

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

In the Matter of)	
)	
Florida Cellular Service, LLC)	File No. EB-02-TP-326
)	
Owner of Antenna Structure Registration Number 1225706 in Hobe Sound, Florida)	NAL/Acct. No. 200232700023
)	
Dallas, Texas)	FRN 0004-2066-36

MEMORANDUM OPINION AND ORDER

Adopted: May 16, 2003

Released: May 20, 2003

By the Chief, Enforcement Bureau:

1. In this *Memorandum Opinion and Order* (“*Order*”), we cancel a \$10,000 *Notice of Apparent Liability for a Forfeiture* (“*NAL*”) issued to Florida Cellular Service, LLC (“Florida Cellular”), owner of an antenna structure with antenna structure registration (“ASR”) number 1225706 in Hobe Sound, Florida, for apparently violating Section 17.51 of the Commission’s Rules (“Rules”).¹ The alleged violation involved Florida Cellular’s failure to exhibit medium intensity obstruction lighting on its Hobe Sound antenna structure.

2. On August 7, 2002, the Commission’s Tampa, Florida Field Office (“Tampa Office”) issued an *NAL* for a \$10,000 forfeiture to Florida Cellular for apparently violating Section 17.51 of the Rules.² Cingular Wireless submitted a response to the *NAL* on behalf of Florida Cellular on August 28, 2002.³

3. On June 9, 11 and 13, 2002, agents from the Tampa Office observed that the medium intensity lighting on Florida Cellular’s Hobe Sound antenna structure was not illuminated. On June 13, 2002, an agent contacted the Federal Aviation Administration’s Miami Flight Service Station (“FSS”), which advised the agent that there was no Notice to Airmen (“NOTAM”)⁴ in effect for the Hobe Sound tower. In its response to the *NAL*, Cingular Wireless states that a NOTAM for the Hobe Sound tower was

¹ 47 C.F.R. § 17.51.

² *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200232700023 (Enf. Bur., Tampa Office, released August 7, 2002).

³ Cingular Wireless holds a 100% ownership interest in Florida Cellular.

⁴ Tower owners are required to report any obstruction lighting outages to the nearest Flight Service Station or FAA office immediately if the outage is not corrected within 30 minutes. See 47 C.F.R. § 17.48(a). The FAA then issues a NOTAM, a written advisory to aircraft pilots regarding a hazard or potential hazard of which they should be aware. A NOTAM expires automatically after 15 days, unless the tower owner calls the FAA to extend the NOTAM.

opened with the Miami FSS on June 7, 2002, prior to the three dates on which the FCC agents observed the light outage, and was closed on June 14, 2002, after the light outage was repaired. Cingular Wireless also provides the NOTAM number assigned by the Miami FSS for this tower light outage and copies of logs and other records which indicate, among other things, when the alarm system generated an alert that the light was out, when the NOTAM was opened, when repairs were made, and when the NOTAM was closed. The documentation provided by Cingular Wireless indicates that Cingular Wireless met the requirements of Section 17.48 of the Rules by promptly reporting the obstruction light outage to the Miami FSS, so that the FSS could open a NOTAM. We therefore find that cancellation of the *NAL* is warranted.

4. Accordingly, **IT IS ORDERED** that, pursuant to Section 504(b) of the Communications Act of 1934, as amended,⁵ and Sections 0.111, 0.311 and 1.80(f)(4) of the Rules,⁶ the *Notice of Apparent Liability for a Forfeiture*, NAL/Acct. No. 200232700023, issued to Florida Cellular Service, LLC. **IS CANCELLED**.

5. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by first class mail and certified mail return receipt requested to Florida Cellular Service, LLC, 17330 Preston Road, Suite 100A, Dallas, Texas 75252, and to Carol L. Tacker, Vice President and Assistant General Counsel, Cingular Wireless, 5565 Glenridge Connector, Suite 1200, Atlanta, Georgia 30342.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

⁵ 47 U.S.C. § 504(b).

⁶ 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).