



Federal Communications Commission  
Washington, D.C. 20554

May 7, 2014

*In Reply Refer to:*  
1800B3-VM

Kenneth E. Satten, Esq.  
Wilkinson Barker Knauer, LLP  
2300 N Street N.W., Suite 700  
Washington, DC 20037-1128

In re: Bonneville International Corporation  
KIRO(AM), Seattle, WA  
Facility ID No. 6362  
File No. BR-20130930ATV

Dear Mr. Satten:

This letter refers to the application of Bonneville International Corporation ("Licensee" or "BIC") for renewal of license for Station KIRO(AM), Seattle, Washington. For the reasons set forth below, we admonish BIC for violation of Section 73.3527 of the Commission's Rules ("Rules")<sup>1</sup> regarding a broadcast station's public inspection file, and we grant the KIRO(AM) license renewal application.

*Public file rule violation.* Section III, Item 3 of the license renewal application form, FCC Form 303-S, requests that the licensee certify that the documentation required by Section 73.3526 or 73.3527 of the Rules, as applicable, has been placed in the station's public inspection file at the appropriate times. BIC indicated "No" to that certification, attaching an exhibit explaining that the issues/programs lists for the second, third and fourth quarters of 2009 were absent from the public inspection file.<sup>2</sup> The omission occurred after the station switched to an independent format after having been simulcast with a co-owned station for many years.

Section 73.3527 of the Rules requires broadcast licensees to maintain a public inspection file containing specific types of information related to station operations. The purpose of this requirement is to provide the public with timely information at regular intervals throughout the license period.<sup>3</sup> In this regard, where lapses occur in maintaining the public file, neither the negligent acts or omissions of station employees or agents, nor the subsequent remedial actions undertaken by the licensee, excuse or nullify a licensee's rule violation.<sup>4</sup>

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<sup>1</sup> 47 C.F.R. § 73.3527.

<sup>2</sup> See File No. BR-20130930ATV, Exhibit 12.

<sup>3</sup> Cf. *Kathleen N. Benfield*, Letter, 13 FCC Rcd 4102 (MMB 1997), citing *License Renewal Applications of Certain Commercial Radio Stations*, Memorandum Opinion and Order, 8 FCC Rcd 6400 (1993).

<sup>4</sup> See *Padre Serra Communications, Inc.*, Letter, 14 FCC Rcd 9709 (1999) (citing *Gaffney Broadcasting, Inc.*, Memorandum Opinion and Order, 23 FCC 2d 912, 913 (1970) and *Eleven Ten Broadcasting Corp.*, Notice of Apparent Liability, 33 FCC 706 (1962)); *Surrey Front Range Limited Partnership*, Notice of Apparent Liability,

Section 503(b) of the Communications Act (“Act”)<sup>5</sup> and Section 1.80(a) of the Rules,<sup>6</sup> each state that any person who willfully or repeatedly fails to comply with the provisions of the Act or the Commission’s Rules shall be liable for a forfeiture penalty. For purposes of Section 503(b) of the Act, the term “willful” means that the violator knew it was taking the action in question, irrespective of any intent to violate the Rules.<sup>7</sup> A continuing violation is “repeated” if it lasts more than one day.<sup>8</sup>

The Commission’s *Forfeiture Policy Statement* sets a base forfeiture amount of \$10,000 for public file violations.<sup>9</sup> In this case, the violations only involved issues/programs lists for three quarters during the eight-year license period. Considering the record as a whole, we believe that an admonishment rather than a forfeiture is appropriate for the violation in this case.<sup>10</sup>

*License renewal application.* In evaluating an application for license renewal, the Commission’s decision is governed by Section 309(k) of the Act. That section provides that if, upon consideration of the application and pleadings, we find that (1) the station has served the public interest, convenience, and necessity; (2) there have been no serious violations of the Act or the Rules; and (3) there have been no other violations which, taken together, constitute a pattern of abuse, we are to grant the renewal application.<sup>11</sup> If, however, the licensee fails to meet that standard, the Commission may deny the application – after notice and opportunity for a hearing under Section 309(e) of the Act – or grant the application “on terms and conditions that are appropriate, including a renewal for a term less than the maximum otherwise permitted.”<sup>12</sup>

The public inspection file rule serves the critical function of making available to the public important information regarding programs that provided a station’s most significant treatment of community issues during the license term. On balance, however, we find that Licensee’s violation of Section 73.3527 does not constitute a “serious violation” of the Rules warranting designation for evidentiary hearing. Moreover, we find no evidence of violations that, when considered together,

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7FCC Rcd 6361 (FOB 1992).

<sup>5</sup> 47 U.S.C. § 503(b).

<sup>6</sup> 47 C.F.R. § 1.80(a).

<sup>7</sup> See *Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4387-4388 (1991).

<sup>8</sup> *Id.*, 6 FCC Rcd at 4388.

<sup>9</sup> *Forfeiture Policy Statement and Amendment of Section 1.80 of the Commission’s Rules*, Report and Order, 12 FCC Rcd 17087, 17113 (1997), *recon. denied*, 15 FCC Rcd 303 (1999).

<sup>10</sup> See note to 47 C.F.R. § 1.80(b)(4). See also *Tabback Broadcasting Company*, Memorandum Opinion and Order, 15 FCC Rcd 10384 (2000) (licensee admonished for refusing access to public file and for omitting copies of ownership reports); *EZ New Orleans, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 7164(1999) (licensee admonished where it conceded that, on at least one occasion, it had not fully complied with 47 C.F.R. § 73.3526); *Sarkes Tarzian, Inc.*, Memorandum Opinion and Order, 65 FCC 2d 127 (1977) (licensee admonished for isolated and inadvertent public file rule violations ).

<sup>11</sup> 47 U.S.C. § 309(k)(1). The renewal standard was amended to read as described by Section 204(a) of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). See *Implementation of Sections 204(a) and 204(c) of the Telecommunications Act of 1996 (Broadcast License Renewal Procedures)*, Order, 11 FCC Rcd 6363 (1996).

<sup>12</sup> 47 U.S.C. §§ 309(k)(2), 309(k)(3).

evidence a pattern of abuse.<sup>13</sup> Further, we find that KIRO(AM) served the public interest, convenience, and necessity during the subject license term. We will therefore grant the license renewal application below.<sup>14</sup>

*Conclusion/Actions.* Bonneville International Corporation IS HEREBY ADMONISHED for its apparent violation of Section 73.3527, and we caution the licensee to be and remain more diligent in the future regarding the operation of KIRO(AM).

Finally, IT IS FURTHER ORDERED, that the application (File No. BR-20130930ATV) of Bonneville International Corporation for renewal of license for Station KIRO(AM), Seattle, Washington, IS GRANTED.

Sincerely,

A handwritten signature in blue ink that reads "Peter H. Doyle" followed by a stylized monogram or initials.

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

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<sup>13</sup> For example, we do not find here that the licensee's station operation "was conducted in an exceedingly careless, inept and negligent manner and that the licensee is either incapable of correcting or unwilling to correct the operating deficiencies." *See Heart of the Black Hills Stations*, Decision, 32 FCC 2d 196, 198 (1971). Nor do we find on the record here that "the number, nature and extent" of the violations indicate that "the licensee cannot be relied upon to operate [the station] in the future in accordance with the requirements of its licenses and the Commission's Rules." *Id.*, 32 FCC 2d at 200. *See also Center for Study and Application of Black Economic Development*, Hearing Designation Order, 6 FCC Rcd 4622 (1991), *Calvary Educational Broadcasting Network, Inc.*, Hearing Designation Order, 7 FCC Rcd 4037 (1992).

<sup>14</sup> *See* 47 U.S.C. § 309(k).