

Federal Communications Commission

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

In the Matter of)	
)	
Enrico S. Brancadora)	File No. EB-11-PA-0008
Licensee of AM Station WIBG)	
Facility ID # 19617)	NOV No. V201132400016
Ocean City, New Jersey)	
)	

NOTICE OF VIOLATION

Released: March 21, 2011

By the District Director, Philadelphia 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 Enrico S. Brancadora, licensee of AM Station WIBG in Ocean City, New Jersey. This Notice may be combined with a further action, if further action is warranted.²

2. On January 25, 2011, agents of the Commission’s Philadelphia Office inspected AM Station WIBG in Ocean City, New Jersey and observed the following violations:
 - a. 47 C.F.R. § 11.52(d): “Broadcast stations ... must monitor two EAS sources. The monitoring assignments of each broadcast station ... are specified in the State EAS Plan and FCC Mapbook. They are developed in accordance with FCC monitoring priorities...” The Emergency Alert System Plan for New Jersey specifies that WIBG must monitor a Primary Entry Point Station³ and WFPG 96.9 MHz.⁴ At the time of inspection, WIBG was not monitoring WFPG or a Primary Entry Point Station. WIBG was monitoring WENJ-FM which is not a required source.

 - b. 47 C.F.R. § 73.189(b)(4): "... [I]t is considered that where a vertical radiator is employed with its base on the ground, the ground system should consist of buried radial wires at least one-

¹47 C.F.R. § 1.89.

²47 C.F.R. § 1.89(a).

³ According to the Emergency Alert System Plan for the state of New Jersey, the Primary Entry Point Stations include: WNJN 89.7 MHz; WNJS 88.1 MHz; WNJB 89.3 MHz; WNJZ 90.3 MHz; WNJM 89.9 MHz; WNJT 88.1 MHz; WNJP 88.5 MHz; WNJS TV CH 22; WNJN TV CH 51; WNJT TV CH 43; WNJB TV CH 8.

⁴ The Emergency Alert System Plan for the state of New Jersey strongly encourages broadcast and cable operators to monitor the NOAA Weather Radio Station that serves their area but it is not an FCC requirement.

Federal Communications Commission

forth wave length long...." At the time of inspection, the agents observed that the radial wires associated with the vertical radiator's ground system were inadequately buried.

- c. 47 C.F.R. § 73.1745(a): "No broadcast station shall operate at times, or with modes or power, other than those specified and made a part of the license, unless otherwise provided in this part." WIBG was found operating at times outside the authorized daytime authorization and with power above the authorized critical power.⁵
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,⁶ 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, Enrico S. Brancadora **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.⁷
4. In accordance with section 1.16 of the Commission's Rules, we direct Enrico S. Brancadora to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of AM Station WIBG with personal knowledge of the representations provided in Enrico S. Brancadora's response, verifying the truth and accuracy of the information therein,⁸ 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

⁵ AM Station WIBG is authorized 0.68 kW during critical hour operation and 1.9 kW during daytime operation. Based on field strength measurements using a calibrated FIM-41 meter serial number 651, the agents calculated the power for station WIBG to be 1.841 kW during their critical hour period prior to inspection.

⁶47 U.S.C. § 403.

⁷47 C.F.R. § 1.89(c).

⁸Section 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)'.⁷ 47 C.F.R. § 1.16.

Federal Communications Commission

imprisonment under Title 18 of the U.S. Code.⁹

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
Philadelphia Office
One Oxford Valley Building, Suite 404
2300 East Lincoln Highway
Langhorne, Pennsylvania 19047

6. This Notice shall be sent to Enrico S. Brancadora at his address of record.
7. The Privacy Act of 1974¹⁰ 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.¹¹

FEDERAL COMMUNICATIONS COMMISSION

Gene J. Stanbro
District Director
Philadelphia District Office
Northeast Region
Enforcement Bureau

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

¹⁰P.L. 93-579, 5 U.S.C. § 552a(e)(3).

¹¹18 U.S.C. § 1001 *et seq.*