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APR 20 2016

Federal Communications Commission
Bureau / Office

Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of

KSQA, LLC
Licensee of Television Station KSQA,
Topeka, Kansas

)
)
) Facility ID No. 166546
) NAL/Acct. No.: 201641420007
) FRN:19020957

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To: Chief, Video Division, Media Bureau

Federal Communications Commission
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RESPONSE TO NOTICE OF APPARENT LIABILITY FOR FORFEITURE

KSQA, LLC, licensee of television station KSQA, Channel 12, Topeka, Kansas ("KSQA"), by its counsel, hereby responds to the above-captioned *Notice of Apparent Liability for Forfeiture*, released April 7, 2016 ("NAL").¹ As set forth below, KSQA requests application of the red light waiver rule to defer any action to collect the proposed forfeiture until after completion of the Commission's Incentive Auction. Additionally, KSQA requests that, if it is not a successful bidder in the Incentive Auction, the Commission grant it an extension of time, until after the conclusion of the Incentive Auction, to submit a response to the NAL demonstrating KSQA's inability to pay the proposed forfeiture.

In the NAL the Commission found that:

KSQA, LLC (the "Licensee"), licensee of Station KSQA, Topeka, Kansas (the "Station"), apparently willfully and/or repeatedly violated Section 73.3526(e)(11)(iii) of the Rules by failing to file with the Commission in a timely manner its Children's Television Programming Reports for fourteen quarters and Section 73.3514(a) of the Rules by failing to report those late filings in its renewal application. Based upon our review of the facts and circumstances before us, we

¹ *Notice of Apparent Liability for Forfeiture*, released April 7, 2016, DA 16-373.

conclude that the Licensee is apparently liable for a monetary forfeiture in the amount of fifteen thousand dollars (\$15,000).²

KSQA recognizes that, under the Commission's precedent, inadvertent failure to file a required report is not a defense to the finding of "willful and/or repeated" violation of the rule. Therefore, KSQA does not propose to contest the NAL. Rather, KSQA requests the benefit of the red light waiver announced by the Commission.

In the Commission's Public Notice *Application Procedures for Broadcast Incentive Auction Scheduled to Begin on March 29, 2016*,³ the Commission stated:

Robust broadcaster participation is critical to the success of the incentive auction. Recognizing that, the Commission expressly committed to removing barriers to encourage broadcasters to participate in the reverse auction. Consistent with that commitment, in order to encourage broadcaster participation in the reverse auction, we waive the red light rule for the limited purpose of permitting any eligible broadcast licensee that is red lighted for debt owed to the Commission at the time it submits a reverse auction application to participate in the reverse auction, subject to the conditions set forth below.⁴

The Commission then added:

Additionally, we recognize that a reverse auction applicant may incur debt to the Commission after submission of its application, and may fail to pay the debt when due. Accordingly, in order to participate in the auction, each reverse auction applicant will be required to certify in its application that it (1) acknowledges its liability to the Commission for any debt owed to the Commission that the applicant incurred before, or that it may incur after, the reverse auction application deadline, including all accrued interest, penalties and costs, and that the debt will continue to accrue interest, penalties and costs until paid; and (2) agrees that the Commission may pay all debt owed by the applicant to the Commission from the applicant's share of auction proceeds.⁵

In the Auction Procedures Public Notice, the Commission recognized that there may be licensees that would like to participate in the Incentive Auction that owe money to the

² *Id.* at par. 1.

³ *Application Procedures for Broadcast Incentive Auction Scheduled to Begin on March 29, 2016*, DA 15-1183, AU Docket No. 14-252, GN Docket No. 268, WT Docket No. 12-269, released October 15, 2015 ("Auction Procedures Public Notice").

⁴ *Id.* at par. 12

⁵ *Id.*

Commission. The Commission recognized that it is in the public interest to obtain the greatest participation possible in the Incentive Auction, and that the public interest is best served by allowing licensees that owe money to the Commission to participate in the auction. And, the Commission recognized that licenses that did not owe payments to the Commission might incur such payments after filing their applications to participate in the Incentive Auction. The Commission decided to waive the red light rule and allow both groups of licensees to have such liabilities paid from potential auction proceeds.

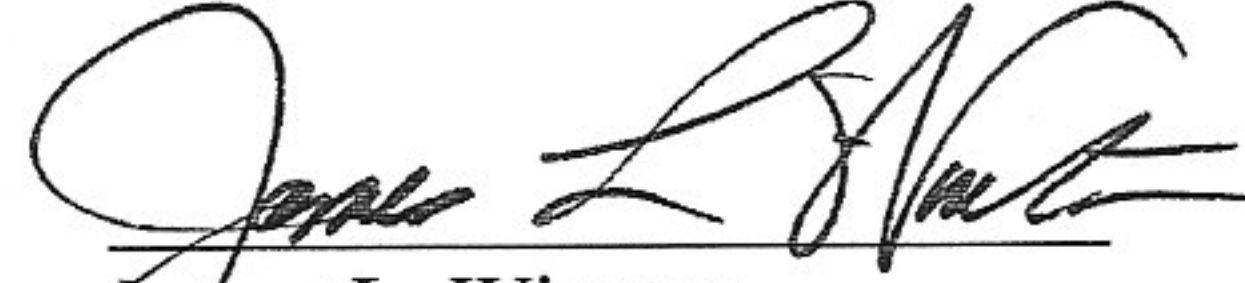
KSQA now finds itself in the position contemplated by the Commission in the Auction Procedures Public Notice. KSQA has filed an application to participate in the Incentive Auction and has provided the certifications required in that application. KSQA did not owe the Commission any payments at the time it filed to participate in the Incentive Auction, and, therefore, was not subject to the red light rule at that time. But, pursuant to the instant NAL, KSQA now owes the Commission for the assessed forfeiture. KSQA is unable to pay the forfeiture at this time, and therefore could become subject to the red light rule in the near future.

KSQA therefore requests that the Commission apply the red light rule waiver adopted by the Commission in the Application Procedures Public Notice, and defer any effort to collect the assessed forfeiture until after conclusion of the Incentive Auction. Under that procedure, the Commission stated that it would collect the full amount of any payment due from the proceeds received by a successful bidder in the Incentive Auction. KSQA requests such treatment, which would allow payment of the assessed forfeiture from the proceeds of the Incentive Auction, if KSQA is a successful bidder. Alternatively, if KSQA is not a successful bidder in the Incentive Auction, KSQA requests an extension of time until 30 days from the conclusion of the Incentive Auction to submit a response demonstrating its inability to pay the proposed forfeiture.

Respectfully submitted,

KSQA, LLC

By its Attorneys,

A handwritten signature in black ink, appearing to read "James L. Winston", written over a horizontal line.

James L. Winston

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