

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

In the Matter of)	
)	Facility ID No. 35091
KM LPTV of Milwaukee, LLC)	NAL/Acct. No.: 201341420066
Licensee of Station WMKE-CA)	FRN: 0005014725
Milwaukee, Wisconsin)	
)	

MEMORANDUM OPINION AND ORDER

Adopted: October 17, 2014

Released: October 20, 2014

By the Commission:

1. In this Memorandum Opinion and Order, we dismiss in part and otherwise deny the June 25, 2014 Application for Review (the “AFR”) filed by KM LPTV of Milwaukee, LLC (“KM of Milwaukee”), licensee of Station WMKE-CA, Milwaukee, Wisconsin (the “Station”). KM of Milwaukee seeks review of the Memorandum Opinion and Order¹ issued by the Video Division, Media Bureau (the “Bureau”) denying reconsideration of a Forfeiture Order² which found that KM of Milwaukee was liable for a \$20,000 forfeiture for its apparent willful and repeated violations at the Station of Sections 73.3526(e)(11)(i) & (iii) of the Commission’s rules (“Rules”) for failure to file issues/programs lists and Children’s Television Programming Reports and Section 73.3514(a) of the Rules for failure to report some of those violations in its license renewal application for the Station. The Bureau also rejected KM of Milwaukee’s contention that the forfeiture amount should be decreased due to its purported inability to pay.

2. KM of Milwaukee raises three issues on review that it also argued below: (1) that the Bureau should not have combined its revenues with those of KM LPTV of Chicago-13, LLC in its analysis of its inability to pay contention; (2) that the Bureau did not provide a reasoned basis for its use of gross revenues as the primary means by which to evaluate KM of Milwaukee’s ability to pay the forfeiture;³ and (3) that the Bureau did not provide a reasoned explanation for denying a reduction in the forfeiture amount based on KM of Milwaukee’s claimed inability to pay. It does not dispute the Bureau’s findings that it committed the violations outlined below.

3. Upon consideration of the Application for Review and the entire record, we conclude that KM of Milwaukee has not demonstrated that the Bureau erred. The Bureau, in the *Memorandum Opinion and Order*, properly decided the matters raised, and we uphold its decision for the reasons stated therein.

4. ACCORDINGLY, IT IS ORDERED that, pursuant to Section 5(c)(5) of the Communications Act of 1934, as amended, 47 U.S.C. § 155(c)(5), and Section 1.115(c), of the Commission’s rules, 47 C.F.R. § 1.115(c), to the extent discussed in footnote 3, the Application for Review of KM LPTV of

¹ *KM LPTV of Milwaukee, LLC*, Memorandum Opinion and Order, DA 14-715 (Vid. Div. May 28, 2014) (“*Memorandum Opinion and Order*”).

² *KM LPTV of Milwaukee, LLC*, Forfeiture Order, 29 FCC Rcd 1767 (Vid. Div. 2014) (“*Forfeiture Order*”).

³ KM of Milwaukee also maintains that the Bureau’s use of gross revenues to evaluate its inability to pay argument is inconsistent with the Bureau’s use of cash flow in ruling on requests for waiver of the media ownership rules based on the failing station exception. AFR at 7. Because KM of Milwaukee failed to raise this contention before the Bureau, depriving the Bureau of the opportunity to pass on the argument, it may not introduce it here. Accordingly, to the extent that it contains this argument, we dismiss the AFR. See 47 C.F.R. § 1.115(g).

Milwaukee, LLC IS DISMISSED IN PART and, in all other respects, pursuant to Section 5(c)(5) of the Communications Act of 1934, as amended, 47 U.S.C. § 155(c)(5), and Section 1.115(g), of the Commission's rules, 47 C.F.R. § 1.115(g), IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary