

ALERT

# NCE Broadcaster Fined \$9K for Issues/ Programs Report Violations

November 7, 2023

There are certain regulatory “perks” to being a non-commercial educational (NCE) broadcaster, such as not paying regulatory fees. There are also certain regulatory drawbacks (looking at you, underwriting rules). One thing in which NCE and commercial broadcasters share equally, however, is the obligation to compile and file quarterly issues/programs reports describing station programming that addresses community issues. Failure to comply, even when there is no allegation that the station did not actually air issue-responsive programming, can be costly.

On November 6, 2023, the Media Bureau’s Video Division issued a Notice of Apparent Liability for \$9,000 against Puget Sound Educational TV, Inc., licensee of NCE television station KWDK in Tacoma, Washington. The Federal Communications Commission (FCC) found that Puget Sound willfully and repeatedly violated the Commission’s rules by failing to timely file 12 issues/programs reports. Specifically, the Video Division found that Puget Sound filed seven reports more than one year late, four reports between one month and one year late, and one report between one day and one month late. Puget Sound attributed the deficiencies to “simple administrative oversight,” which (predictably) the Video Division found insufficient to excuse the violations. The late-filed reports were disclosed in KWDK’s license renewal application, and staff also conducted their own investigation to confirm.

Under FCC rules, NCE and commercial radio and television stations must create a report on a quarterly basis that describes station programming addressing community issues. The report must be uploaded to the station’s online public inspection file by the 10th day of the month following the end of the quarter (e.g., January 10, April

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10, July 10, and October 10). The reports must include the time, date, duration, and title of each program along with a brief description of the program. The FCC has not created a specific form that must be filed nor specified the number of issues/programs that must be reported (although we typically recommend identifying at least 5 to 10 each quarter). The FCC also has given licensees considerable discretion in choosing the mix of news, public affairs and other informational programming they air, but expects a station to make "reasonable" judgments in deciding what issues to cover. Despite this relatively flexible approach, repeated failure to file is likely to result in a fine.

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Wiley's seasoned team has extensive experience counseling clients on FCC compliance matters and responding to enforcement actions. Please reach out with questions.

*Stephanie Rigizadeh, a law clerk in the Telecom, Media & Technology Practice, contributed to this alert.*