

**Federal Communications Commission**

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

In the Matter of	)	
	)	
City of Philadelphia	)	Case No. EB-FIELDNER-12-00005196
	)	
Registrant of Antenna Structure	)	NOV No. V201332400002
ASR # 1202731	)	
Philadelphia, Pennsylvania	)	
	)	

**NOTICE OF VIOLATION**

**Released: November 19, 2012**

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 rules (Rules),<sup>1</sup> to City of Philadelphia, the registrant of antenna structure # 1202731 in Philadelphia, Pennsylvania. Pursuant to Section 1.89(a) of the Rules, issuance of this NOV does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violations noted herein.<sup>2</sup>

2. On November 5, 2012 at 3:30 p.m., an agent of the Enforcement Bureau's Philadelphia Office inspected antenna structure # 1202731, which is located at Ivans and Horner Streets, Philadelphia, Pennsylvania at the coordinates 40° 03' 36.4" North Latitude 075° 14' 25.6" West Longitude, and observed the following violations:

- a. 47 C.F.R. § 17.51(a): "All red obstruction lighting shall be exhibited from sunset to sunrise unless otherwise specified." At the time of the inspection, one of the antenna structure's three mid-level red obstruction lights was extinguished.
- b. 47 C.F.R. § 17.50: "Antenna structures requiring painting under this part shall be cleaned or repainted as often as necessary to maintain good visibility." At the time of the inspection, the paint on the antenna structure was severely faded and chipped.<sup>3</sup>

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<sup>1</sup> 47 C.F.R. § 1.89.

<sup>2</sup> 47 C.F.R. § 1.89(a).

<sup>3</sup> On February 14, 2012, the Philadelphia Office issued a Notice of Violation to the City of Philadelphia for failing to repaint antenna structure # 1202731. In a response letter dated March 20, 2012, the City of Philadelphia stated that it would install a Medium Dual Lighting System in lieu of painting the antenna structure.

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- c. 47 C.F.R. § 17.4(g): “The Antenna Structure Registration Number must be displayed in a conspicuous place so that it is readily visible near the base of the antenna structure. Materials used to display the Antenna Structure Registration Number must be weather-resistant and of sufficient size to be easily seen at the base of the antenna structure.” At the time of inspection, there was no registration number posted at or near the base of the antenna structure.<sup>4</sup>

3. Pursuant to Section 403 of the Communications Act of 1934, as amended,<sup>5</sup> and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, the City of Philadelphia 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.<sup>6</sup>

4. In accordance with Section 1.16 of the Rules, we direct the City of Philadelphia to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of the City of Philadelphia with personal knowledge of the representations provided in the City of Philadelphia response, verifying the truth and accuracy of the information therein,<sup>7</sup> 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.<sup>8</sup>

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<sup>4</sup> On February 14, 2012, the Philadelphia Office issued a Notice of Violation to the City of Philadelphia for failing to post the antenna structure number. In a response letter dated March 20, 2012, the City of Philadelphia stated that would install signage with the ASR # 1202731 clearly visible from multiple points around the structure.

<sup>5</sup> 47 U.S.C. § 403.

<sup>6</sup> 47 C.F.R. § 1.89(c).

<sup>7</sup> Section 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.

<sup>8</sup> 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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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 the City of Philadelphia at its address of record.

7. The Privacy Act of 1974<sup>9</sup> 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

David C. Dombrowski  
District Director  
Philadelphia Office  
Northeast Region  
Enforcement Bureau

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<sup>9</sup> P.L. 93-579, 5 U.S.C. § 552a(e)(3).