

Federal Communications Commission

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

In the Matter of)
)
Union Broadcasting, Inc.)
WKIB Radio)
Anna, Illinois)

File No. EB-01-KC-573
NAL/Acct. No. 20013256-002

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: June 22, 2001

By the Enforcement Bureau, Kansas City Field Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture, we find Union Broadcasting, Inc. (Union), licensee of FM broadcast station WKIB, has apparently violated Section 11.35(a) of the Commission's Rules ("Rules") by failing to have Emergency Alert System (EAS) equipment installed and operating.¹ We conclude that Union Broadcasting Inc. is apparently liable for forfeiture in the amount of eight thousand dollars (\$8,000).

II. BACKGROUND

2. On April 11, 2001, an agent from the Commission's Kansas City Field Office ("Field Office") inspected FM broadcast station WKIB. During this inspection, the agent determined that the EAS equipment was not installed.

3. On April 19, 2001, a Notice of Violation (NOV) was issued to Union citing this deficiency. On May 18, 2001, Union submitted a written reply stating that it now had EAS equipment properly installed and functioning.

III. DISCUSSION

4. Section 11.35(a) of the Rules states in part that, "Broadcast stations and cable systems and wireless systems are responsible for ensuring that EAS Encoders, EAS Decoders and Attention Signal generating and receiving equipment used as part of the EAS are installed so that the monitoring and transmitting functions are available during the times the stations and systems are in operation."

¹ 47 C.F.R. § 11.35(a)

5. Based on the evidence before us, we find that on April 11, 2001, Union willfully² violated Section 11.35(a) of the Rules by failing to have EAS equipment installed so that monitoring and transmitting functions were available.

6. Pursuant to Section 1.80(b)(4) of the Rules, Guidelines for Assessing Forfeiture, the base forfeiture amount for failure to install and have functioning EAS equipment is \$8,000.³ In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934 (“Act”), as amended, which include the nature, circumstances, extent, and gravity of the violation(s), and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁴ Applying Section 1.80(b)(4) of the Rules and statutory factors to the instant case, we find no compelling evidence to support any adjustments to the base forfeiture amounts. Therefore, a total forfeiture in the amount of \$8,000 is warranted.

IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED THAT**, pursuant to Section 503(b) of the Act,⁵ and Sections 0.111, 0.311 and 1.80 of the Commission's Rules,⁶ Union Broadcasting Inc., is hereby **NOTIFIED** of their **APPARENT LIABILITY FOR A FORFEITURE** in the amount of eight thousand dollars (\$8,000) for violating Section 11.35(a) of the Commission's Rules, 47 C.F.R. § 11.35(a).

8. **IT IS FURTHER ORDERED THAT**, pursuant to Section 1.80 of the Rules⁷, within thirty days of the release date of this **NOTICE OF APPARENT LIABILITY**, Union Broadcasting Inc., **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

9. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Act. No. 20013256-002.

² Section 312(f)(1) of the Act, 47 U.S.C. §312(f)(1), which applies to Section 503(b) of the Act, provides that “[t]he term ‘willful’, when used with reference to commission or omission of any act, means that conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act....” See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

³ 47 C.F.R. § 1.80(b)(4).

⁴ 47 U.S.C. § 503(b)(2)(D).

⁵ 47 U.S.C § 503(b).

⁶ 47 C.F.R. §§ 0.111, 0.311, 1.80.

⁷ 47 C.F.R. §1.80

10. The response, if any, must be mailed to Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Enforcement Bureau – Technical and Public Safety Division, and must include the NAL/Acct. No. 20013256-002.

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner'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.

12. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Federal Communications Commission, Chief, Revenue and Receivables Operation Group, 445 12th Street, S.W., Washington, D.C. 20554.⁸

13. **IT IS FURTHER ORDERED THAT** a copy of this **NOTICE OF APPARENT LIABILITY** shall be sent by Certified Mail, Return Receipt Requested, to Union Broadcasting Inc., WKIB, 6120 Waldo Church Road, Metropolis, Illinois 62960.

FEDERAL COMMUNICATIONS COMMISSION

Robert McKinney
District Director
Kansas City Office

⁸ See 47 C.F.R. § 1.1914.