

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

In the Matter of
Judy Pate
Knoxville, Tennessee
File No.: EB-FIELDSCR-21-00032254

CITATION AND ORDER

Television Antenna Causing Harmful Interference to LTE Communications

Adopted: April 7, 2022

Released: April 7, 2022

By the Regional Director, Region Two:

I. NOTICE OF CITATION

1. This CITATION AND ORDER (Citation) notifies Judy Pate (Pate) that she operated a radiofrequency device in her residence that caused harmful interference to a Commission licensee. We therefore direct Pate to immediately cease and desist from using the device, an amplified television antenna, and to comply with FCC interference regulations. If Pate fails to comply with these laws, she may be liable for significant fines up to \$22,021 per day.

2. Notice of Duty to Comply with the Law: We issue this Citation pursuant to section 503(b)(5) of the Communications Act of 1934, as amended (Act), which states that the Commission may not impose monetary forfeitures against non-regulatees who violate Commission rules or the Act unless and until: (a) the Commission issues a citation to the violator; (b) the Commission provides the violator a reasonable opportunity to respond; and (c) the violator subsequently engages in conduct described in the citation.1 Accordingly, Pate is hereby on notice that she must comply with section 301 of the Act2 and sections 15(b) and 15(c) of the Commission’s rules.3 If Pate subsequently engages in any conduct described in this Citation — including specifically any violation of section 301 of the Act and sections 15(b) and 15(c) of the Commission’s rules — she may be subject to civil penalties, including but not limited to, substantial monetary forfeitures. In assessing such forfeitures, the Commission may consider both the conduct that led to this Citation and the conduct following the Citation.4 Pate should take immediate steps to come into compliance with the Commission’s rules, including eliminating the interference.

3. Notice of Duty to Provide Information: Pursuant to sections 4(i), 4(j), and 403 of the Act,5 we direct Pate to respond in writing, within thirty (30) calendar days after the release date of this Citation, to the questions and requests for documents set out in Section IV of this Citation.

1 See 47 U.S.C § 503(b)(5).

2 47 U.S.C. § 301.

3 47 CFR § 15.5(b)-(c).

4 See 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).

5 47 U.S.C. §§ 154(i), 154(j), 403.

II. BACKGROUND

4. On May 11, 2021, AT&T filed a complaint with the Commission concerning interference to its cellular communication system operating in the 700 MHz band. AT&T noted that the interference appeared to be emanating from a residence on Johnson Frazier Cemetery Road (Pate Residence) in Knoxville, Tennessee. AT&T contacted the FCC to notify it that the residents of that building failed to take corrective action after previously receiving written notice from AT&T on or about April 23, 2021.⁶ AT&T uses the 700 MHz band to provide wireless service to business and residential customers.

5. On May 28, 2021, the Enforcement Bureau sent a warning letter to Pate advising her that a device located her property was causing harmful interference to licensed communications.⁷ The letter notified her that continued operation of the device was a violation of federal law and could subject her to penalties.⁸ On June 2, 2021, Pate contacted the Bureau. Pate agreed to turn off her amplified television antenna so that AT&T could determine if it was the source of the interference. An AT&T representative then conducted on/off tests with Pate and confirmed that her amplified television antenna was the cause of the interference. Despite this confirmation, AT&T informed the Bureau that Pate continued operating the amplified television antenna.

6. On December 14, 2021, agents from the Bureau's Atlanta Field Office traveled to Knoxville, Tennessee to investigate the interference. Using direction-finding techniques, the agents identified a strong signal near 706.0 MHz emanating from the Pate Residence, whereupon the agents confirmed with AT&T personnel that the signal was the source of the interference to AT&T's system.

III. APPLICABLE LAW AND VIOLATIONS

7. The Commission is charged with protecting licensed radio operations from harmful interference. Harmful interference to wireless providers, such as AT&T, is particularly problematic in that it can interfere with 911 service. Section 301 of the Act states that “[n]o person shall use or operate any apparatus for the transmission of energy or communications or signals by radio”⁹ within the United States or its territories without a license granted by the Commission. Part 15 of the Commission's rules provides an exception to this general section 301 license requirement and sets forth conditions under which devices may operate without an individual authorization.¹⁰ Section 15.5(b) of the Commission's rules requires that “[o]peration of an intentional, unintentional, or incidental radiator is subject to the conditions that no harmful interference is caused”¹¹ Similarly, section 15.5(c) of the Commission's rules states that the “operator of a radio frequency device shall be required to cease operating the device upon notification by a Commission representative that the device is causing harmful interference. Operation shall not resume until the condition causing the harmful interference has been corrected.”¹² Section 15.3(m)'s definition of harmful interference includes “[a]ny emission, radiation or induction that . . . obstructs or repeatedly interrupts a radiocommunications service operating in accordance with this chapter.”¹³ Section 15.3(z) defines an “unintentional radiator” as a “device that intentionally generates radio frequency energy for use within the device, or that sends radio frequency signals by conduction to associated equipment via connecting wiring, but which is not intended to emit RF energy by radiation or

⁶ Letter from Wayne C. Schroeder, Senior Specialist-RAN Engineer, AT&T Mobility Services LLC, to Current Resident of Pate Residence (April 23, 2021) (on file in EB-FIELDSCR-21-00032254).

⁷ *Judy Pate*, Warning for Interference to Licensed Communications, (May 28, 2021) (on file in EB-FIELDSCR-21-00032254).

⁸ *See id.*

⁹ 47 U.S.C. § 301.

¹⁰ 47 CFR § 15.1 *et seq.*

¹¹ 47 CFR § 15.5(b).

¹² 47 CFR § 15.5(c).

¹³ 47 CFR § 15.3(m); *see also* 47 CFR § 2.1(c).

induction.”¹⁴ Pursuant to section 15.1(b) of the Commission’s rules, however, “operation of an . . . unintentional radiator that is not in accordance with the regulations in this part *must be licensed*.”¹⁵ An amplified television antenna, such as the one used by Pate, is an unintentional radiator because it sends radio frequency signals by conduction through wiring to a television and is not intended to emit RF energy by radiation or induction.¹⁶

8. We find that Pate violated section 301 of the Act and sections 15.5(b) and 15.5(c) of the Commission’s rules by operating a device causing harmful interference to licensed operations and failing to promptly eliminate the interference upon notification by a Commission representative.¹⁷

IV. REQUEST FOR INFORMATION

9. Pursuant to sections 4(i), 4(j), and 403 of the Act, we direct Pate to confirm in writing, within thirty (30) days of the release of this Citation, that she has taken the corrective measures to eliminate the harmful interference, as well as provide a timeline for any pending corrective actions. Failure to respond in writing, or the provision of an inadequate, incomplete, or misleading response, may subject Pate to additional sanctions.

V. OPPORTUNITY TO RESPOND TO THIS CITATION

10. Pate must respond to this Citation within 30 calendar days from the release date of this Citation. Pate may respond by any of the following methods: (1) a written statement, (2) a teleconference interview, or (3) a personal interview at the Commission Field Office nearest to Pate’s residence. The Commission Field Office nearest the Pate Residence is located in Atlanta, Georgia.

11. If Pate requests a teleconference or personal interview, contact the FCC’s Region Two Regional Office at 504-219-8999. We note that such teleconference or interview must take place within 30 calendar days of the release date of this Citation. If Pate prefers to submit a written response with supporting documentation, it must send the response within 30 calendar days of the release date of this Citation to the contact and address provided in the paragraph below.

12. All written communications should be sent to the mailing and e-mail address below and reference File Number EB-FIELDSCR-21-00032254.

Federal Communications Commission
Region Two Regional Office
Attn: Dedrick Roybiskie
P.O. Box 1493
Powder Springs, GA 30127
FIELD@FCC.GOV
Re: EB-FIELDSCR-21-00022254

13. Upon request, the Commission will make reasonable accommodations for persons with disabilities. If applicable, Pate should provide a description of the accommodation required, and include as much detail as possible, and also provide a telephone number and other contact information. Pate should allow at least five business days advance notice; last minute requests will be accepted, but may be impossible to fill. Pate should send an e-mail to fcc504@fcc.gov or call the FCC’s Consumer and Governmental Affairs Bureau:

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

¹⁴ 47 CFR § 15.3(z).

¹⁵ See 47 CFR § 15.1(b) (emphasis added).

¹⁶ See 47 CFR § 15.3(z).

¹⁷ 47 CFR §§ 15.5(b)-(c).

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

14. We advise Pate that it is a violation of section 1.17 of the Commission's rules¹⁸ for any person to make any false or misleading written or oral statement of fact to the Commission. 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.

15. 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.¹⁹

16. Violations of section 1.17 of the Commission's rules or the criminal statute referenced above may result in further legal action, including monetary forfeitures pursuant to section 503 of the Act.

17. Finally, we warn Pate that, under the Privacy Act of 1974,²⁰ Commission staff will use all relevant material information before it, including information disclosed in interviews or written statements, to determine what, if any, enforcement action is required to ensure Pate's compliance with the Act and the Commission's rules.²¹

VI. FUTURE VIOLATIONS

18. If, after receipt of this Citation, Pate again violates section 301 of the Act, and/or sections 15(b) or 15(c) of the Commission's rules by engaging in conduct of the type described herein, the Commission may impose sanctions for each such violation. For example, the Commission may impose monetary forfeitures. For example, the Commission may impose monetary forfeitures. The Commission may impose forfeitures not to exceed \$22,021 for each such violation or each day of a continuing violation, and up to \$165,159 for any single act or failure to act.²² The Commission may further adjust the forfeiture reflecting enumerated statutory factors, which include 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 such other matters as justice may require."²³

¹⁸ 47 CFR § 1.17.

¹⁹ 18 U.S.C. § 1001.

²⁰ 5 U.S.C. § 552a(e)(3).

²¹ Any entity that is a "Small Business Concern" as defined in the Small Business Act (Pub. L. 85-536, as amended) may avail itself of rights set forth in that Act, including rights set forth in 15 U.S.C. § 657, "Oversight of Regulatory Enforcement," in addition to other rights set forth herein.

²² See 47 U.S.C. § 503; 47 CFR § 1.80(b). This amount is subject to further adjustment for inflation. See 47 CFR § 1.80(b)(9)); *Amend. of Section 1.80(b) of the Commission's Rules, Adjustment of Civ. Monetary Penalties to Reflect Inflation*, Order, DA 21-1631, 2021 WL 6135287, at *1 (EB Dec. 22, 2021).

²³ See 47 U.S.C. § 503(b)(2)(E); 47 CFR § 1.80(b)(10).

VII. ORDERING CLAUSES

19. Accordingly, **IT IS ORDERED** that, pursuant to sections 4(i) and 4(j) of the Act, Judy Pate must cease and desist from causing harmful interference, in violation of section 301 of the Act and sections 15(b) and 15(c) of the Commission's rules.

20. **IT IS FURTHER ORDERED** that, pursuant to sections 4(i), 4(j), and 403 of the Act, Judy Pate must provide the written information requested in paragraph 9 above. Judy Pate must support her responses with an affidavit or declaration made under penalty of perjury, signed and dated by Judy Pate, attesting personal knowledge of the representations provided in the response, and verifying the truth and accuracy of the information therein and that all of the information requested has been produced. All such declarations provided must comply with section 1.16 of the Commission's rules and be substantially in the form set forth therein.²⁴ The Commission must receive the response within thirty (30) calendar days of the release date of this Citation and Order.

21. **IT IS FURTHER ORDERED** that a copy of this Citation and Order shall be sent by first class mail and certified mail, return receipt requested, to Judy Pate at her residence in Knoxville, Tennessee.

FEDERAL COMMUNICATIONS COMMISSION

Dedrick Roybiskie
Regional Director, Region Two
Enforcement Bureau
Federal Communications Commission

²⁴ 47 CFR § 1.16.