

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

In the Matter of)
San Francisco Television Station KBCW, Inc.) Facility ID No. 69619
Licensee of Station KPYX(TV)) NAL/Acct. No. 202441420003
San Francisco, California) FRN: 0003742632
) LMS File No. 0000196368
)

ORDER

Adopted: March 12, 2024

Released: March 12, 2024

By the Chief, Video Division, Media Bureau:

I. INTRODUCTION

1. The Media Bureau (Bureau) has before it a request to cancel¹ the Notice of Apparent Liability for Forfeiture issued to San Francisco Television Station KBCW, Inc. (Licensee), licensee of full power commercial television station KPYX(TV), San Francisco, California (Station).² In the NAL, we found that the Licensee apparently willfully and repeatedly violated section 73.3526(e)(11)(i) of the Commission’s rules (Rules) by failing to upload six of the Station’s quarterly issues/programs lists to its online public inspection file (OPIF) in a timely manner.³ As discussed below, we cancel the proposed forfeiture and grant the Station’s application for renewal of license.

II. BACKGROUND

2. Section 73.3526(e)(11)(i) of the Rules requires every commercial television licensee to place in its OPIF, on a quarterly basis, an issues/programs list that details programs that have provided the station’s most significant treatment of community issues during the preceding three month period and must include a brief narrative of the issues addressed, as well as the time, date, duration, and title of each program in which the issues were treated.⁴ Issues/programs lists must be placed in the station’s OPIF by the tenth day of the succeeding calendar quarter and copies must be retained until final action on the station’s next license renewal application.⁵

3. On August 1, 2022, the Licensee filed its application for renewal of license (Application).⁶ In the Application, the Licensee disclosed that issues/programs lists for six quarters were

1 Request of San Francisco Television Station KBCW, Inc. for Cancellation of Forfeiture (Feb. 1, 2024) (on file as attach. under LMS File No. 0000196368) (Cancellation Request).

2 San Francisco Television Station KBCW, Inc., Memorandum Opinion and Order and Notice of Apparent Liability, DA 24-32 (issued Jan. 11, 2024) (NAL). Prior to Sep. 1, 2023, Station was referred to by the call sign KBCW. See Application of San Francisco Television Station KBCW, Inc. for Call Sign Change, LMS File No. 0000218049 (granted Jul. 19, 2023).

3 47 CFR § 73.3526(e)(11)(i).

4 Id.

5 Id.

6 Application of San Francisco Television Station KBCW, Inc. for Renewal of License, File No. 0000196368 (filed Aug. 1, 2022).

filed in a timely manner, but inadvertently uploaded to the incorrect folder.⁷ However, the Licensee did not provide specifics as to the location of the misfiled documents and Bureau staff was unable to independently locate the misfiled documents in the Station's OPIF. Based on those facts, we issued an *NAL* in the amount of \$3,000.⁸

4. On February 1, 2024, the Licensee timely filed a request for cancellation of the *NAL* reiterating that the issues/programs lists had been timely uploaded, but to an incorrect folder. This time the Licensee provided additional detail about where it believed the documents had originally been uploaded, stating that "each of the relevant Issues/Programs Lists was originally filed in the 'Additional Documents' folder in the OPIF, and subsequently relocated to the correct folder once this misfiling error was discovered."⁹ The Licensee provided screenshots of documents it posted to its OPIF page which showed that the Licensee had originally uploaded some issues/programs lists to the Additional Documents folder and then later re-uploaded those files to the Issues and Programs folder.¹⁰ However, these screenshots did not provide the dates the documents were originally uploaded. Further, the Licensee stated that its OPIF "History log" "only goes back to February 25, 2022" so it was unable to provide the original upload dates for the six issue/programs lists at issue.¹¹ As a result, the Licensee again asked that the Commission search its internal systems to determine the original upload dates of each of the six lists.¹² Based on this additional information, Bureau staff was able to verify in the OPIF system that only four issues/programs lists were uploaded to the Station's OPIF late, not six as stated in the *NAL*. In addition, three of the four issues/programs lists were not uploaded as late as set forth in the *NAL*. Of the four late filed issues/programs lists, three were filed over one month late and one was filed over one year late.¹³

III. DISCUSSION

5. Based on the additional information provided by the Licensee and discovered by Bureau staff upon review of the OPIF system, we have determined that the Licensee failed to timely upload to its OPIF issue/programs lists for a total of four quarters, not six as was originally identified in the *NAL*. Although the Licensee has still violated section 73.35276(e)(11)(i) of the Rules,¹⁴ we find that based on the number of late filed issues/programs lists and how late the lists were filed these violations are *de minimis* and forfeiture is not warranted. We caution the Licensee in the future to take greater care when uploading documents to its OPIF in order to ensure that not only can necessary documents be verified at renewal time, but also so members of the public are able to locate them. We also do not rule out more severe sanctions for similar violations of this nature in the future.

6. In the *NAL* we also stated that grant of the Licensee's Application would occur by separate action upon the conclusion of the forfeiture proceeding and so long as no issues would preclude grant.¹⁵ This cancellation concludes the forfeiture proceeding and we find there are no other issues that would preclude grant of the Application. Therefore, upon release of the *NAL* we will grant the Licensee's Application.

⁷ Cancellation Request at 2.

⁸ *NAL* at paras. 1, 10.

⁹ Cancellation Request at 2.

¹⁰ *Id.* at 5.

¹¹ *Id.*

¹² *Id.*

¹³ The *NAL* stated that the Licensee had uploaded one issues/programs list over six months late and five over one year late. *NAL* at para. 3.

¹⁴ See 47 CFR § 73.3526(e)(11)(i).

¹⁵ *NAL* at paras. 8-9.

IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED that**, pursuant to section 503(b)(2)(e) of the Communications Act of 1934, as amended, 47 U.S.C. § 503(b)(2)(E), and sections 1.80(g)(4) and 1.80(j) of the Commission's rules, 47 CFR §§ 1.80(f)(4) and 1.80(j), the *Notice of Apparent Liability for Forfeiture* in the amount of three thousand dollars (\$3,000) issued to **San Francisco Television Station KBCW, Inc., IS HEREBY CANCELLED.**

8. **IT IS FURTHER ORDER** that the application for renewal of license filed by San Francisco Television Station KBCW, Inc. for KPYX(TV), San Francisco, California (LMS File No. 0000196368) **IS GRANTED.**

9. **IT IS FURTHER ORDERED** that a copy of this Order shall be sent, by First Class and Certified Mail, Return Receipt Requested, to Daniel G. Ryson, Director Spectrum Management, 2020 M Street, NW- Licensing DEPT, Washington, DC 20036 and by e-mail to dryson@cbs.com. A copy shall also be sent by e-mail to the Station's contact representatives Martha E. Heller, Vice President, Government Relations and Regulatory, Paramount Global at martha.heller@viacomcbs.com and John Bagwell, SVP and Associate General Counsel, Paramount Global at john.bagwell@paramount.com.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau