

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

In the Matter of)	File No. EB-02-TP-411
)	
Holladay Broadcasting Company, Inc.)	NAL/Acct. No. 200332700003
Owner of Antenna Structure Registration No.)	
1041151)	
in Fort Walton Beach, Florida)	FRN 0001-7476-90

MEMORANDUM OPINION AND ORDER

Adopted: April 26, 2004

Released: April 28, 2004

By the Chief, Enforcement Bureau:

1. In this *Memorandum Opinion and Order* (“*Order*”), we cancel a proposed monetary forfeiture¹ issued in the amount of ten thousand dollars (\$10,000) to Holladay Broadcasting Company, Inc. (“Holladay”), owner of antenna structure no. 1041151 located in Fort Walton Beach, Florida, for its apparent willful violation of Section 17.50 of the Commission’s Rules (“Rules”).² The alleged violation involves Holladay’s failure to maintain good visibility of the required antenna structure obstruction marking. Based on our review of Holladay’s response to the *NAL*, we conclude that Holladay did not willfully violate Section 17.50 of the Rules. Specifically, we find that the cables on the tower, although unpainted, did not compromise good visibility of the tower.³ Accordingly, we conclude that no forfeiture should be imposed.

2. Accordingly, **IT IS ORDERED** that, pursuant to Section 504(b)⁴ of the Communications Act of 1934, as amended, and Section 1.80(f)(4)⁵ of the Rules, the proposed \$10,000 forfeiture issued to Holladay Broadcasting Company, Inc., NAL/Acct. No. 200332700003, **IS CANCELLED**.

¹ *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200332700003 (Enf. Bur. Tampa Office, released October 22, 2002).

² 47 C.F.R. § 17.50.

³ We note that Holladay’s failure to paint the cables may have been inconsistent with the requirements of Section 17.23 of the Rules, 47 C.F.R. § 17.23. However, a violation of this rule is not before us in this proceeding so we need not make a determination at this time whether the unpainted cables violated the provisions of this rule. We note further that Holladay states in its response that since the issuance of the *NAL*, the cables have been painted.

⁴ 47 U.S.C. § 504(b).

⁵ 47 C.F.R. § 1.80(f)(4).

3. **IT IS FURTHER ORDERED** that, a copy of this *Order* shall be sent by regular mail and Certified Mail Return Receipt Requested to Holladay Broadcasting Co., Inc. DBA/WKSM, 225 NW Hollywood Boulevard, Fort Walton Beach, FL 32859 and its counsel, Bart S. Epstein, Esq. Latham & Watkins, 550 Eleventh Street, N.W., Suite 1000, Washington, D.C.20004-1304.

FEDERALCOMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau