

Federal Communications Commission

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

In the Matter of)	
)	
Nextel License Holdings 1, Inc.)	File No.: EB-FIELDSCR-13-00007267
)	
Licensee of Several Specialized Mobile Radio Stations)	
)	
Miami Beach, Florida)	NOV No.: V201332600008
)	

NOTICE OF VIOLATION

Released: April 1, 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 rules¹ (Rules) to Nextel License Holdings 1, Inc., licensee of several Specialized Mobile Radio (SMR) stations² in Miami Beach, 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.³

2. On March 6, 2013, based on a complaint of interference by a local public safety agency to its 800 MHz Trunked Public Safety communications system, agents of the Commission’s Miami Office located the source of the interfering transmissions to a transmission node of an outdoor Distributed Antenna System (DAS) that Nextel License Holdings 1, Inc. installed and operated in front of 5959 Collins Avenue, Miami Beach, Florida 33140, and observed the following violations:

- a. 47 C.F.R. § 1.903(a): “Stations in the Wireless Radio Services must be used and operated only in accordance with the rules applicable to their particular service as set forth in this title and with a valid authorization granted by the Commission under the provisions of this part, except as specified in paragraph (b) of this section.” The licenses for Nextel SMR Call Signs authorize Nextel License Holdings 1, Inc. to provide SMR communications

¹ 47 C.F.R. § 1.89.

² Nextel License Holdings 1, Inc. holds several SMR licenses in the Miami-Ft. Lauderdale Market (Market Number BEA031). According to Sprint Nextel Corporation personnel, their system in Miami Beach was programmed to transmit on various specific channels in the SMR band, licensed under the following 13 call signs: WPLM635, WPLM636, WPLM637, WPSB812, WPSB911, WPSC200, WPSC386, WPSC476, WPSC675, WPSC876, WPSC970, WPSD427, and WPSD525, hereinafter collectively referred to as the “Nextel SMR Call Signs.”

³ 47 C.F.R. § 1.89(a).

Federal Communications Commission

in the 806-824/851-869 MHz band in the Miami-Ft. Lauderdale Market (Market Number BEA031). At the time of the inspection, the DAS node at the location referenced above was transmitting a constant, wideband signal across the entire 851-869 MHz band.

- b. 47 C.F.R. § 90.403(e): “Licensee shall take reasonable precautions to avoid causing harmful interference. This includes monitoring the transmitting frequency for communications in progress and such other measures as may be necessary to minimize the potential for causing interference.” At the time of the inspection, Nextel License Holdings 1, Inc. was apparently not monitoring its system, because it was unaware that it was transmitting a constant wideband signal and interfering with vital public safety communications. According to the complainant, the interference had existed for several weeks.

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,⁴ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Nextel License Holdings 1, Inc. 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.⁵

4. In accordance with Section 1.16 of the Rules, we direct Nextel License Holdings 1, Inc. to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Nextel License Holdings 1, Inc. with personal knowledge of the representations provided in Nextel License Holdings 1, Inc.’s response, verifying the truth and accuracy of the information therein,⁶ 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.⁷

⁴ 47 U.S.C. § 308(b).

⁵ 47 C.F.R. § 1.89(c).

⁶ 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.

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

Federal Communications Commission

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 Nextel License Holdings 1, Inc. at its address of record.

7. The Privacy Act of 1974⁸ 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.⁹

FEDERAL COMMUNICATIONS COMMISSION

Steven DeSena
Resident Agent
Miami Office
South Central Region
Enforcement Bureau

⁸ P.L. 93-579, 5 U.S.C. § 552a(e)(3).

⁹ 18 U.S.C. § 1001 *et seq.*