

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

In the Matter of)	
)	
Low Power Television Stations)	Facility ID Nos. 54455 and 54546
KRLB-LD, Richland, etc., WA)	NAL/Acct. No. 202241420038
KWWO-LD, Walla Walla, WA)	FRN: 0003755485
)	

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

Adopted: October 4, 2022

Released: October 4, 2022

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION

1. The Media Bureau (Bureau) has before it Radiant Light Broadcasting (RLB), licensee of low power television (LPTV) stations KRLB-LD, Richland, etc., Washington (KRLB-LD) and KWWO-LD, Walla Walla, Washington (KWWO-LD) (collectively the Stations). In this *Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture (NAL)*,¹ we find that the RLB apparently willfully violated section 74.788² of the Rules by failing to timely file license to cover applications, and willfully and repeatedly violated section 301 of the Act,³ by engaging in unauthorized operation. Based upon our review of the facts and circumstances before us, we conclude that RLB is apparently liable for a monetary forfeiture in the amount of thirteen thousand dollars (\$13,000).

II. BACKGROUND

2. KRLB-LD and KWWO-LD are LPTV stations that previously operated on digital channels 49 and 47, respectively. The Stations' digital channels were displaced by the Incentive Auction and repacking process. On June 6, 2018, the Stations were granted construction permits for digital displacement channels 29 (KRLB-LD) and 32 (KWWO-LD) (Displacement CPs) that expired on June 6, 2021.⁴ In August and September 2017, RLB was also granted STAs to allow the Stations to begin temporary operations pursuant to the Displacement CPs.⁵ Although RLB maintains that it completed construction and began operating the Displacement CPs facilities of KRLB-LD on October 31, 2018, and

¹ This *NAL* is issued pursuant to sections 309(k) and 503(b) of the Communications Act of 1934, as amended (Act), and section 1.80 of the Commission's rules (Rules). See 47 U.S.C. §§ 309(k), 503(b); 47 CFR § 1.80. The Bureau has delegated authority to issue the *NAL* under section 0.283 of the Rules. See 47 CFR § 0.283.

² See 47 CFR § 74.788.

³ See 47 U.S.C. § 301.

⁴ See LMS File No. 0000029420 and 0000029552.

⁵ See LMS File Nos. 0000029421 and 0000029553. LPTV stations on channels 38-51 that were displaced by the Incentive Auction and repacking process and had received notice from 600 MHz band wireless licensees that they had to terminate operations prior to being able to file a displacement application in the 2018 special displacement window were permitted to file a displacement application and request for special temporary authority (STA) and, upon grant of the STA, begin operating temporarily on their displacement channel. See *Incentive Auction Task Force and Media Bureau Set Forth Tools Available to LPTV/Translator Stations Displaced Prior to the Special Displacement Window*, 32 FCC Rcd 4943, 4946, paras. 5-7 (IATF and MB 2017).

KWWO-LD on December 24, 2018, it failed to file timely applications for licenses to cover after commencing operations with the parameters specified in the Displacement CPs and prior to expiration of the Displacement CPs. The Displacement CPs expired on their own terms on June 6, 2021 and no request for tolling was filed.⁶

3. On August 1, 2022, almost three years and eight months after RLB alleges that construction of the Displacement CP facilities were completed and the Stations began operating, and over a year after the Displacement CPs expired, RLB late-filed its licenses to cover.⁷ Upon being alerted by Commission staff that its license applications were late-filed, RLB submitted amendments⁸ requesting that the Displacement CPs be reinstated and that its license applications be granted. RLB explains that it is a small religious broadcaster that had been operating for many years without FCC counsel, and did not realize that it had to file license applications when the Stations began operating their Displacement CP facilities.⁹ RLB supplied documentation that the Displacement CPs facilities were constructed at the times that RLB alleges and that the Stations have operated continuously since that time with the exception of KRLB, which went silent for ten days in January 2019 and three days in May 2022.¹⁰

4. RLB maintains that grant of its requests for reinstatement and for waiver of the license application filing deadline is in the public interest because it would permit the Commission to process and approve the Stations' license applications.¹¹ Such action, RLB argues, would enable it to continue providing religious programming to its viewers in Richland, Washington and the surrounding areas.¹² Further, RLB argues that the Commission should do so without issuing a forfeiture in this case citing Commission precedent that it maintains support such an outcome.¹³

III. DISCUSSION

5. *Proposed Forfeiture.* RLB failed to timely file licenses to cover as required by section 74.788(a) of the Rules,¹⁴ and has engaged in unauthorized operations for over four years. RLB stated that it failed to timely submit licenses to cover due to the fact that it was not represented by counsel at the time. However, it is well settled precedent that licensees are responsible for compliance with the Commission's rules and that ignorance of a rule or law does not excuse a violation or non-compliance.¹⁵

⁶ 47 CFR § 74.788(b).

⁷ See LMS File Nos. 0000196526 and 196529. We note that because the construction permit had not yet been canceled in LMS, the Station was able to file a license to cover application against its expired permit. Cancellation of a station's construction permit and deletion of its call sign by Media Bureau (Bureau) staff in the Licensing and Management System (LMS) is an administrative function and does not constitute an official Commission action nor require any affirmative cancellation by the Commission. See *Media Bureau Reminds Remaining Low Power Television and Television Translator Stations that the July 13, 2021 Digital Transition Date and Other Important Deadlines are One Week Away*, Public Notice, 36 FCC Rcd 10364 (MB 2021); 47 CFR §74.788(b). As a result, failure by Bureau staff to cancel a construction permit in LMS does not result in an expired construction permit remaining valid.

⁸ See Amendments to LMS File Nos. 000019526 and 0000196529 filed September 15, 2022 (Amendments).

⁹ See Amendments at 2.

¹⁰ *Id.* at Exhibit A.

¹¹ *Id.* at 3.

¹² *Id.*

¹³ *Id.* citing *KXFT(FM), Manson, Iowa*, Letter Decision, 24 FCC Rcd 13483, 13484-86 (Aud. Div. 2009); *WRFN-LP, Pasquo, Tennessee*, 24 FCC Rcd 12426, 12428 (Aud. Div. 2009); *Clear Channel Broadcasting Licenses, Inc.*, Letter Decision, 21 FCC Rcd 8677, 8681-62 (Aud. Div. 2006).

¹⁴ See 47 CFR § 74.788(a).

Further, given that its STAs expired in 2018, RLB also engaged in unauthorized operation for over four years in violation of section 301 of the Act.¹⁶ We disagree with RLB that Commission precedent supports not imposing a forfeiture in this case. In each of the cases cited by RLB,¹⁷ the stations filed their licenses to cover a short period of time (between two days and six weeks) after expiration of their construction permits and any unauthorized operation was far shorter (between 3 months and 18 months) than in the instant case. Here RLB was grossly-late in filing its license to cover, over a year after its construction permit expired, and it engaged in unauthorized operation for almost four years. We also find that imposition of a proposed forfeiture in this case is consistent with more recent Commission precedent and cases that have more similar underlying facts.¹⁸

6. This *NAL* is issued pursuant to section 503(b)(1)(B) of the Act.¹⁹ Under that provision, a person who is found 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.²⁰ 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.²¹ 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,²² and the Commission has so interpreted the term in the section 503(b) context.²³ 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.”²⁴

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¹⁵ See, e.g., *Adrian Abramovitch, Marketing Strategy Leaders, Inc. and Marketing Leaders, Inc.*, Forfeiture Order, 33 FCC Rcd 4663, 4674, para. 32 & n.79 (2018) (“[O]ne may not “claim ignorance of the law as a defense” (internal cites omitted); *PTT Phone Cards, Inc.*, Forfeiture Order, 30 FCC Rcd 14701, 14704, para. 10 (2015) (“PTT’s purported ignorance of the law certainly does not excuse the fact that it . . . [was] out of compliance with all of the provisions of the Act and the [Commission’s] [r]ules to which it was subject.”); *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, para 3 (1991), recon. denied, 7 FCC Rcd 3454 (1992) (stating that “inadvertence . . . is at best, ignorance of the law, which the Commission does not consider a mitigating circumstance”) (internal cite omitted); see also *Townsquare Media of El Paso, Inc.*, Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 6661, 6665, para. 5 & n. 37 (EB 2020) (“It is immaterial whether . . . violations were inadvertent, the result of ignorance of the law, or the product of administrative oversight.”) (internal cites omitted); *Rufus Resources, LLC*, Forfeiture Order, 33 FCC Rcd 6793, 6794, para. 5 (MB 2018) (“It is well settled that ignorance of the [Commission’s] [r]ules does not excuse a violation.”) (internal cites omitted).

¹⁶ See 47 U.S.C. § 301.

¹⁷ *Supra* n. 13.

¹⁸ See *Christian Broadcasting of Yakima*, DA 22-760 (July 14, 2022)(\$6,500 forfeiture for station that filed license to cover over four years late); *Ngensolutions, LLC*, DA 22-794 (July 25, 2022) (\$6,500 forfeiture for station that filed license to cover five years late); *Methow Valley Communications District*, DA 22-627 (June 10, 2022) (\$6,500 forfeiture for station that filed license to cover over three years late).

¹⁹ 47 U.S.C. § 503(b)(1)(B).

²⁰ *Id.* See also 47 CFR § 1.80(a)(1).

²¹ 47 U.S.C. § 312(f)(1).

²² See H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982).

²³ See *Southern California Broad. Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388, para. 5 (1991), recon. denied, Memorandum Opinion and Order, 7 FCC Rcd 3454 (1992).

²⁴ 47 U.S.C. § 312(f)(2).

7. The Commission's *Forfeiture Policy Statement* and section 1.80(b)(10) of the Rules establish a base forfeiture amount of \$3,000 for the failure to file a required form.²⁵ The guidelines also specify a base forfeiture amount of \$10,000 for construction and operation without an instrument of authorization for the service.²⁶ 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)(E) 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.”²⁷

8. In this case, NGL failed to timely-file licenses to cover for two stations and engaged in unauthorized operation of the Stations for over four years. Taking into consideration all of the factors required by section 503(b)(2)(E) of the Act and the *Forfeiture Policy Statement*, we will reduce the forfeiture from the base amount to \$6,500 for each station because, as LPTV stations, the Stations are providing a secondary service.²⁸ While in other cases we have only fined other LPTV and TV translator licensees \$3,500 for similar violations,²⁹ we believe an increased amount is warranted here given the lengthy period of time (over four years) the Stations engaged in unauthorized operation compared to those other cases. Stations are only permitted to commence operation pursuant to a valid instrument of authorization and we find that RLB’s failure represents extreme disregard, or at best ignorance, of Commission’s licensing processes and the Act itself. We will also grant RLB’s requests for waiver of section 74.788 of the Rules,³⁰ and reinstate the Displacement CPs.³¹ We will grant the Stations pending

²⁵ 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, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999); 47 CFR § 1.80(b)(10), note to paragraph (b)(10), Section I. See also *Clear Channel*, 26 FCC Rcd at 7157 (“We note that the staff may also issue Notices of Apparent Liability for ‘failure to file a required form’ as authorized by Section 503(b)(1)(B) of the Communications Act of 1934, as amended (the ‘Act’) and Section 1.80 of the Rules, for such violations of covering license application filing deadlines or take other enforcement action.”).

²⁶ A broadcast station requires an authorization from the Commission to operate. See 47 U.S.C. § 301.

²⁷ 47 U.S.C. § 503(b)(2)(E); see also *Forfeiture Policy Statement*, 12 FCC Rcd at 17100; 47 CFR § 1.80(b)(10).

²⁸ See e.g., *Southwest Colorado TV Translator Association*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, DA 21-1616 (rel. Dec. 21, 2021) (proposing \$3,500 forfeiture for late filed application for license to cover and four months unauthorized operations) (paid Jan. 20, 2022); *KAZT, LLC*, Memorandum Opinion and Order and Notice of Apparent Liability, DA 21-1386 (rel. Nov. 5, 2021) (proposing \$3,500 forfeiture for late filed application for license to cover and six months unauthorized operations) (paid Nov. 30, 2021); *The Estate of Ettie Clark*, Memorandum Opinion and Order and Notice of Apparent Liability, DA 22-327 (rel. Mar. 28, 2022) (finding that although the station is secondary, a forfeiture in the amount of \$6,500 was warranted given the lengthy period of time (over three years) the station engaged in unauthorized operation) (paid Apr. 19, 2022).

²⁹ See *id.*

³⁰ A waiver is appropriate where the particular facts would make strict compliance inconsistent with the public interest and deviation from the general rule would relieve hardship, promote equity, or produce a more effective implementation of overall policy on an individual basis. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), cert. denied, 409 U.S. 1072 (1972); 47 CFR § 1.3 (waiver for good cause shown). Providing relief in instances where a licensee has failed to file an application for license to cover, but clearly completed construction prior to its authorized facility prior to the construction expiration date is consistent with Commission precedent. See e.g., *Clear Channel Broadcasting Licenses, Inc.*, Memorandum Opinion and Order, 26 FCC Rcd 7153, 7157, para 11 (2011) (upholding as proper the Bureau’s practice of processing a late-filed covering license application for facilities fully completed by the construction deadline through the waiver process); *Cranesville Block Company, Inc.*, Letter Order, 27 FCC Rcd 2018, 2019-20 (MB 2012) (dismissing a petition for reconsideration of an expired construction permit as procedurally improper and treating it instead as a request for waiver). We find that based on the specific facts and circumstances presented here waiver is warranted.

license applications by separate action upon the conclusion of this forfeiture proceeding if there are no issues other than the apparent violation that would preclude their grant.

IV. ORDERING CLAUSES

9. 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,³² Radiant Light Broadcasting is hereby **NOTIFIED** of its **APPARENT LIABILITY FOR FORFEITURE** in the amount of thirteen thousand dollars (\$13,000) for its apparent willful violation of section 74.788 of the Commission's rules and section 301 of the Communications Act of 1934, as amended.³³

10. **IT IS FURTHER ORDERED**, pursuant to section 1.80 of the Commission's rules,³⁴ that, within thirty (30) days of the release date of this *NAL*, Radiant Light Broadcasting **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

11. Payment of the forfeiture must be made by credit card, ACH (Automated Clearing House) debit from a bank account using CORES (the Commission's online payment system),³⁵ or by wire transfer. Payments by check or money order to pay a forfeiture are no longer accepted. Notification that payment has been made must be sent on the day of payment to Shaun.Maher@fcc.gov. Below are instructions that payors should follow based on the form of payment selected:³⁶

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. A completed Form 159 must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to RROGWireFaxes@fcc.gov on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 may result in payment not being recognized as having been received. When completing FCC Form 159, enter the Account Number in block number 23A (call sign/other ID), enter the letters "FORF" in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).³⁷ For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.
- Payment by credit card must be made by using the Commission's Registration System (CORES) at <https://apps.fcc.gov/cores/userLogin.do>. To pay by credit card, log-in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Manage Existing FRNs | FRN Financial | Bills & Fees" from the CORES Menu, then select FRN Financial and the

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³¹ This station was displaced by the incentive auction repacking process. We caution licensees that waiver of our rules is evaluated on a case-by-case basis. Different facts from those present here could result in a different outcome, including denial of such a waiver request and requiring a station to permanently cease operations. Failing to timely file a license application following construction of a broadcast facility and operating that facility without a valid authorization stands to undermine the Commission's licensing process and result in potentially harmful interference to licensed stations.

³² 47 U.S.C. § 503(b); 47 CFR § 1.80.

³³ 47 CFR § 74.788(b); 47 U.S.C. § 301.

³⁴ 47 CFR § 1.80.

³⁵ Payments made using CORES do not require the submission of an FCC Form 159.

³⁶ For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6), or by e-mail at ARINQUIRIES@fcc.gov.

³⁷ Instructions for completing the form may be obtained at <https://www.fcc.gov/Forms/Form159/159.pdf>.

view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the NAL/Acct. No. The bill number is the NAL Acct. No. (e.g., NAL/Acct. No. 1912345678 would be associated with FCC Bill Number 1912345678). After selecting the bill for payment, choose the “Pay by Credit Card” option. Please note that there is a \$24,999.99 limit on credit card transactions.

- Payment by ACH must be made by using the Commission’s Registration System (CORES) at <https://apps.fcc.gov/cores/paymentFrnLogin.do>. To pay by ACH, log in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” on the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the NAL/Acct. No. The bill number is the NAL/Acct. No. (e.g., NAL/Acct. No. 1912345678 would be associated with FCC Bill Number 1912345678). Finally, choose the “Pay from Bank Account” option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

12. Any request for making full payment over time under an installment plan should be sent to: Associate Managing Director—Financial Operations, Federal Communications Commission, 45 L Street, N.E., Washington, DC 20554.³⁸ Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone, 1-877-480-3201 (option #6), or by e-mail at ARINQUIRIES@fcc.gov.

13. Any written response seeking reduction or cancellation of the proposed forfeiture must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to sections 1.16 and 1.80(g)(3) of the Commission’s rules.³⁹ The written response must be filed with the Office of the Secretary, Federal Communications Commission, 45 L Street NE, Washington DC 20554, ATTN: Shaun Maher, Attorney, Video Division, Media Bureau, and **MUST INCLUDE** the NAL/Acct. No. referenced above. Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.⁴⁰ A courtesy copy should also be emailed to Shaun.Maher@fcc.gov to assist in processing the response.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington, DC 20554.

14. 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. Inability to pay, however, is only one of several factors that the Commission will consider in determining the appropriate forfeiture, and we have

³⁸ See 47 CFR § 1.1914.

³⁹ 47 CFR §§ 1.16 and 1.80(g)(3).

⁴⁰ Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Filing*, Public Notice, 35 FCC Rcd 2788 (2020).

discretion to not reduce or cancel the forfeiture if other prongs of section § 503(b)(2)(E) of the Communications Act of 1934, as amended, support that result.⁴¹

15. **IT IS FURTHER ORDERED** that, the digital construction permits (LMS File Nos. . 0000029420 and 0000029552, respectively) of Radiant Life Broadcasting for KRLB-LD, Richland, etc., Washington, and KWWO-LD, Walla Walla, Washington **ARE REINSTATED**.

16. **IT IS FURTHER ORDERED** that copies of this *NAL* shall be sent by First Class and Certified Mail, Return Receipt Requested, to Radiant Light Broadcasting, P.O. Box 301, Richland, Washington as well as e-mailed to eric@rlb.org, and to their counsel: Mark Denbo, Esq., Smithwick & Belendiuk, P.C., 5028 Wisconsin Avenue, N.W., Suite 301, Washington, DC 20016.

FEDERAL COMMUNICATIONS COMMISSION

/s/

Barbara A. Kreisman
Chief, Video Division
Media Bureau

⁴¹ See 47 U.S.C. 503(b)(2)(E); *Adrian Abramovich*, Forfeiture Order, 33 FCC Rcd 4663, 4678-79, paras. 44-45 (2018).