

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

In re Request of)	
)	
MEGA MOO RADIO COMPANY)	Facility I.D. No. 762530
)	NAL/Acct. No. MB-202141410057
For Waiver of Auction 109)	FRN: 0030863740
Form 2100, Schedule 301 Filing Deadline)	File No. 0000159425
)	
Application for Construction Permit for)	
New FM Station, Clayton, Oklahoma)	

FORFEITURE ORDER

Adopted: February 28, 2022

Released: February 28, 2022

By the Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. In this Forfeiture Order, the Media Bureau (Bureau) issues a monetary forfeiture to Mega Moo Radio Company (Mega Moo) in the amount of one thousand five hundred dollars (\$1,500) for willfully violating sections 73.3573(f)(5)(i) and 73.5005(a) of the Commission’s rules by failing to timely file its post-auction Form 2100, Schedule 301 long-form application (Application).¹

II. BACKGROUND

2. Mega Moo timely filed an FCC Form 175 application to participate in Auction 109, and was found to be a qualified bidder.² By an August 12, 2021, Public Notice, the Bureau, in conjunction with the Office of Economics and Analytics, announced that Mega Moo was the winning bidder in Auction 109 for the FM construction permit at Clayton, Oklahoma.³ Winning bidders were required to file a post-auction FCC Form 2100, Schedule 301 long-form application by September 13, 2021. Mega Moo failed to submit a post-auction Form 2100, Schedule 301 application by this deadline. It submitted its Form 2100, Schedule 301 application (Application) on September 14, 2021.⁴ Mega Moo’s principal, Amy Meredith, submitted by e-mail a request for waiver of sections 73.3573(f)(5)(i) and 73.5005(a) of the rules, as well as the *Auction 109 Closing Public Notice*.⁵

3. The *Auction 109 Closing Public Notice* cautioned that “[a] winning bidder that fails to submit the required long-form application before the specified deadline, and fails to establish good cause

¹ See 47 CFR §§ 73.3573(f)(5)(i), 73.5005(a), which require a winning bidder to file its long-form application within 30 days of the release of the public notice announcing the close of the auction, unless a longer period is specified in that closing public notice.

² *Auction of AM and FM Broadcast Construction Permits; 114 Bidders Qualified to Participate in Auction 109*, AU Docket No. 21-39, Public Notice, DA 21-780 (OEA/MB July 1, 2021).

³ *Auction of AM and FM Broadcast Construction Permits Closes; Winning Bidders Announced for Auction 109*, AU Docket No. 21-39, Public Notice, DA 21-983 (OEA/MB Aug. 12, 2021) (*Auction 109 Closing Public Notice*).

⁴ File No. 0000159425 (filed Sept. 14, 2021).

⁵ 47 CFR §§ 73.3573(f)(5)(i), 73.5005(a). These Sections require a winning bidder to file its long-form application within 30 days of the release of the public notice announcing the close of the auction, unless a longer period is specified in that closing public notice.

for any late-filed submission, shall be deemed to have defaulted and shall be subject to the payments set forth in section 1.2104(g) of the Commission's rules.⁶ An applicant establishes good cause if minor, inadvertent, post-auction delinquencies neither disrupted the auction process, nor undermined the Commission's policy of facilitating rapid implementation of service to the public.⁷ On November 18, 2021, the Bureau issued to Mega Moo a Notice of Apparent Liability granting the requested waiver, and proposing a forfeiture of \$1,500 for its failure to submit a timely long-form application.⁸ The Bureau found good cause for the waiver because: (1) Mega Moo had previously complied with all Auction 109 filing and payment obligations and was initially found to be a qualified bidder; (2) there was no indication of bad faith; (3) Mega Moo's untimely filing of the Application was only a minor violation, and accepting the application would not undermine the Commission's auction policies; and (4) it would be in the public interest to allow Mega Moo to retain its FM construction permit and to proceed with the implementation of a new radio service at Clayton, Oklahoma.⁹ The waiver allowed Mega Moo's late Application to be accepted for filing and relieved it from the default payment obligation specified in the Rules.¹⁰

4. Despite granting Mega Moo a waiver of the long-form filing deadline, the Bureau nonetheless held that Mega Moo violated sections 73.3573(f)(5)(i) and 73.5005(a) of the rules, which require winning bidders who have met their down payment obligations to file the appropriate long-form application within thirty (30) days following the closing of bidding and notification of the winners, for each construction permit won.¹¹ The Commission's *Forfeiture Policy Statement*, section 503(b)(2)(E) of the Communications Act of 1934 (Act), and section 1.80(b)(6) of the rules, set forth a full statutory base amount of \$3,000 for Mega Moo's violations.¹² The Bureau stated that, because Mega Moo filed its long-form application only one day late, it would reduce the base forfeiture amount to \$1,500.¹³ To date, Mega Moo has neither paid the proposed forfeiture nor filed a written statement in response to the *NAL*.

III. DISCUSSION

5. The forfeiture amount proposed in this case was assessed in accordance with section 503(b) of the Communications Act of 1934, as amended (the Act),¹⁴ section 1.80 of the rules,¹⁵ and the Commission's *Forfeiture Policy Statement*.¹⁶ In assessing forfeitures, section 503(b)(2)(E) of the Act requires that we take into account the nature, circumstances, extent, and gravity of the violation, and, with

⁶ *Auction 109 Closing Public Notice* at 8.

⁷ See, e.g., *Joseph C. Tesiero*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 7195, 7196-97 para. 5 (MB 2012) (stating the standard for establishing good cause for waiver of filing deadline).

⁸ *Mega Moo Radio Co.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, DA 21-1446, at 4 (MB Nov. 18, 2021) (*NAL*).

⁹ *Id.* at 2-3 paras. 4-5.

¹⁰ 47 CFR § 1.2104(g). Ordinarily, a winning bidder that fails to timely file the required FCC 301 long-form application is deemed to have defaulted, its application is dismissed, and it is subject to a default payment.

¹¹ *NAL* at 3 paras. 6-9. See 47 CFR §§ 73.3573(f)(5)(i), 73.5005(a).

¹² 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, 17114 (1997) (*Forfeiture Policy Statement*), recon. denied, 15 FCC Rcd 303 (1999); 47 U.S.C. § 503(b)(2)(E); 47 CFR § 1.80(b)(6), Section I.

¹³ *NAL* at 3 para. 9.

¹⁴ 47 U.S.C. § 503(b).

¹⁵ 47 CFR § 1.80.

¹⁶ *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), recon. denied, 15 FCC Rcd 303 (1999).

respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.¹⁷

6. We conclude that Mega Moo willfully violated sections 73.3573(f)(5)(i) and 73.5005(a) of the rules. We therefore issue a forfeiture in the amount of \$1,500 as proposed in the *NAL*.

IV. ORDERING CLAUSES

7. 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 Mega Moo Radio Company, SHALL FORFEIT to the United States the sum of one thousand five hundred dollars (\$1,500) for its willful violation of sections 73.3573(f)(5)(i) and 73.5005(a) of the Commission's rules.

8. 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),¹⁸ or by wire transfer. Payments by check or money order to pay a forfeiture are no longer accepted. Below are instructions that payors should follow based on the form of payment selected:¹⁹

- 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).²⁰ 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/core/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 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/core/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.

¹⁷ 47 U.S.C. § 503(b)(2)(E).

¹⁸ Payments made using CORES do not require the submission of an FCC Form 159.

¹⁹ 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.

²⁰ Instructions for completing the form may be obtained at <https://www.fcc.gov/Forms/Form159/159.pdf>.

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.

9. IT IS FURTHER ORDERED that copies of this Forfeiture Order shall be sent by First Class and Certified Mail, Return Receipt Requested, to Mega Moo Radio Company, c/o Amy Meredith, 7884 Peacock Lane, Frisco, TX 75035.

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner
Chief, Audio Division
Media Bureau