

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

In the Matter of)	
)	
Pacific Spanish Network, Inc.,)	File No. EB-04-SE-020
Holder of Permit to Transmit or)	NAL/Acct No. 200432100012
Deliver Programming to Foreign Stations)	FRN: 0006146484
)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Adopted: July 28, 2004

Released: July 30, 2004

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* (“NAL”), we find Pacific Spanish Network, Inc., (“PSN”) apparently liable for a forfeiture in the amount of twenty thousand dollars (\$20,000) for providing program material via the Internet to a Mexican AM broadcast station in willful and repeated substantial violation of the terms and conditions of its authorization granted pursuant to Section 325(c) of the Communications Act of 1934, as amended (the “Act”).¹

II. BACKGROUND

2. Under Section 325(c) of the Act, the transmission or delivery of broadcast programming to foreign broadcast stations, such as those located in Mexico, for the purpose of being received in the domestic radio market requires application to and authorization granted by the Commission.² On May 16, 2003, PSN filed with the Commission three applications pursuant to Section 325(c). In its applications, PSN sought authority to supply broadcast programming from its Chula Vista, California studio via the Internet to Station XEKTT, frequency 550 kHz, Tecate, Baja California, Mexico, to Station XESS, frequency 780 kHz, Ensenada, Baja California, Mexico, and to Station XEDD, frequency 920 kHz, Ensenada, Baja California, Mexico. On July 16, 2003, the Commission’s International Bureau granted PSN’s applications and issued it a Section 325(c) permit.³ The Section 325(c) permit authorized PSN to supply “music, talk and other entertainment and informational programming in Spanish” to Station XEKTT on frequency 550 kHz located in Tecate, Mexico, to Station XESS on frequency 780 kHz located in Ensenada, Mexico, and to Station XEDD⁴ on frequency 920 MHz located in Ensenada, Mexico. The

¹47 U.S.C. § 325(c).

²47 U.S.C. § 325(c).

³See File No. 325-NEW-20030529-00004 (July 16, 2003) (“Section 325(c) permit”)

⁴According to PSN, the official call sign for XEDD is XESDD. See Letter from Henry A. Solomon, Esq. to Kathy Berthot, Deputy Chief, Spectrum Enforcement Division, Enforcement Bureau, at note 1 (March 8, 2004) (“March 8 LOI Response”). Hereinafter, Station XEDD will be referred to as Station XESDD.

Section 325(c) permit expressly states that it is based on PSN's "representation that the statements contained in the application[s] are true and that the undertakings described will be carried out in good faith," and that it is conditioned upon the Mexican stations' "operation in full compliance with applicable treaties and related provisions concerning electrical interference to U.S. Broadcast stations."⁵

3. In early December 2003, in response to complaints alleging that Station XEKTT was causing interference to the reception of licensed AM broadcast stations in the U.S., an agent from the Enforcement Bureau's San Diego Office visited PSN's studio in Chula Vista, California. The FCC agent met with PSN's President, Jaime Bonilla, and advised him that Station XEKTT was causing interference to licensed U.S. broadcast stations.⁶ Mr. Bonilla told the agent that Station XEKTT was operating on frequency 560 kHz, not 550 kHz, and that PSN was providing programming to Station XEKTT from its Chula Vista studio via the Internet.⁷ Mr. Bonilla provided the agent copies of the authorizations granted by the Mexican government for Station XEKTT on frequency 550 kHz and frequency 560 kHz.⁸ These authorizations indicated that on November 14, 2003, the Mexican government authorized Station XEKTT to operate on frequency 550 kHz with 20 kW daytime and 10 kW nighttime power, and subsequently, on December 9, 2003, the Mexican government authorized Station XEKTT to operate on frequency 560 kHz with 20 kW daytime and 10 kW nighttime power. Mr. Bonilla also told the agent that PSN expected to initiate similar service to Stations XESS and XESDD at some future time.⁹

4. On January 16, 2004, the Commission received a petition to rescind PSN's Section 325(c) permit.¹⁰ The petition maintained, and provided supporting engineering and technical documentation to demonstrate, that Station XEKTT had been operating on frequency 560 kHz, and that such operations had caused substantial harmful interference to the reception of certain U.S. radio stations' signals.¹¹ The petition further maintained that the International Bureau had never been notified of and approved Station XEKTT's operation on frequency 560 kHz in accordance with the 1986 U.S.-Mexico

⁵*Id.*

⁶In its March 29, 2004 response to a letter of inquiry issued by the Enforcement Bureau, PSN stated that Mr. Bonilla "does not recall" being advised by the FCC agent that Station XEKTT was causing interference to U.S. broadcast stations. PSN stated that the agent told Mr. Bonilla that the Commission had been receiving complaints that Station XEKTT was not properly authorized on frequency 560 kHz. PSN further stated that Mr. Bonilla "does not deny that the FCC agent may have meant to imply that XEKTT was causing interference." Letter from Henry A. Solomon, Esq. to Kathy Berthot, Deputy Chief, Spectrum Enforcement Division, Enforcement Bureau, at 2 (March 29, 2004) ("March 29 LOI Response").

⁷March 29 LOI Response at 3.

⁸*Id.*

⁹*Id.*

¹⁰See Petition to Rescind Authorization (January 16, 2004) (jointly filed by Owens One Company, Inc., licensee of KUZZ(AM), 550 kHz, Bakersfield, California, AMFM Radio Licenses, LLC, licensee of KLAC(AM), 570 kHz, Los Angeles, California and KFYI(AM), 550 kHz, Phoenix, Arizona, Capstar TX Limited Partnership, licensee of KBLU(AM), 560 kHz, Yuma, Arizona and KGO-AM Radio, Inc., licensee of KSFO(AM), 560 kHz, San Francisco, California).

¹¹See note 10, *supra* (identifying the stations licensed to the Joint Petitioners and affected by Station XEKTT's operations).

treaty governing coordination of medium frequency AM band stations.¹² The International Bureau confirmed that it had received a coordination notification from the Mexican government regarding Station XEKT's operation on 1600 kHz with 250 W daytime and nighttime power in accordance with the U.S.-Mexico treaty, but the International Bureau had never approved that operation. The International Bureau also confirmed that it had never been notified of or approved Station XEKT's operation on either 550 kHz or 560 kHz, as required by the U.S.-Mexico treaty. In addition, Enforcement Bureau staff subsequently confirmed through monitoring of Station XEKT that the Mexican station was operating on 560 kHz at increased power levels from a new transmitter site.

5. On January 28, 2004, the Commission received a supplement to the petition to rescind.¹³ The supplement maintained, and provided supporting engineering and technical documentation to demonstrate, that Station XESS would cause substantial harmful interference to the reception of certain U.S. broadcast stations' signals when it commenced operation on frequency 780 kHz from a new transmitter site just south of the U.S.-Mexico border.¹⁴ The supplement further maintained that Station XESS's prior operation on frequency 1450 kHz had been coordinated with and approved by the International Bureau in compliance with the U.S.-Mexico treaty, but that its current operation on frequency 780 kHz from the new site had not been coordinated or approved. In addition, the supplement maintained that a new transmitter site for Station XESDD was under construction and Station XESDD was expected to operate on frequency 920 kHz. As with Stations XEKT and XESS, the petition maintained that Station XESDD's prior operation on frequency 1560 kHz had been coordinated with and approved by the International Bureau in compliance with the U.S.-Mexican Agreement, but that its operation on frequency 920 kHz had not been coordinated or approved. The International Bureau confirmed that it had previously approved the operation of Station XESS on frequency 1450 kHz with 1 kW daytime and nighttime power. The International Bureau also confirmed that it had been notified of and approved the operation of Station XESDD on 920 kHz with 200 W nighttime power, but it had not approved the proposed operation of Station XESDD with 2.5 kW daytime power.

6. On February 11, 2004, the Commission received a further supplement to the petition to rescind,¹⁵ claiming that Station XESS had begun operating from its new site, and as expected, was causing substantial harmful interference.¹⁶

7. The Enforcement Bureau's Spectrum Enforcement Division ("Division") sent PSN a

¹²See *Agreement Between the Government of the United States of America and the Government of the United Mexican States Relating to the AM Broadcasting Service in the Medium Frequency Band*, 1986.

¹³See Supplement to and Motion for Expeditious Grant of Petition to Rescind Authorization (filed by the Joint Petitioners, January 28, 2004)

¹⁴The supplement to the petition anticipated that Station XESS's operations would affect Station KABC(AM), 590 kHz, Los Angeles, California, licensed to KABC-AM Radio, Inc., wholly owned by ABC Holding Company, Inc., which also wholly owns KGO-AM Radio, Inc., the licensee of KSFO(AM).

¹⁵See Supplement to Motion for Expeditious Grant of Petition to Rescind Authorization (filed by the Joint Petitioners, February 11, 2004).

¹⁶See note 14 and accompanying text, *supra*.

letter of inquiry on February 11, 2004 and a further letter of inquiry, on March 19, 2004.¹⁷ Pursuant to an extension of time, PSN filed responses to the February 11 letter of inquiry on March 8, 2004, and responded to the March 19 further letter of inquiry on March 29, 2004.¹⁸

8. In its responses, PSN stated that its May 16, 2003 Section 325(c) applications which identified and described the Mexican stations' operations as subsequently modified by the Mexican government in November and December 2003, were intended to be "forward-looking."¹⁹ In this regard, PSN stated that it was aware at the time that it filed its Section 325(c) applications that the Mexican stations planned to modify and upgrade their facilities.²⁰ PSN also stated that it did not verify, and did not know that it was required to verify, that the Mexican stations' operations had been coordinated and were in compliance with the U.S.-Mexican Agreement, at the time it filed its Section 325(c) applications. PSN acknowledged that it provided programming via the Internet from its Chula Vista, California studio to Station XEKTU after that station began operating on frequency 560 kHz in mid-November 2003.²¹ PSN further acknowledged that it did not verify at that time whether Station XEKTU's operation on frequency 560 kHz had been coordinated with and approved by the Commission.²² Moreover, although PSN's Section 325(c) permit explicitly stated that it authorized PSN to supply program material from its Chula Vista, California studio via the Internet to "stations identified and located as follows: ... XEKTU, 550 kHz, Tecate, Mexico," PSN claimed that "its belief at the time was that it could continue supplying programming to XEKTU after it began operating on 560 kHz because it had a Section 325(c) permit ... [and] it was not aware of any requirement that it take further action at the FCC."²³ Additionally, PSN claimed that it did not know that Station XEKTU was allegedly interfering with the U.S. broadcast stations until the January 16, 2004 petition to rescind was served, and that thereafter, it continued to supply broadcast programming to Station XEKTU because "it was unaware of any FCC requirement that

¹⁷See Letters Joseph P. Casey, Chief, Spectrum Enforcement Division, Enforcement Bureau, to Henry A. Solomon, Esq., Jaime Bonilla Valdez, President, PSN, Gregory L. Masters, Esq., Marnie K. Sarver, Esq., Tom W. Davidson, Esq. and Natalie G. Roisman, Esq. (March 18, 2004) and (February 11, 2004).

¹⁸See March 8 LOI Response and March 29 LOI Response.

¹⁹See March 29 LOI Response at 1, 5, 6.

²⁰See March 29 LOI Response at 1, 5, 6. We note that PSN's president, Jaime Bonilla, apparently has attributable and/or related interests in the three Mexican stations. Specifically, PSN stated that Mr. Bonilla holds the title of General Director (unpaid) at Media Sports De Mexico, S.A. de C.V. ("MSM"), which manages all three Mexican stations, and his spouse owns the controlling interest (98 percent of the voting shares) of MSM. March 29 LOI Response. at 7. PSN further stated that MSM is seeking SCT authority to acquire the stations and currently "holds title to the [their] transmitting facilities that were constructed pursuant to the upgrade authorizations," for which PSN financed all construction costs. *Id.* Finally, PSN stated that it has oral time brokerage agreements with all three Mexican stations. *Id.* at 7.

²¹March 8 LOI Response at 2. PSN indicates in its March 8 LOI Response that it first became aware that Station XEKTU was operating on frequency 560 kHz in mid-November 2003. *Id.* However, we note that the Mexican government apparently did not authorize Station XEKTU to operate on frequency 560 kHz until December 9, 2003. See paragraph 6, *supra*.

²²March 8 LOI Response at 2.

²³March 29 LOI Response at 2.

it discontinue service to that station.”²⁴ Finally, PSN stated that it discontinued transmission of programming to Station XEKTT on February 17 2004, and would neither resume cross-border program transmissions to that station nor initiate such transmissions to Stations XESS and XESDD, “until interference and other issues identified in the FCC’s February 11, 2004 investigatory letter have been resolved.”²⁵

9. On April 7, 2004, PSN tendered its Section 325(c) permit for cancellation.²⁶ PSN explained its tender by stating that “it is evident that the proposals to upgrade the Mexican stations were not coordinated with the United States Government before or after PSN applied for its permit ... and must undergo that procedure.”²⁷ PSN stated that it “reserves the right” to reapply for a Section 325(c) authorization upon completion of the coordination proceedings and resolution of the interference issues.²⁸

10. On April 8, 2004, the Joint Petitioners submitted a reply to PSN’s April 7, 2004 letter.²⁹ The Joint Petitioners assert that PSN’s tendering of the Section 325(c) permit for cancellation in no way eliminates or mitigates the fact that PSN knowingly operated in violation of an express condition of its Section 325(c) permit.³⁰ Accordingly, the Joint Petitioners urge the Enforcement Bureau to issue a formal determination regarding such violation and to impose appropriate sanctions upon PSN.³¹ Joint Petitioners also submit that the record in this proceeding demonstrates that PSN is not qualified to hold a permit to deliver programming to foreign broadcast stations and assert that its Section 325(c) permit should be cancelled with prejudice.³²

III. DISCUSSION

11. Section 325(c) of the Act, as previously noted, prohibits the transmission or delivery of programming from a broadcast studio, place or other apparatus within the United States to a radio station in a foreign country “for the purpose of being broadcast from any radio station there having a power

²⁴March 8 LOI Response at 3.

²⁵See Letter from Henry A. Solomon, Esq. to Kathy Berthot, Deputy Chief, Spectrum Enforcement Division, Enforcement Bureau (February 25, 2004).

²⁶See Letter from Henry A. Solomon, Esq. to Kathy Berthot, Deputy Chief, Spectrum Enforcement Division, Enforcement Bureau (April 7, 2004).

²⁷*Id.* at 1.

²⁸*Id.* at 2.

²⁹Letter from Tom W. Davidson and Natalie G. Roisman, counsel for KGO-AM Radio, Inc., and Gregory L. Masters and Marnie K. Sarver, counsel for Owens One Company, AMFM Radio Licenses, LLC and Capstar TX Limited Partnership, to Joseph P. Casey, Chief, Spectrum Enforcement Division, Enforcement Bureau (April 8, 2004).

³⁰*Id.* at 1.

³¹*Id.*

³²*Id.*

output of sufficient intensity and/or being so located geographically that its emissions may be received consistently in the United States, without first obtaining a permit from the Commission upon proper application therefor.” Section 325(c) serves to prevent interference to broadcast stations’ signals, as well as the introduction of broadcast material deemed inimical to the public interest, within the United States.³³

12. In the instant case, PSN admitted that it provided programming from its Chula Vista, California studio via the Internet to Station XEKTT after Station XEKTT began operating on frequency 560 kHz in mid-November 2003, notwithstanding the fact that the express terms of its Section 325(c) permit only authorized it to provide programming to Station XEKTT on frequency 550 kHz. We find wholly unpersuasive PSN’s claim that that it believed that “it could continue supplying programming to XEKTT after it began operating on 560 kHz because it had a Section 325(c) permit.” In this regard, PSN’s Section 325(c) permit explicitly states that “[t]his permit shall not vest in the permittee any right to operate beyond the term hereof nor in any other manner than authorized herein.” Moreover, while PSN’s Section 325(c) permit is explicitly “conditioned upon the Mexican stations operation in full compliance with applicable treaties and related provisions concerning harmful interference to U.S. Broadcast stations,” PSN admitted that it continued to supply programming to Station XEKTT until February 17, 2004, at least a month after it became aware that the Mexican station’s modified operations had not been coordinated with and approved by the International Bureau in accordance with the U.S.-Mexico treaty and that the Mexican station was causing harmful interference to licensed U.S. broadcast stations.³⁴ Accordingly, based upon the record before us, we find that PSN supplied cross-border programming to Station XEKTT in apparent willful³⁵ and repeated³⁶ violation of the express terms and conditions of its Section 325(c) authorization.

13. Section 503(b)(1)(A) of the Act,³⁷ and Section 1.80(a)(2) of the Rules,³⁸ provide that any

³³See *American Broadcasting Cos., Inc.*, 35 FCC 2d 1, 5-6 ¶ 9 (1972); see also *Fox Television Stations, Inc.*, 77 RR 2d 132,133, 137-38 ¶¶ 5, 30, 33-35 (1994), *vacated and remanded on other grounds*, *Channel 51 of San Diego v. FCC*, 79 F.3d 1187, 1188-89 (D.C. Cir. 1996), *rev’d on remand*, *Fox Television Stations, Inc.*, 11 FCC Rcd 14870, 14875-78 ¶¶ 17-25 (1996); *aff’d sub nom, Radio Television S.A. DE C.V. et al. v. FCC*, 130 F.3d 1078 (D.C. Cir. 1997).

³⁴As previously noted, PSN states that Mr. Bonilla “does not recall” being advised of the interference from Station XEKTT to licensed U.S. broadcast stations when the FCC agent visited PSN’s Chula Vista studio in early December 2003. See note 6, *supra*. However, PSN was clearly on notice of the interference and the fact that Station XEKTT’s upgraded facilities had not been coordinated with and approved by the International Bureau when the petition to rescind was filed on January 16, 2004, more than a month before PSN ceased supplying programming to Station XEKTT.

³⁵Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that “[t]he term ‘willful’, ... means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act...” See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

³⁶Section 312(f)(2) of the Act provides that “[t]he term ‘repeated’, when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.” 47 U.S.C. § 312(f)(2).

³⁷47 U.S.C. § 503(b)(1)(A).

person who willfully or repeatedly fails to substantially comply with the terms and conditions of a Commission issued permit, license or other authorization shall be liable for a forfeiture penalty. The forfeiture amount for entities other than broadcast licensees or permittees, cable television operators and common carriers may not exceed \$11,000 for each violation or each day of a continuing violation, up to a maximum of \$87,500 for any single continuing violation.³⁹ In determining the appropriate forfeiture amount, we must consider the factors enumerated in Section 503(b)(2)(D) of the Act, such as “the nature, circumstances, extent and gravity of the violation, and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”⁴⁰

14. Neither the *Forfeiture Policy Statement* nor the rules establish a base forfeiture amount for supplying program material to a foreign broadcast station in violation of the terms of an authorization granted pursuant to Section 325(c) of the Act.⁴¹ However, we think that a substantial proposed forfeiture is warranted. Considering the facts of this case, including the fact that PSN’s violation continued for at least a month after PSN became aware that the operation of Station XEKTT was not in compliance with the applicable treaty and was causing harmful interference to licensed U.S. broadcast stations, we find that it is appropriate to propose a \$20,000 forfeiture. Further, while PSN has tendered its Section 325(c) permit for cancellation,⁴² we find that such a post-remedial measure does not lessen, mitigate, or excuse its past violations of the Act.⁴³

IV. ORDERING CLAUSES

15. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act⁴⁴ and Sections 0.111, 0.311 and 1.80 of the Rules,⁴⁵ Pacific Spanish Network, Inc. **IS** hereby **NOTIFIED**

(Continued from previous page) _____

³⁸47 C.F.R. § 1.80(a)(2).

³⁹See 47 U.S.C. § 503(b); 47 C.F.R. § 1.80(b)(3).

⁴⁰47 U.S.C. § 503(b)(2)(D); *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087, 17110 (1997), *recon. denied* 15 FCC Rcd 303 (1999) (“*Forfeiture Policy Statement*”).

⁴¹The fact that there is no established base forfeiture amount for this violation does not indicate that no forfeiture should be imposed. The *Forfeiture Policy Statement* states that “... any omission of a specific rule violation from the ... [forfeiture guidelines] ... should not signal that the Commission considers any unlisted violation as nonexistent or unimportant.” *Forfeiture Policy Statement*, 12 FCC Rcd at 17099. The Commission retains the discretion, moreover, to depart from the *Forfeiture Policy Statement* and issue forfeitures on a case-by-case basis, under its general forfeiture authority contained in Section 503 of the Act. *Id.*

⁴²Given that PSN has tendered its Section 325(c) permit for cancellation, we find that the Joint Petitioners’ petition to rescind PSN’s Section 325(c) permit is moot and we accordingly dismiss it. To the extent that the Joint Petitioners request that PSN’s permit be cancelled with prejudice, we refer that matter to the International Bureau for consideration.

⁴³See *AT&T Wireless Services, Inc.*, 17 FCC Rcd 21866, 21871 ¶ 14 (2002); *KGVL, Inc.*, 42 FCC 2d 258, 259 (1973).

⁴⁴47 U.S.C. § 503(b).

⁴⁵47 C.F.R. § 0.111, 0.311 and 1.80.

of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of twenty thousand dollars (\$20,000) for willfully and repeatedly violating the express terms and conditions of its Section 325(c) permit.

16. **IT IS FURTHER ORDERED THAT**, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this *Notice of Apparent Liability for Forfeiture and Order*, Pacific Spanish Network, Inc., **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

17. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment must include the FCC Registration Number (FRN) and the NAL/Acct. No. referenced in the caption.

18. The response, if any, must be mailed to the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Enforcement Bureau – Spectrum Enforcement Division, and must include the NAL/Acct. No. referenced in the caption.

19. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

20. Requests for payment of the full amount of this *NAL* under an installment plan should be sent to: Chief, Revenue and Receivable Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁴⁶

21. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this *NAL*, either in your response to the *NAL* or in a separate filing to be sent to the Enforcement Bureau – Spectrum Enforcement Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC's Office of Communications Business Opportunities ("OCBO") set forth in Attachment A of this *NAL*. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

22. **IT IS FURTHER ORDERED** that a copy of this *Notice of Apparent Liability for Forfeiture and Order* shall be sent by first class mail and certified mail return receipt requested to Jaime Bonilla Valdez, President, Pacific Spanish Network, Inc., 296 H Street, Suite 300, Chula Vista, California 91910, and to counsel, Henry A. Solomon, Esq., Garvey Schubert & Barer, 1000 Potomac Street, N.W., Fifth Floor, Washington, D.C. 20007-3501.

⁴⁶See 47 C.F.R. § 1.1914.

23. **IT IS FURTHER ORDERED** that a copy of this *Notice of Apparent Liability for Forfeiture* shall be sent by first class mail and certified mail return receipt requested to counsel for KGO-AM Radio, Inc., Tom W. Davidson and Natalie G. Roisman, Akin Gump Strauss Hauer & Feld LLP, 1333 New Hampshire Avenue, N.W., Washington, D.C. 20036, and to counsel for Owens One Company, AMFM Radio Licenses, LLC and Capstar TX Limited Partnership, Gregory L. Masters and Marnie K. Sarver, Wiley Rein & Fielding LLP, 1776 K Street, N.W., Washington, D.C. 20006.

24. **IT IS FURTHER ORDERED** that the Petition to Rescind Authorization filed jointly on January 16, 2004, by Owens One Company, Inc., AMFM Radio Licenses, LLC, Capstar TX Limited Partnership and KGO-AM Radio, Inc. **IS DISMISSED** as moot, and that proceeding **IS HEREBY TERMINATED**.⁴⁷

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

⁴⁷For purposes of the forfeiture proceeding initiated by this *NAL*, Pacific Spanish Network, Inc. shall be the only party to the proceeding.

Attachment A

FCC List of Small Entities

As described below, a “small entity” may be a small organization, a small governmental jurisdiction, or a small business.

(1) Small Organization	
Any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.	
(2) Small Governmental Jurisdiction	
Governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.	
(3) Small Business	
Any business concern that is independently owned and operated and is not dominant in its field, <i>and</i> meets the pertinent size criterion described below.	
Industry Type	Description of Small Business Size Standards
<i>Cable Services or Systems</i>	
Cable Systems	Special Size Standard – Small Cable Company has 400,000 Subscribers Nationwide or Fewer
Cable and Other Program Distribution	\$12.5 Million in Annual Receipts or Less
Open Video Systems	
<i>Common Carrier Services and Related Entities</i>	
Wireline Carriers and Service providers	1,500 Employees or Fewer
Local Exchange Carriers, Competitive Access Providers, Interexchange Carriers, Operator Service Providers, Payphone Providers, and Resellers	

Note: With the exception of Cable Systems, all size standards are expressed in either millions of dollars or number of employees and are generally the average annual receipts or the average employment of a firm. Directions for calculating average annual receipts and average employment of a firm can be found in 13 CFR 121.104 and 13 CFR 121.106, respectively.

<i>International Services</i>	
International Broadcast Stations	\$12.5 Million in Annual Receipts or Less
International Public Fixed Radio (Public and Control Stations)	
Fixed Satellite Transmit/Receive Earth Stations	
Fixed Satellite Very Small Aperture Terminal Systems	
Mobile Satellite Earth Stations	
Radio Determination Satellite Earth Stations	
Geostationary Space Stations	
Non-Geostationary Space Stations	
Direct Broadcast Satellites	
Home Satellite Dish Service	
<i>Mass Media Services</i>	
Television Services	\$12 Million in Annual Receipts or Less
Low Power Television Services and Television Translator Stations	
TV Auxiliary, Special Broadcast and Other Program Distribution Services	
Radio Services	\$6 Million in Annual Receipts or Less
Radio Auxiliary, Special Broadcast and Other Program Distribution Services	
Multipoint Distribution Service	Auction Special Size Standard – Small Business is less than \$40M in annual gross revenues for three preceding years
<i>Wireless and Commercial Mobile Services</i>	
Cellular Licensees	1,500 Employees or Fewer
220 MHz Radio Service – Phase I Licensees	
220 MHz Radio Service – Phase II Licensees	Auction special size standard - Small Business is average gross revenues of \$15M or less for the preceding three years (includes affiliates and controlling principals) Very Small Business is average gross revenues of \$3M or less for the preceding three years (includes affiliates and controlling principals)
700 MHz Guard Band Licensees	
Private and Common Carrier Paging	
Broadband Personal Communications Services (Blocks A, B, D, and E)	1,500 Employees or Fewer
Broadband Personal Communications Services (Block C)	Auction special size standard - Small Business is \$40M or less in annual gross revenues for three previous calendar years Very Small Business is average gross revenues of \$15M or less for the preceding three calendar years (includes affiliates and persons or entities that hold interest in such entity and their affiliates)
Broadband Personal Communications Services (Block F)	
Narrowband Personal Communications Services	
Rural Radiotelephone Service	1,500 Employees or Fewer
Air-Ground Radiotelephone Service	
800 MHz Specialized Mobile Radio	Auction special size standard -

900 MHz Specialized Mobile Radio	Small Business is \$15M or less average annual gross revenues for three preceding calendar years
Private Land Mobile Radio	1,500 Employees or Fewer
Amateur Radio Service	N/A
Aviation and Marine Radio Service	1,500 Employees or Fewer
Fixed Microwave Services	
Public Safety Radio Services	Small Business is 1,500 employees or less Small Government Entities has population of less than 50,000 persons
Wireless Telephony and Paging and Messaging	1,500 Employees or Fewer
Personal Radio Services	N/A
Offshore Radiotelephone Service	1,500 Employees or Fewer
Wireless Communications Services	Small Business is \$40M or less average annual gross revenues for three preceding years Very Small Business is average gross revenues of \$15M or less for the preceding three years
39 GHz Service	
Multipoint Distribution Service	Auction special size standard (1996) – Small Business is \$40M or less average annual gross revenues for three preceding calendar years Prior to Auction – Small Business has annual revenue of \$12.5M or less
Multichannel Multipoint Distribution Service	\$12.5 Million in Annual Receipts or Less
Instructional Television Fixed Service	
Local Multipoint Distribution Service	Auction special size standard (1998) – Small Business is \$40M or less average annual gross revenues for three preceding years Very Small Business is average gross revenues of \$15M or less for the preceding three years
218-219 MHz Service	First Auction special size standard (1994) – Small Business is an entity that, together with its affiliates, has no more than a \$6M net worth and, after federal income taxes (excluding carryover losses) has no more than \$2M in annual profits each year for the previous two years New Standard – Small Business is average gross revenues of \$15M or less for the preceding three years (includes affiliates and persons or entities that hold interest in such entity and their affiliates) Very Small Business is average gross revenues of \$3M or less for the preceding three years (includes affiliates and persons or entities that hold interest in such entity and their affiliates)
Satellite Master Antenna Television Systems	\$12.5 Million in Annual Receipts or Less
24 GHz – Incumbent Licensees	1,500 Employees or Fewer
24 GHz – Future Licensees	Small Business is average gross revenues of \$15M or less for the preceding three years (includes affiliates and persons or entities that hold interest in such entity and their affiliates) Very Small Business is average gross revenues of \$3M or less for the preceding three years (includes affiliates and persons or entities that hold interest in such entity and their affiliates)

<i>Miscellaneous</i>	
On-Line Information Services	\$18 Million in Annual Receipts or Less
Radio and Television Broadcasting and Wireless Communications Equipment Manufacturers	750 Employees or Fewer
Audio and Video Equipment Manufacturers	
Telephone Apparatus Manufacturers (Except Cellular)	1,000 Employees or Fewer
Medical Implant Device Manufacturers	500 Employees or Fewer
Hospitals	\$29 Million in Annual Receipts or Less
Nursing Homes	\$11.5 Million in Annual Receipts or Less
Hotels and Motels	\$6 Million in Annual Receipts or Less
Tower Owners	(See Lessee's Type of Business)