

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

In the Matter of )

**Tarrant Radio Broadcasting, Inc.** )

Radio Station KZEE )

Weatherford, TX )

File No. EB-01-DL-0813  
NAL/Acct. No. 200232500003  
FRN 0006-7721-56

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

Released: **May 24, 2002**

By the Enforcement Bureau, Dallas Office:

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture, we find that Tarrant Radio Broadcasting, Inc. (“Tarrant”), licensee of AM broadcast station KZEE in Weatherford, Texas, willfully and repeatedly violated Section 73.1560(a)(1) of the Commission’s Rules (“Rules”)<sup>1</sup> by operating station KZEE with an antenna input power at a level more than 105% of authorized power. We conclude that Tarrant is apparently liable for forfeiture in the amount of four thousand dollars (\$4,000).

**II. BACKGROUND**

2. On November 8 and 11, 2001, the Commission received complaints alleging that station KZEE(AM) in Weatherford, Texas did not reduce antenna input power after sunset as required by the station’s license. KZEE’s license authorizes operation at a daytime power level of 500 watts and a nighttime power level of 8 watts. KZEE’s post-sunset authorization specifies, for the month of January, a power level of 18.2 watts from 5:45 P.M. to 6:45 P.M., and 8.5 watts from 6:45 P.M. to 7:45 P.M. local time.

3. On January 9, 2002, agents from the FCC Enforcement Bureau’s Dallas Field Office (“Dallas Office”) made field strength measurements of KZEE’s signal from 5:22 P.M., before local sunset, to 9:25 P.M., well after local sunset. The measurements revealed that KZEE operated at the daytime power level of 500 watts after sunset.

4. On January 24, 2002, agents from the Dallas Office again made field strength measurements of KZEE’s signal and inspected the KZEE transmitter facilities. The inspection and measurements revealed that the KZEE transmitter operated during the daytime at 130 percent of the station’s authorized daytime power of 500 watts. During the inspection, station personnel stated that they did not know how to operate the transmitter’s remote control and that station personnel did not adjust the transmitter power

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<sup>1</sup> 47 C.F.R. § 73.1560(a)(1)

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level.

5. On February 5, 2002, the Dallas Office issued to Tarrant a Notice of Violation for overpower operation of KZEE in violation of 73.1560(a)(1). In its response dated March 12, 2002, Tarrant's counsel admitted the violation and stated "This violation has been corrected by the station manually signing off at sunset and not operating at all during nighttime hours. Further, the operators and the Burk remote control unit will be able to reduce power to proper nighttime power levels whenever nighttime operation is desired. With the repair of the output network, new base current meters have been installed to enable the accurate direct measurement and setting of power levels for all modes of operation."

### III. DISCUSSION

6. Section 73.1560(a)(1) of the Rules requires AM broadcast stations to maintain the antenna input power as near as practicable to the authorized antenna input power but not to exceed 105% of the authorized power. On January 9, 2002, Tarrant operated station KZEE with antenna input power greater than 105% of the authorized level by not reducing power to authorized post-sunset and nighttime power levels after sunset. On January 24, 2002, Tarrant operated station KZEE with antenna input power at 130% of the authorized daytime power of 500 watts.

7. Based on the evidence before us, we find that on January 9 and 24, 2002, Tarrant repeatedly<sup>2</sup> and willfully<sup>3</sup> violated Section 73.1560(a)(1) of the Commission's rules by operating with antenna input power greater than 105% of authorized power.

8. Pursuant to Section 1.80(b)(4) of the Rules, the base forfeiture amount is \$4,000 for exceeding authorized power limits (i.e. operating station KZEE with an antenna input power at a level more than 105% of authorized power).<sup>4</sup> In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"),<sup>5</sup> which include the nature, circumstances, extent, and gravity of the violation(s), and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require. Considering the entire record and applying the statutory factors to the instant case, a \$4,000 forfeiture is warranted.

### IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,<sup>6</sup> and Sections

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<sup>2</sup> Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which applies to Section 503(b) 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.

<sup>3</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act ...."

*See Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

<sup>4</sup> 47 C.F.R. § 1.80(b)(4).

<sup>5</sup> 47 U.S.C. § 503(b)(2)(D).

<sup>6</sup> 47 U.S.C. § 503(b).

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0.111, 0.311 and 1.80 of the Rules,<sup>7</sup> Tarrant Radio Broadcasting, Inc. is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of four thousand dollars (\$4,000) for operating station KZEE with an antenna input power at a level more than 105% of authorized power in willful and repeated violation of Section 73.1560(a)(1) of the Rules.

10. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Tarrant Radio Broadcasting, Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

11. 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, IL 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced in the letterhead above.

12. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12<sup>th</sup> Street, SW, Washington, DC 20554, Attn: Enforcement Bureau – Technical and Public Safety Division, and MUST INCLUDE THE NAL/Acct. No. and FRN referenced in the letterhead above.

13. 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 practices (“GAAP”); 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.

14. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Federal Communications Commission, Chief, Revenue and Receivables Operations Group, 445 12<sup>th</sup> Street, SW, Washington, DC 20554.<sup>8</sup>

15. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail Return Receipt Requested to Tarrant Radio Broadcasting, Inc. at P.O. Box 92903, Southlake, TX 76092.

FEDERAL COMMUNICATIONS COMMISSION

James D. Wells

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<sup>7</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80.

<sup>8</sup> See 47 C.F.R. § 1.1914.

