

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

In the Matter of)
Cumulus Licensing LLC) File No.: EB-IHD-20-00031223
Former Licensee of Stations) NAL/Acct. No.: 202132080015
WEGC(FM), Sasser, GA) FRN: 0002834810
Facility ID Number: 40463;)
WJAD(FM), Leesburg, GA)
Facility ID Number: 57782;)
WKAK(FM), Albany, GA)
Facility ID Number: 831;)
WQVE(FM), Albany, GA)
Facility ID Number: 54704; and)
WALG(AM), Albany, GA)
Facility ID Number: 54703)

FORFEITURE ORDER

Adopted: January 12, 2024

Released: January 16, 2024

By the Commission:

I. INTRODUCTION

1. The Federal Communication Commission’s (FCC or Commission) equal employment opportunity (EEO) rules prohibit broadcasters from discriminating in hiring on the basis of race, color, religion, national origin or gender, and require most broadcasters to conduct and document broad recruitment efforts. On February 25, 2022, the Commission issued a Notice of Apparent Liability for Forfeiture (NAL) for \$32,000 against Cumulus Licensing LLC (Cumulus), former licensee of WEGC(FM), Sasser, Georgia; WJAD(FM), Leesburg, Georgia; WKAK(FM), Albany, Georgia; WQVE(FM), Albany, Georgia; and WALG(AM), Albany, Georgia (collectively, the Stations), for apparently violating the Commission’s EEO rules by failing to (i) upload its annual EEO public file report (Annual Report) in the Stations’ online public inspection files; (ii) upload its Annual Report to the Stations’ websites; and (iii) analyze its EEO program.1 Cumulus filed a Response to the NAL (NAL Response) on March 28, 2022, in which it urged the Commission to “correct the record” in this proceeding and reconsider the proposed forfeiture.2 For the reasons discussed below, we assess a forfeiture of \$26,000.

II. BACKGROUND

2. Legal Framework. Section 73.2080(c)(6) of the Commission’s rules requires a licensee to place its station’s Annual Report in its public inspection file and on its website, if it has one.3 A station’s Annual Report includes critical information concerning its recruitment activity, including: (i) a list of full-time vacancies over the prior year; (ii) the recruitment sources utilized to fill full-time

1 Cumulus Licensing LLC, Notice of Apparent Liability for Forfeiture, 37 FCC Rcd 3461 (2022) (NAL).

2 Cumulus Licensing LLC, Response to Notice of Apparent Liability for Forfeiture (Mar. 28, 2022) (on file in EB-IHD-20-00031223) (NAL Response).

3 47 CFR § 73.2080(c)(6).

vacancies; (iii) the recruitment source that referred the hiree for each full-time vacancy; (iv) data reflecting the total number of persons interviewed for full-time vacancies and the total number of interviewees referred by each recruitment source; and (v) a list and brief description of its recruitment initiatives.⁴ Section 73.2080(c)(3) of the Commission's rules requires a licensee to analyze its EEO recruitment program for its employment unit on an ongoing basis to ensure that it is effective in achieving broad outreach to potential applicants, and address any problems found as a result of its analysis.⁵ In addition, section 73.3526(e)(7) of the Commission's rules requires that a licensee place required information, including EEO files such as its Annual Report, in its station's public inspection file.⁶

3. *Factual Background.* Cumulus is an indirect subsidiary of Cumulus Media, Inc., which, on its website, reports that it owns and operates 403 radio stations across 85 media markets,⁷ as well as Westwood One, the largest audio network in America.⁸ In the Stations' most recent license renewal applications (Renewal Applications), Cumulus stated that it had not uploaded its EEO files to the Stations' online public inspection files in a timely manner.⁹ In response to a Letter of Inquiry issued by the FCC Enforcement Bureau's Investigations and Hearings Division,¹⁰ Cumulus acknowledged that the Stations' 2018 Annual Report, covering the December 1, 2017 to November 30, 2018 reporting period, had not been added to the Stations' public inspection files and websites until September 11, 2019¹¹—

⁴ *Id.*

⁵ *Id.* § 73.2080(c)(3).

⁶ *Id.* § 73.3526(e)(7).

⁷ See Cumulus Media, *About Us*, <https://www.cumulusmedia.com> (last visited Sept. 1, 2023).

⁸ *Id.*

⁹ 47 CFR § 73.3526. See Form 303-S Applications for Renewal of Broadcast Station License, WEGC(FM), Sasser, GA (Facility ID Number 40463), Renewal File No. 0000098498 (filed Aug. 25, 2020), <https://enterpriseefiling.fcc.gov/dataentry/public/tv/draftCopy.html?displayType=html&appKey=25076ff37414384b0174271ea2051252&id=25076ff37414384b0174271ea2051252&goBack=N>; WJAD(FM), Leesburg, GA (Facility ID Number 57782), Renewal File No. 0000098499 (filed Aug. 25, 2020), <https://enterpriseefiling.fcc.gov/dataentry/public/tv/draftCopy.html?displayType=html&appKey=25076ff37414384b017427295ecb1271&id=25076ff37414384b017427295ecb1271&goBack=N>; WKAK(FM), Albany, GA (Facility ID Number 831), Renewal File No. 0000098501 (filed Aug. 25, 2020), <https://enterpriseefiling.fcc.gov/dataentry/public/tv/draftCopy.html?displayType=html&appKey=25076ff37414384b0174272d723c128e&id=25076ff37414384b0174272d723c128e&goBack=N>; WQVE(FM), Albany, GA (Facility ID Number 54704), Renewal File No. 0000098500 (filed Aug. 25, 2020), <https://enterpriseefiling.fcc.gov/dataentry/public/tv/draftCopy.html?displayType=html&appKey=25076ff37414384b01742730ae1e12ad&id=25076ff37414384b01742730ae1e12ad&goBack=N>; WALG(AM), Albany, GA (Facility ID Number 54703), Renewal File No. 0000098497 (filed Aug. 25, 2020), <https://enterpriseefiling.fcc.gov/dataentry/public/tv/draftCopy.html?displayType=html&appKey=25076ff37414384b0174271781c61234&id=25076ff37414384b0174271781c61234&goBack=N>.

¹⁰ Letter from Christopher J. Sova, Deputy Chief, Investigations and Hearings Division, FCC Enforcement Bureau, to Richard S. Denning, Executive Vice President, Secretary and General Counsel, Cumulus Licensing LLC (July 23, 2020) (on file in EB-IHD-20-00031223) (LOI).

¹¹ Letter from Richard S. Denning, Executive Vice President, Secretary and General Counsel, Cumulus Licensing LLC and Mark Lipp, Esq., Fletcher, Heald & Hildreth, counsel to Cumulus Licensing LLC, to EEO Staff, Investigations and Hearings Division, FCC Enforcement Bureau, at Response to Questions 3, 5 (Aug. 20, 2020) (on file in EB-IHD-20-00031223) (LOI Response). Every eight years, the filing deadline for Georgia radio station license renewal applications falls on December 1, and those stations must upload their Annual Report on or before December 1 on an annual basis. See 47 CFR §§ 73.3539, 73.2080(c)(6). In 2018, however, December 1 fell on a Saturday, and the 2018 Annual Report was therefore due on the next business day, i.e., December 3, 2018.

more than nine months after the December 3, 2018 deadline. Cumulus explained that this failure was due to a “routine administrative change” and the loss of a former employee.¹²

4. On February 25, 2022, the Commission issued the *NAL*¹³ against Cumulus for its apparent willful and repeated violation of sections 73.2080(c)(6), 73.2080(c)(3), and 73.3526(e)(7) of the Commission’s rules.¹⁴ Specifically, the Commission found that Cumulus apparently violated section 73.2080(c)(6) by failing to upload the Stations’ 2018 Annual Report to the Stations’ online public inspection files and websites in a timely manner.¹⁵ The Commission further found that these failures reveal a continuing lack of EEO assessment, in apparent violation of section 73.2080(c)(3).¹⁶ The Commission also found that by failing to upload its 2018 Annual Report into its public inspection files in a timely manner, Cumulus apparently violated section 73.3526(e)(7) of the Commission’s rules.¹⁷ The Commission proposed a total forfeiture of \$32,000 for Cumulus’s apparent violations of the EEO rules in this case.¹⁸

5. On March 28, 2022, Cumulus filed a Response to the *NAL*.¹⁹ Cumulus makes a number of arguments as to why the Commission should correct the record in this proceeding and reconsider the proposed forfeiture in the *NAL*.²⁰ Specifically, Cumulus argues that (i) there is no basis for assuming that Cumulus could not have adequately analyzed the Stations’ EEO program;²¹ (ii) the proposed forfeiture is unprecedented for one late upload;²² (iii) the upward adjustment based on past violations is unjust;²³ and (iv) increasing the forfeiture amount based on pre-reorganization conduct is inconsistent with federal bankruptcy law and Commission precedent.²⁴

¹² LOI Response at 4.

¹³ On November 24, 2020, the Commission and Cumulus executed a tolling agreement which, among other things, preserved the Commission’s legal rights to issue one or more NALs and initiate collection proceedings, as applicable, with respect to the potential violations, while allowing for the grant of the Renewal Applications and for the consummation of the assignment of the licenses for the Stations in connection with Cumulus’s sale of the Stations to a third party. *See* Agreement Regarding Assignment Applications executed by Jeffrey J. Gee, Chief, Investigations and Hearings Division, FCC Enforcement Bureau, and Richard S. Denning, Executive Vice President, Secretary and General Counsel, Cumulus Licensing LLC (Nov. 24, 2020) (on file in EB-IHD-20-00031223). Cumulus sold the Stations to First Media Services, LLC on December 15, 2020, pursuant to assignment applications BAL-20200429AAB, and BALH-20200429AAC-F; Consummation Notice of Cumulus Licensing LLC, File Nos. BAL-20200429AAB et al. (filed Dec. 17, 2020). Pursuant to the tolling agreement, Cumulus agreed, among other things, to waive any right it might otherwise have to assert that it is no longer a holder of the Commission-issued licenses for the Stations.

¹⁴ *NAL*, *supra* note 1, at *1-6, paras. 1-20. The *NAL* includes a more complete discussion of the facts and history of this case and is incorporated herein by reference. *See id.*

¹⁵ *Id.* at *2, paras. 5-6.

¹⁶ *Id.* at *3, paras. 8-9.

¹⁷ *Id.* at *2, para. 7.

¹⁸ *Id.* at *3-5, paras. 10-18.

¹⁹ *NAL* Response, *supra* note 2.

²⁰ *See id.* at 1-10, paras. 1-15.

²¹ *Id.* at 8-9, para. 13.

²² *Id.* at 1-4, paras. 1-3.

²³ *Id.* at 4-6, paras. 4-8.

²⁴ *Id.* at 6-8, paras. 9-12.

6. On March 28, 2022, the National Association of Broadcasters (NAB) filed “Comments” in response to the *NAL*,²⁵ an enforcement matter that concerns Cumulus’s compliance with our EEO rules. NAB is not a party to this adjudicatory proceeding, nor is it named or addressed in the *NAL*. NAB offers no legal or procedural basis for submitting its nonparty filing.²⁶ The NAB Comments largely duplicate Cumulus’s arguments in its *NAL* Response, which we already address in this Forfeiture Order.²⁷ More broadly, NAB urges the Commission to apply a more balanced and reasonable approach to proposed forfeitures going forward,²⁸ claims that are more appropriately raised in a petition for declaratory ruling or other proceeding of general applicability, rather than in an individual enforcement matter such as this.²⁹ Indeed, as courts have held, the fact that a decision would apply to similarly situated nonparties does not provide a basis to challenge that decision formally.³⁰ Accordingly, we dismiss NAB’s Comments. On alternative and independent grounds, and for the limited purpose of helping to inform our discussion of Cumulus’s violation of our EEO rules, we consider and reject the arguments raised in the NAB Comments. In doing so, we do not bestow, or intend to bestow, party status on NAB.³¹

²⁵ The National Association of Broadcasters, Comments of The National Association of Broadcasters (Mar. 28, 2022) (on file in EB-IHD-20-00031223) (NAB Comments).

²⁶ NAB simply states in a footnote that it “is the nonprofit trade association that advocates on behalf of free local radio and television stations and broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.” *Id.*

²⁷ NAB argues that the *NAL* improperly “elevates ministerial compliance over substance, unfairly penalizing Cumulus for understandable and inevitable human error that ultimately caused no harm.” *Id.* at 2. NAB urges the FCC to eliminate the *NAL*’s proposed forfeiture, alleging that the *NAL* turns on a purely ministerial error – the failure to upload the reports in a timely manner – that generated no public complaint and created no consumer harm but was an unintentional oversight that led to a temporary failure to comply with an administrative requirement that Cumulus discovered and promptly corrected. *Id.* at 2-5. NAB asks the FCC revisit its conclusion that prior Cumulus rule violations warrant upward adjustment of the base forfeiture amount here, noting that the majority of the prior violations cited in the *NAL* predate Cumulus’s 2018 transfer of control, the oldest of the prior violations occurred in 2003, and several cited prior violations are more than ten years old. *Id.* at 2, 5-6. NAB also argues that the FCC unlawfully equates failure to upload an annual EEO public file report with failure to analyze a licensee’s EEO program, alleging there was no public complaint regarding the failure to upload the annual report, and the FCC presents no factual or logical basis for its conclusion that Cumulus’s administrative failure to upload its completed annual EEO report necessarily means that Cumulus failed to analyze its EEO programs. *Id.* at 2-3, 6-7. According to NAB, the FCC cannot lawfully assess penalties based on what it claims is unsubstantiated conjecture, especially when faced with evidence to the contrary. *Id.* at 2-3. NAB urges the FCC to treat Cumulus’s failure to upload a completed report, which it claims is a simple administrative error, as a minor violation, subject to admonishment, or exercise its discretion to reduce the forfeiture amount rather than impose upward adjustments. *Id.* at 7.

²⁸ *Id.* at 3.

²⁹ See, e.g., *T-Mobile USA, Inc., A Subsidiary of T-Mobile US, Inc.*, Forfeiture Order, 29 FCC Rcd 10752, 10755, 10762-63 paras. 9, 24 (2014) (dismissing third-party comments filed in response to an *NAL* which presented questions concerning the Commission’s methodology for calculating forfeitures in circumstances not presented in the *NAL*).

³⁰ See, e.g., *The Conference Group, LLC v. FCC*, 720 F.3d 957, 958-59 (D.C. Cir. 2013) (“Because the decision was an adjudication and the [third-party challenger] was not a party, it lacks standing to challenge the merits of that adjudication. Although the Commission stated its decision would apply to ‘similarly situated’ providers, that is true of all precedents. And this court has held that the mere fact that an adjudication creates a precedent that could harm a nonparty does not create the injury-in-fact required for Article III standing.”).

³¹ See 47 CFR § 1.1202(d)(3) (explaining that unless otherwise ordered by the Commission, only the subject of a notice of apparent liability is considered a party).

III. DISCUSSION

7. The Commission proposed a forfeiture in this case in accordance with section 503(b) of the Communications Act of 1934, as amended (Act),³² section 1.80 of the Commission's rules,³³ and the Commission's *Forfeiture Policy Statement*.³⁴ When we assess forfeitures, section 503(b)(2)(E) of the Act requires that we take into account the "nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require."³⁵ We have fully considered Cumulus's NAL Response, which includes a variety of factual and legal arguments, but we find none of them persuasive.

A. Cumulus Violated the EEO Rules

8. Cumulus does not contest the Commission's conclusion that it apparently violated sections 73.2080(c)(6) and 73.3526(e)(7) of the Commission's rules, as described in the *NAL*.³⁶ Thus, we need not address these conclusions made in the *NAL* and affirm that Cumulus violated sections 73.2080(c)(6) and 73.3526(e)(7) of the Commission's rules.³⁷

9. The Commission properly found that Cumulus apparently violated section 73.2080(c)(3) of the Commission's rules by failing to analyze the Stations' EEO program.³⁸ Cumulus contends that there is no basis for the *NAL* holding that Cumulus's Albany market employees could not have evaluated the Stations' EEO program because they failed to upload the Annual Report on time.³⁹ Cumulus argues that those employees properly analyzed the Stations' EEO program by preparing the Annual Report on time, and maintains that uploading the Annual Report to the public inspection file does not involve any such analysis.⁴⁰ Accordingly, Cumulus contends that the violation does not apply here and requests elimination of the \$6,000 forfeiture for its failure to evaluate its EEO program.⁴¹

10. We affirm the *NAL*'s finding that Cumulus apparently violated section 73.2080(c)(3) of the Commission's rules.⁴² Section 73.2080(c)(3) of the Commission's rules requires a licensee analyze its station's EEO recruitment program on an ongoing basis to ensure that it is effective in achieving broad outreach to potential applicants, and to address any problems found as a result of such analysis.⁴³ In its implementing order, the Commission held that the public has an important role in monitoring broadcaster compliance with our EEO rule and that the Annual Report is designed to facilitate meaningful public input.⁴⁴ The Commission also held that it would sanction licensees for their "failure to analyze routinely

³² 47 U.S.C. § 503(b).

³³ 47 CFR § 1.80.

³⁴ *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997) (*Forfeiture Policy Statement*), *recons. denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999).

³⁵ 47 U.S.C. § 503(b)(2)(E).

³⁶ *See NAL*, *supra* note 1, at *2, paras. 5-7.

³⁷ *See id.*

³⁸ *See id.*, *supra* note 1, at *3, paras. 8-9.

³⁹ NAL Response, *supra* note 2, at 8-9, para. 13.

⁴⁰ *Id.* (citing Declaration of April Bailey, Exh. 6 of LOI Response) (Bailey Decl.).

⁴¹ *Id.*

⁴² *See NAL*, *supra* note 1, at *3, paras. 8-9.

⁴³ 47 CFR § 73.2080(c)(3).

⁴⁴ *Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies*, MM Docket No. 98-204, Second Report and Order and Third Notice of Proposed Rule Making, 17 FCC Rcd 24018, 24062, para. 140 (2002) (*Broadcast and Cable EEO Rules and Policies*).

the adequacy of the various program elements in achieving broad outreach to all segments of the community.”⁴⁵

11. Cumulus’s admitted failure to upload the Stations’ Annual Report to its online public inspection files and websites in a timely manner impacted the public’s essential right to participate in monitoring and providing input on Cumulus’s EEO program at the Stations.⁴⁶ Merely compiling an Annual Report without also posting it to publicly accessible locations may, in certain circumstances (such as those present here), prevent the Stations from fulfilling their obligation to analyze their recruitment program “on an ongoing basis” in response to public input. The Annual Report constitutes the only public record summarizing a station’s recruitment program under FCC EEO rules for that 12-month period and its label, “annual EEO public file report,” signifies an important purpose is review by both the Commission and the public. Public input, initiated on the basis of an Annual Report, can be instrumental in the evaluation of a licensee’s effectiveness in achieving broad outreach to potential applicants and ensuring that any problems can be addressed on a timely basis.⁴⁷ As a result, Cumulus’s characterization of the requirement to upload an Annual Report to the station online public inspection file and website as a mere administrative task undermines the Commission’s goal of ensuring meaningful public input via public access to the Annual Report.⁴⁸

12. Further, compiling the Annual Report alone, without also uploading it to its intended destination in a timely manner, here more than nine months late, may, in certain circumstances, constitute (and here does constitute) a violation of the requirements to analyze the Stations’ EEO program. The length of time during which Cumulus failed to upload its Annual Report is persuasive evidence that Cumulus did not “routinely analyze the adequacy of their various EEO program elements in achieving broad outreach to all segments of the community” and address any problems found as a result of such analysis.⁴⁹ Even assuming Cumulus may have engaged in some self-evaluation,⁵⁰ we affirm the *NAL*’s

⁴⁵ *Id.* at 24067, para. 156.

⁴⁶ *NAL*, *supra* note 1, at *3, para. 8.

⁴⁷ For example, without details of a station’s employment outreach, qualifying organizations in the community are unable to review a station’s outreach to potential applicants and request notification of future full-time vacancies. 47 CFR § 73.2080(c)(2). As noted in the implementing order, this notification requirement provides a “safety valve” to ensure that no segment of the community is inadvertently omitted from recruitment efforts. *See Broadcast and Cable EEO Rules and Policies*, *supra* note 44, at 24053, para. 106.

⁴⁸ NAB alleges that the stations did not receive any public complaint about the missing Annual Report, a fact not present in the record, and therefore there is “no reason to believe there would have been any public input ... and thus no reason to impute to Cumulus a failure to analyze based on lack of public input” and that “the Commission does not point to a single instance in this or any other circumstance where the public has viewed a station’s annual EEO reports for this purpose.” *NAB Comments*, *supra* note 19, at 6. Moreover, NAB contends that the “NAL conflates the substantive analysis of an EEO program with ministerial compliance and then accepts this conflation as conclusive.” *Id.* at 7. As an initial matter, we give no weight to NAB’s allegation about the lack of complaints considering that Cumulus itself does not claim that it did not receive complaints about the missing Annual Report. In any event, the FCC is not required to rely on a complaint from the public or instances of public viewing behavior to find a licensee failed to comply with one of its obligations. Further, it is unknowable whether, if the Annual Report had been posted to the public file and website in a timely fashion as required, it would not have generated comment from the public during the timeframe it was missing. At its heart, Cumulus’s failure to upload the Annual Report denied the public its opportunity to weigh in, either positively or constructively, regarding a licensee’s employment outreach. This lack of opportunity for the public to participate directly impacts the licensee’s ability to evaluate its EEO program as required.

⁴⁹ *See Broadcast and Cable EEO Rules and Policies*, *supra* note 44, at 24067, para. 156; *see also* 47 CFR § 73.2080(c) (specific EEO program requirements).

⁵⁰ *See NAL Response*, *supra* note 2, at 8-9, para. 13; Bailey Decl; Statement of Ron Giovanniello, Market Manager of Harrisburg, PA stations (describing the process for preparing annual EEO report, allegedly typical of various Cumulus markets).

finding that the record supports a finding that Cumulus failed to analyze its Stations' program "on an ongoing basis" in response to public input as required under section 73.2080(c)(3). Here the record shows that for more than nine months the licensee failed to even realize that it had not uploaded its 2018 Annual Report to the Stations' public inspection files and websites, and thereby deprived the public of any opportunity to identify areas of concern that could be considered.⁵¹ Consequently, given the specific circumstances of this case, we reject Cumulus's argument that any self-evaluation it did in fact undertake was adequate and satisfied the self-assessment rule. Thus, we affirm that Cumulus violated section 73.2080(c)(3) of the Commission's rules.⁵²

B. The FCC Properly Determined the Original Basis for the Proposed Forfeiture

13. The *NAL* found Cumulus apparently liable for the following forfeitures: (i) \$26,000 for Cumulus's apparent violations of section 73.2080(c)(6) for failing to upload and maintain the Stations' 2018 Annual Reports in their public inspection files and on the Stations' websites for over nine months,⁵³ plus (ii) \$6,000 for Cumulus's apparent failure to analyze its stations' EEO program adequately in apparent violation of section 73.2080(c)(3) of the Commission's rules.⁵⁴ The \$26,000 and \$6,000 amounts each reflect an upward adjustment of the base forfeitures of \$10,000 and \$2,000, respectively, considering the circumstances of this case, including Cumulus's history of prior offenses.⁵⁵ The proposed base forfeiture amounts and upward adjustments are consistent with our rules and precedent. The Commission declined to issue a separate forfeiture for Cumulus's apparent violation of section 73.3526(e)(7) of the Commission's rules in this case.⁵⁶ In applying the applicable statutory factors, we also considered whether there may be any basis for a downward adjustment of the proposed forfeiture, and we found none.⁵⁷

1. Cumulus Failed to Provide a Valid Justification for Reducing the Proposed Forfeiture

14. Cumulus contends that the proposed \$32,000 forfeiture for just one late upload of an EEO report is unprecedented since there are no other comparable fines for such a violation.⁵⁸ Cumulus states that it is not able to find any instances during the last renewal cycle where the Commission imposed a forfeiture for uploading just one EEO Public File Report to its online files and websites late.⁵⁹ Cumulus argues that its research indicates that monetary forfeitures were imposed for failing to upload multiple documents timely rather than just one, and those forfeitures were substantially lower than the forfeiture proposed here.⁶⁰ However, review of our EEO case law is not limited to the previous renewal cycle, and Cumulus cites no authority for this proposition. To the extent this case includes a larger forfeiture than prior cases, it is fully justified given the facts and circumstances of this case, considering Cumulus's prior

⁵¹ *NAL*, *supra* note 1, at *3, para. 9.

⁵² *See id.* at *3, paras. 8-9.

⁵³ *See id.* at *4-5, paras. 11-15.

⁵⁴ *See id.* at *5, para. 16.

⁵⁵ *See id.* at *4-5, paras. 11-16.

⁵⁶ *See id.* at *5, para. 17 (further noting that the Commission has previously issued separate forfeitures for violations of section 73.3526(e) and reserving the right to do so when considering future such violations).

⁵⁷ *See id.* at *5, para. 18.

⁵⁸ *NAL* Response, *supra* note 2, at 1-4, paras. 1-3, and at 9, para. 14.

⁵⁹ *Id.* at 2, para. 2.

⁶⁰ *Id.* at 2, para. 2. Notably, Cumulus cites EEO cases dating back to 1997 in support of its argument. *See id.* at n.3.

history of rule violations, including violations of the EEO rules.⁶¹ Thus, contrary to Cumulus's allegation otherwise, this case is consistent with Commission precedent.⁶²

15. We disagree with Cumulus that a substantially lesser forfeiture or an admonishment would be more appropriate.⁶³ Cumulus notes that the FCC recognizes that certain new online public file uploading requirements, which began March 1, 2018, for most stations, were often challenging for licensees, and, further, COVID-19 caused disruptions to station operations, resulting in alternative non-forfeiture penalties in other situations.⁶⁴ Here, Cumulus claims it was the first time that an EEO report was to be uploaded into the online public files and websites for this market under the new rules, the person responsible for uploading this report is a former employee, and the report, although uploaded late, was timely prepared.⁶⁵ According to Cumulus, based on past enforcement cases, and the inadvertent failure of a former employee to upload one EEO public file report late, it would be more appropriate to issue an admonishment or lower forfeiture here, consistent with the treatment of other FCC licensees.⁶⁶ We disagree. We previously rejected Cumulus's arguments that the forfeiture penalty should be adjusted downward as Cumulus's parent emerged from bankruptcy in 2018 and because the COVID-19 pandemic negatively impacted its 2020 advertising revenue.⁶⁷ Cumulus failed to submit any evidence in response to the NAL to alter our prior finding. Moreover, Cumulus was required to upload the Stations' 2018 Annual Report into the Stations' public inspection files and on their websites by December 3, 2018⁶⁸ — over nine months after the new uploading requirements became effective on March 1, 2018.⁶⁹ Cumulus had enough time to learn about and follow the new rules. In 2014, the Commission began alerting broadcast licensees to the proposed new online public inspection file requirements for radio licensees by initiating a rulemaking⁷⁰ and issued new rules in 2016.⁷¹ Further, there was at least a two-year plus transition

⁶¹ See *NAL*, *supra* note 1, at *1-6, paras. 3-19.

⁶² Indeed, the imposition of meaningful forfeitures for failing to file FCC forms has long been recognized under Commission precedent. See, e.g., *Standard Communications Corp.*, Memorandum Opinion and Order, 1 FCC Rcd 358, para. 4 (1986) (finding that the violator's "contention that their omission of required forms 'constitutes no more than a technical or a clerical error' implies the type of indifference to Commission Rules that justifies the imposition of forfeitures....Employee acts or omissions, such as clerical errors in failing to file required forms, do not excuse violations....Failures to file required Commission documents are considered serious violations which often result in substantial forfeitures") (citations omitted). Moreover, Cumulus has a prior history of violating the Commission's EEO rules. See *Cumulus Licensing LLC*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 18433 (MB 2008) (forfeiture paid) (finding that Cumulus violated the EEO rules by failing to perform an EEO recruitment initiative, analyze its EEO program, maintain EEO recruitment records, report EEO recruitment sources, report interviewee data, and maintain required EEO information in its stations' public inspection files); *Cumulus Licensing LLC*, Notice of Apparent Liability for Forfeiture, 32 FCC Rcd 10285 (MB 2017) (forfeiture paid) (finding that Cumulus has a history of violations relating to the EEO rules).

⁶³ *NAL* Response, *supra* note 2, at 3-4, para. 3.

⁶⁴ *Id.* at 2-4, paras. 2-3.

⁶⁵ *Id.* at 3, para. 3.

⁶⁶ *Id.* at 3-4, para. 3.

⁶⁷ See *NAL*, *supra* note 1, at *5, para. 18.

⁶⁸ See *id.* at *2, para. 5.

⁶⁹ See *Expansion of Online Public File Obligations To Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees*, Report and Order, 31 FCC Rcd 526, 558-59, para. 83 (2016) (*2016 Report and Order*) (determining, among other things, that online public file requirements would be implemented on a rolling basis for AM and FM broadcast radio licensees with a final deadline of March 1, 2018).

⁷⁰ See *Expansion of Online Public File Obligations To Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees*, Notice of Proposed Rulemaking, 29 FCC Rcd 15943 (2014).

⁷¹ See *2016 Report and Order* at 567, para. 104.

period—from the adoption of the rules in January 2016 to the aforementioned March 2018 deadline—before commercial broadcast radio stations outside the top 50 markets were required to upload new public file materials.⁷² Finally, contrary to Cumulus’s statement, the responsibility to place the Annual Report on a station’s website was not a new one in 2018. Indeed, the station website posting obligation has been in place since the adoption of the current EEO regulatory program in 2003.⁷³

16. Additionally, as we already stated, where lapses occur in maintaining the public file, neither the negligent acts or omissions of station employees or agents, nor the subsequent remedial actions undertaken by the licensee, excuse or nullify a licensee’s rule violation.⁷⁴ Although Cumulus contends that the employee responsible for uploading the Annual Report is no longer employed with it, Commission precedent has held a licensee liable for the actions of a terminated employee where the violative conduct arose during the time of employment.⁷⁵ Thus, Cumulus has provided no justification for a lower forfeiture or admonishment on these bases.

2. Although We Affirm the Violations in the NAL, We Rescind the Forfeiture Amount for One Violation

17. We recognize, however, that we have not previously imposed a forfeiture for failing to analyze a station’s EEO program in violation of section 73.2080(c)(3) based solely on the failure to post or upload an annual EEO public file report in a timely manner. Although nothing in our case law suggests that such a failure does not also amount to a violation of our self-assessment rule, Cumulus may not have had the requisite notice of the imposition of a separate forfeiture associated with its violation of section 73.2080(c)(3) in this particular instance. Accordingly, we rescind the forfeiture amount of \$6,000 for the violation of section 73.2080(c)(3). We reiterate that making an EEO report publicly available is an essential part of the self-assessment required of broadcast stations under section 73.2080(c)(3). Going forward, Cumulus and all other licensees are on notice that the Commission in the future will consider the timeliness of posting an Annual Report to the public inspection file, including specifically the length of time constituting a failure to timely post such a report, as one factor among the totality of circumstances indicating whether a Station has met its obligations under our section 73.2080(c)(3) EEO self-assessment rule.

3. The FCC Appropriately Considered Past Violations

18. We properly considered Cumulus’s prior history of Commission rule violations—particularly, Cumulus’s prior violations of the EEO rules—when setting the penalty in this case. Cumulus claims the upward adjustment from \$10,000 to \$26,000 based on past EEO violations in 2008 and 2017, and a variety of unrelated past violations dating back to 2003 is unjust,⁷⁶ as the upward

⁷² *Id.* at 528, para. 3.

⁷³ *Broadcast and Cable EEO Rules and Policies*, *supra* note 44, at 24062, para. 141.

⁷⁴ See *NAL*, *supra* note 1, at *2, para. 6; see also *PTT Phone Cards, Inc.*, Forfeiture Order, 30 FCC Rcd 14701, 14704 para. 10 & n.23 (2015) (rejecting the argument that a forfeiture should be reduced because the violation was “inadvertent” as a result of “ignorance of the law through administrative oversight”).

⁷⁵ See *Dial-A-Page, Inc.*, Memorandum Opinion and Order, 8 FCC Rcd 2767, 2768 (1993), *recon. denied*, First Report and Order, 10 FCC Rcd 8825 (1995) (“The fact that the misconduct was attributable to an employee is not relevant. A licensee is fully responsible under the doctrine of *respondeat superior*, whether or not violations were intentional or inadvertent.”). See also *American Paging, Inc.*, Memorandum Opinion and Order, 12 FCC Rcd 10417, 10419-20 (WTB 1997) (rejecting the licensee’s “attempts to divert its responsibility” for the violation because a terminated manager “failed to take the proper steps” and explaining “that the actions of an employee are imputed to the employer is a basic tenet of agency law.”); *Eure Family Limited Partnership*, 17 FCC Rcd 7042, 7044 (EB 2002) (“Indeed, it is a basic tenet of agency law that the actions of an employee or contractor are imputed to the employer and ‘the Commission has consistently refused to excuse licensees from forfeiture penalties where actions of employees or independent contractors have resulted in violations.’”) (citations omitted).

⁷⁶ NAL Response, *supra* note 2, at 4, para. 4.

adjustment amounts to a punishment for the past misdeeds of others⁷⁷ given that Cumulus's ownership structure changed substantially during the time of the cited violations (2003 to the present).⁷⁸ Cumulus acknowledges that a licensee is accountable for the base forfeiture for past violations despite a subsequent transfer of control, as the licensee remains responsible for such past violations.⁷⁹ Nevertheless, Cumulus claims that the FCC is not required to adjust a base forfeiture upwardly based on past violations despite a subsequent transfer of control.⁸⁰ According to Cumulus, the FCC should consider "specific factors," citing *WLDI, Inc.*⁸¹ and *Citadel Broadcasting Company*⁸² and pointing to the fact that the employee responsible for the violation left the company soon after the uploading deadline, followed by the sale of the Albany stations to a new owner, and the departure of all the market employees from Cumulus.⁸³ Cumulus argues that the FCC improperly failed to consider the degree of culpability in prior violations cited in the *NAL*, including that Cumulus underwent transfers of control in 2012 and 2018 and the management team in charge of Cumulus changed substantially since those prior violations occurred; according to Cumulus, there was no participation nor any degree of culpability by the board members or the management team in earlier violations.⁸⁴ Accordingly, Cumulus urges the FCC to use its discretion and reconsider its upward adjustment of the proposed forfeiture.⁸⁵

19. We decline to reduce or eliminate our upward adjustment of the proposed forfeiture based on Cumulus's arguments concerning its past violations. As Cumulus knows, we previously addressed and rejected similar arguments in a case against Cumulus entities.⁸⁶ As we explained in that case, consideration of a licensee's full enforcement history, including all its prior rule violations, is relevant to the issue of whether upward adjustment is appropriate in a particular proceeding, notwithstanding that those violations occurred prior to that licensee's transfer of control.⁸⁷ Such an evaluation is consistent with long-settled Commission precedent that licensees remain liable for rule violations even when the violations occur prior to transfer of control of a licensee's stock.⁸⁸ Indeed, when considering forfeitures, the Commission is *required* under the Act to consider a violator's history of prior

⁷⁷ *Id.* at 9, paras. 14-15.

⁷⁸ *Id.* at 4, para. 5.

⁷⁹ *Id.* at 4-5, para. 5.

⁸⁰ *Id.* at 4-6, paras. 5-8.

⁸¹ *WLDI, Inc.*, Order, 17 FCC Rcd 14750 (EB 2002) (reaffirming \$16,800 forfeiture against WLDI, Inc. for broadcasting indecent material) (*WLDI, Inc.*).

⁸² *Citadel Broadcasting Company*, Forfeiture Order, 25 FCC Rcd 15060 (MB-Aud. Div. 2010) (issuing \$8,000 forfeiture for Citadel's failure to properly maintain stations' public inspection files) (*Citadel Broadcasting*).

⁸³ *NAL* Response, *supra* note 2, at 5-6, paras. 5-8.

⁸⁴ *Id.* at 5-6, paras. 7-8.

⁸⁵ *Id.* at 6, para. 8.

⁸⁶ *Cumulus Radio LLC; Radio License Holding CBC, LLC; Cumulus Licensing LLC; and Radio License Holdings LLC*, Forfeiture Order, 36 FCC Rcd 738, 744-45, paras. 17-20 (2021) (finding the FCC appropriately considered past violations despite those violations occurring under the authority of a corporate board different from that which currently governs its operations) (*Cumulus Radio LLC*).

⁸⁷ *Id.* at 744, para. 18.

⁸⁸ *Id.* (citing *EZ Sacramento, Inc. and Infinity Broadcasting Corp. of Washington, D.C.*, Memorandum Opinion and Order, 16 FCC Rcd 4958, 4959, para. 3 (2001) (finding the fact ownership of the company changed hands does not affect the company's liability) (*EZ Sacramento*), *recons. dismissed*, Memorandum Opinion and Order, 16 FCC Rcd 15605 (2001)); *see also Winslow Communications, Inc.*, Memorandum Opinion and Order, 45 FCC2d 662 (1974) (rejecting licensee's argument that it should not be liable for violation when violation occurred prior to transfer of control of licensee's stock).

offenses.⁸⁹ Further, the Commission has held that when determining the amount of a forfeiture, it is not significant that control of a company was acquired after the violation occurred.⁹⁰

20. Cumulus's reliance on Enforcement Bureau case *WLDI, Inc.*⁹¹ and Media Bureau's Audio Division case *Citadel Broadcasting Company*⁹² is misplaced. The Commission is not bound by any decision of one of its bureaus.⁹³ In addition, the Commission has discretion to increase or decrease a forfeiture based on the unique facts of a case and is not bound by forfeitures in other cases involving different circumstances.⁹⁴

21. Moreover, Cumulus's implication that it is a drastically different organization post-transfer is belied by the fact that its core senior management team remained unchanged by the 2018 transfer of control. Cumulus Media, Inc.'s President and Chief Executive Officer, Mary G. Berner, continued to serve in the same capacity.⁹⁵ Likewise, the transfer of control left the company's chief financial officer and general counsel in place.⁹⁶ Even Cumulus acknowledges that the general counsel remained in his position during this period, though also noting his role is "advisory" without ultimate decision-making over station employees and their job responsibilities.⁹⁷

4. The FCC Properly Considered Cumulus's Pre-Reorganization Conduct

22. We appropriately considered Cumulus's pre-reorganization conduct when increasing the forfeiture amount. Cumulus argues that the FCC improperly considered Cumulus's history of violations which occurred prior to Cumulus's reorganization under Chapter 11 of the U.S. Bankruptcy Code on June 4, 2018, when increasing the forfeiture amount, as it causes the new stockholders of Cumulus (i.e., its creditors) to suffer a reduction in the value of the consideration provided to them under the reorganization plan approved by the Bankruptcy Court pursuant to the Bankruptcy Code.⁹⁸ According to Cumulus, encumbering Cumulus's post-bankruptcy fresh start with acts of pre-reorganization Cumulus is

⁸⁹ 47 U.S.C. § 503(b)(2)(E) ("In determining the amount of such a forfeiture penalty, the Commission or its designee shall take into account the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, *any history of prior offenses*, ability to pay, and such other matters as justice may require.") (emphasis added).

⁹⁰ See, e.g., *EZ Sacramento* at 4959, para. 3.

⁹¹ *WLDI, Inc.*, *supra* note 81, at 14750.

⁹² *Citadel Broadcasting Company*, *supra* note 82, at 15060.

⁹³ See, e.g., *Comcast Corp. v. FCC*, 526 F. 3d 763, 769-70 (D.C. Cir. 2008).

⁹⁴ *Continental Broadcasting Co. v. FCC*, 439 F. 2d 580, 583 (D.C. Cir. 1971), *cert. denied*, 403 U.S. 905 (1971) (finding the Commission is not bound to treat cases similarly solely because they appear comparable); see also *Forfeiture Policy Statement*, *supra* note 34, at 17100, para. 26 (noting "the Commission's discretion to increase or reduce a forfeiture penalty as much as warranted based on the unique facts of each case").

⁹⁵ See, e.g., Cumulus Media, *Executive Leadership – Mary Berner*, <https://www.cumulusmedia.com/about-us/executive-leadership-team/> (last visited Sept. 1, 2023) (Berner was named President and Chief Executive Officer of Cumulus Media Inc. in October 2015, after having served on the company's Board of Directors for six months); Cumulus Media, Inc., Debtor-in-Possession, Applications to Transfer Control of and Assign FCC Authorizations and Licenses, BTC-20180322ABI, *et al.*, Comprehensive Exh. (Mar. 22, 2018), granted with conditions, *Cumulus Media, Inc.*, Memorandum Opinion and Order, 33 FCC Rcd 5243, 5244, para. 2 (MB-AD 2018) (granting transfer of control of Commission authorizations, with conditions, in connection with Cumulus Media, Inc.'s reorganization).

⁹⁶ See *Emerging From Chapter 11, Cumulus Turns Page On New Chapter*, Inside Radio (June 5, 2018), https://www.insideradio.com/emerging-from-chapter-11-cumulus-turns-page-on-new-chapter/article_b6193d3c-6882-11e8-85d1-0b7d91a4acdb.html?utm_medium=social&utm_source=email&utm_campaign=user-share.

⁹⁷ NAL Response, *supra* note 2, at 6, n.15.

⁹⁸ *Id.* at 6-7, paras. 9-11.

inconsistent with the Commission's obligation to reconcile its policies with federal bankruptcy laws, one of which is to maximize the amount creditors can realize on their claims, policies embodied in other federal statutes, and Commission principles underpinning its *Second Thursday* decision,⁹⁹ which focus on the protection of innocent third-party creditors.¹⁰⁰

23. We properly considered Cumulus's violations prior to its reorganization when increasing the forfeiture amount.¹⁰¹ Despite its claims, Cumulus has not shown that the forfeiture we impose today in any way diminishes any consideration provided to innocent creditors in connection with Cumulus's emergence from bankruptcy in 2018. While Cumulus claims our action here is inconsistent with the goal of bankruptcy law to provide a debtor with a "fresh start,"¹⁰² it provides no support for the notion that this policy was intended to absolve licensees of the consequences of pre-bankruptcy violations of the FCC's rules.¹⁰³ In addition, despite Cumulus's claims, we find no inconsistency between the principles underlying the *Second Thursday* exception to the *Jefferson Radio* policy and our decision to increase forfeiture amounts based on pre-bankruptcy violations.¹⁰⁴ As an initial matter, we note that the *Second Thursday* exception applies when character qualifications are at issue, which are not present in the current matter. Moreover, unlike the considerations underlying *Second Thursday*, the record reflects that at least some Cumulus officials involved with pre-bankruptcy Cumulus remain in those positions.¹⁰⁵ We conclude that the increased forfeiture serves the public interest, as Cumulus's repeated disregard of the Commission's rules is contrary to the public interest.¹⁰⁶ Accordingly, we affirm our upward adjustment of the forfeiture based on Cumulus's violations prior to its reorganization.

⁹⁹ See *Second Thursday Corp.*, Memorandum Opinion and Order, 22 FCC 2d 515, *recon. granted in part*, Memorandum Opinion and Order, 25 FCC 2d 112 (1970) ("*Second Thursday*").

¹⁰⁰ NAL Response, *supra* note 2, at 7-8, paras. 11-12.

¹⁰¹ We note that the mere fact of a bankruptcy is not dispositive as to whether a party is able to pay a forfeiture. In a number of forfeiture proceedings, the Commission has denied requests for both cancellation and reduction of forfeitures, imposing forfeiture amounts in full on parties involved in bankruptcy proceedings. See, e.g., *STI Telecom Inc.*, Forfeiture Order, 30 FCC Rcd 11742, 11757-78, para. 35 (2015); *Coleman Enters., Inc.*, Order of Reconsideration, 16 FCC Rcd 10016, 10027-28, para. 11 (2001) ("purported cooperation with the Commission after its violations, whether standing alone or coupled with its Chapter 11 bankruptcy filing, is not an adequate basis for reducing the forfeiture in this case."). See also *N. Am. Telecomms. Corp.*, Forfeiture Order, 18 FCC Rcd 1868, 1869, para. 5 (EB, 2003) ("filing for bankruptcy does not preclude the Commission from issuing an order imposing a forfeiture"); *William Flippo*, Forfeiture Order, 15 FCC Rcd 23340, 23340, para. 3 (EB, 2000) ("we are not inclined to adjust the forfeiture amount even where the recipient has filed for bankruptcy protection"). We already considered and rejected Cumulus's argument that the forfeiture penalty should be adjusted downward as Cumulus's parent emerged from bankruptcy in 2018, noting Cumulus failed to submit any evidence of inability to pay a forfeiture. *NAL*, *supra* note 1, at *5, para. 18. Since the *NAL*, Cumulus still has not submitted any such evidence.

¹⁰² NAL Response, *supra* note 2, at 8.

¹⁰³ See *Cumulus Radio LLC*, *supra* note 88, at 744-45, paras. 17-20 (The Commission rejected an argument by Cumulus that past violations involving licensees prior to bankruptcy reorganization should not be considered in making an upward adjustment.)

¹⁰⁴ NAL Response, *supra* note 2, at 7-8. The *Second Thursday* exception allows for the assignment of a license despite unresolved character questions when the assignment will benefit innocent creditors and the persons charged with misconduct will have no part in the proposed operation and will derive either no benefit or minimal benefits that are outweighed by equitable considerations in favor of innocent creditors. *Second Thursday Corp.*, 22 FCC 2d at 516, para. 5.

¹⁰⁵ See *supra* para. 21.

¹⁰⁶ *NAL*, *supra* note 1, at *4, para. 14.

IV. CONCLUSION

24. Based on the record before us and in light of the applicable statutory factors, we conclude that Cumulus willfully and repeatedly violated sections 73.2080(c)(3), 73.2080(c)(6) and 73.3526(e)(7)¹⁰⁷ by failing to (i) upload its Annual Report in the Stations' online public inspection files; (ii) upload its Annual Report to the Stations' websites; and (iii) analyze its EEO program. As discussed herein, we rescind the forfeiture amount of \$6,000 for Cumulus's violation of section 73.2080(c)(3) of the Commission's rules and thereby reduce the \$32,000 forfeiture amount proposed in the *NAL* to \$26,000.

V. ORDERING CLAUSES

25. Accordingly, **IT IS ORDERED** that the comments filed by the National Association of Broadcasters ARE DISMISSED and alternatively ARE DENIED as discussed herein.

26. **IT IS FURTHER ORDERED** that, pursuant to section 503(b) of the Act, 47 U.S.C. § 503(b), and section 1.80 of the Commission's rules, 47 CFR § 1.80, Cumulus Licensing LLC **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of twenty-six thousand dollars (\$26,000) for willfully and repeatedly violating section 73.2080(c)(6) of the Commission's rules, 47 CFR § 73.2080(c)(6).

27. Payment of the forfeiture shall be made in the manner provided for in section 1.80 of the Commission's rules within thirty (30) calendar days after the release of this Forfeiture Order.¹⁰⁸ Cumulus Licensing LLC shall send electronic notification of payment to Patrick McGrath, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, at Patrick.McGrath@fcc.gov, with a copy to Estella.Salvatierra@fcc.gov, on the date said payment is made. If the forfeiture is not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to section 504(a) of the Act.¹⁰⁹

28. In order for Cumulus Licensing LLC to pay the proposed forfeiture, Cumulus Licensing LLC shall notify Patrick McGrath at Patrick.McGrath@fcc.gov and Estella Salvatierra at Estella.Salvatierra@fcc.gov of its intent to pay, whereupon an invoice will be posted in the Commission's Registration System (CORES) at <https://apps.fcc.gov/cores/userLogin.do>. Payment of the forfeiture must be made by credit card using CORES at <https://apps.fcc.gov/cores/userLogin.do>, ACH (Automated Clearing House) debit from a bank account, or by wire transfer from a bank account. The Commission no longer accepts forfeiture payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:¹¹⁰

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. In the OBI field, enter the FRN(s) captioned above and the letters "FORF". In addition, a completed Form 159¹¹¹ or printed CORES form¹¹² must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to RROGWireFaxes@fcc.gov on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 or CORES may result in payment not being recognized as having been received. When completing FCC Form 159 or CORES, enter the Account Number in block number 23A (call sign/other ID), enter the letters "FORF" in block

¹⁰⁷ 47 CFR §§ 73.2080(c)(3), 73.2080(c)(6), and 73.3526(e)(7).

¹⁰⁸ 47 CFR § 1.80.

¹⁰⁹ 47 U.S.C. § 504(a).

¹¹⁰ For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #1).

¹¹¹ FCC Form 159 is accessible at <https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159>.

¹¹² Information completed using the Commission's Registration System (CORES) does not require the submission of an FCC Form 159. CORES is accessible at <https://apps.fcc.gov/cores/userLogin.do>.

number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).¹¹³ For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.

- Payment by credit card must be made by using CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by credit card, log-in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” from the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the NAL Acct. No. The bill number is the NAL Acct. No. with the first two digits excluded (e.g., NAL 1912345678 would be associated with FCC Bill Number 12345678). After selecting the bill for payment, choose the “Pay by Credit Card” option. Please note that there is a \$24,999.99 limit on credit card transactions.
- Payment by ACH must be made by using CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by ACH, log in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” on the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the NAL Acct. No. The bill number is the NAL Acct. No. with the first two digits excluded (e.g., NAL 1912345678 would be associated with FCC Bill Number 12345678). Finally, choose the “Pay from Bank Account” option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

29. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer — Financial Operations, Federal Communications Commission, 45 L Street NE, Washington, D.C. 20554. Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by telephone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

30. **IT IS FURTHER ORDERED** that a copy of this Forfeiture Order shall be sent by first class mail and certified mail, return receipt requested, to Richard S. Denning, Executive Vice President and General Counsel, Cumulus Licensing LLC, 3280 Peachtree Road, NW, Suite 2200, Atlanta, GA 30305, and to Mark N. Lipp, Esq., Counsel for Cumulus Licensing LLC, Fletcher Heald & Hildreth, PLC, 1300 N. 17th Street, Suite 1100, Arlington, VA 22209.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

¹¹³ Instructions for completing the form may be obtained at <https://www.fcc.gov/Forms/Form159/159.pdf>.