

Federal Communications Commission

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

In the Matter of)	
)	
City of Magee)	File No.: EB-FIELDSCR-13-00008310
Licensee of Station WPNQ825)	
Magee, Mississippi)	NOV No.: V201332620014

NOTICE OF VIOLATION

Released: May 2, 2013

By the Deputy Regional Director, New Orleans 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 the City of Magee, licensee of Station WPNQ825 in Magee, Mississippi. 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 noted herein.²

2. On March 5, 2013, an agent of the Enforcement Bureau's New Orleans Office inspected Station WPNQ825 in Magee, Mississippi, and observed the following violation:

47 C.F.R. § 1.903(a): "*General rule.* 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." At the time of inspection, the agent found the City of Magee transmitting from the approximate geographic location of 31°42'37.2"N latitude, 089°42'18.3"W longitude. The license for WPNQ825 only authorizes operation from the geographic location of 31°52'30.6"N, 089°44'25.3"W. In addition, the City of Magee was transmitting digital emissions on the frequency 159.0900MHz. The license for Station WPNQ825 only authorizes FM narrowband analog voice emissions (FB2) on the frequency 159.0900 MHz. The FB2 class of emissions does not authorize digital transmissions.

3. Pursuant to Section 308(b) 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, the City of Magee, 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

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

³ 47 U.S.C. § 308(b).

⁴ 47 C.F.R. § 1.89(c).

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4. In accordance with Section 1.16 of the Rules, we direct the City of Magee 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 Magee with personal knowledge of the representations provided in the City of Magee’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
New Orleans Office
2424 Edenborn Ave. Suite 460
Metairie, LA 70001

6. This Notice shall be sent to the City of Magee at its address of record.

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.

FEDERAL COMMUNICATIONS COMMISSION

Lloyd Perry
Deputy Regional Director
New Orleans District Office
South Central Region
Enforcement Bureau

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.

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).