

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

In re Application of)	
)	
RUFUS RESOURCES, LLC)	File No. BRH-20170303AAN
)	Facility ID No. 52048
For Renewal of License for)	FRN 0023542277
Station KMFR(AM), Pearsall, Texas)	NAL/Acct No. MB-201841410010

Directed to: Office of the Secretary
Attention: Chief, Audio Division, Media Bureau

RESPONSE TO NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Rufus Resources, LLC (“Rufus”), licensee of KMFR(AM), Pearsall, Texas, hereby respectfully submits its Response to the “Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture,” DA 18-384, released April 17, 2018 (the “NAL”), and requests a reduction of the proposed forfeiture amount based upon the unusual circumstances involved. With respect to this request, the following is stated:

As set forth in the NAL, the forfeiture in this proceeding was proposed because of the inadvertently delayed filing of the license renewal application for KMFR(AM), Pearsall, Texas, for a period of not quite three weeks beyond KMFR’s license expiration on January 26, 2017. The reason for this rather odd license expiration date was due to the fact that the station’s prior licensee had been granted a short-term license renewal for a period of two years due to the prior licensee’s decision not to operate KMFR for substantial periods of time during the prior license term.

The background of the station is that, before it was acquired by Rufus, KMFR had previously been licensed to San Antonio Radioworks, LLC, or a related company, for a number

of years. During the second half of the prior license term, due to adverse economic conditions in the station's service area, the then-licensee had kept the station silent for most of each year, up until the time of the filing of its 2013 license renewal application, File No. BR-20130401AHK. Additionally, San Antonio Radioworks filed an application for consent to assignment of the KMFR license to The Worship Center of Kingsville, File No. BAL-20130214ADD. This application was granted, but the proposed assignment was never consummated.

After some delay, the license renewal application was granted by letter decision, dated January 26, 2015, reference 1800B3-TH. That letter decision specified a short term of two years based upon a finding of a lack of any service from the station during substantial periods of the prior license term.

Subsequently, an application for consent to assignment of the license from San Antonio Radioworks to Rufus, File No. BAL-20150203ADO, and granted on April 8, 2015. Thus, given that Rufus was not even proposed as licensee until after the renewal was granted, it clearly had nothing to do with the service or any lack thereof provided by KMFR during the prior license term. Since being assigned the license for KMFR, Rufus has kept the station operational and serving the public. Because Rufus had not participated in the license renewal process, but rather simply purchased a station in due course months after grant of the license renewal and then continued operating it, the issues related to a prior licensee and prior license term were not matters that would be brought to the attention of the licensee or its principals.

Additionally, it should be noted that Rufus is the licensee of several other radio stations, all of which are licensed to communities in Texas. Because of this fact, Rufus was and is well aware of general license renewal deadlines for stations in Texas. Furthermore, the Texas Association of Broadcasters and other groups routinely send reminders to licensees with regard

to the general license renewal deadlines. Short term license renewals, however, come with no such reminders, nor are the dates particularly memorable. They are not effective at the beginning or end of a month, nor do they have any relation to the normal filing month for the state in which the station is located, but rather are tied entirely to whatever date on which the Commission's staff happens to act.

Rufus understands and accepts that as a successor licensee, it is bound by the terms of the license which was assigned to it. Furthermore, it recognizes that it has the responsibility for knowing when a particular station license expires. Nonetheless, Rufus would note that it is far easier to overlook an odd filing date, nowhere near the normal filing date for the state of Texas, than it would be to overlook a routine license renewal application.

This oversight is, in fact, what happened in this instance. When Rufus realized what had happened, it immediately filed a request for Special Temporary Authority to continue operating, File No. BLSTA-20170215AAU. At that time, Rufus explained what had happened. While the NAL notes that there was a short time lapse between the STA and the license renewal application, such a brief delay is understandable, as an STA request is quicker to prepare than a license renewal application, and review of certain information is necessary for the licensee to be sure that the representations made in the license renewal application were accurate. As the information regarding the cause of the delayed filing had already been provided to the Commission's staff, it did not seem necessary again to include it in the renewal application itself, and it is clear from the NAL, that the staff was aware of the information provided.

The license application that was filed became grantable pursuant to the Commission's policies in June 2017. Rufus anticipated a granted well before the STA granted for its continued operation expired on September 2, 2017. As that date approached without a grant, however,

Rufus's attention was diverted from the STA to its efforts simply to keep its stations on the air. KMFR's community of license of Pearsall, Texas, is one that felt the severe effects of Hurricane Harvey, which came ashore in Texas on August 25, 2017. Others of Rufus's stations also were in the areas that felt the heavy impact of Harvey. KMFR, together with its sister station KIBL, were among the few stations in the area that were able to remain on the air to provide updated emergency information and other information with regard to beginning to recover from Harvey. Accordingly, Rufus's attention was diverted entirely to keeping its stations operating and providing emergency information to area residents feeling the effects of the hurricane. Amidst all of this activity and confusion, the STA expiration date escaped the attention of Rufus and, unfortunately, remained forgotten as the area worked to recover from the impact of the hurricane. Rufus is concurrently herewith seeking a renewed STA to continue operation pending grant of the license renewal application.

Clearly, the above-described circumstances, while not completely excusing Rufus's oversights, do make them more understandable and less culpable than similar omissions would have been in the usual circumstances. The NAL, however, takes a one-size-fits-all approach. Overlooking a short-term renewal application filing deadline in which the current licensee had no part, and which is at an odd date with no relation to the general filing date, is far different from missing a statewide deadline, published in the FCC's rules, which is the subject of many reminders from numerous sources. In assessing the amount of a forfeiture, the Commission is required to consider any mitigating circumstances. Therefore, some recognition must be granted with regard to the unfortunate ease of letting one odd deadline among a group of normal deadlines slip up on a licensee. Such consideration requires that the forfeiture be reduced below

that standard forfeiture imposed in general circumstances for late filing of a form and the inadvertent unauthorized operation which resulted.

Furthermore, reduction of the forfeiture is also required due to Rufus's history of compliance with the Commission's rules. Commission precedent dictates that one understandable oversight amongst a history of compliance also requires a reduction in the forfeiture amount. *See, e.g., WLTV, Inc.*, 24 FCC Rcd 7715, 7717 (MB 2009) (forfeiture reduction accorded for "history of compliance"), *citing Wayne State College*, 24 FCC Rcd 2484 (MB 2009) (issuing forfeiture for licensee's public file violations, but reducing forfeiture amount based on licensee's history of compliance); *Christian Center, Inc.*, 24 FCC Rcd 1128 (MB 2009) (same); *John Brown University*, 24 FCC Rcd 1536 (MB 2009) (same).

WHEREFORE, the premises considered, Rufus respectfully requests that the Commission reduce or eliminate the amount of the forfeiture set forth in the NAL.

Respectfully submitted,

RUFUS RESOURCES, LLC

By:



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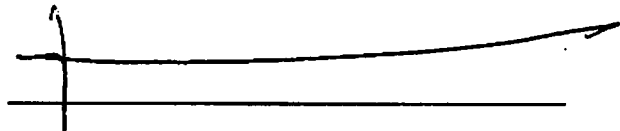
May 17, 2017

DECLARATION

I, David Martin Philip, hereby declare and state as follow:

I am the Managing Member of Rufus Resources, LLC. I have read the foregoing Response to Notice of Apparent Liability for Forfeiture. I hereby declare that the facts contained therein are true and correct to the best of my knowledge and belief.

Dated this 17th day of May, 2018.

A handwritten signature in black ink, consisting of a horizontal line with a vertical stroke intersecting it near the left end, and a long, slightly curved horizontal line extending to the right.

David Martin Philip