

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

In re Application of)	
)	
Range Paging, Inc.)	Facility ID No. 63345
)	NAL/Acct. No. MB-202141410026
For Renewal of License for)	FRN: 0002627354
FM Translator Station K280AT)	File No. 0000139596
Ely, Minnesota)	

FORFEITURE ORDER

Adopted: August 4, 2021

Released: August 4, 2021

By the Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. In this *Forfeiture Order*, we issue a monetary forfeiture in the amount of one thousand, five hundred dollars (\$1,500) to Range Paging, Inc., (Licensee), licensee of FM translator station K280AT, Ely, Minnesota (Station), for willfully violating section 73.3539 of the Commission’s rules (Rules) by failing to timely file a license renewal application for the Station.¹

II. BACKGROUND

1. Section 73.3539(a) of the Rules requires that applications for renewal of license for broadcast stations must be filed “not later than the first day of the fourth full calendar month prior to the expiration date of the license sought to be renewed.”² An application for renewal of the Station’s license should have been filed by December 1, 2020, the first business day of the fourth full calendar month prior to the Station’s license expiration date of April 1, 2021.³ The application was not filed until March 15, 2021. The Licensee provided no explanation for its untimely filing of the application.

2. Accordingly, on June 4, 2021, we released the *Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture (NAL)*, which proposed a forfeiture of one thousand five hundred dollars (\$1,500).⁴ As noted in the *NAL*, the Commission's *Forfeiture Policy Statement* and section 1.80(b)(10) of the Rules establish a base forfeiture amount of \$3,000 for the failure to file a required form, and the Bureau reduced this proposed forfeiture to \$1,500 because the Station provides a

¹ See 47 CFR § 73.3539.

² *Id.* § 73.3539(a).

³ See 47 CFR §§ 73.1020, 73.3539(a).

⁴ *Range Paging, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, DA 21-652 (MB June 4, 2021).

secondary service.⁵ The *NAL* gave the Licensee thirty days to pay the full amount of the proposed forfeiture, or file a written statement seeking reduction or cancellation of the proposed forfeiture.⁶

3. On July 15, 2021, the Licensee submitted a written response in which it does not dispute that it violated section 73.3539 of the Rules but argues that the proposed forfeiture should be eliminated based on additional factors not explained in the renewal application.⁷ Licensee argues that the Station owner has a history of health-related issues which were exacerbated from 2020 through 2021, and prevented the timely filing of the renewal application.⁸ Licensee also states that it was unable to pay a party who assisted with Station matters, but provides no evidence of financial hardship or of its inability to pay the proposed forfeiture.⁹

III. DISCUSSION

4. The proposed forfeiture amount in this case was assessed in accordance with section 503(b) of the Communications Act of 1934, as amended (Act),¹⁰ section 1.80 of the Rules,¹¹ and the *Forfeiture Policy Statement*.¹² Section 503(b)(2)(E) of the Act requires that the Commission 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 other such matters as justice may require.¹³

5. We have considered Licensee's response in light of these statutory factors. We affirm our finding that the Licensee willfully violated section 73.3539 of the Rules. While we are sympathetic to the Station owner's health issues, Licensee has not demonstrated that the proposed forfeiture should be reduced in accordance with the factors outlined in section 503(b)(2)(E) of the Act.¹⁴ Moreover, the Commission has long held that "licensees are responsible for the acts and omissions of their employees and independent contractors," and has consistently "refused to excuse licensees from forfeiture penalties where the actions of employees or independent contractors have resulted in violations" even when those violation were attributable to the illness of an employee of the licensee.¹⁵ Finally, Licensee has a history

⁵ *NAL* at 2, paras. 5-6 (citing *Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17113-15 (1997), *recon. denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999) (*Forfeiture Policy Statement*); 47 CFR § 1.80(b)(10), note to paragraph (b)(10), Section I). The Commission recently renumbered section 1.80(b)(9) as section 1.80(b)(10) to reflect implantation of provisions of the PIRATE Act. See *Amendment of Section 1.80 of the Rules Implementing Section 2 of the Preventing Illegal Radio Abuse Through Enforcement Act*, Order, 35 FCC Rcd 14591 (OMD/EB 2020).

⁶ *Id.* at 3, para. 10.

⁷ Response to Notice of Apparent Liability for Forfeiture of Range Paging, Inc. (filed July 15, 2021).

⁸ *Id.*

⁹ *Id.* Licensee has not submitted any documentation to support a claim that it is unable to pay the proposed forfeiture. See *NAL* at 4, para. 14 ("The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the respondent submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (GAAP); or (3) some other reliable and objective documentation that accurately reflects the respondent's current financial status.").

¹⁰ 47 U.S.C. § 503(b).

¹¹ 47 CFR § 1.80.

¹² See generally, *Forfeiture Policy Statement*.

¹³ 47 U.S.C. § 503(b)(2)(E).

¹⁴ *Id.*

¹⁵ *Whidbey Island Center for the Arts*, Forfeiture Order, 25 FCC Rcd 8204 at 8205, para. 6 (MB 2010) (rejecting argument that proposed forfeiture for untimely filing of renewal application should be reduced or cancelled based on the health issues and departure of the party responsible for Commission filings).

of noncompliance with renewal application deadlines. Licensee filed a previous renewal application almost four months late, on the day before the Station license expired.¹⁶ We thus find no basis to reduce or cancel the proposed forfeiture and affirm the *NAL*.

IV. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Communications Act of 1934, as amended, and sections 0.283 and 1.80 of the Commission's Rules, Range Paging, Inc., **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of \$1,500 for its willful violation of section 73.3539 of the Commission's rules.

7. Payment of the forfeiture must be made by credit card, ACH (Automated Clearing House) debit from a bank account using the Commission's Fee Filer (the Commission's online payment system),¹⁷ or by wire transfer. 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:¹⁸

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. A completed Form 159 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 may result in payment not being recognized as having been received. When completing Form 159, enter the Account Number in block number 23A (call sign/other ID), enter the letters "FORF" in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).¹⁹ 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 the Commission's Fee Filer website at <https://apps.fcc.gov/FeeFiler/login.cfm>. To pay by credit card, log in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Pay bills" on the Fee Filer Menu, and select the bill number associated with the *NAL* Account—the bill number is the *NAL* Account number with the first two digits excluded—and then choose the "Pay by Credit Card" option. Please note that there is a dollar limitation on credit card transactions, which cannot exceed \$24,999.99.
- Payment by ACH must be made by using the Commission's Fee Filer website at <https://apps.fcc.gov/FeeFiler/login.cfm>. To pay by ACH, log in using the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select "Pay bills" on the Fee Filer Menu and then select the bill number associated to the *NAL* Account—the bill number is the *NAL* Account number with the first two digits excluded—and 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.

8. Any request for making full payment over time under an installment plan should be sent to: Associate Managing Director—Financial Operations, Federal Communications Commission, 45 L Street NE, Washington, DC 20554. Questions regarding payment procedures should be directed to the

¹⁶ *Range Paging, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 3672 (MB Feb. 21, 2007).

¹⁷ Payments made using the Commission's Fee Filer system do not require the submission of an FCC Form 159.

¹⁸ For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6), or by e-mail at ARINQUIRIES@fcc.gov.

¹⁹ Instructions for completing the form may be obtained at <https://transition.fcc.gov/Forms/Form159/159.pdf>.

Financial Operations Group Help Desk by phone, 1-877-480-3201 (option #6), or by e-mail, ARINQUIRIES@fcc.gov.

9. **IT IS FURTHER ORDERED** that a copy of this *Forfeiture Order* shall be sent by First Class and Certified Mail, Return Receipt Requested, to Range Paging, Inc., c/o Rukshan Wijesekera, 4353 Jessica Court, Eagan, MN 55123.

FEDERAL COMMUNICATIONS COMMISSION

Albert Shuldiner
Chief, Audio Division
Media Bureau