

Federal Communications Commission

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

In the Matter of)
KRCA License, LLC) File No. EB-FIELDWR-13-00007251
Licensee of Station KPNZ)
Salt Lake City, UT) NOV No. V201332800049
) Facility ID # 77512
)

NOTICE OF VIOLATION

Released: May 16, 2013

By the District Director, Denver District Office, Western 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 KRCA License, LLC (KLL), licensee² of TV station KPNZ serving Ogden, UT. 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 violations noted herein.²

2. On February 7, 2013, an agent of the Enforcement Bureau's Denver District Office inspected TV station KPNZ, located at 150 N. Wright Brothers Drive, Suite 520, in Salt Lake City, UT, and observed the following violations:

- a. 47 C.F.R. § 11.35(a): "EAS Participants are responsible for ensuring that EAS Encoders, EAS Decoders, Attention Signal generating and receiving equipment, and Intermediate Devices used as part of the EAS to decode and/or encode messages formatted in the EAS Protocol and/or the Common Alerting Protocol are installed so that the monitoring and transmitting functions are available during the times the stations and systems are in operation. Additionally, EAS Participants must determine the cause of any failure to receive the required tests or activations specified in § 11.61(a)(1) and (2). Appropriate entries indicating reasons why any tests were not received must be made in the broadcast station log as specified in §§ 73.1820 and 73.1840 of this chapter for all broadcast streams and cable system records as specified in §§ 76.1700, 76.1708, and 76.1711 of this chapter. All other EAS Participants must also keep records indicating reasons why any

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

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tests were not received and these records must be retained for two years, maintained at the EAS Participant's headquarters, and made available for public inspection upon reasonable request." At the time of the inspection, the station had no EAS logs. There were no records or logs reflecting that such deficiencies were noticed or addressed.

- b. 47 C.F.R. § 11.52(d)(1): "...EAS Participants must monitor two EAS sources. The monitoring assignments of each broadcast station and cable system and wireless cable system are specified in the State EAS Plan...." The Utah State EAS Plan requires that stations in the Ogden Region of the Wasatch Front Operational Area monitor KSL-AM, on frequency 1160 kHz, and NOAA, on frequency 162.550 MHz. At the time of the inspection, the station had no EAS records and the EAS input sources could not be verified.
- c. 47 C.F.R. § 11.61(a)(1)(i): "Tests in odd numbered months shall occur between 8:30 a.m. and local sunset. Tests in even numbered months shall occur between local sunset and 8:30 a.m. They will originate from Local or State Primary sources. The time and script content will be developed by State Emergency Communications Committees in cooperation with affected EAS Participants. Script content may be in the primary language of the EAS Participant. These monthly tests must be transmitted within 60 minutes of receipt by EAS Participants in an EAS Local Area or State." At the time of the inspection, the station had no record of any EAS transmit or receive monthly tests being conducted prior to February 7, 2013.
- d. 47 C.F.R. § 11.61(a)(2)(i)(A): "Analog and digital AM, FM, and TV broadcast stations must conduct tests of the EAS header and EOM codes at least once a week at random days and times. Effective December 31, 2006, DAB stations must conduct these tests on all audio streams. Effective December 31, 2006, DTV stations must conduct these tests on all program streams." At the time of the inspection, the station had no record of any EAS weekly transmit or receive tests being conducted on or prior to February 7, 2013.
- e. 47 C.F.R. § 11.61(b): "Entries shall be made in EAS Participant records, as specified in §11.35(a) and 11.54(a)(3)." At the time of the inspection, the station had no log of EAS tests or actual activations (transmit or receive) prior to February 7, 2013. The station had no records or logs to suggest that EAS deficiencies were noticed or addressed. In a phone call the following day, February 8, 2013, KPNZ's representative confirmed that there were no EAS records to provide.

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

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4. 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, KLL 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 KLL to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of KLL with personal knowledge of the representations provided in KLL'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

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:

Federal Communications Commission
Denver District Office
215 S. Wadsworth Blvd., Suite 303
Lakewood, CO 80226

7. This Notice shall be sent to KRCA License, LLC, at its address of record.

³ 47 U.S.C. § 308(b).

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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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

Nikki P. Shears
District Director
Denver District Office
Western Region
Enforcement Bureau

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).