

**Federal Communications Commission**

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

In the Matter of	)	
	)	
PBI, LLC	)	File No.: EB-11-DL-0058
	)	NOV No.: V201232500006
Licensee of Radio Station KDDD(AM)	)	Facility ID No.: 74311
and KDDD-FM )	)	
	)	
Dumas, TX	)	

**NOTICE OF VIOLATION**

**Released: July 5, 2012**

By the District Director, Dallas Office, South Central Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules<sup>1</sup> to PBI, LLC, licensee of Station KDDD(AM) and KDDD-FM in Dumas, Texas.
2. On August 16, 2011, an agent of the Enforcement Bureau's Dallas Office inspected Stations KDDD(AM) and KDDD-FM, and observed the following violation(s):
  - a. 47 C.F.R. § 73.1800(a): "The licensee of each station must maintain a station log as required by § 73.1820. This log shall be kept by station employees competent to do so, having actual knowledge of the facts required. All entries, whether required or not by the provisions of this part, must accurately reflect the station operation. Any employee making a log entry shall sign the log, thereby attesting to the fact that the entry, or any correction or addition made thereto, is an accurate representation of what transpired." At the time of inspection, the Stations did not have any station logs, other than emergency alert system logs.
  - b. 47 C.F.R. 73.1560(d): "In the event it becomes technically impossible to operate at authorized power, a broadcast station may operate at reduced power for a period of not more than 30 days without specific authority from the FCC. If operation at reduced power will exceed 10 consecutive days, notification must be made to the FCC in Washington, DC. ... If causes beyond the control of the licensee prevent restoration of the authorized power within 30 days, a request for Special Temporary Authority (see § 73.1635) must be

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<sup>1</sup>47 C.F.R. § 1.89.

**Federal Communications Commission**

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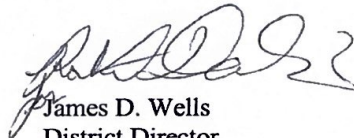
made to the FCC in Washington, DC for additional time as may be necessary." At the time of inspection, Station KDDD-FM was operating with only an FM exciter at less than authorized power. The owner stated that the station had been without an FM transmitter for the past two months and had not notified the FCC.


- c. 47 C.F.R. § 73.1870(b)(3): "The designation of the chief operator must be in writing with a copy of the designation posted with the station license." At the time of the inspection, the Stations did not have a written designation of a person to serve as the chief operator.
3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,<sup>2</sup> and Section 1.89 of the Commission's rules, PBI, LLC, must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response must fully explain each violation, must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and should include a time line for completion of pending corrective action(s). The response must be complete in itself and signed by a principal or officer of the licensee. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission  
Dallas Office  
9330 LBJ Freeway, Suite 1170  
Dallas, TX 75243

4. This Notice shall be sent to PBI, LLC at its address of record.
5. The Privacy Act of 1974<sup>3</sup> 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. Any false statement made knowingly and willfully in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.<sup>4</sup>

FEDERAL COMMUNICATIONS COMMISSION

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

  
<sup>2</sup>47 U.S.C. § 308(b).

<sup>3</sup>P.L. 93-579, 5 U.S.C. § 552a(e)(3).

<sup>4</sup>18 U.S.C. § 1001 *et seq.*



File No: EB-11-DL-0058  
NOV No: V201232500006  
Facility ID No: 74311

PBI, LLC  
Licensee of KDDD AM and KDDD-FM  
P.O. Box 396  
Dumas, TX 79029

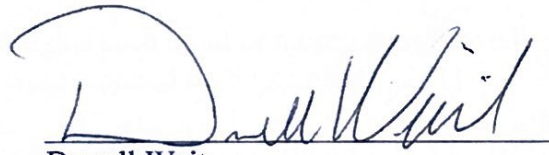
RE: Required response to violations

To: The Federal Communications Commission

In response to the notice of violation released on July 5, 2012, and received on July 9, 2012, this letter is our written statement explaining each violation and our responses to correct the violations. Three violations were specified and each new page of this letter responds to the violations.

We certify that the following corrections have been made in response to each of these violations.

PBI, LLC

  
\_\_\_\_\_  
Darren Stallwitz  
\_\_\_\_\_  
Darrell Wait

File No: EB-11-DL-0058  
NOV No: V201232500006  
Facility ID No: 74311

**First Violation:**

- a) The licensee of each statement must maintain a station log as required by 73.1820.

In late 2010 we lost our ability to remotely control and monitor our equipment at the transmitter sight. At that time our logs simply read: Unable to shut off transmitter remotely. However, we were turning the AM transmitter on and off according to the sunrise, sunset time, but not getting that fact recorded. A few months later we lost complete use of our FM transmitter. (Concerning the FM transmitter see response to the next violation) Lack of operating funds prevented us from immediately replacing the remote control equipment. However, when the FCC Enforcement Bureau inspected our station on August 16, 2011, we were in the process of applying for a loan to replace our FM transmitter and our remote control equipment along with some other updates.

**Actions taken:**

- 1) The FM transmitter contains its own logs; and in addition to keeping its own logs, we have recorded readings from the transmitter at least twice each day.
- 2) Concerning the AM transmitter, we continued to drive to the transmitter sight each night and each morning to turn it off and to turn it on. Those events have been recorded in the logs. We did this through March 2012 when we received permission from the FCC to operate the AM at reduced power after sunset. We then drove to the transmitter sight each night to reduce the power and then each morning to increase the power.
- 3) We perform a visual check of the tower lights each night or morning and have been recording that information since the lights were repaired on September 6, 2011.
- 4) The remote control was finally connected and running properly on July 13, 2012, and the logs beginning on July 14, 2012, show the readings for both the AM and the FM transmitters.
- 5) To ensure that logs will be maintained Darren Stallwitz has been designated Chief Operator. He will record the information each morning; or designate that Darrell Wait record the information. In the event that both Darren Stallwitz and Darrell Wait are absent, then Don Parsons has been trained to complete this assignment. If and when Darren is absent, he will ensure upon his return that the information was recorded.
- 6) The remote equipment will begin to print the information several times each day beginning on August 1, 2012.

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**Second Violation**

b) In the event it become technically impossible to operate at authorized power, a broadcast station may operate at reduced power for a period of not more than 30 days without specific authority from the FCC.

At the time of the inspection we had been without our FM transmitter for just over two months and were operating at reduced power through the exciter. As stated in violation one, we were in the process of obtaining a loan to purchase a new transmitter. However, we had not received permission from the FCC to operate at reduced power.

**Action taken**

1) On August 23, 2011, we filed a request with the FCC for an STA to operate the station at reduced power. We received permission for this from the FCC and a copy of that letter is included with this response. On October 23, 2011, a new transmitter was installed and we returned to full power.



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NOV No: V201232500006  
Facility ID No: 74311

**Third Violation**

c) The designation of the chief operator must be in writing with a copy of the designation posted with the station license.

At the time of the inspection we did not have a designation of a chief operator and neither was that designation posted.

**Actions Taken:**

- 1) As of September 6, 2011, we have designated a chief operator and a General Manager. That letter is posted next to the license; and is found in the public file.
- 2) The public file contains both a copy of the posted letter and the chief operator's designations for properly recording required logs. The posted letter along with the letter designating specific requirements is included in this response.

## **Chief Operator Designations**

**September 6, 2011**

- 1) As Chief Operator I will record log information for both the AM and the FM transmitter; the forward power and the reflected power of each. I will also conduct a visual check of the tower lights either in the evening or in the morning. In my absence, Darrell Wait will record that information. If both myself and Darrell Wait are absent simultaneously, Don Parsons has been trained to record that information.
- 2) I designate that Celso Garcia will ensure that the AM transmitter is turned off according to the FCC sunrise and sunset times. In the event that Celso is unable to perform this function, then either Darrell Wait or myself will carry out this responsibility.
- 3) I designate station employee, Don Parsons, to have the responsibility for maintaining EAS logs. He will conduct a RWT and ensure that RMT's are received, transmitted, and logged each month. General Manager, Lindsey Stephens will check each week to ensure that the information is recorded accurately. If there are problems then Lindsey Stephens will report that information to me.
- 4) In the event of a malfunction of the equipment, I will notify Don Jones, an engineer, who serves as a consultant for KDDD radio. Don will be told of the malfunction and then will assist the station in making the needed repairs.

## **Chief Operator Designations**

**October 24, 2011**

- 1) As Chief Operator I will record log information for both the AM and the FM transmitter; the forward power and the reflected power of each. I will also conduct a visual check of the tower lights either in the evening or in the morning. In my absence, Darrell Wait will record that information. If both myself and Darrell Wait are absent simultaneously, Don Parsons has been trained to record that information.
- 2) I designate that Darrell Wait or myself will ensure that the AM transmitter is turned off and then back on according to the FCC sunrise and sunset times.
- 3) I designate station employee, Don Parsons, to have the responsibility for maintaining EAS logs. He will conduct a RWT and ensure that RMT's are received, transmitted, and logged each month. General Manager, Lindsey Stephens will check each week to ensure that the information is recorded accurately. If there are problems then Lindsey Stephens will report that information to me.
- 4) In the event of a malfunction of the equipment, I will notify Don Jones, an engineer, who serves as a consultant for KDDD radio. Don will be told of the malfunction and then will assist the station in making the needed repairs.



## **Chief Operator Designations**

**Updated on March 26, 2012**

- 1) As Chief Operator I will record log information for both the AM and the FM transmitter; the forward power and the reflected power of each. I will also conduct a visual check of the tower lights either in the evening or in the morning. In my absence, Darrell Wait will record that information. If both myself and Darrell Wait are absent simultaneously, Don Parsons has been trained to record that information.
- 2) I designate that Darrell Wait will ensure that the AM transmitter is reduced according to the FCC sunrise and sunset times. In the event that Darrell Wait is unable to perform this function, then I will carry out this responsibility.
- 3) I designate station employee, Don Parsons, to have the responsibility for maintaining EAS logs. He will conduct a RWT and ensure that RMT's are received, transmitted, and logged each month. General Manager, Lindsey Stephens will check each week to ensure that the information is recorded accurately. If there are problems then Lindsey Stephens will report that information to me.
- 4) In the event of a malfunction of the equipment, I will notify Don Jones, an engineer, who serves as a consultant for KDDD radio. Don will be told of the malfunction and then will assist the station in making the needed repairs.

## **Chief Operator Designations**

**Updated on July 14, 2012**

- 1) As Chief Operator I will record log information for both the AM and the FM transmitter; the forward power and the reflected power of each. I will also conduct a visual check of the tower lights either in the evening or in the morning. In my absence, Darrell Wait will record that information. If both myself and Darrell Wait are absent simultaneously, Don Parsons has been trained to record that information.
- 2) I designate that Darrell Wait will ensure that the AM transmitter is reduced according to the FCC sunrise and sunset times. The remote control equipment has the capacity to do this and Darrell Wait will check regularly to ensure that the equipment is functional. In the event that Darrell Wait is unable to perform this function, then I will carry out this responsibility.
- 3) I designate station employee, Don Parsons, to have the responsibility for maintaining EAS logs. He will conduct a RWT and ensure that RMT's are received, transmitted, and logged each month. General Manager, Lindsey Stephens will check each week to ensure that the information is recorded accurately. If there are problems then Lindsey Stephens will report that information to me.
- 4) In the event of a malfunction of the equipment, I will notify Don Jones, an engineer, who serves as a consultant for KDDD radio. Don will be told of the malfunction and then will assist the station in making the needed repairs.



**KDDD**  
**95.3 FM • 800 AM**  
***"The Voice of the North Plains"***

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408 N. Dumas Ave. • 806-935-4141 • Caller Request Line 806-934-9530

September 6, 2011

To Whom It May Concern:

As of this date and until further notice, the owners of PBI, LLC, doing business as KDDD Radio in Dumas, Texas, name Darren Stallwitz as the Chief Operator and Lindsey Stephens as the General Manager of the both KDDD AM and KDDD-FM.

PBIIIc dba KDDD Radio



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

In the Matter of )

PBI, LLC )

Licensee of Stations KDDD(AM) and KDDD-FM )

Dumas, TX )

File No.: EB-11-DL-0058

NAL/Acct. No.: 201232500005

Facility ID No.: 74311

FRN: 0015162472

**FORFEITURE ORDER**

Adopted: March 1, 2013

Released: March 1, 2013

By the Regional Director, South Central Region, Enforcement Bureau:

**I. INTRODUCTION**

1. In this Forfeiture Order (Order), we issue a monetary forfeiture in the amount of eight thousand dollars (\$8,000) to PBI, LLC (PBI), licensee of Stations KDDD(AM) and KDDD-FM, in Dumas, Texas, for willful and repeated violation of Section 11.35(a) of the Commission's rules (Rules).<sup>1</sup> The noted violations involved PBI's failure to (1) maintain operational emergency alert system (EAS) equipment, and (2) keep records indicating why EAS tests were not received.

**II. BACKGROUND**

2. On July 5, 2012, the Enforcement Bureau's Dallas Office (Dallas Office) issued a Notice of Apparent Liability for Forfeiture and Order (NAL)<sup>2</sup> to PBI for violations of Section 11.35(a) of the Rules. PBI submitted a response to the NAL admitting that it was "negligent in maintaining proper EAS requirements and procedures," and requesting a reduction of the proposed \$8,000 forfeiture, because it "does not have sufficient funds to remit the entire penalty."<sup>3</sup> PBI also certified that the EAS equipment for Stations KDDD(AM) and KDDD-FM was fully operational on July 31, 2012.<sup>4</sup>

**III. DISCUSSION**

3. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended (Act),<sup>5</sup> Section 1.80 of the Rules,<sup>6</sup> and the

<sup>1</sup> 47 C.F.R. § 11.35(a).

<sup>2</sup> PBI, LLC, Notice of Apparent Liability for Forfeiture and Order, 27 FCC Rcd 7569 (Enf. Bur. 2012). A comprehensive recitation of the facts and history of this case can be found in the NAL and is incorporated herein by reference.

<sup>3</sup> Letter from Darrell Wait and Darren Stallwitz, Partners, PBI, LLC, to the Dallas Office, South Central Region, Enforcement Bureau at 1 (July 31, 2012) (on file in EB-11-DL-0058) (NAL Response).

<sup>4</sup> *Id.* at 2.

<sup>5</sup> 47 U.S.C. § 503(b).

<sup>6</sup> 47 C.F.R. § 1.80.

*Forfeiture Policy Statement.*<sup>7</sup> In examining PBI's response, Section 503(b)(2)(E) of the Act requires that the Commission take into account 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 other such matters as justice may require.<sup>8</sup> As discussed below, we have considered PBI's response in light of these statutory factors, and find that a reduction of the forfeiture is not warranted.

4. Section 11.35(a) of the Rules states that all "EAS Participants are responsible for ensuring that EAS Encoders, EAS Decoders and Attention Signal generating and receiving equipment used as part of the EAS are installed so that the monitoring and transmitting functions are available during the times the stations and systems are in operation. Additionally, EAS Participants must determine the cause of any failure to receive the required tests or activations specified in § 11.61(a)(1) and (a)(2). Appropriate entries indicating reasons why any tests were not received must be made in the broadcast station log."<sup>9</sup> It is undisputed that PBI's EAS equipment was not fully operational on August 16, 2011 and that it had no records of any EAS tests being received after October 30, 2008. Thus, based on the evidence before us, we find that PBI willfully and repeatedly violated Section 11.35(a) of the Rules<sup>10</sup> by failing to ensure the operational readiness of the EAS equipment for Stations KDDD(AM) and KDDD-FM, and failing to explain in station logs why EAS tests were not received.

5. PBI requests reduction of the proposed forfeiture because it asserts that it is unable to pay the forfeiture. With regard to an individual or entity's inability to pay claim, the Commission has determined that, in general, gross revenues are the best indicator of an ability to pay a forfeiture.<sup>11</sup> Based on the financial documents provided by PBI, we conclude that its gross revenues are sufficient to pay the forfeiture.<sup>12</sup> Therefore, we decline to reduce the \$8,000 forfeiture on these grounds. However, PBI also requested the opportunity to make installment payments on the forfeiture. PBI may request installment payments as described in paragraph 8 below.

#### IV. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.204, 0.311, 0.314, and 1.80(f)(4) of the Commission's rules, PBI, LLC **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of eight thousand dollars (\$8,000) for violations of Section 11.35(a) of the Commission's rules.<sup>13</sup>

7. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within thirty (30) calendar days after the release date of this Forfeiture Order.<sup>14</sup> If the forfeiture is

<sup>7</sup> *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997), *recons. denied*, 15 FCC Rcd 303 (1999) (*Forfeiture Policy Statement*).

<sup>8</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>9</sup> 47 C.F.R. § 11.35(a).

<sup>10</sup> 47 C.F.R. § 17.57.

<sup>11</sup> See *PJB Communications of Virginia, Inc.*, Forfeiture Order, 7 FCC Rcd 2088, 2089 (1992) (forfeiture not deemed excessive where it represented approximately 2.02 percent of the violator's gross revenues); *Local Long Distance, Inc.*, Forfeiture Order, 16 FCC Rcd 24385 (2000) (forfeiture not deemed excessive where it represented approximately 7.9 percent of the violator's gross revenues); *Hoosier Broadcasting Corporation*, Forfeiture Order, 15 FCC Rcd 8640 (2002) (forfeiture not deemed excessive where it represented approximately 7.6 percent of the violator's gross revenues).

<sup>12</sup> The forfeiture amount falls within the percentage range that the Commission has previously found acceptable. See *supra* note 11.

<sup>13</sup> 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80(f)(4), 11.35(a).

<sup>14</sup> 47 C.F.R. § 1.80.



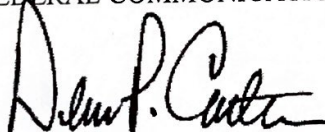
not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to Section 504(a) of the Act.<sup>15</sup> PBI, LLC shall send electronic notification of payment to [SCR-Response@fcc.gov](mailto:SCR-Response@fcc.gov) on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.<sup>16</sup> When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions you should follow based on the form of payment you select:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

8. Any request for full payment under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.<sup>17</sup> If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov).

9. **IT IS FURTHER ORDERED** that a copy of this Forfeiture Order shall be sent by both First Class Mail and Certified Mail, Return Receipt Requested, to PBI, LLC at P.O. Box 396, Dumas, TX 79029.

FEDERAL COMMUNICATIONS COMMISSION



Dennis P. Carlton  
Regional Director, South Central Region  
Enforcement Bureau

<sup>15</sup> 47 U.S.C. § 504(a).

<sup>16</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

<sup>17</sup> See 47 C.F.R. § 1.1914.



**Federal Communications Commission**[Print](#)**Receipt of Payment****Date: 4/2/2013 9:09AM**

Agency Tracking ID: PGC2303095

Authorization Number: 07184G

Payer:

PBI, LLC

PO Box 396

408 N Dumas Ave

Dumas, TX 79029 US

FRN: 0015162472

Applicant: PBI, LLC

FRN: 0015162472

Bill Number

201232500005

Amount

\$8,000.00

**Total:**

1

\$8,000.00

Total BillsTotal Amount**Grand Total: 1****\$8,000.00**

Thank you for your payment.

If there are any questions, please call Revenue and Receivables Operations Group at (202) 418-1995.

[Print](#)[Close](#)