
Federal Communications Commission

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

In the Matter of)	
)	
Alaska Educational Radio System, Inc.)	File No.: EB-FIELDWR-12-00005263
Licensee of KWMD(FM))	
)	NOV No.: V201332780021
Sterling, Alaska)	
)	Facility ID: 93589
)	

NOTICE OF VIOLATION

Released: May 16, 2013

By the Anchorage Resident Agent Office, Anchorage, Alaska, Western Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules)¹ to Alaska Educational Radio System, Inc., (AERS) licensee of radio station KWMD(FM) with a community of service in Sterling, Alaska. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation(s) noted herein.²

2. On May 29, 2012, agents of the Enforcement Bureau's Anchorage Office inspected Station KWMD(FM) at its main studio and address of record, 33282 Browns Lake Road, Soldotna, Alaska. Based on this inspection a Letter of Inquiry (LOI) was issued to AERS on November 9, 2012. The LOI was sent Certified Mail, Return Receipt Requested, and First Class Mail to AERS at its address of record and was returned unopened. On December 11, 2012, AERS was sent a Warning Letter for failing to respond to the LOI, also sent Certified Mail, Return Receipt Requested, and First Class Mail to AERS at its address of record and was returned unopened. Subsequent efforts to contact AERS and its board members also failed. The Anchorage Office has observed the following violations:

- a. 47 C.F.R. § 73.1015: "The Commission or its representatives may, in writing, require from any applicant, permittee, or licensee written statements of fact relevant to a determination whether an application should be granted or denied, or to a determination whether a license should be revoked, or to any other matter within the jurisdiction of the Commission, or, in the case of a proceeding to amend the FM or Television Table of Allotments, require from any person filing an expression of interest, written statements of fact relevant to that allotment proceeding. Any such statements of fact are subject to the provisions of § 1.17 of this chapter." AERS failed to respond to a LOI and subsequent warning letters from the Anchorage Office.
- b. 47 C.F.R. § 1.5(a): "Each licensee shall furnish the Commission with an address to be used by the Commission in serving documents or directing correspondence to

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

that licensee. Unless any licensee advises the Commission to the contrary, the address contained in the licensee's most recent application will be used by the Commission for this purpose. (b) The licensee is responsible for making any arrangements which may be necessary in his particular circumstances to assure that Commission documents or correspondence delivered to this address will promptly reach him or some person authorized by him to act in his behalf." AERS failed to furnish to the Commission a reliable address to ensure that Commission documents would promptly reach AERS.

- c. 47 C.F.R. § 73.1125(e): "Each AM, FM, TV and Class A TV broadcast station shall maintain a local telephone number in its community of license or a toll-free number." Evidence prior to, on, and after the May 29, 2012 station inspection found the telephone number (907) 269-5963, which was posted on signage at the main studio, Soldotna, AK, and detailed in Commission filings and given to the agents during the May 29, 2012 inspection continues to be out of service.
- d. 47 C.F.R. § 73.1230(a): "The station license and any other instrument of station authorization shall be posted in a conspicuous place and in such a manner that all terms are visible at the place the licensee considers to be the principal control point of the transmitter; (b) Posting of the station license and any other instruments of authorization shall be done by affixing them to the wall at the posting location, or by enclosing them in a binder or folder which is retained at the posting location so that the documents will be readily available and easily accessible." The inspection of May 29, 2012, found no original documents of any instrument of authorization posted, in a binder or available for inspection for KWMD operations.
- e. 47 C.F.R. § 73.1840(a): "Any log required to be kept by station licensees shall be retained by them for a period of 2 years. However, logs involving communications incident to a disaster or which include communications incident to or involved in an investigation by the FCC and about which the licensee has been notified, shall be retained by the licensee until specifically authorized in writing by the FCC to destroy them. Logs incident to or involved in any claim or complaint of which the licensee has notice shall be retained by the licensee until such claim or complaint has been fully satisfied or until the same has been barred by statute limiting the time for filing of suits upon such claims." At the May 29, 2012, inspection AERS could produce no records for the station's operation for the prior two years.
- f. 47 C.F.R. § 73.1870(a): "The licensee of each AM, FM, TV or Class A TV broadcast station must designate a person to serve as the station's chief operator. At times when the chief operator is unavailable or unable to act (e.g., vacations, sickness), the licensee shall designate another person as the acting chief operator on a temporary basis. Additionally at (b)(3) Chief operators shall be employed or serve on the following basis: (3) The designation of the chief operator must be in writing with a copy of the designation posted with the station license. Agreements with chief operators serving on a contract basis must be in writing with a copy kept in the station files." At the May 29, 2012, inspection, AERS could not produce a written document designating a chief operator.

- g. 47 C.F.R. § 73.3527: *Responsibility to maintain a file*. “The following shall maintain for public inspection a file containing the material set forth in this section. (1) Applicants for a construction permit for a new station in the noncommercial educational broadcast services shall maintain a public inspection file containing the material, relating to that station, described in paragraph (e)(2) and (e)(11) of this section. A separate file shall be maintained for each station for which an application is pending. If the application is granted, paragraph (a)(2) of this section shall apply. (2) Every permittee or licensee of an AM, FM, or TV station in the noncommercial educational broadcast services shall maintain a public inspection file containing the material, relating to that station, described in paragraphs (e)(1) through (e)(11) of this section. In addition, every permittee or licensee of a noncommercial educational TV station shall maintain for public inspection a file containing material, relating to that station, described in paragraphs (e)(12) of this section. A separate file shall be maintained for each station for which an authorization is outstanding, and the file shall be maintained so long as an authorization to operate the station is outstanding.” At the May 29, 2012, inspection AERS was unable to produce a complete public inspection file, producing only reproductions of a station authorization from the FCC database.

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,³ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Alaska Educational Radio System, Inc., must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). AERS must also fully respond to the attached LOI. The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁴

4. In accordance with Section 1.16 of the Rules, we direct Alaska Educational Radio System, Inc., to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Alaska Educational Radio System, Inc., with personal knowledge of the representations provided in Alaska Educational Radio System, Inc., response, verifying the truth and accuracy of the information therein,⁵ and confirming that all of the information requested by this Notice which is in the licensee’s possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to

³ 47 U.S.C. § 308(b).

⁴ 47 C.F.R. § 1.89(c).

⁵ Section 1.16 of the Rules provides that “[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)’.” 47 C.F.R. § 1.16.

Federal Communications Commission

this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁶

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
Anchorage Resident Agent Office
PO Box 231949
Anchorage, AK 99523-1949

6. This Notice shall be sent to Alaska Educational Radio System, Inc., at its address of record.

7. The Privacy Act of 1974⁷ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

David J. Charlton
Resident Agent
Anchorage Resident Agent Office
Western Region
Enforcement Bureau

Attachment

⁶ 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).