

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

In the Matter of	)	
	)	
Steckline Communications, Inc.	)	File No.: EB-FIELDSCR-12-00003982
	)	NAL/Acct. No.: 201332560005
Licensee of Station KIUL-AM	)	FRN: 0009951286
Garden City, KS	)	Facility ID No.: 67041
	)	
Owner of Antenna Structure Number 1033013	)	
Garden City, KS	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

Adopted: May 6, 2013

Released: May 6, 2013

By the District Director, Kansas City Office, South Central Region, Enforcement Bureau:

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture (NAL), we find that Steckline Communications, Inc. (Steckline), licensee of AM Station KIUL and owner of antenna structure number 1033013 (Antenna Structure), both located in Garden City, Kansas, apparently willfully and repeatedly violated Section 73.49 of the Commission's rules (Rules),<sup>1</sup> by failing to maintain effective antenna structure fencing. We conclude that Steckline is apparently liable for a forfeiture in the amount of seven thousand dollars (\$7,000).<sup>2</sup>

**II. BACKGROUND**

2. On July 12, 2012, an agent from the Enforcement Bureau's Kansas City Office (Kansas City Office) inspected antenna structure number 1033013, which was used by Station KIUL-AM. When Station KIUL-AM was in operation, the agent observed a section of the fence surrounding the structure lying on the ground with weeds growing through the planks. Although there also was a perimeter fence surrounding the property, it was not locked during the day and was not intact, as one section of the perimeter fence also lay on the ground.

3. On July 27, 2012, the Kansas City Office issued a Letter of Inquiry (LOI) to Steckline regarding the Antenna Structure's fence.<sup>3</sup> Steckline responded that the fence surrounding Station KIUL-

<sup>1</sup> 47 C.F.R. §§ 73.49.

<sup>2</sup> A separate Notice of Apparent Liability for Forfeiture, which finds Steckline apparently liable for main studio staffing and public inspection file violations at Station KYUL-AM was adopted on May 6, 2013. *See Steckline Communications, Inc.*, Notice of Apparent Liability for Forfeiture and Order, DA 13-970 (May 6, 2013).

<sup>3</sup> Letter from Ronald D. Ramage, District Director, Kansas City Office, South Central Region, Enforcement Bureau, to Steckline Communications, Inc. (July 27, 2012) (on file in EB-FIELDSCR-12-00003414) (LOI).

AM's antenna structure was damaged in a storm on April 29, 2012 and that it had made temporary repairs the first week in May.<sup>4</sup> It claimed, however, that the temporary repairs must have been knocked down by wind prior to the inspection on July 12.<sup>5</sup> Nevertheless, Steckline stated that the fence around the Antenna Structure was secured on July 17, 2012, and provided photographs of the repairs in support.<sup>6</sup>

### III. DISCUSSION

4. Section 503(b) of the Communications Act of 1934, as amended (Act), provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or of any rule, regulation, or order issued by the Commission thereunder, shall be liable for a forfeiture penalty.<sup>7</sup> Section 312(f)(1) of the Act defines "willful" as the "conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law.<sup>8</sup> The legislative history to Section 312(f)(1) of the Act clarifies that this definition of willful applies to both Sections 312 and 503(b) of the Act,<sup>9</sup> and the Commission has so interpreted the term in the Section 503(b) context.<sup>10</sup> The Commission may also assess a forfeiture for violations that are merely repeated, and not willful.<sup>11</sup> The term "repeated" means the commission or omission of such act more than once or for more than one day.<sup>12</sup>

#### A. Failure to Enclose the Antenna Structure Within an Effective Locked Fence or Other Enclosure

5. Section 73.49 of the Rules states that antenna structures "having radio frequency potential at the base . . . must be enclosed within effective locked fences or other enclosures."<sup>13</sup> Individual fences

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<sup>4</sup> Letter from Greg Steckline, President, Steckline Communications, Inc., to Ronald D. Ramage, District Director, Kansas City Office, South Central Region, Enforcement Bureau at 1 (Aug. 24, 2012) (on file in EB-FIELDSCR-12-00003414) (*LOI Response*).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> 47 U.S.C. § 503(b).

<sup>8</sup> 47 U.S.C. § 312(f)(1).

<sup>9</sup> H.R. Rep. No. 97-765, 97<sup>th</sup> Cong. 2d Sess. 51 (1982) ("This provision [inserted in Section 312] defines the terms 'willful' and 'repeated' for purposes of section 312, and for any other relevant section of the act (e.g., Section 503) . . . . As defined[,] . . . 'willful' means that the licensee knew that he was doing the act in question, regardless of whether there was an intent to violate the law. 'Repeated' means more than once, or where the act is continuous, for more than one day. Whether an act is considered to be 'continuous' would depend upon the circumstances in each case. The definitions are intended primarily to clarify the language in Sections 312 and 503, and are consistent with the Commission's application of those terms . . . .").

<sup>10</sup> *See, e.g., Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991), *recons. denied*, 7 FCC Rcd 3454 (1992).

<sup>11</sup> *See, e.g., Callais Cablevision, Inc.*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359, 1362, para. 10 (2001) (*Callais Cablevision, Inc.*) (proposing a forfeiture for, *inter alia*, a cable television operator's repeated signal leakage).

<sup>12</sup> Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which also applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'repeated', when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day." *See Callais Cablevision, Inc.*, 16 FCC Rcd at 1362.

<sup>13</sup> 47 C.F.R. § 73.49.

need not be installed if the antenna structures are contained within a protective property fence.<sup>14</sup> Station KIUL-AM's antenna structure has radio frequency potential at the base.<sup>15</sup> On July 12, 2012, an agent from the Kansas City Office observed a section of the fence surrounding the Antenna Structure lying on the ground, while Station KIUL-AM was in operation. Thus, the fence did not effectively enclose the base of the structure. The section of the fence lying on the ground had weeds growing through it, which indicated that it had been in that condition for more than one day. Steckline admitted that the fence was damaged in a storm in April 2012 but was unaware of when the temporary repairs it made in May 2012 failed. The agent did observe a perimeter fence surrounding the property, but it was not "protective," as it was unlocked during the day and also had a section that had fallen down on the ground. Steckline reported that it repaired the Antenna Structure fence on July 17, 2012. Therefore, based on the evidence before us, we find that Steckline apparently willfully and repeatedly violated Section 73.49 of the Rules by failing to have an effective locked fence or other enclosure around the base of its antenna structure.

## B. Proposed Forfeiture

6. Pursuant to the Commission's *Forfeiture Policy Statement* and Section 1.80 of the Rules, the base forfeiture amount for an AM tower fencing violation is \$7,000.<sup>16</sup> In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(E) of the Act, which include the nature, circumstances, extent, and gravity of the violations, 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>17</sup> Applying the *Forfeiture Policy Statement*, Section 1.80 of the Rules, and the statutory factors to the instant case, we conclude that Steckline is apparently liable for a total forfeiture in the amount of \$7,000.

## 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 of the Commission's rules, Steckline Communications, Inc. is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR A FORFEITURE** in the amount of seven thousand dollars (\$7,000) for violation of Section 73.49 of the Commission's rules.<sup>18</sup>

8. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Commission's rules, within thirty (30) calendar days of the release date of this Notice of Apparent Liability for Forfeiture, Steckline Communications, Inc. **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

9. Payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account number and FRN referenced above. Steckline Communications, Inc. shall also send electronic notification on the date said payment is made to SCR-Response@fcc.gov. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.<sup>19</sup> When completing the FCC Form 159, enter the Account Number in block

<sup>14</sup> *Id.*

<sup>15</sup> See License File No. BR-20050214AAU.

<sup>16</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) (*Forfeiture Policy Statement*), recons. denied, 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80.

<sup>17</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>18</sup> 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80, 73.49.

<sup>19</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at

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number 23A (call sign/other ID) and enter the letters “FORF” in block number 24A (payment type code). Below are additional instructions you should follow based on the form of payment you select:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

10. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.20 If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov).

11. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to Sections 1.16 and 1.80(f)(3) of the Rules.<sup>21</sup> Mail the written statement to Federal Communications Commission, Enforcement Bureau, South Central Region, Kansas City Office, 520 N.E. Colbern Rd., 2nd Floor, Lees Summit, MO 64086-4711, and include the NAL/Acct. No. referenced in the caption. Steckline Communications, Inc. also shall e-mail the written response to [SCR-Response@fcc.gov](mailto:SCR-Response@fcc.gov).

12. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting principles (GAAP); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

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<http://www.fcc.gov/Forms/Form159/159.pdf>.

<sup>20</sup> See 47 C.F.R. § 1.1914.

<sup>21</sup> 47 C.F.R. §§ 1.16, 1.80(f)(3).

13. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by both Certified Mail, Return Receipt Requested, and First Class Mail to Steckline Communications, Inc. at 1632 S. Maize Rd., Wichita, KS 67209, and to its attorney, James P. Riley at Fletcher, Heald and Hildreth, 1300 North 17th Street, 11th Floor, Arlington, VA 22209.

FEDERAL COMMUNICATIONS COMMISSION

Ronald D. Ramage  
District Director  
Kansas City Office  
South Central Region  
Enforcement Bureau