

Federal Communications Commission

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

In the Matter of)	
)	
Universal Broadcasting of New York, Inc.)	File No. EB-09-NY-0350
Licensee of AM Radio Station WTHE)	
Facility ID # 68957)	
Mineola, New York)	NOV No. V201032380011

NOTICE OF VIOLATION

Released: March 8, 2010

By the District Director, New York Office, Northeast Region, Enforcement Bureau:

1. This is a Notice of Violation (“Notice”) issued pursuant to Section 1.89 of the Commission’s Rules¹ to Universal Broadcasting of New York, Inc., licensee of AM radio station WTHE in Mineola, New York. This Notice may be combined with a further action, if further action is warranted.²

2. On December 2, 2009, an agent of the Enforcement Bureau's New York Office inspected WTHE’s main studio located at 260 E. 2nd Street, Mineola, NY 11501, and observed the following violations:

- a. 47 C.F.R. § 11.52(d): “Broadcast stations and cable systems and wireless cable systems must monitor two EAS sources. The monitoring assignments of each broadcast station and cable system and wireless cable system are specified in the State EAS Plan and FCC Mapbook. . . .” The agent found that station WTHE was monitoring only one of its assigned EAS sources.
- b. 47 C.F.R. § 11.61(b): "Entries shall be made in EAS Participant records, as specified in Sections 11.35(a) and 11.54(b)(13)." The agent found that entries were not made in the EAS logs to show Required Weekly Tests (“RWT”) received and Required Monthly Tests (“RMT”) received or sent from July 1, 2009 to November 30, 2009. There were no entries in the station logs indicating the reasons why the required EAS tests were not received or sent.
- c. 47 C.F.R. § 73.1590(a)(6): “The licensee of each AM, FM, TV and Class A TV station, except licensees of Class D non-commercial educational FM stations authorized to operate with 10 watts or less

¹47 C.F.R. § 1.89.

²47 C.F.R. § 1.89(a).

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output power, must make equipment performance measurements for each main transmitter as follows: Annually, for AM stations, with not more than 14 months between measurements.” At the time of inspection, no equipment performance measurements were available for inspection, as required by 47 C.F.R. § 73.1590(d).

3. As the nation’s emergency warning system, the Emergency Alert System is critical to public safety, and we recognize the vital role that broadcasters play in ensuring its success. The Commission takes seriously any violations of the Rules implementing the EAS and expects full compliance from its regulatees. We also must investigate violations of other rules that apply to broadcast licensees. Pursuant to Section 403 of the Communications Act of 1934, as amended,³ and Section 1.89 of the Commission’s Rules, we seek additional information concerning the violation(s) and any remedial actions the station may have taken. Therefore, Universal Broadcasting of New York, Inc. must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁴

4. In accordance with Section 1.16 of the Commission’s Rules, we direct Universal Broadcasting of New York, Inc. to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Universal Broadcasting of New York, Inc. with personal knowledge of the representations provided in Universal Broadcasting of New York, Inc.’s response, verifying the truth and accuracy of the information therein,⁵ and confirming that all of the information requested by this Notice which is in the licensee’s possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁶

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

³47 U.S.C. § 403.

⁴47 C.F.R. § 1.89(c).

⁵Section 1.16 of the Commission’s Rules provides that “[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)’.” 47 C.F.R. § 1.16.

⁶18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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New York Office
201 Varick Street, Suite 1151
New York, NY 10014

6. This Notice shall be sent to Universal Broadcasting of New York, Inc. at its address of record.

7. The Privacy Act of 1974⁷ 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.

FEDERAL COMMUNICATIONS COMMISSION

Daniel W. Noel
District Director
New York District Office
Northeast Region
Enforcement Bureau

⁷P.L. 93-579, 5 U.S.C. § 552a(e)(3).