

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

In the Matter of	)	
	)	
Pacific Empire Radio Corporation	)	File No.: EB-FIELDWR-12-00002389
	)	NAL/Acct. No.: 201232920001
Licensee of:	)	FRN: 0006196612
Station KLBM, La Grande, Oregon	)	Facility ID Nos.: 35047
Station KBKR, Baker, Oregon	)	24794
Station KUBQ(FM), La Grande, Oregon	)	24796
Station KKBC-FM, Baker, Oregon	)	24795
Station KRJT(FM), Elgin, Oregon	)	164224

**MEMORANDUM OPINION AND ORDER**

**Adopted: November 18, 2015**

**Released: November 19, 2015**

By the Commission:

1. We deny the Application for Review filed by Pacific Empire Radio Corporation (Pacific Empire), licensee of Station KLBM, La Grande, Oregon; Station KBKR, Baker, Oregon; Station KUBQ(FM), La Grande, Oregon; Station KKBC-FM, Baker, Oregon; and Station KRJT(FM), Elgin, Oregon (collectively, the Stations), seeking review of the Memorandum Opinion and Order issued by the Enforcement Bureau (Bureau) denying Pacific Empire's petition for reconsideration.<sup>1</sup> In the Memorandum Opinion and Order, the Bureau affirmed a forfeiture against Pacific Empire in the amount of \$25,000 for willfully and repeatedly violating Section 73.3526 of the Commission's rules (Rules) by failing to retain multiple issues and programs lists in the local public inspection file for each of the Stations.<sup>2</sup> In its Application for Review, Pacific Empire raises two issues, both of which were argued previously before the Bureau and rejected.<sup>3</sup>

<sup>1</sup> *Pacific Empire Radio Corporation*, Application for Review (filed Feb. 23, 2015) (Application for Review); *Pacific Empire Radio Corporation*, Memorandum Opinion and Order, 30 FCC Rcd 984 (Enf. Bur. 2015).

<sup>2</sup> Memorandum Opinion and Order, 30 FCC Rcd at 986, paras. 5–6. See *Pacific Empire Radio Corporation*, Forfeiture Order, 29 FCC Rcd 1177 (Enf. Bur. 2014). As detailed in the Forfeiture Order, an agent from the Bureau's Portland Office inspected the Stations' public inspection files and determined that 12 consecutive quarterly issues/programs lists, from the third quarter of 2008 through the second quarter of 2011, were missing from the public inspection file of each of the Stations. Forfeiture Order, 29 FCC Rcd at 1178, para. 5.

<sup>3</sup> Pacific Empire maintains that the Commission cannot assess fines against small broadcast licensees because the Commission allegedly never complied with the requirements of the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (Mar. 29, 1996), as amended by Pub. L. No. 110-28, 121 Stat. 112 (May 25, 2007) (SBREFA). Application for Review at 3–4. The Bureau determined that the forfeiture assessment policies of the Commission, as detailed in *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, 17109 (1997), *recons. denied*, 15 FCC Rcd 303 (1999) (*Forfeiture Policy Statement*) comply with the SBREFA. Memorandum Opinion and Order, 30 FCC Rcd at 985, para. 3. The Bureau also noted that the Commission had recently affirmed this determination. *Id.* See *N. Cnty. Broad. Corp.*, Memorandum Opinion and Order, 29 FCC Rcd 13261 (2014) (the Commission's existing forfeiture policies, including the various factors by which a proposed forfeiture may be adjusted upward or downward based on the facts presented, comply with the SBREFA). Pacific Empire also reiterates its claim that the Bureau's forfeiture assessment treats its Stations differently from similarly situated stations, and does not properly support its reasoning for the disparate treatment in

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2. Upon review of the Application for Review and the entire record, we conclude that Pacific Empire fails to demonstrate that the Bureau erred. The Bureau properly decided the matters raised in the Memorandum Opinion and Order, and we uphold its decision for the reasons stated therein.

3. Accordingly, **IT IS ORDERED** that, pursuant to Section 5(c)(5) of the Communications Act of 1934, as amended (Act), and Section 1.115(g) of the Rules, the Application for Review filed by Pacific Empire Radio Corporation **IS DENIED**.<sup>4</sup>

4. **IT IS FURTHER ORDERED** that the Memorandum Opinion and Order **IS AFFIRMED** and that pursuant to Section 503(b) of the Act and Section 1.80 of the Rules, Pacific Empire Radio Corporation **SHALL PAY A MONETARY FORFEITURE** in the amount of twenty-five thousand dollars (\$25,000) as specified in the Memorandum Opinion and Order.<sup>5</sup>

5. **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 Pacific Empire Radio Corporation, 403 Capital Street, Lewiston, ID 83501, and to David Tillotson, Esquire, 4606 Charleston Terrace, NW, Washington, DC 20007-1911.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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violation of the precedent set in *Melody Music, Inc. v F.C.C.*, 345 F. 2d 730 (D.C. Cir 1965). Application for Review at 4–10. The Bureau found that the Forfeiture Order detailed the reasons for the amount of the forfeiture and explained how the forfeiture assessed against Pacific Empire: 1) complies with the *Forfeiture Policy Statement* as well as the Communications Act and the Rules; 2) differs from cases cited by Pacific Empire due to different factual circumstances in the respective cases; and 3) is consistent with recent precedent. Memorandum Opinion and Order, 30 FCC Rcd at 985, para. 4; Forfeiture Order, 29 FCC Rcd at 1179–1180, para. 7. In particular, we emphasize that the fifteen cases from 2003 cited by Pacific Empire in which a \$3,000 forfeiture was imposed for failing to place issues and programs lists into the public file each only involved one station whereas this case involves a failure to do so at five stations. *Id.* We thus believe that a substantially higher forfeiture amount is justified here.

<sup>4</sup> 47 U.S.C. § 155(c)(5); 47 C.F.R. § 1.115(g).

<sup>5</sup> 47 U.S.C. § 503(b); 47 C.F.R. § 1.80.