

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

In re

Afton File No. 63500-92-4-JSG
Communications Corporation

Notice of Apparent Liability for
Forfeiture Penalty for Station
KNKC693 in the Public Land Mobile
Service at Tazewell, VA.

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: January 13, 1992; Released: January 21, 1992

By the Chief, Mobile Services Division:

1. On September 18, 1990, the Commission granted an authorization to Afton Communications Corporation (Afton) to operate on frequency 158.10 MHz at Tazewell, VA. The expiration date of the authorization was September 18, 1991. On September 12, 1991, Afton completed construction of the facilities and commenced operations. On October 4, 1991, Afton filed FCC Form 489, Notification of Status of Facilities, to request reinstatement.

2. Section 22.9(b)(1) of the Commission's rules states:

Notification of status of facilities. (FCC Form 489). When construction has been completed in accordance with the radio station authorization, the licensee shall so notify the Commission using Form 489. Licensees can commence service the day Form 489 is placed in the mail to the FCC.

Therefore, because Afton commenced operation without timely filing FCC Form 489 with the Commission, it is in apparent violation of Section 22.9(b)(1).

3. Section 503(b) of the Communications Act states, in pertinent part:

Any person who is determined by the Commission, in accordance with paragraph (3) or (4) of this subsection, to have--

(B) willfully or repeatedly failed to comply with any of the provisions of this chapter or of any rule, regulation, or order issued by the Commission under this chapter . . . shall be liable to the United States for a forfeiture penalty.

We find that Afton's failure to file the required Form 489 until October 4, 1991, constitutes willful and repeated conduct within the term of the statute.

4. Pursuant to our *Policy Statement, Standards for Assessing Forfeitures*, 6 FCC Rcd 4695 (1991), 56 Fed. Reg. 37665 (1991), *recon. pending*, the base forfeiture amount for failing to file required forms is \$30,000.00. Consistent

with this *Policy Statement*, we are adjusting downward the forfeiture by \$15,000.00 because failing to file an FCC Form 489 is a relatively minor violation and by an additional \$9,000.00 because Afton voluntarily disclosed its failure to file the FCC Form 489.

5. Accordingly, pursuant to Section 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. Sec 503(b), and Section 1.80 of the Commission's rules, 47 C.F.R. Sec. 1.80, IT IS ORDERED that Afton Communications Corporation IS APPARENTLY LIABLE FOR A FORFEITURE in the amount of Six Thousand Dollars (\$6,000.00) for willful and repeated violations of the aforementioned rule. The amount specified was determined after consideration of the factors set forth in Section 503(b)(2) of the Communications Act of 1934, as amended.

6. Payment of the forfeiture may be made by mailing a check or similar instrument to the Commission within thirty (30) days of the release date of this order, payable to the order of the Federal Communications Commission, to: Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482.

FEDERAL COMMUNICATIONS COMMISSION

Gregory J. Vogt
Chief, Mobile Services Division
Common Carrier Bureau