

Federal Communications Commission

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

In the Matter of)	
)	
Etex Communications, L.P.)	FileNo.: EB-FIELDSCR-13-00006719
Cable System Operator)	
Gilmer, TX)	
Physical System No. 020632)	
Community Unit No. TX2381)	NOV No.: V201332500036
)	

NOTICE OF VIOLATION

Released: March 4, 2013

By the District Director, Dallas 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 Etex Communications, L.P., operator of a cable system in Gilmer, Texas. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice 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 February 6, 2013, an agent of the Enforcement Bureau's Dallas Office inspected the cable system located at Gilmer, Texas, and observed the following violation(s):

- a. 47 C.F.R. § 11.35(a): "EAS Participants are responsible for ensuring that EAS Encoders, EAS Decoders and Attention Signal generating and receiving equipment used as part of the EAS are installed so that the monitoring and transmitting functions are available during the times the stations and systems are in operation." At the time of the inspection, the EAS equipment was not fully operational. During a demonstration, the EAS equipment would not transmit the required audio and video messages from the encoder to the cable channels.

- b. 47 C.F.R. § 76.1700(a): "Records to be maintained by cable system operators – The operator of every cable television system having 5000 or more subscribers shall maintain for public inspections a file containing a copy of all records which are required to be kept by (76.1701 (political file); 76.1715 (sponsorship identification); 76.1702 (EEO records available for

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

Federal Communications Commission

public inspection), 76.1703 (commercial records for children's programming)...” At the time of the inspection, Etex Communications, L.P. did not have copies of the following records: 76.1701 (political file); 76.1715 (sponsorship identification); 76.1702 (EEO records available for public inspection), and 76.1703 (commercial records for children's programming).

3. As the nation's emergency warning system, the Emergency Alert System is critical to public safety, and we recognize the vital role that cable operators play in ensuring its success. The Commission takes seriously any violations of the Rules implementing the EAS and expects full compliance from its regulatees.

4. 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, Etex Communications, L.P., 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

5. In accordance with Section 1.16 of the Rules, we direct Etex Communications, L.P. to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Etex Communications, L.P. with personal knowledge of the representations provided in Etex Communications, L.P. 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

6. 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:

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.

Federal Communications Commission

Federal Communications Commission
Dallas Office
9330 LBJ Freeway, Suite 1170
Dallas, TX, 75243

7. This Notice shall be sent to Etex Communications, L.P. at its address of record.

8. 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

James D. Wells
District Director
Dallas District Office
South Central Region
Enforcement Bureau

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).