
Federal Communications Commission

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

In the Matter of)	
)	
State of Florida)	File No.: EB-FIELDSCR-13-00006069
Owner of Antenna Structure Number 1049425)	
)	NOV No.: V201332600005
Hialeah, Florida)	
)	

NOTICE OF VIOLATION

Released: January 24, 2013

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

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules),¹ to State of Florida, owner of antenna structure number 1049425 in Hialeah, Florida. 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 violation(s) noted herein.²

2. On January 11, 2013, an agent of the Enforcement Bureau's Miami Office inspected antenna structure number 1049425 located in Hialeah, Florida and observed the following violation:

47 C.F.R. § 17.23: "Unless otherwise specified by the Commission, each new or altered antenna structure to be registered on or after January 1, 1996, must conform to the Federal Aviation Administration's (FAA's) painting and lighting recommendations set forth on the structure's FAA determination of "no hazard," as referenced in the . . . FAA Advisory Circulars." The FCC's Antenna Structure Registration (ASR) database currently indicates that the antenna structure requires aviation orange and white paint and red obstruction lighting in accordance with FAA Circular Number 70/7460-1J, Chapters 3, 4, 5, and 13. The antenna structure does not conform to these recommendations. The agent observed that the tower is not painted and a flashing white strobe is located at the top of the structure. Therefore, it is in violation of 47 C.F.R. § 17.23. In order to come into compliance with the Commission's rules, State of Florida must do one of the following: (1) obtain a new FAA "no hazard" determination indicating that the current lighting system is permitted and then submit a modified antenna structure registration to reflect the new "no hazard" determination, (2) submit a

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

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modified registration if a new FAA “no hazard” determination already has been obtained, or (3) come into compliance with the current requirements.

3. Pursuant to Section 403 of the Communications Act of 1934, as amended,³ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, State of Florida 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 Rules, we direct State of Florida to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of State of Florida with personal knowledge of the representations provided in State of Florida’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:

Federal Communications Commission
Miami Office
P.O. Box 520617
Miami, FL 33152

6. This Notice shall be sent to by Certified Mail, Return Receipt Requested, and First Class Mail to State of Florida at its address of record.

³ 47 U.S.C. § 403.

⁴ 47 C.F.R. § 1.89(c).

⁵ Section 1.16 of the 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.

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

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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. 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.⁸

FEDERAL COMMUNICATIONS COMMISSION

Steven DeSena
Resident Agent
Miami Office
South Central Region
Enforcement Bureau

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).

⁸ 18 U.S.C. § 1001 *et seq.*