

August 29, 2017

2018 SEP -4 PM 2: 06

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th St., SW
Washington, DC 20554

Accepted / Filed

AUG 29 2018

Re: Alaska Educational Radio Systems, Inc.
File No. MB-201841410015
File No. MB-201841410016
Response to Notices of Apparent Liability

Federal Communications Commission
Office of the Secretary

Attn: Albert Schuldiner, Chief, Audio Division, Media Bureau

Dear Ms. Dortch:

Alaska Educational Radio Systems, Inc. ("AERS") respectfully submits its response to the two virtually synonymous Notices of Apparent Liability for Forfeiture and Order, DA 18-737 and DA 18-738, released on July 18, 2018 ("NALs"). The NALs lists a series of rules violations that are alleged by Turquoise Broadcasting Company, LLC ("TBC") or established according to records on file with the Commission.

The possibility of continuing violations as illustrated in the NALs have been addressed and eliminated and those that previously existed or had the appearance of existing would have been remedied immediately if we had been aware. Representations had been made by the assignee of the dismissed assignment application and our common attorney that AERS would be provided assistance in maintaining compliance of the originating facility and involved translators.

We note that the assignment application was held in limbo for many years without any communication from Commission staff and that the Assignee allegedly sent at least one letter of query and exhortation. We believe that additional communication between attorney Tillotson and staff also took place.

AERS' interest in maintaining operations of KABN-FM and any dependent translators was solely related to the transfer application, the related demands of the Assignee, and the public interest in Kenai Cares' intent to preserve service to the community of Kasilof.

No inquiry, notice or meaningful response issued from Commission staff over that period of time until the institution of massive fines under the captioned NALs. In addition, the abrupt issue of multiple NALs over violations that are attributable to a single source – the function of the originating facility – seems to be disproportionate.

When the term willful is applied to purported violations during this process, we would like to make it clear that AERS' engagement was under duress and according to assurances and agreements which ultimately proved to be empty.

As of yet, we have not been able to establish the exact sequence of events and the agency involved in the submission of various filings for KABN-FM or the operation of related translators. It

was AERS' intent to return the license of KABN-FM for cancellation at the same time as KWMD.

At the time of AERS' determination to return all the licenses for our originating facilities, both K223BJ and K283AZ were retasked with translating KVNT(AM) and KZND(FM) respectively. The licensing and operation of K279BC was only undertaken to satisfy the interests of Kenai Cares, LLC and the terms of the assignment.

Although it exists, AERS simply hasn't been provided enough time to track down information over the span of time involved. Many reference materials are unavailable because of our inability to establish contact with the former Chief Operator of the former KABN-FM. Nor have we been able to recover our equipment.

Further, as a service organization supporting translators AERS is not staffed nor does it have other resources adequate to respond to NALs 20 pages and more in length filed with citations that require research. In the time allowed.

Of the tools available to Commission staff to regulate this licensee the one employed, the magnitude of the penalties and the time apparently allowed for our response will simply make it impossible for AERS to continue.

Financial Status

AERS's annual operating budget is less than \$1000 for the previous 3 years (2015, 2016, 2017) and there are no liquid assets. AERS's fixed assets amount to less than \$20,000. The organization's staff is made up entirely of volunteers. Site space along with utilities are donated and equipment is purchased by contributors or otherwise loaned or donated.

AERS has continuing commitments by supporters to continue operations and construct new translators on the foregoing basis.

The \$30,000 in fines proposed in the NALs will ultimately force existing AERS' facilities off the air and prevent our expansion of FM service including that to presently unserved or underserved rural areas.

In keeping with the demands of [Rule goes here], AERS respectfully requests an extended period in which to provide further documentation of its finances to demonstrate its inability to pay fines.

AERS is corresponding with the IRS to reinstate AERS' 501(c)(3) status and are working with a CPA to draft returns and the base financial statements from which those will be derived.

By Sept. 24, AERS can provide GAAP financial statements for the previous 3 years including Statement of Financial Position, Statement of Activities, General Ledger Accounts and Chart of Accounts.

As a very small volunteer organization with essentially no income, few assets and pressing needs to complete improvements and maintenance ahead of bad weather, we simply don't have the resources to speed this any further.

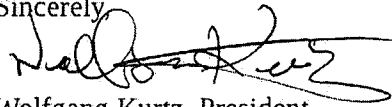
AERS hereby requests the relief of reduction or cancellation of the fines proposed in the captioned NALs. In the absence of a grant of extended time to produce the demanded financial documents from your office, we note that documented and undocumented exceptions to stated requirements for this relief exist.

Conclusion

All of the matters alleged in the NALs have been addressed. With the elimination of the unsupportable burden of maintaining a full service broadcast facility under assignment for perpetuity, AERS can now operate within the scale of our present mission and focus all our resources on insuring FCC compliance.

If there is any question concerning this response, please contact the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read 'Wolfgang Kurtz', written over a horizontal line.

Wolfgang Kurtz, President
Alaska Educational Radio Systems, Inc.

By Email:


Albert.Schuldiner@fcc.gov

DECLARATION

I, Wolfgang Kurtz, declare under penalty of perjury and pursuant to Section 1.16 of the Commission's Rules that:

1. I am the President of Alaska Educational Radio Systems, Inc., based in Seward, Alaska and have held that position during the period covered by the captioned Notices of Apparent Liability referenced by the foregoing Response to Notices of Apparent Liability.
2. AERS's annual operating budget is less than \$1000 for the previous 3 years (2015, 2016, 2017) and there are no liquid assets. AERS's fixed assets amount to less than \$20,000. The organization's staff is made up entirely of volunteers. Site space along with utilities are donated and equipment is purchased by contributors or otherwise loaned or donated.
3. I have reviewed the foregoing Response to Notices of Apparent Liability which will be filed with the Commission and certify that everything contained in the response is true and correct to the best of my knowledge and belief.

Date: Aug. 29, 2018


Wolfgang Kurtz