



FEDERAL COMMUNICATIONS COMMISSION
Enforcement Bureau
South Central Region
Dallas Office
9330 LBJ Freeway, Suite 1170
Dallas, TX 75243

October 30, 2014

VIA REGULAR AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Reference File No: EB-FIELDSCR-14-00017192

Victory Publishing Company, LTD.
1007 Ave K
Marble Falls, TX 78654

Letter of Inquiry

The purpose of this letter is to seek information on Station KBey-FM's use of its main transmitter and two auxiliary transmitters.

The Enforcement Bureau's Dallas Office received complaints that Station KBey-FM broadcast two different football games with different transmitters on 103.9 MHz on several Fridays from 7:00 pm to 9:30 pm in Burnet and Marble Falls, Texas, specifically on September 12, September 25, and October 10, 2014.

In response to a voicemail left for the owner and president of Victory Publishing, Station KBey-FM's attorney called the Dallas Office and indicated that the main station was in maintenance on Friday and the auxiliary stations were in operation to back up the main transmitter. After this conversation, Station KBey submitted paperwork with the Commission, which resulted in an FM Broadcast Station License (Auxiliary Antenna, File No. BMXPH-20140820ABQ) being issued to Victory Publishing on October 17, 2014.

Pursuant to Section 4(i), 4(j), and 403 of the Communications Act of 1934, as amended,¹ and Section 1.17 of the Commission's rules (Rules),² provide, via first class mail, the following information and any relevant documents within 10 calendar days from the date of this letter to James D. Wells, District Director of the Dallas Office at the address listed in the letterhead above:

¹ 47 U.S.C. §§ 154(i), 154(j), 403.

² 47 C.F.R. § 1.17.

Section 73.1670(a) of the Commission's rules³ states "[a] license of a broadcast station may, without further authority from the FCC, install and use with the main antenna system one or more auxiliary transmitters for the following purposes: (1) The transmission of regular programs upon failure of the main transmitter. (2) The transmission of regular programs during maintenance or modifications of the main transmitter..."

- (1) List the days and times in September, October, and November 2014 when the auxiliary/main transmitter in Burnet, Texas broadcast a football game at the same time that the auxiliary transmitter in Marble Falls, Texas broadcast a different football game. Next to the dates and times, note the football teams playing in the games. Are you scheduled to broadcast two different football games at the same time using the two auxiliary transmitters in October or November 2014? If so, list the dates and times for the upcoming games.
 - a. During these dates and times, describe the status of the main transmitter. What type of maintenance, if any, was performed on the main transmitter during these dates and times? List the name and title of the person who performed this maintenance, if any.
 - b. Provide a copy of the station log for KBEY-FM for September and October 2014.
- (2) Submit any contracts or written agreements to broadcast either or both football seasons for the Burnet and Marble Falls football teams.
- (3) Other than the above referenced football games, list the dates and times from January 1, 2014 until the present when the auxiliary/main transmitter in Burnet, Texas broadcast programming that differed from programming broadcast at the same time by the auxiliary transmitter in Marble Falls, Texas. Next to the dates and times, note the name or topic of the programming and the status of the main transmitter. Are you scheduled to broadcast different programming at the same time on the two auxiliaries in October or November 2014? If so, list the dates and times for the upcoming programs and a description of the programming.

Provide any additional information you feel important to this inquiry.

We direct Victory Publishing Company, LTD. to support its responses with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Victory Publishing Company, LTD with personal knowledge of the representations provided in Victory Publishing Company, LTD response, verifying the truth and accuracy of the information therein and that all of the documents and information requested by this inquiry which are in Victory Publishing Company, LTD possession, custody, control or knowledge have been produced. If multiple Victory Publishing Company, LTD employees contribute to the response, in addition to such general affidavit or declaration of the authorized officer of Victory Publishing Company, LTD noted above, provide separate affidavits or declarations of each such individual that identify clearly to which responses the affiant or declarant is attesting. All such declarations provided should comply with section 1.16 of the Commission's rules,⁴ and be substantially in the form set forth therein.

³ 47 C.F.R. § 73.1670(a).

⁴ 47 C.F.R. § 1.16.

ATTACHMENT

Instructions

Request for Confidential Treatment. If the Company requests that any information or documents responsive to this letter be treated in a confidential manner, it shall submit, along with all responsive information and documents, a statement in accordance with section 0.459 of the Commission's rules. 47 C.F.R. § 0.459. Requests for confidential treatment must comply with the requirements of section 0.459, including the standards of specificity mandated by section 0.459(b). Accordingly, "blanket" requests for confidentiality of a large set of documents are unacceptable. Pursuant to section 0.459(c), the Bureau will not consider requests that do not comply with the requirements of section 0.459.

Claims of Privilege. If the Company withholds any information or documents under claim of privilege, it shall submit, together with any claim of privilege, a schedule of the items withheld that states, individually as to each such item: the numbered inquiry to which each item responds and the type, title, specific subject matter and date of the item; the names, addresses, positions, and organizations of all authors and recipients of the item; and the specific ground(s) for claiming that the item is privileged.

Method of Producing Documents. Each requested document, as defined herein, shall be submitted in its entirety, even if only a portion of that document is responsive to an inquiry made herein. This means that the document shall not be edited, cut, or expunged, and shall include all appendices, tables, or other attachments, and all other documents referred to in the document or attachments. All written materials necessary to understand any document responsive to these inquiries must also be submitted.

Identification of Documents. For each document or statement submitted in response to the inquiries stated in the cover letter, indicate, by number, to which inquiry it is responsive and identify the person(s) from whose files the document was retrieved. If any document is not dated, state the date on which it was prepared. If any document does not identify its author(s) or recipient(s), state, if known, the name(s) of the author(s) or recipient(s). The Company must identify with reasonable specificity all documents provided in response to these inquiries.

Definitions

For purposes of this letter, the following definitions apply:


"Any" shall be construed to include the word "all," and the word "all" shall be construed to include the word "any." Additionally, the word "or" shall be construed to include the word "and," and the word "and" shall be construed to include the word "or." The word "each" shall be construed to include the word "every," and the word "every" shall be construed to include the word "each."

"Document" shall mean the complete original (or in lieu thereof, exact copies of the original) and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any taped, recorded, transcribed, written, typed, printed, filmed, punched, computer-stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated, or made.

To knowingly and willfully make any false statement or conceal any material fact in reply to this inquiry is punishable by fine or imprisonment.⁵

The Privacy Act of 1974⁶ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION


James D. Wells
District Director
Dallas Office
South Central Region
Enforcement Bureau

Attachment:

- Instructions

⁵ See 18 U.S.C. § 1001; *see also* 47 C.F.R. § 1.17.

⁶ P.L. 93-579, 5 U.S.C. § 552a(e)(3).