

Federal Communications Commission

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

In the Matter of)	
)	
Ondas De Vida Network, Inc.)	File Nos. EB-10-LA-0031
Licensee of Radio Station KODV(FM))	
Facility ID # 122214)	NOV No. V201032900016
Barstow, California)	

NOTICE OF VIOLATION

Released: July 8, 2010

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

1. This is a Notice of Violation ("Notice") issued pursuant to Section 1.89 of the Commission's Rules,¹ to Ondas De Vida Network, Inc. ("Ondas"), licensee of FM Broadcast radio station KODV(FM), Barstow, California.. This Notice may be combined with a further action, if further action is warranted.²

2. On February 25, 2010, an agent of the Enforcement Bureau's Los Angeles Office inspected KODV, located at 16149 Yates Road, Victorville, California, and observed the following violations:

- a. 47 C.F.R. § 11.15 " The EAS Operating Handbook states in summary form the actions to be taken by personnel at EAS Participant facilities upon receipt of an EAN, an EAT, tests, or State and Local Area Alert. It is issued by the FCC and contains instructions for the above situations. A copy of the Handbook must be located at normal duty positions or EAS equipment locations when an operator is required to be on duty and be immediately available to staff responsible for authenticating messages and initiating action." At the time of inspection, the Los Angeles agent observed that radio station KODV did not have an EAS Operating Handbook available to station staff.
- b. 47 C.F.R. § 11.35(a): "EAS Participants must determine the cause of any failure to receive the required tests or activations specified in Sections 11.61(a)(1) and (a)(2). Appropriate entries indicating reasons why any tests were not received or sent must be made in the

¹ 47 C.F.R. § 1.89.

²47 C.F.R. § 1.89(a).

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broadcast station log as specified in Sections 73.1820 and 73.1840 of this chapter for all broadcast streams” At the time of the inspection, the Los Angeles agent found that there were no entries in the station log indicating why tests had not been re-transmitted over the four months prior to the inspection.

- c. 47 C.F.R. § 11.61(a): “EAS Participants shall conduct tests at regular intervals as specified in paragraphs (a)(1) and (a)(2) of this section. Additional tests may be performed anytime. EAS activations and special tests may be performed in lieu of the required tests as specified in paragraph (a)(4) of this section. All tests will conform with the procedures in the EAS Operating Handbook.” At the time of inspection KODV failed to insure that all tests of the EAS system were conducted over the four months prior to the inspection.

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. 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 violations and any remedial actions the station may have taken. Therefore, Ondas, 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 Ondas, to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Ondas, with personal knowledge of the representations provided in Ondas De Vida Network, 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

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.

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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:

Federal Communications Commission
Los Angeles District Office
18000 Studebaker Rd., Ste 660
Cerritos, CA 90703

6. This Notice shall be sent to Ondas De Vida Network, 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

Nader Haghghat
District Director
Los Angeles District Office
Western Region
Enforcement Bureau

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

⁷P.L. 93-579, 5 U.S.C. § 552a(e)(3).