <http://www.fcc.gov/help/support-information-online-filing>; <http://www.fcc.gov/encyclopedia/operations-center-public-safety-homeland-security-bureau>.

In addition, we note that the NAL was mailed by certified and regular U.S. mail to the address listed in Life on the Way’s application for a new earth station license, submitted on February 10, 2012. The certified mail card returned to the Commission by the U.S. Postal Service was signed by Life on the Way and reflects that the mailing was (continued....)

The Commission released the *NAL* on February 21, 2013 by making the full text of the document available to the public at Commission headquarters on that date.

2. We properly considered the extended period of misconduct

7. Life on the Way also argues that by referring to the eight years of unauthorized operation, the *NAL* improperly imposed a forfeiture for conduct occurring more than one year from the date of the *NAL*, in violation of Section 503(b)(6) of the Act.²³

8. We reject Life on the Way's argument because again it is based on mistaken contention that the Bureau failed to act within the statute of limitations. While the Commission may not find Life on the Way liable for violations committed prior to February 21, 2012, it may lawfully look at facts that occurred more than one year prior to the issuance of the *NAL* in order to establish the violator's degree of culpability and the continuing nature of the violations.²⁴ Therefore, since the *NAL* was issued within one year of Life on the Way's violation of Section 301 of the Act and Section 25.102(a) of the Rules, we may consider the fact that that Life on the Way's misconduct occurred over an extended period. Moreover, the cases cited by Life on the Way²⁵ are distinguishable from the instant case because the proposed forfeitures in those cases were canceled since they were issued for violations occurring outside of the statute of limitations,²⁶ whereas the *NAL* in this case was issued within the statute of limitations period.

3. The possible absence of intent to violate the Rules is not relevant to whether they were violated

9. Life on the Way also requests cancellation of the forfeiture asserting that it did not willfully violate the Act and the Rules.²⁷ In this regard, Life on the Way contends that it did not consciously or deliberately operate earth station E970117 without Commission authorization, explaining that it believed it had sought and received Commission approval for the assignment of the license and that

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delivered to Life on the Way on February 25, 2013. Thus, the *NAL* was delivered to Life on the Way as required by Section 1.80(f)(2) of the Rules.

²³ See *NAL* Response at 3.

²⁴ See e.g., *Globcom, Inc. d/b/a Globcom Global Communications*, 18 FCC Rcd 19893, 19903, para. 23 (2003), *rev. pending*; *Roadrunner Transportation, Inc.*, Forfeiture Order, 15 FCC Rcd 9669, 9671-72, para. 8 (2000) (considering the fact the violations began in 1996 to establish the context for determining an appropriate forfeiture amount for the violations that were subject to a forfeiture from June 1, 1998 forward); *Cate Communications Corp.*, Memorandum Opinion and Order, 60 RR 2d 1386, 1388, para. 7 (1986) (considering the licensee's conduct prior to the statute of limitations period in determining the appropriate forfeiture amount for a continuing violation, finding that such facts placed "the violations in context, thus establishing the licensee's degree of culpability and the continuing nature of the violations"); *Eastern Broadcasting Corp.*, Memorandum Opinion and Order, 10 FCC 2d 37, 37-38, paras. 3-4 (1967), *recon. den.*, 11 FCC 2d 193 (1967) (considering facts that occurred prior to the one-year statute of limitations period in determining the licensee's degree of culpability); *Lubbock Aero*, Forfeiture Order 29 FCC Rcd 59 (Enf. Bur. 2014); *Bureau D'Electronique Appliquee, Inc.*, Notice of Apparent Liability for Forfeiture, 20 FCC Rcd 3445, 3447-48, para. 8 (Enf. Bur. 2005).

²⁵ See *NAL* Response at 2-3 (citing *LawMate Technology Co., Ltd.*, Forfeiture Order, 27 FCC Rcd 15159, 15159-60, n.6 (Enf. Bur. 2012) (stating that since Section 503(b)(6)(B) precluded the Division from imposing forfeiture liability for violations occurring more than one year prior to the date the *NAL* was issued, the Division only proposed forfeitures for violations that occurred in the prior year); *Richard F. Swift, Esq.*, Letter, 26 FCC Rcd 11085 (Med. Bur. 2011) (canceling a proposed forfeiture imposed for violations occurring prior to the commencement date of the current license term and more than one year prior to the issuance of the *NAL*); *John Crigler, Esq.*, Letter 26 FCC Rcd 1186 (Med. Bur. 2011) (same).

²⁶ See *supra* note 25.

²⁷ See *NAL* Response at 4-8.

it was authorized to operate the station.²⁸ Licensees, however, are expected to know and comply with the Rules.²⁹ As the Commission has repeatedly held, violations resulting from inadvertent error or failure to become familiar with the FCC's requirements can be and often are willful violations.³⁰ In the context of a forfeiture action, "willful" does not require a finding that the rule violation was intentional.³¹ Rather, the term "willful" means that the violator knew it was taking (or not taking) the action in question, irrespective of any intent to violate the law.³² Here, Life on the Way knew it was operating the earth station – that is all the intent that was required.

4. Any failure by the Commission to send a renewal reminder is irrelevant

10. Life on the Way also states that the Notices of Apparent Liability for Forfeiture cited in

²⁸ See *id.* at 4-7.

²⁹ See *Forfeiture Policy Statement*, 12 FCC Rcd at 17099, para. 22 (“[t]he Commission expects [each licensee], and it is each licensee’s obligation, to know and comply with all of the Commission’s rules”); see also, e.g., *Discussion Radio, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability, 19 FCC Rcd 7433, 7437, para. 12 (2004) (by issuing forfeitures for violations that may have been inadvertent, the bureau “impel[s] . . . licensees to become familiar with the terms of their licenses and the applicable rules, and to adopt procedures, including periodic review operations, which will ensure that stations will be operated in substantial compliance with their licenses and the Commission’s rules”) (quoting *Crowell-Collier Broadcasting Corp.*, Memorandum Opinion and Order, 44 FCC 2d 2444, 2449-50 (1961)), *forfeiture ordered*, Memorandum Opinion and Order, 24 FCC Rcd 2206 (Med. Bur. 2009)).

³⁰ See, e.g., *Emery Telephone*, Memorandum Opinion and Order, 13 FCC Rcd 23854, 23859, para. 12 (1998) (by issuing forfeitures for inadvertent violations corrected after the fact, “the Bureau impels licensees to be more familiar with the applicable rules in structuring future conduct”), *recon. dismissed in part and denied in part*, Memorandum Opinion and Order, 15 FCC Rcd 7181 (1999); *Profit Enterprises, Inc.*, Forfeiture Order, 8 FCC Rcd 2846, 2846, para. 5 (1993) (in denying a mitigation claim based on the mistaken belief that certain Rules were inapplicable, the Commission explained that “prior knowledge or understanding of the law is unnecessary to a determination of whether a violation existed . . . [I]gnorance of the law is [not] a mitigating factor.”), *cancelled on other grounds*, Order, 12 FCC Rcd 14999 (1997); *PJB Communications of Virginia, Inc.*, Memorandum Opinion and Order, 7 FCC Rcd 2088, 2088, para. 5 (1992) (stating that inadvertent violations are “willful” violations as “[a]ll that is necessary is that the licensee knew it was doing the act in question”); *So. Cal.*, 6 FCC Rcd at 4387, para. 3 (“inadvertence, . . . is at best, ignorance of the law, which the Commission does not consider a mitigating circumstance”); *Lakewood Broadcasting Service, Inc.*, Memorandum Opinion and Order, 37 FCC 2d 437, 438, para. 6 (1972) (“If ignorance of [the Rules] were accepted as an excuse, we would be encouraging licensees to know as little as possible.”); *Kenneth Paul Harris, Sr.*, Notice of Apparent Liability for Forfeiture, 15 FCC Rcd 12933, 12935, para. 7 (Enf. Bur. 2000) (denying a mitigation claim of a broadcast licensee, stating that its ignorance of the law did not excuse the unauthorized transfer of the station).

³¹ See, e.g., *Tidewater Communications, LLC*, Order on Review, 25 FCC Rcd 1675, 1676, para. 5 (2010) (“To be willful, the violator must consciously commit or omit certain actions and need not be aware that such actions violate the Rules.”); *So. Cal.*, 6 FCC Rcd at 4388, para. 5 (holding that, consistent with the Congressional record accompanying the 1982 amendments to the Act, a “willful” violation need not be intentional); *Princess K Fishing Corp.*, Forfeiture Order, 24 FCC Rcd 2606, 2608-09, para. 8 (Enf. Bur. 2009) (stating that a licensee need not have the *mens rea* to commit a violation in order for a violation to be “willful”), *recon. dismissed*, Memorandum Opinion and Order, 27 FCC Rcd 4707 (Enf. Bur. 2012).

³² See, e.g., *American Samoa Telecomm. Auth.*, Forfeiture Order, 27 FCC Rcd 13174, 13180, para. 8 (Enf. Bur. 2012) (forfeiture paid) (emphasizing that a violation is “willful” if the violator knew it was taking or failing to take the action in question, irrespective of any intent to violate the Rules); *Saga Radio Networks, LLC*, Forfeiture Order, 24 FCC Rcd 3852, 3855, para. 10 (Enf. Bur. 2009) (same), *recons. denied*, Memorandum Opinion and Order, 28 FCC Rcd 6875 (Enf. Bur. 2009); *Alacca Bible Conf., Inc.*, Forfeiture Order, 25 FCC Rcd 2584, 2585, para. 5 (Med. Bur. 2009) (same); see also *supra* note 19 (defining “willful” for the purposes of Section 312 and 503(b) of the Act); H.R. Rep. No. 97-765, at 51 (1982) (Conf. Rep.) (“[W]illful” means that the licensee knew that he was doing the act in question, regardless of whether there was an intent to violate the law.”).

the *NAL* are inapposite, because in each cited case, the party subject to the forfeiture received a renewal reminder, but failed to timely file a renewal application.³³ Life on the Way contends that in this case, no renewal reminder was received. Notwithstanding Life on the Way's assertions, the International Bureau is not obligated to provide licensees with reminders of their license renewal obligations.³⁴ In any event, because Life on the Way failed to obtain prior Commission consent to the assignment of license for station E970117,³⁵ the Commission would not have had a record of Life on the Way as the licensee.

5. The issuance of the Part 25 NPRM does not excuse Life on the Way's violation of the Rules

11. Life on the Way also points to the Commission's release of a *Notice of Proposed Rulemaking*³⁶ initiating a review of its Part 25 rules governing the licensing and operation of space stations and earth stations as evidence that it should not be held responsible for its violation of the Rules.³⁷ We disagree with Life on the Way's characterization of the *Notice of Proposed Rulemaking* as providing a basis for excusing its violations of the Rules. The *Notice of Proposed Rulemaking* did not propose to change the fundamental obligation of an earth station operator to secure a license before using it to transmit radiofrequencies.

B. Unauthorized Assignment of Earth Station License

12. Section 310(d) of the Act states that “[n]o construction permit or station license, or any rights thereunder, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding such permit or license, to any person except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby.”³⁸ Section 25.119 of the Rules

³³ See *NAL* Response at 4 (citing *Emigrant Storage LLC*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 8917, 8917, para. 2 (Enf. Bur. 2012) (more than nine years of unauthorized operation); *BASF Corp.*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 17300, 17300, para. 2 (five years of unauthorized operation) (forfeiture paid); *Shubat Transportation Company*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 3782, 3782, para. 2 (Enf. Bur. 2011) (six years of unauthorized operation); *Call Mobile*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 74, 74, para. 2 (two and a half years of unauthorized operation). Life on the Way asserts that in each of these cases, the party subject to the forfeiture had been notified by the Commission of the need to timely file a license renewal application, but failed to do so. See *NAL* Response at 7-8. In contrast, argues Life on the Way, it did not receive a renewal reminder from the Commission. See *id.*

³⁴ See *id.* at 8-9. See also *NAL*, 28 FCC Rcd 1352, n. 52. Nevertheless, we note that the Commission has previously indicated that renewal reminders are provided as a courtesy to licensees and that a licensee's obligation to timely file a renewal application is not dependent upon the Commission sending a renewal notice to the licensee. See, e.g., *Biennial Regulatory Review – Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services*, 13 FCC Rcd 21027, 21071, para. 96 (1998) (noting that the renewal reminder letter is a “convenience to licensees [and] does not in any way absolve licensees from timely filing their renewal applications”).

³⁵ See *NAL*, 28 FCC Rcd 1352-53, para. 14.

³⁶ See *Comprehensive Review of Licensing and Operating Rules for Satellite Services*, Notice of Proposed Rulemaking, 27 FCC Rcd 11619 (2012) (*Notice of Proposed Rulemaking*). On August 9, 2013, the Commission released a Report and Order (*Part 25 Order*) that amends many of the rules governing the licensing and operation of earth stations and space stations for the provision of satellite communication services. See *Comprehensive Review of Licensing and Operating Rules for Satellite Services*, Report and Order, IB Docket No. 12-267, FCC 13-111, 28 FCC Rcd 12403 (2013) (*Part 25 Order*).

³⁷ See *NAL* Response at 9.

³⁸ 47 U.S.C. § 310(d).

requires that licensees of Part 25 satellite space and earth station authorizations file an application and receive prior approval for Commission authorization to transfer, assign, or dispose of (voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation or any other entity) a station license or accompanying rights.³⁹ Specifically, pursuant to Section 25.119(c) of the Rules, licensees seeking to assign an earth station license must obtain the prior approval of the Commission by submitting an FCC Form 312, Main Form and Schedule A.⁴⁰

13. Life on the Way seeks cancellation of the admonishment for engaging in the unauthorized assignment of the license for station E970117 in willful violation of Section 310(d) of the Act and Section 25.119 of the Rules. Pursuant to Section 25.119(c) of the Rules, an application on FCC Form 312, Main Form and Schedule A, was required to be filed with the International Bureau in order to obtain Commission consent to the assignment of the E970117 license to Life on the Way.⁴¹ No such application was filed and Life on the Way's assertion that the Media Bureau's approval of the KTLW Assignment Application also had the effect of granting its consent to the assignment of the license of earth station E970117 to Life on the Way was properly rejected in the *NAL*.⁴²

14. Life on the Way repeats assertions previously presented in response to the Division's inquiries,⁴³ and argues that the admonishment included in the *NAL* does not take into account its mistaken belief that the license for earth station E970117 had been assigned to it as an auxiliary station, and it was authorized to operate the earth station.⁴⁴ In addition, Life on the Way contends that it should have been notified by the Commission and the Media Bureau that approval of its KTLW Assignment Application did not grant consent to the assignment of the license of earth station E970117 to Life on the Way.⁴⁵ We find that Life on the Way's argument is without merit as Section 25.119(c) of the Rules clearly states that licensees seeking to assign an earth station license must obtain the prior approval of the Commission by submitting an FCC Form 312, Main Form and Schedule A. We find that Life on the Way's apparent unfamiliarity with the Commission's procedures for obtaining the approval for the assignment of an earth

³⁹ 47 C.F.R. § 25.119.

⁴⁰ *Id.* § 25.119(c). This requirement was implemented in 1997, when the Commission announced the availability of the then new FCC Form 312 (Application for Satellite Space and Earth Station Authorizations) and stated that this form is to be used when applicants seek Commission consent to assign or transfer control of a licensed earth station. *See Implementation of New Part 25 Regulations for Satellite Space and Earth Station Application and Licensing Procedures*, Public Notice, 12 FCC Rcd 13850, 13852 (1997). This announcement implemented the rules adopted by the Commission to streamline application and licensing procedures for satellite space and earth stations under Part 25 of the Rules. *See Streamlining the Commission's Rules and Regulations for Satellite Applications and Licensing Procedures*, Report and Order, 11 FCC Rcd 21581 (1996).

⁴¹ 47 C.F.R. § 25.119(c).

⁴² See *NAL*, 28 FCC Rcd at 1349-50, para. 8.

⁴³ See *id.* at 1347-48, para. 4; see also *NAL* Response at 5-7. Specifically, Life on the Way reiterates arguments it already presented: Living Way Ministries applied for the E970117 station license for use as an "auxiliary facility" for station KTLW and subsequently filed the KTLW Assignment Application; since an attachment to the KTLW Assignment Application identified earth station E970117 as an "auxiliary facility" of station KTLW, Life on the Way believed that the KTLW Assignment Application also sought Commission consent to the assignment of the E970117 license to Life on the Way; and Life on the Way believed its operation of earth station E970117 was authorized because the Media Bureau's consent to the assignment of the license of station KTLW to Life on Way included all of station KTLW's currently authorized broadcast auxiliary stations, which Life on the Way asserted included the earth station license. See *NAL*, 28 FCC Rcd at 1348, para. 5.

⁴⁴ See *NAL* Response at 5-7.

⁴⁵ See *id.* at 6.

station license does not warrant favorable consideration.⁴⁶ This is especially true since earth stations have never been classified by the Commission as auxiliary stations.⁴⁷ Moreover, we find unavailing Life on the Way's contention that the Commission should have somehow notified it that a component of a transaction that was not before the agency did not in fact cover a station license for which no assignment application was actually filed.⁴⁸ We therefore decline to cancel the admonishment for Life on the Way's unauthorized assignment of the license for station E970117.

15. Having considered Life on the Way's response to the *NAL* in light of the applicable statutory factors, the Rules, and the *Forfeiture Policy Statement*, we find that Life on the Way willfully violated Section 301 of the Act and Section 25.102(a) of the Rules⁴⁹ by operating station E970117 without authorization and willfully violated Section 310(d) of the Act and Section 25.119 of the Rules in connection with the assignment of the license for earth station E970117 without prior Commission consent. Accordingly, we decline to cancel the forfeiture and admonishment and find Life on the Way liable for a forfeiture in the amount of \$18,000.

IV. ORDERING CLAUSES

16. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311 and 1.80 of the Commission's rules,⁵⁰ Life on the Way Communications, Inc. **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of eighteen thousand dollars (\$18,000) for willful violation of Section 301 of the Communications Act of 1934, as amended and Section 25.102(a) of the Commission's rules.⁵¹

17. **IT IS FURTHER ORDERED** that Life on the Way Communications, Inc.'s petition for reconsideration of the Admonishment **IS DENIED** and the Admonishment for violation of Section 310(d) of the Communications Act of 1934, as amended,⁵² and 25.119 of the Commission's rules **IS AFFIRMED**.⁵³

18. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within thirty (30) calendar days after the release date of this Forfeiture Order.⁵⁴ 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 Act.⁵⁵ Payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account

⁴⁶ See *supra* note 30.

⁴⁷ Broadcast auxiliary stations are subject to Part 74 of the Rules, and are used for relaying broadcast aural and television signals (such as from the broadcast station's main studio to its transmitter) between two points (such as the broadcast station's main studio and an auxiliary studio) or from a remote location back to the main studio. See 47 C.F.R. Part 74. See also http://wireless.fcc.gov/services/index.htm?job=service_home&id=broadcast_auxiliary. See *NAL*, 28 FCC Rcd at 1349, para. 8.

⁴⁸ The license for station E970117 was not listed as an authorization to be assigned in the KTLW Assignment Application. See Application for Consent to Assignment of Broadcast Station Construction Permit or License, Section II – Assignor, Question 2 (File No. BALED-20021028AAZ).

⁴⁹ 47 U.S.C. § 301; 47 C.F.R. § 25.102(a).

⁵⁰ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.311, 1.80.

⁵¹ 47 U.S.C. § 301; 47 C.F.R. § 1.903(a).

⁵² 47 U.S.C. § 310(d).

⁵³ 47 C.F.R. § 25.119(a), (c).

⁵⁴ 47 C.F.R. § 1.80.

⁵⁵ 47 U.S.C. § 504(a).

number and FRN referenced above. Life on the Way Communications, Inc. shall send electronic notification of payment to Kathy Harvey at Kathy.Harvey@fcc.gov, JoAnn Lucanik at JoAnn.Lucanik@fcc.gov, and to Samantha Peoples at Sam.Peoples@fcc.gov on the date said payment is made. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.⁵⁶ 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 that should be followed based on the form of payment you select:

- 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.

19. Any request for full payment under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.⁵⁷ Questions regarding payment procedures, should be directed to the Financial Operations Group Help Desk by telephone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

20. **IT IS FURTHER ORDERED** that a copy of this Forfeiture Order shall be sent by first class mail and certified mail return receipt requested to Gary Curtis, Vice President, Life on the Way Communications, Inc., 14820 Sherman Way, Van Nuys, CA 91405-2233, and to Jeffrey D. Southmayd, Esq., Counsel for Life on the Way Communications, Inc., Southmayd & Miller, 4 Ocean Ridge Boulevard South, Palm Coast, FL 32137.

FEDERAL COMMUNICATIONS COMMISSION

Bruce D. Jacobs
Chief
Spectrum Enforcement Division
Enforcement Bureau

⁵⁶ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

⁵⁷ See 47 C.F.R. § 1.1914.