

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

In the Matter of
Brookfield Office Properties
Ernst & Young Plaza
Los Angeles, CA
File No.: EB-FIELDWR-13-00008470
Citation No.: C201432900003

CITATION AND ORDER

Lighting Ballasts Causing Harmful Interference

Adopted: February 6, 2014

Released: February 7, 2014

By the District Director, Los Angeles Office, Western Region, Enforcement Bureau:

I. INTRODUCTION

1. This is an official CITATION AND ORDER (Citation) issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended (Communications Act or Act), to Brookfield Office Properties (Brookfield), owner of the Ernst & Young Plaza building (Building) at 725 South Figueroa Street in Los Angeles, CA. Specifically, Brookfield is being cited for operating industrial, scientific, and medical (ISM) equipment and causing harmful interference in violation of Sections 18.111(b) and 18.115(a) of the Commission's rules (Rules).

2. Notice of Duty to Comply With Laws: Brookfield should take steps to come into compliance with the Rules, including eliminating the interference. Brookfield is hereby on notice that if it subsequently engages in any conduct of the type described in this Citation, including any violation of Sections 18.111(b) or 18.115(a) of the Rules, it may be subject to civil and criminal penalties, including but not limited to substantial monetary fines (forfeitures). Such forfeitures may be based on both the conduct that led to this Citation and the conduct following it.

3. Your Response Required: Pursuant to Sections 4(i), 4(j), and 403 of the Communications Act, we also direct Brookfield to respond in writing, within thirty (30) calendar days after the release date of this Citation, with specific actions taken to preclude recurrence of the violations. The response must be signed under penalty of perjury.

1 47 U.S.C. § 503(b)(5).

2 47 C.F.R. §§ 18.111(b), 18.115(a).

3 See 47 U.S.C § 503(b)(5). See also S. Rep. No. 95-580, 95th Cong., 1st Sess. at 9 (1977) (if a person or entity that has been issued a citation by the Commission thereafter engages in the conduct for which the citation of violation was sent, the subsequent notice of apparent liability "would attach not only for the conduct occurring subsequently but also for the conduct for which the citation was originally sent") (emphasis added).

4 47 U.S.C. §§ 154(i), 154(j), 403.

II. BACKGROUND

4. On April 30, 2013, agents from the Enforcement Bureau's Los Angeles Office (Los Angeles Office) visited the Building and informed the Building's Property Manager that Verizon Wireless alleged that GE fluorescent lighting electronic ballasts in the Building were the source of radio emissions causing interference to the Verizon Wireless 700 MHz LTE cell site. The Property Manager informed the agents that Verizon Wireless had already notified them of the interference, and that Brookfield's lighting contractor was still investigating the problem. The agents provided the Property Manager with a copy of the GE Lighting, Product Bulletin (GE Bulletin).⁵ The GE Bulletin states that GE UltraMax ballasts were "tested in accordance with applicable FCC Part 18 requirements," and that a small number "produced unintentionally high-frequency radio emissions that have the potential to cause interference with certain types of wireless communications."⁶ On May 7, 2013, the Los Angeles Office issued a warning letter to Brookfield advising it to investigate the lighting ballasts used in the Building and, pursuant to Section 18.117(a) of the Rules,⁷ to provide the Los Angeles Office with an interim report within 30 days, and a final report within 60 days, concerning its investigation.⁸ As of the date of this Citation, neither report has been received.

5. On November 21, 2013, in response to Verizon Wireless' continuing complaints that the interference had not been resolved, agents from the Los Angeles Office used portable direction-finding equipment and confirmed radio emissions on Verizon Wireless' licensed 700 MHz frequencies were emanating from ceiling fluorescent lights/ballasts inside the Building. The agents observed the ballast in use was a GE UltraMax labeled with a Product and Date Code covered by the GE Bulletin.

III. APPLICABLE LAWS AND VIOLATIONS

6. The RF lighting devices at issue here are ISM equipment regulated under Part 18 of the Rules.⁹ Section 18.111(b) of the Rules states that "the operator of ISM equipment that causes harmful interference to any authorized radio service shall promptly take whatever steps may be necessary to eliminate the interference."¹⁰ Similarly, Section 18.115(a) of the Rules states that the "operator of ISM equipment that causes harmful interference to radio services shall promptly take appropriate measures to correct the problem."¹¹ Section 18.107(b) of the Rules' definition of harmful interference includes interference that "seriously degrades, obstructs or repeatedly interrupts a radio communication service operating in accordance with this chapter."¹² Section 18.115(c) of the Rules states that when "notified by the [District Director of the local FCC office] that a particular installation is causing harmful interference,

⁵ See GE Lighting, Product Bulletin, May 2, 2012, GE Lighting, Product Service Department, issued May 2, 2012. The bulletin is addressed to GE Customers, stating that a small number of the 2-lamp GE UltraMax ballasts were found to produce high-frequency radio emissions, and provided steps to identify the affected ballast by Product and Date Code, and instructions on how to exchange the units. *Id.* at 1-3.

⁶ *Id.* at 1. The GE Bulletin also stated that affected ballasts would be exchanged by GE. *Id.*

⁷ 47 C.F.R. § 18.117(a).

⁸ Warning Letter from Charles A. Cooper, District Director, Los Angeles Office, to Brookfield Properties (May 7, 2013) (on file in EB-FIELDWR-13-00008470).

⁹ 47 C.F.R. §§ 18.101 *et seq.*

¹⁰ 47 C.F.R. § 18.111(b).

¹¹ 47 C.F.R. § 18.115(a).

¹² 47 C.F.R. § 18.107(b).

the operator or manufacturer shall arrange for an engineer skilled in techniques of interference measurement and control to make an investigation to ensure that the harmful interference has been eliminated.”¹³ Section 18.117(a) of the Rules states that an “interim report on investigation and corrective measures taken pursuant to § 18.115 of this part shall be filed with the [District Director] of the local FCC office within 30 days of notification of harmful interference. The final report shall be filed with the [District Director] within 60 days of notification.”¹⁴

7. As of the date of this Citation, Verizon Wireless continues to report receiving interference from the emissions emanating from the Building and Brookfield has failed to eliminate the interference being caused by its operation of the GE ballasts. Based on the foregoing evidence, we find that Brookfield has violated Sections 18.111(b) and 18.115(a) of the Rules by failing to promptly eliminate the interference.

IV. REQUEST FOR INFORMATION

8. Pursuant to Sections 4(i), 4(j), and 403 of the Communications Act,¹⁵ and 18.117(a) of the Rules,¹⁶ Brookfield is directed to provide this office within 30 days of the release of this Citation, with an interim report on the investigations and corrective measures it has taken to eliminate the harmful interference, as well as a timeline for any pending corrective actions. A final report shall be filed with the Los Angeles Office within 60 days of the release date.¹⁷ A failure to respond in writing, or the provision of an inadequate, incomplete, or misleading response, may subject Brookfield to additional sanctions.¹⁸

V. RESPONDING TO THIS CITATION

9. In addition to the required written information described in paragraphs 3 and 8, above, Brookfield may, if it so chooses, respond to this Citation—challenging the factual and legal findings herein—within thirty (30) calendar days from the release date of this Citation either through (1) a written statement, (2) a teleconference interview, or (3) a personal interview at the Commission Field Office nearest to your place of business.

10. If you would like to arrange a teleconference or personal interview, please contact Charles A. Cooper at (562) 860-7474. The nearest Commission Field Office is located in Cerritos, California. Such teleconference or interview must take place within thirty calendar (30) days of the date

¹³ 47 C.F.R. § 18.115(c).

¹⁴ 47 C.F.R. § 18.117(a).

¹⁵ 47 U.S.C. §§ 154(i), 154(j), 403.

¹⁶ 47 C.F.R. § 18.117(a).

¹⁷ *Id.*

¹⁸ *See, e.g., SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7599–7600, paras. 23–28 (2002) (imposing \$100,000 forfeiture for egregious and intentional misconduct, *i.e.*, refusing to attest to truthfulness and accuracy of responses to a Letter of Inquiry (LOI)); *Connect Paging, Inc. d/b/a Get A Phone*, Forfeiture Order, 22 FCC Rcd 15146 (Enf. Bur. 2007) (imposing \$4,000 forfeiture for failure to respond to an LOI); *BigZoo.Com Corporation*, Order of Forfeiture, 20 FCC Rcd 3954 (Enf. Bur. 2005) (imposing \$20,000 forfeiture for failure to respond to a USF LOI); *Donald W. Kaminski, Jr.*, Forfeiture Order, 18 FCC Rcd 26065 (Enf. Bur. 2003) (imposing \$4,000 forfeiture for failure to respond to an LOI). *See also World Communications Satellite Systems, Inc.*, Notice of Apparent Liability for Forfeiture, 18 FCC Rcd 18545 (Enf. Bur. 2003) (proposing \$10,000 forfeiture for a non-responsive reply to an LOI); *Digital Antenna, Inc., Sunrise, Florida*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 7600 (Enf. Bur. 2007) (proposing \$11,000 forfeiture for failure to provide complete responses to an LOI).

of this Citation. If you would like to submit a written response, including any supporting documentation, you must send the response within thirty (30) calendar days of the date of this Citation to the contact and address provided in paragraph 11, below.

11. All written communications, including the information requested in paragraphs 3 and 8, above, should be provided to the address below.

Federal Communications Commission
Los Angeles Office
18000 Studebaker Road, Suite 660
Cerritos, California 90703
Re: EB-FIELDWR-13-00008470

12. Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need, and include as much detail as you can. Also include a way we can contact you if we need more information. Please allow at least five (5) business days advance notice; last minute requests will be accepted, but may be impossible to fill. Send an e-mail to fcc504@fcc.gov or call the FCC's Consumer & Governmental Affairs Bureau:

For sign language interpreters, CART, and other reasonable accommodations:
202-418-0530 (voice), 202-418-0432 (tty);

For accessible format materials (braille, large print, electronic files, and audio format):
202-418-0531 (voice), 202-418-7365 (tty).

13. Please be advised that it is a violation of Section 1.17 of the Commission's rules (47 C.F.R. § 1.17) for any person or a staff member of that person to make any false or misleading written or oral statement of fact. Specifically, no person shall:

(1) In any written or oral statement of fact, intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading; and

(2) In any written statement of fact, provide material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading.¹⁹

14. Further, the knowing and willful making of any false statement, or the concealment of any material fact, in reply to this Citation is punishable by fine or imprisonment under 18 U.S.C. § 1001.

15. If you violate Section 1.17 of the Commission's rules or the criminal statute referenced above, you may be subject to further legal action, including monetary fines pursuant to Section 503 of the Communications Act.²⁰

16. Under the Privacy Act of 1974, 5 U.S.C. § 552a(e)(3), we are informing you that the Commission's staff will use all relevant material information before it, including information that you

¹⁹ 47 C.F.R. § 1.17.

²⁰ 47 U.S.C. § 503.

disclose in your interview or written statement, to determine what, if any, enforcement action is required to ensure your compliance with the Communications Act and the Commission's Rules.

VI. FUTURE VIOLATIONS

17. If, after receipt of this Citation, Brookfield again violates Section 18.111(b) or 18.115(a) of the Rules by engaging in conduct of the type described herein, the Commission may impose monetary forfeitures not to exceed \$16,000 for each such violation or each day of a continuing violation, and up to \$112,500 for any single act or failure to act.²¹ Further, as discussed above, such forfeitures may be based on both the conduct that led to the Citation and the conduct following it.²² In addition, violations of the Communications Act or the Rules also can result in seizure of equipment through *in rem* forfeiture actions,²³ as well as criminal sanctions, including imprisonment.²⁴

VII. ORDERING CLAUSES

18. **IT IS ORDERED** that, pursuant to Sections 4(i), 4(j), and 403 of the Communications Act, Brookfield Office Properties must provide the written information requested in paragraphs 3 and 8, above. The response to the request for information must be provided in writing, signed under penalty of perjury by an authorized official at Brookfield Office Properties with personal knowledge of the information and representations provided in the written response, and must be received by the FCC within thirty (30) calendar days after the release date of this Citation and Order.

19. **IT IS FURTHER ORDERED** that a copy of this Citation and Order shall be sent both by First Class U.S. Mail and Certified Mail, Return Receipt Requested, to Brookfield Office Properties, Ernst & Young Plaza, 725 South Figueroa Street, Suite 1850, Los Angeles, CA 90017.

FEDERAL COMMUNICATIONS COMMISSION

Charles A. Cooper
District Director
Los Angeles Office
Western Region
Enforcement Bureau

²¹ See 47 U.S.C. §§ 401, 501, 503; 47 C.F.R. § 1.80(b)(7). This amount is subject to further adjustment for inflation (see 47 C.F.R. § 1.80(b)(9)), and the forfeiture amount applicable to any violation will be determined based on the statutory amount designated at the time of the violation.

²² See *supra*, paragraph 2.

²³ See 47 U.S.C. § 510.

²⁴ See 47 U.S.C. §§ 401, 501.