

Federal Communications Commission

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

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| In the Matter of |) | |
| |) | |
| Ermma Barton Gowdy |) | File No.: EB-FIELDSCR-14-00015265 |
| |) | |
| Licensee of Station WPJK(AM) |) | NOV No.: V201432480007 |
| Owner of Antenna Structure Number 1229967 |) | Facility ID: 6447 |
| |) | |
| Orangeburg, SC |) | |

NOTICE OF VIOLATION

Released: April 30, 2014

By the District Director, Atlanta 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 Ermma Barton Gowdy, licensee of radio station WPJK(AM) in Orangeburg, SC. 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 April 16, 2014, an agent of the Enforcement Bureau's Atlanta Office inspected radio station WPJK(AM) and its antenna structure number 1229967, both located in Orangeburg, SC, 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, 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

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

Federal Communications Commission

failure to receive the required tests or activations... Appropriate entries indicating reasons why any tests were not received must be made in the broadcast station log...” The station was unable to send an EAS test message. The station General Manager admitted that the EAS equipment was not functioning, and there were no EAS logs indicating when the unit was taken out of service.

- b. 47 C.F.R. § 11.52(d)(2): “With respect to monitoring for EAS messages... EAS Participants EAS Equipment must interface with the Federal Emergency Management Agency’s Integrated Public Alert and Warning System (IPAWS) to enable... the distribution of Common Alert Protocol (CAP) formatted alert messages from the IPAWS system to EAS Participants EAS equipment.” There was no equipment installed at the station with CAP capability.
- c. 47 C.F.R. § 17.4(g): “... the Antenna Structure Registration Number must be displayed in a conspicuous place so that it is readily visible near the base of the antenna structure. Materials used to display the Antenna Structure Registration Number must be weather-resistant and of sufficient size to be easily seen at the base of the antenna structure.” The Antenna Structure Registration Number was not posted at the base of the tower.
- d. 47 C.F.R. § 17.51 (a): “All red obstruction lighting shall be exhibited from sunset to sunrise unless otherwise specified.” The top beacon on the antenna structure was flashing white, instead of red.
- e. 47 C.F.R. § 17.57: “The owner of an antenna structure for which an Antenna Structure Registration Number has been obtained must notify the Commission...using FCC Form 854 upon any change in structure height or change in ownership information.” Mrs. Gowdy inherited the antenna structure in 2009 after her husband passed away, but the Antenna Structure Registration database still lists her husband as owner.
- f. 47 C.F.R. § 73.49: “Antenna towers having radio frequency potential at the base (series fed, folded unipole, and insulated base antennas) must be enclosed within effective locked fences or other enclosures. Ready access must be provided to each antenna tower base for meter reading and maintenance purposes at all times. However, individual tower fences need not be installed if the towers are contained within a protective property fence.” The agent found the gate to the fence surrounding the base of the tower propped open.
- g. 47 C.F.R. § 73.1870(b)(3): “...The designation of the chief operator must be in writing with a copy of the designation posted with the station license. Agreements with chief operators serving on a contract basis must be in

Federal Communications Commission

writing with a copy kept in the station files.” There was no designation of chief operator for the station.

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 licensees.

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, Ermma Barton Gowdy 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 Ermma Barton Gowdy to support her response to this Notice with a signed and dated affidavit or declaration under penalty of perjury, 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
Atlanta Office
3575 Koger Blvd., Suite 320
Duluth, GA 30096

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.

Federal Communications Commission

7. This Notice shall be sent to Ermma Barton Gowdy at her 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

Douglas Miller
District Director
Atlanta Office
South Central Region
Enforcement Bureau

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).