

Federal Communications Commission

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

In the Matter of)	
)	
Comcast of New Mexico/Pennsylvania, Inc.)	File No. EB-FIELDWR-13-00012500
)	
Farmington, New Mexico)	NOV No. V201432940013
)	
)	Physical System ID: 003686
)	

NOTICE OF VIOLATION

Released: December 19, 2013

By the District Director, San Diego 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 Comcast of New Mexico/Pennsylvania, Inc., (Comcast), operator of a cable system in Farmington, New Mexico. 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 violations noted herein.²

2. On November 19, 2013, an agent of the Enforcement Bureau’s San Diego Office inspected the Comcast cable system, located in Farmington, New Mexico, and observed the following violations:

- a. 47 C.F.R. § 11.61(a)(2)(i)(B): “Analog cable systems and digital cable systems with 5,000 or more subscribers per headend and wireless cable systems with 5,000 or more subscribers must conduct tests of the EAS Header and EOM Codes at least once a week at random days and times on all programmed channels.” A required weekly test (RWT) was transmitted by Comcast and the RWT was monitored by the San Diego Office agent from a hotel room at the Courtyard Marriott, 560 Scott Ave, Farmington, NM 87401. The RWT did not have Header or EOM codes. Subsequent conversations with Comcast representatives revealed that the EAS test was blocked by the Comcast owned and controlled multi-dwelling transport adaptor (MDTA) at the hotel.

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

Federal Communications Commission

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. We also must investigate violations of other rules that apply to cable operators.

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, Comcast, 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 Comcast to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Comcast with personal knowledge of the representations provided in Comcast'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
San Diego Office
4542 Ruffner St., Room 370
San Diego, CA 92111

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

7. This Notice shall be sent to Comcast of New Mexico/Pennsylvania, Inc., 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 T. Lyon
District Director
San Diego Office
Western Region
Enforcement Bureau

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).