
Federal Communications Commission

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

In the Matter of

Duke Energy
Power-Line Facility Operator
Durham, North Carolina

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File No. EB-09-NF-0123

Citation No. C20103264001

**CITATION AND
NOTIFICATION OF HARMFUL INTERFERENCE**

Released: December 3, 2009

By the Resident Agent, Norfolk Office, South Central Region, Enforcement Bureau:

1. This is an Official Citation issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended (“Act”),¹ to Duke Energy for violation of Section 15.5 of the Commission’s Rules (“Rules”) regarding the general conditions for operating incidental radiators.²
2. In response to a complaint of interference, an agent of the Commission’s Norfolk Office inspected power line facilities near Falls Lake Reservoir in Durham and Wake Counties, North Carolina on November 25, 2009. During the inspection, the agent observed the facilities radiating energy on frequencies including 111.7MHz that caused harmful interference to air navigation aids used by pilots flying into Raleigh-Durham International airport. On November 25, 2009, the agent notified the call center for Duke Energy of the harmful interference and of the need to cease operations at the affected locations. The call center supervisor stated someone would contact the agent about the interference in a few days. As of December 2, 2009, Duke Energy has not contacted the agent about the interference or notified the agent that operations have ceased at the affected locations.
3. Section 15.5(b) of the Rules reads³, “[o]peration of an intentional, unintentional, or incidental radiator is subject to the conditions that no harmful interference is caused....” Duke Energy admitted to operating the power grid in Durham, North Carolina and a Commission Agent noted that energy radiated from the power-line facilities at the following locations:
 - a. 3009 SR 1807 (Baptist Road), 27703 (at pole 0872800523 44 96 002 & nearby facilities)
 - b. 1820 Fletchers Chapel Road, 27704 (at pole 7442)
 - c. The intersection of Wake Forest Rd and Bryce Mill Road, 27613 (pole inaccessible)
4. Section 15.3(m) of the Rules defines harmful interference as “any emission, radiation or induction that endangers the functioning of a radio navigation service or of other safety services or seriously degrades, obstructs or repeatedly interrupts a radiocommunications service operating in accordance with this chapter.”⁴ Section 15.5(c) of the Rules requires that “The operator of the radio frequency device shall be required to cease operating the device upon notification by a Commission representative that the device is causing harmful interference.”⁵

¹ 47 U.S.C. § 503(b)(5).

² 47 C.F.R. § 15.3(n).

³ 47 C.F.R. § 15.5(b)

⁴ 47 C.F.R. § 15.3(m).

⁵ 47 C.F.R. § 15.5(c).

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5. Duke Energy is hereby notified that operation of the power-line facilities at the noted locations is causing interference in violation of Section 15.5(b) of the Rules. Accordingly, Duke Energy is directed to cease operations at the noted locations immediately until it can affect repairs. Failure to do so can subject you to additional enforcement action.
6. If you choose to do so, you may respond to this citation within 20 days from the date of this letter either through (1) a personal interview at the Commission's Field Office nearest to your place of business, or (2) a written statement. Your written response must fully explain each violation, must contain a statement of the specific action(s) taken to mitigate interference, specifically (1) indicate that radio-frequency radiation from all noted locations has been eliminated or substantially reduced and (2) list each location serviced and each part that required replacement or repair. The response must be complete in itself and signed by a principal or officer of Duke Energy. All replies and documentation sent in response to this Citation should be marked with the File No EB-09-NF-0123 and mailed to the following address:

Federal Communications Commission
Norfolk Office
1457 Mt Pleasant Rd Ste 113
Chesapeake VA 23322
7. If you choose to request a personal interview, the closest FCC Office is noted above. You should contact this office by telephone, (XXX) XXXX-XXXX to schedule this interview, which must take place within 20 days of this Citation.
8. The Privacy Act of 1974⁶ 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.⁷
9. Violations of the Act or the Rules may subject the violator to substantial monetary forfeitures,⁸ seizure of equipment through *in rem* forfeiture action, and criminal sanctions, including imprisonment.⁹
10. **IT IS ORDERED** that copies of this Citation shall be sent by First Class U.S. Mail and Certified Mail, Return Receipt Requested to Duke Energy at their address of record.

FEDERAL COMMUNICATIONS COMMISSION

Joseph P. Husnay
Resident Agent
Norfolk District Office
South Central Region
Enforcement Bureau

⁶ P.L. 93-579, 5 U.S.C. § 552a(e)(3).

⁷ 18 U.S.C. § 1001 *et seq.*

⁸ 47 C.F.R. § 1.80(b)(3).

⁹ 47 U.S.C. §§ 401, 501, 503, 510.