

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Life on the Way Communications, Inc.)	File No.: EB-SED-12-00000906
)	NAL/Acct. No.: 201332100005
)	FRN: 0009016239

MEMORANDUM OPINION AND ORDER

Adopted: January 20, 2016

Released: January 21, 2016

By the Commission:

1. We deny in part and dismiss in part the Application for Review filed by Life on the Way Communications, Inc. (Life on the Way), licensee of domestic fixed satellite service earth station E970117, Van Nuys, California. Life on the Way seeks review of a Forfeiture Order issued by the Enforcement Bureau (Bureau) imposing an \$18,000 forfeiture against it for willfully violating Section 301 of the Communications Act of 1934, as amended (Act), and Section 25.102(a) of the Commission's rules by operating station E970117 without Commission authorization for more than eight years. The Forfeiture Order also affirmed an Admonishment against Life on the Way for willfully violating Section 310(d) of the Act and Section 25.119 of the Commission's rules for assigning without authorization the license for station E970117. In its Application for Review, Life on the Way raises arguments previously argued before the Bureau and rejected, as well as a new argument that the Bureau had not been afforded an opportunity to consider.

2. Upon review of the Application for Review¹ and the entire record,² we conclude that Life on the Way fails to demonstrate that the Enforcement Bureau erred regarding the arguments raised previously before the Bureau. Specifically, the Bureau properly decided that the NAL was issued on February 21, 2013, within the one-year statute of limitations for forfeiture actions under Section 503(b)(6) of the Act.³ As the Bureau stated, "the date of issuance of a notice of apparent liability is the date of its public notice, which in this case was the date the Commission released the document."⁴ Life on the Way concedes that actions taken by the Bureau pursuant to delegated authority (like the Forfeiture Order) become effective "upon release of the document containing the full text of such action."⁵ Moreover, the

¹ *Life on the Way Communications, Inc.*, Application for Review of Forfeiture Order (filed Apr. 22, 2015) (Application for Review) (on file in EB-SED-12-00000906).

² The record includes, among other things: (i) the Notice of Apparent Liability for Forfeiture and Admonishment, *Life on the Way Communications, Inc.*, Notice of Apparent Liability for Forfeiture and Admonishment, 28 FCC Rcd 1346 (Enf. Bur. 2013) (NAL) and (ii) the Forfeiture Order, *Life on the Way Communications, Inc.*, Forfeiture Order, 30 FCC Rcd 2603 (Enf. Bur. 2015) (Forfeiture Order).

³ Forfeiture Order, 30 FCC Rcd at 2605-06, para. 6.; 47 U.S.C. § 503(b)(6).

⁴ *Id.* at 2605, para. 6; *see* 47 C.F.R. §§ 1.4(b)(2) (stating public notice for non-rulemaking documents released by the Commission or staff occurs on the document's release date).

⁵ Application for Review at 4-5 (citing 47 C.F.R. § 1.102(b)). Under Section 1.102(b)(1) of the Commission's rules, actions taken pursuant to delegated authority shall "unless otherwise ordered by the designated authority, be effective upon release of the document containing the full text of such action . . ." 47 C.F.R. § 1.102(b)(1). The Commission has indicated that delegated authority actions become effective upon release, unless the designated authority states otherwise. *See Addition of new Section 1.103 to the Commission's Rules of Practice and Procedures; Amendments to Section 1.4(b) of those Rules, Memorandum Opinion and Order*, 85 FCC 2d 618, 621-

Daily Digest of February 22, 2013, itself explicitly stated that the NAL was released on February 21, 2013.⁶ We thus disagree with Life on the Way's contention that release is based not on the date of the NAL's public notice, but rather on the date the item was included in the Commission's Daily Digest.⁷ The Bureau also properly decided that Life on the Way's mistaken belief that it held the license to operate station E970117 did not excuse Life on the Way's unauthorized operation violation.⁸ As stated in the Forfeiture Order, "[I]censees . . . are expected to know and comply with the [Commission's r]ules [and] violations resulting from inadvertent error or failure to become familiar with the FCC's requirements can be and often are willful violations."⁹ As a result, the Bureau properly decided the arguments raised previously in the Forfeiture Order and we uphold its decisions for the reasons stated therein. Accordingly, with respect to these arguments, we deny the Application for Review.

3. Life on the Way also improperly raises for the first time in the Application for Review that, even if the NAL was released on February 21, 2013, the NAL would have been issued outside the one-year statute of limitations, because one year means 365 days, even in 2012, a leap year.¹⁰ Specifically, Life on the Way argues that 366 days elapsed from the last day of its unauthorized operation of station E970117 to the NAL's release.¹¹ Section 1.115(c) prohibits parties from raising new arguments in an Application for Review.¹² Accordingly, we dismiss the Application for Review with respect to this new argument.¹³ Moreover, as a separate and independent basis for our decision, we find that, even if Life on the Way's leap year argument were properly raised, we would find it to be without merit as courts addressing this issue in comparable circumstances have concluded that a "one-year" statute of limitations

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22, para. 11 (1981) (stating that "staff actions shall, unless otherwise ordered by the designated authority, be effective upon release of the document containing the full text of such action. . .") (internal quotation omitted). The Commission has cited to Section 1.102(b)(1) of the rules to indicate that the action taken is effective upon release. *See, e.g., PlatinumTel, LLC*, Order, 26 FCC Rcd 13788, 13799, para. 27 (2011); *Standing Rock Telecomms., Inc.*, Memorandum Opinion and Order and Order on Reconsideration, 26 FCC Rcd 9160, 9170, para. 33 (2011); *Ray M. Stanfield*, Memorandum Opinion and Order, 12 FCC Rcd 3345, 3348, para. 7 n. 7 (1997). In addition, federal courts have recognized that delegated authority actions generally take effect upon release. *See, e.g., Committee to Save WEAM v. FCC*, 808 F.2d 113, 119 (D.C. Cir. 1986) (Section 1.102(b) provides that, "unless the Bureau specifies otherwise, its orders are to be effective upon release").

⁶ *See* Daily Digest, Vol. 32, No. 36 (Feb. 22, 2013).

⁷ *Id.* at 4. This finding is consistent with the precedent cited by Life on the Way. *Id.* at 5 (citing *S. Adventist Univ.*, Letter, 27 FCC Rcd 2567, 2568 (Med. Bur. 2012)) (stating that "non-hearing or interlocutory actions generally are effective upon the document's release").

⁸ Forfeiture Order, 30 FCC Rcd at 2606-07, para. 9. Life on the Way continues to contend that it believed it received the license for station E970117 as part of the assignment of auxiliary facilities from a commonly-owned entity and that its subsequent unauthorized operation of the station was not willful. Application for Review at 1-2.

⁹ Forfeiture Order, 30 FCC Rcd at 2607, para. 9.

¹⁰ Application for Review at 5, 7.

¹¹ *Id.*

¹² *See* 47 C.F.R. § 1.115(c) ("No application for review will be granted if it relies on questions of fact or law upon which the designated authority has been afforded no opportunity to pass."). Parties instead may present such new arguments to the Bureau through a Petition for Reconsideration. 47 C.F.R. § 1.106.

¹³ *See Cal. State Univ., Long Beach Found.*, Memorandum Opinion and Order, 29 FCC Rcd 9970, 9970-71 n.6 (2014) (dismissing in part an Application for Review to the extent it was based on new arguments); *Application for Review of a Decision of the Wireline Competition Bureau by Dooly County School System Vienna, Ga.*, Order, 28 FCC Rcd 8612, 8614-15, para. 5 (2013) (same).

ends on the calendar date of the year following the year it began, “even when the intervening period includes the extra leap year day.”¹⁴ Consequently, we affirm the Forfeiture Order.¹⁵

4. Accordingly, **IT IS ORDERED** that, pursuant to Section 5(c) of the Act and Section 1.115 of the Commission’s rules,¹⁶ the Application for Review filed by Life on the Way Communications, Inc. **IS DENIED IN PART** and **IS DISMISSED IN PART**.

5. **IT IS FURTHER ORDERED** that the Forfeiture Order **IS AFFIRMED** and that, pursuant to Section 503(b) of the Act and Section 1.80 of the Commission’s rules,¹⁷ Life on the Way Communications, Inc. **SHALL PAY A MONETARY FORFEITURE** in the amount of eighteen thousand dollars (\$18,000) as specified in the Forfeiture Order for willful violation of Section 301 of the Act and Section 25.102(a) of the Commission’s rules.¹⁸

6. **IT IS FURTHER ORDERED** that the Admonishment for violation of Section 310(d) of the Act and Section 25.119 of the Commission’s rules **IS AFFIRMED**.¹⁹

7. **IT IS FURTHER ORDERED** that a copy of this Memorandum Opinion and shall be sent by first class mail and certified mail, return receipt requested, to Gary Curtis, Vice President, Life on the Way Communications, Inc., 14820 Sherman Way, Van Nuys, CA 91405-2233, and to Jeffrey D. Southmayd, Esq., Counsel for Life on the Way Communications, Inc., Southmayd & Miller, 4 Ocean Ridge Boulevard South, Palm Coast, FL 32137.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

¹⁴ *United States v. Hurst*, 322 F.3d 1256, 1260 (10th Cir. 2003) (quoting *United States v. Marcello*, 212 F.3d 1005, 1010 (7th Cir. 2000)); *see, e.g., Carreras-Rosa v. Alves-Cruz*, 127 F.3d 172, 174 (1st Cir. 1997) (“One year means 365 days, or 366 days in leap year.”); *Merrweather v. City of Memphis*, 107 F.3d 396, 398 (6th Cir. 1997) (finding that “one year” includes 366 days during a leap year); *United States v. Tawab*, 984 F.2d 1533, 1534 (9th Cir. 1993) (per curiam) (during a leap year, “the term ‘year’ . . . means calendar year, not 365 days”). This is the general rule for interpreting time periods in Federal statutes, where nothing in the statute suggests that Congress intended a different interpretation. *Hurst*, 322 F.3d at 1260 (citing *Union Nat’l Bank v. Lamb*, 337 U.S. 38, 40-41 (1949)). Life on the Way does not indicate that Congress intended Section 503(b)(6) of the Act to be interpreted differently. Moreover, Life on the Way has not provided any cases supporting the proposition that a leap year results in the expiration of the Section 503(b)(6) statute of limitations one day earlier than during a normal year. Accordingly, we believe the most reasonable way to interpret the term “one year” in Section 503(b)(6) consistent with existing precedent is one calendar year, which includes 366 days during leap years.

¹⁵ Life on the Way also requests that the Commission stay the obligation to pay the forfeiture pending its decision on the Application for Review. Application for Review at 7 n.10. In light of the denial and dismissal of the Application for Review here, we dismiss the request for a stay as moot.

¹⁶ 47 U.S.C. § 155(c); 47 C.F.R. § 1.115.

¹⁷ 47 U.S.C. § 503(b); 47 C.F.R. § 1.80.

¹⁸ 47 U.S.C. § 301; 47 C.F.R. § 25.102(a).

¹⁹ 47 U.S.C. § 310(d); 47 C.F.R. § 25.119.