

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

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| In the Matter of                                   | ) |                             |
|  | ) |                             |
| Power Ministries                                   | ) | File No.: EB-10-TP-0085     |
|  | ) | Facility ID No.: 133335     |
| Licensee of Station WRLE-LP,<br>Dunnellon, Florida | ) | NAL/Acct. No.: 201132700008 |
|  | ) | FRN: 0005344668             |
|  | ) |                             |

**FORFEITURE ORDER**

**Adopted:** January 18, 2012

**Released:** January 18, 2012

By the Regional Director, South Central Region, Enforcement Bureau:

**I. INTRODUCTION**

1. In this Forfeiture Order (Order), we issue a monetary forfeiture in the amount of one thousand five hundred dollars (\$1,500) to Power Ministries (Power), licensee of Station WRLE-LP, in Dunnellon, Florida (the Station) for willful and repeated violation of section 73.1660(a)(2) of the Commission's rules (Rules).<sup>1</sup> The noted violations involved Power's failure to operate the Station with an FCC (Federal Communications Commission) certified transmitter.

**II. BACKGROUND**

2. On September 7, 2011, the Enforcement Bureau's Tampa Office (Tampa Office) issued a Notice of Apparent Liability for Forfeiture (NAL)<sup>2</sup> to Power for operation of the Station with a non-certified transmitter. As discussed in detail in the NAL, agents from the Tampa Office determined that Power operated the Station with a non-certified transmitter from March 19, 2010 until June 11, 2010.<sup>3</sup> In view of the record evidence and the fact that Power's operations caused interference to the Federal Aviation Administration's (FAA's) Air Traffic Control frequency, the NAL proposed a \$12,000 forfeiture against Power for violation of section 73.1660(a)(2) of the Rules.<sup>4</sup> Power submitted a response to the NAL, requesting a reduction due to "financial hardship."<sup>5</sup>

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<sup>1</sup> 47 C.F.R. § 73.1660(a)(2).

<sup>2</sup> *Power Ministries*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 12717 (Enf. Bur. 2011).

<sup>3</sup> *Id.* A comprehensive recitation of the facts and history of this case can be found in the NAL and is incorporated herein by reference.

<sup>4</sup> *Id.* at 12717-12718.

<sup>5</sup> Letter from Anthony Downes, Owner of Power Ministries, to Federal Communications Commission, dated September 19, 2011 (*NAL Response*).

### III. DISCUSSION

3. The proposed forfeiture amount in this case was assessed in accordance with section 503(b) of the Act,<sup>6</sup> section 1.80 of the Rules,<sup>7</sup> and the *Forfeiture Policy Statement*.<sup>8</sup> In examining Power's response, section 503(b) 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.<sup>9</sup> As discussed below, we have considered Power's response in light of these statutory factors, and we reduce the forfeiture to \$1,500 based solely on its documented inability to pay.

4. As set forth in the *NAL*, agents from the Tampa Office determined that Power operated the Station with a non-certified transmitter from March 19, 2010 until June 11, 2010.<sup>10</sup> In its response to the *NAL*, Power does not deny these facts. It states, however, that "[i]t was my understanding that if the station was shut down immediately and I complied with the direction of your office that no further action would be taken. I did comply and shut down the station until the transmitter that I had repaired arrived a few weeks later. I was not aware that there was any interference."<sup>11</sup>

5. The Commission expects parties to take post-inspection corrective action to come into compliance with the Rules, however, and such action does not nullify or mitigate any prior violations.<sup>12</sup> Moreover, while Power may have been unaware that it was causing interference to the FAA prior to June 11, 2010, on that day an agent from the Tampa Office clearly told both the representative at the Station and the Station's owner via telephone that the Station's operations were causing interference. As discussed in more detail in the *NAL*, both the representative and owner deliberately disregarded the agent's request that they immediately turn off the Station's transmitter in order to abate the dangerous and ongoing safety hazard to air traffic control. Instead, they allowed the transmitter to continue to operate unlawfully for another 30 minutes before finally complying with the agent's request.<sup>13</sup> Accordingly, we find that Power willfully and repeatedly violated section 73.1660(a)(2) of the Rules by operating the Station with a non-certified transmitter and that the upward adjustment in the proposed forfeiture was appropriate.

6. Regarding Power's inability to pay claim, the Commission has determined in such cases that, in general, gross revenues are the best indicator of an ability to pay a forfeiture.<sup>14</sup> Based on the

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<sup>6</sup> 47 U.S.C. § 503(b).

<sup>7</sup> 47 C.F.R. § 1.80.

<sup>8</sup> *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), *recon. denied*, 15 FCC Rcd 303 (1999) (*Forfeiture Policy Statement*).

<sup>9</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>10</sup> *NAL*, 26 FCC Rcd at 12717-12718.

<sup>11</sup> *NAL Response* at 1.

<sup>12</sup> See *International Broadcasting Corporation*, Order on Review, 25 FCC Rcd 1538 (2010); *Seawest Yacht Brokers*, Forfeiture Order, 9 FCC Rcd 6099 (1994).

<sup>13</sup> *NAL*, 26 FCC Rcd at 12717.

<sup>14</sup> See *PJB Communications of Virginia, Inc.*, Forfeiture Order, 7 FCC Rcd 2088, 2089 (1992) (forfeiture not deemed excessive where it represented approximately 2.02 percent of the violator's gross revenues); *Local Long Distance, Inc.*, Forfeiture Order, 16 FCC Rcd 24385 (2000) (forfeiture not deemed excessive where it represented approximately 7.9 percent of the violator's gross revenues); *Hoosier Broadcasting Corporation*, Forfeiture Order, 15 FCC Rcd 8640 (2002) (forfeiture not deemed excessive where it represented approximately 7.6 percent of the violator's gross revenues).

financial documents and other materials provided by Power, we find sufficient basis to reduce the forfeiture to \$1,500.<sup>15</sup>

#### IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED** that, pursuant to section 503(b) of the Communications Act of 1934, as amended, and sections 0.111, 0.204, 0.311, 0.314, and 1.80(f)(4) of the Commission's rules, Power Ministries **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of one thousand five hundred dollars (\$1,500) for violations of section 73.1660(a)(2) of the Commission's rules.<sup>16</sup>

8. Payment of the forfeiture shall be made in the manner provided for in section 1.80 of the Rules within thirty (30) calendar days of the release of this Order. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for enforcement pursuant to section 504(a) of the Act.<sup>17</sup> Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Account Number and FRN referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). Requests for full payment under an installment plan should be sent to: Chief Financial Officer – Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov with any questions regarding payment procedures. Power Ministries shall also send electronic notification on the date said payment is made to SCR-Response@fcc.gov.

9. **IT IS FURTHER ORDERED** that a copy of this Order shall be sent by both First Class and Certified Mail Return Receipt Requested to Power Ministries at 3092 SW Harbor Hills Road, Dunnellon, Florida 34431.

FEDERAL COMMUNICATIONS COMMISSION

Dennis P. Carlton  
Regional Director, South Central Region  
Enforcement Bureau

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<sup>15</sup> This forfeiture amount falls within the percentage range that the Commission has previously found acceptable. *See supra* note 14. If Power believes that the reduced forfeiture still poses a financial hardship, it may request full payment in installments as described in paragraph 7.

<sup>16</sup> 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80(f)(4), 73.1660(a)(2).

<sup>17</sup> 47 U.S.C. § 504(a).