

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

In the Matter of	)	
	)	
Notice of Apparent Liability for Forfeiture of	)	
	)	
<b>RONAN TELEPHONE COMPANY</b>	)	File No. 820EF0007
	)	
Licensee of Rural Radiotelephone	)	
Station KNKL982, Ronan, Montana	)	
	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Adopted: February 19, 1998**

**Released: February 20, 1998**

By the Chief, Enforcement and Consumer Information Division,  
Wireless Telecommunications Bureau:

1. This is a Notice of Apparent Liability for Forfeiture, pursuant to Section 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 503(b) ("the Act), and Section 1.80 of the Commission's Rules, 47 C.F.R. § 1.80, against Ronan Telephone Company ("Ronan"), licensee of Rural Radiotelephone Station KNKL982, in Ronan, Montana. For the reasons that follow, we find that Ronan failed to timely notify the Commission of the commencement of service of Station KNKL982, in apparent violation of Section 22.142(b) of the Commission's Rules.

2. The information before us indicates that Ronan relocated Station KNKL982 (operating on four frequencies, 454.075, 454.375, 454.425 and 454.55 MHz) to a new site in Ronan, Montana, and commenced service from the new location on September 15, 1995. However, Ronan did not file an FCC Form 489 notifying the Commission of commencement of service until February 21, 1997.

3. Section 22.142(b) of the Commission's Rules provides in pertinent part, "*Notification Requirement*. Licensees must notify the FCC (FCC Form 489) of commencement of service to subscribers . . . no later than fifteen days after service begins." 47 C.F.R. § 22.142(b)."

4. Because Ronan commenced service to subscribers from the new location on September 15, 1995, and Section 22.142(b) requires notification on FCC Form 489 within 15 days of commencement of service, Ronan should have notified the Commission that it had commenced service from the new location no later than September 30, 1995. Ronan concedes that it did not timely file an FCC Form 489. Ronan asserts that it filed a Form 489 when it originally constructed its facilities and did not believe it was necessary to file another Form 489 when it relocated those facilities. Ronan also asserts that it filed an appropriate Form 489 immediately upon realizing its error, on February 21, 1997. We note that Ronan voluntarily brought this matter to the Bureau's attention.

5. Despite the fact that Ronan eventually filed its Form 489, it did, by its own admission, fail to file the required notice on time. Because each day of a continuing violation is considered a separate violation for purposes of computing a forfeiture, Ronan's violation is considered a repeated violation within the meaning of Section 503(b)(1) of the Act. See *Eastern Carolina Broadcasting, Inc.*, 6 FCC Rcd 6154, 6155 (1991). We find that Ronan's failure to timely notify the Commission of the commencement of service is an apparent repeated violation of Section 22.142(b) of the Commission's Rules. The guidelines contained in the Commission's *Forfeiture Policy Statement*, 12 FCC Rcd 17087 (1997), which became effective on October 14, 1997, specify a base forfeiture amount of \$3,000 for failure to file required forms or information. The guidelines, however, permit the Commission to issue a higher or lower forfeiture than the specified base amount. The Commission determined, in cases decided before the adoption of the *Forfeiture Policy Statement*, that a base forfeiture amount of \$2,000 per frequency is justified when a licensee has failed to timely file Form 489. See e.g. *Mulzer Enterprises, Inc.*, 12 FCC Rcd 10269 (1997); and *Mountaineer Paging*, 12 FCC Rcd 4727 (1997). There is no apparent need to change this precedent. As indicated above, the captioned station operates on four frequencies. We find, therefore, that a total base amount of four times \$2,000 or \$8,000 is appropriate here.

6. Ronan asserts that the Commission's forbearance from imposing a forfeiture in this case would serve the public interest because the facilities involved serve a remote rural area that will be left without telephone service if it becomes unacceptably expensive for Ronan to continue to provide service. Ronan, however, has not provided any financial information indicating that the imposition of a monetary forfeiture would force it to discontinue service. Therefore, the Commission will not forbear from issuing a Notice of Apparent Liability for Forfeiture. However, in view of Ronan's voluntary disclosure of its violation to the Commission, we reduce the amount of Ronan's proposed forfeiture to \$4,000.

7. Accordingly, pursuant to Section 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 503(b) and Section 1.80 of the Commission's Rules, 47 C.F.R. § 1.80, the Ronan Telephone Company, is hereby NOTIFIED of its APPARENT LIABILITY FOR FORFEITURE in the amount of four thousand dollars (\$4,000) for repeatedly violating of Section 22.142(b) of the Commission's Rules.

8. Payment of the forfeiture may be made by credit card through the Commission's Billings and Collections Branch at (202) 418-1995 or by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the file number of this proceeding. Alternatively, Ronan may choose to submit a written statement seeking reduction or cancellation of the proposed monetary forfeiture.

9. A copy of this Notice is being sent, by Certified Mail/Return Receipt Requested, to Ronan's attorney, James U. Troup, Esq., Arter & Hadden, 1801 K Street, N. W., Suite 400K, Washington, D.C. 20006-1301.

FEDERAL COMMUNICATIONS COMMISSION



Howard C. Davenport  
Chief, Enforcement and Consumer Information Division  
Wireless Telecommunications Bureau