

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Alpha & Omega Communications, LLC)	File No.: EB-11-DV-0102
)	NAL/Acct. No.: 201232800003
Owner of Antenna Structure No. 1040896)	FRN: 0005898093
West Valley City, Utah)	

MEMORANDUM OPINION AND ORDER

Adopted: February 26, 2015

Released: February 27, 2015

By the Regional Director, Western Region, Enforcement Bureau:

1. We deny the Petition for Reconsideration filed by Alpha & Omega Communications, LLC (A&O), owner of antenna structure number 1040896 in West Valley City, Utah (Antenna Structure), seeking reconsideration of the Forfeiture Order issued by the Enforcement Bureau (Bureau). In the Forfeiture Order, the Bureau imposed a forfeiture of \$2,400 against A&O for willfully and repeatedly violating Section 17.57 of the Commission's rules (Rules) by failing to notify the Commission about a change in ownership of the Antenna Structure.

2. Upon review of the Petition for Reconsideration¹ and the entire record,² we find no basis for reconsideration. Petitions for Reconsideration are granted only in limited circumstances. Pursuant to Section 405 of the Communications Act of 1934, as amended (Act),³ and Section 1.106 of the Rules,⁴ reconsideration is appropriate only where the petitioner either demonstrates a material error or omission in the underlying order, or raises additional facts not known or not existing until after the petitioner's last opportunity to present such matters.⁵ A Petition for Reconsideration that reiterates arguments that were previously considered and rejected will be denied.⁶ A&O's Petition fails to present such information warranting reconsideration.

3. A&O does not dispute the violations, but only reiterates the same arguments it presented previously: that the violation was minor and immaterial to the purposes underlying the Section 17.57 notification requirement, because some of the personnel involved in the prior ownership of the Antenna Structure are also part of A&O;⁷ and that its financial condition shows that it lacks the ability to pay the

¹ See *Alpha & Omega Communications, LLC*, Petition for Reconsideration (filed Sep. 3, 2014) (Petition).

² See *Alpha & Omega Communications, LLC*, Forfeiture Order, 29 FCC Rcd 9502 (Enf. Bur. 2014) (Forfeiture Order). A&O did not dispute that it failed to notify the Commission of a change in ownership of the Antenna Structure. Forfeiture Order, 29 FCC Rcd at 9503, para. 4; *Alpha & Omega Communications, LLC*, Notice of Apparent Liability for Forfeiture and Order, 27 FCC Rcd 7616 (Enf. Bur. 2012) (NAL).

³ 47 U.S.C. § 405.

⁴ 47 C.F.R. § 1.106.

⁵ See 47 C.F.R. § 1.106(c); *EZ Sacramento, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 18257, 18257, para. 2 (Enf. Bur. 2000) (citing *WWIZ, Inc.*, Memorandum Opinion and Order, 37 FCC 685, 686 (1964), *aff'd sub. nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied*, 383 U.S. 967 (1966)); see also *Ely Radio, LLC*, Memorandum Opinion and Order, 27 FCC Rcd 7608, 7610, para. 6 (Enf. Bur. 2012) (articulating the standard of review for Petitions for Reconsideration).

⁶ *EZ Sacramento, Inc.*, 15 FCC Rcd at 18257, para. 2.

⁷ Petition at 1–3.

forfeiture.⁸ The Bureau addressed and properly decided each of these arguments in the Forfeiture Order.⁹ The evidence is clear that A&O failed to notify the Commission of a change in the ownership of the Antenna Structure, and A&O does not dispute this fact.¹⁰ In addition, A&O has provided no new evidence of its financial condition or ability to pay.¹¹ Thus, A&O presented no new facts or arguments.

4. Upon review, we find that there was no material error made by the Bureau in the application of Section 503(b) of the Act and Commission precedent to the facts of this case. We also find that A&O raises no new facts. We therefore find that the Bureau properly decided the matters raised, and we uphold the Forfeiture Order and deny the Petition for Reconsideration filed by A&O.

5. Accordingly, **IT IS ORDERED** that, pursuant to Section 405 of the Act and Section 1.106 of the Rules, the Petition for Reconsideration filed by Alpha & Omega Communications, LLC, is hereby **DENIED**.¹²

6. **IT IS FURTHER ORDERED** that, pursuant to Section 503(b) of the Act and Sections 0.111, 0.311, and 1.80 of the Rules, Alpha & Omega Communications, LLC, **IS LIABLE FOR A MONETARY FORFEITURE** of \$2,400 for willfully and repeatedly violating Section 17.57 of the Rules.¹³

7. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within thirty (30) calendar days after the release date of this Memorandum Opinion and Order.¹⁴ 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.¹⁵

8. 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. Alpha & Omega Communications, LLC, shall send electronic notification of payment to WR-Response@fcc.gov on the date said payment is made. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.¹⁶ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions that should be followed based on the form of payment selected:

⁸ *Id.* at 3–5.

⁹ *See* Forfeiture Order, 29 FCC Rcd at 9503–9504, paras. 4–8.

¹⁰ *See* Forfeiture Order, 29 FCC Rcd at 9503, para. 4. A&O purchased the Antenna Structure on January 1, 2008, but did not notify the Commission of its ownership of the Antenna Structure until August 9, 2011. *See* NAL, 27 FCC Rcd at 7618, para. 4.

¹¹ The Bureau determined that A&O failed to demonstrate that it is experiencing a level of financial distress that would qualify it for an exception to our gross revenues policy, and that the financial documents A&O provided did not justify a reduction based on A&O's claims of inability to pay. Forfeiture Order, 29 FCC Rcd at 9504, para. 7. The Bureau did reduce the proposed forfeiture of \$3,000 by \$600 based on A&O's history of compliance with the Rules. *Id.*, 29 FCC Rcd at 9504, para. 8.

¹² 47 U.S.C. § 405; 47 C.F.R. § 1.106.

¹³ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.311, 1.80, 17.57.

¹⁴ 47 C.F.R. § 1.80.

¹⁵ 47 U.S.C. § 504(a).

¹⁶ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

- 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.

9. 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. 20554.¹⁷ Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

10. **IT IS FURTHER ORDERED** that a copy of this Memorandum Opinion and Order shall be sent by first class mail and certified mail, return receipt requested, to Alpha & Omega Communications, LLC, 314 S. Redwood Road, Salt Lake City, UT 84104, and to its counsel, Barry D. Wood, Esquire, Wood, Maines & Nolan, PC, 3300 Fairfax Drive, Suite 202, Arlington, VA 22201.

FEDERAL COMMUNICATIONS COMMISSION

Rebecca L. Dorch
Regional Director
Western Region
Enforcement Bureau

¹⁷ See 47 C.F.R. § 1.1914.