

Federal Communications Commission

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

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| In the Matter of |) | |
| |) | |
| Prudential Insurance Co |) | File No.: EB-FIELDNER-14-00016792 |
| Licensee of Station WPWE425 |) | |
| |) | NOV No.: V201432380008 |
| Newark, New Jersey |) | |
| |) | |
| |) | |

NOTICE OF VIOLATION

Released: August 11, 2014

By the District Director, New York Office, Northeast 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 Prudential Insurance Co (Prudential), licensee of Private Land Mobile Station WPWE425 in Newark, New Jersey. 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 July 30, 2014, in response to a complaint, Agents of the Enforcement Bureau's New York Office inspected the Private Land Mobile Station, WPWE425, located at 751 Broad Street, Newark, New Jersey, and observed the following violations:

- a. 47 C.F.R. § 90.403(c): "Except for stations that have been granted exclusive channels under this part and that are classified as commercial mobile radio service providers pursuant to Part 20 of this chapter, each licensee must restrict all transmissions to the minimum practical transmission time and must employ an efficient operating procedure designed to maximize the utilization of the spectrum." At the time of the investigation, the agents observed that WPWE425 was transmitting a continuous signal on 461.275 MHz.
- b. 47 C.F.R. § 90.403(e): "Licensees 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

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

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of the investigation, the agents monitored WPWE425 and observed a continuous signal on 461.275 MHz, a frequency shared with other licensees in the New York metropolitan area. The agents observed no evidence of monitoring the transmitting frequency for communications in process or any other measures to avoid interference by WPWE425.

- c. 47 C.F.R. § 90.425(a): “Stations licensed under this part shall transmit identification in accordance with the following provisions: (a) *Identification procedure*. Except as provided for in paragraphs (d) and (e) of this section, each station or system shall be identified by the transmission of the assigned call sign during each transmission or exchange of transmissions, or once each 15 minutes (30 minutes in the Public Safety Pool) during periods of continuous operation. The call sign shall be transmitted by voice in the English language or by International Morse Code in accordance with paragraph (b) of this section. If the station is employing either analog or digital voice scrambling, or non-voice emission, transmission of the required identification shall be in the unscrambled mode using A3E, F3E or G3E emission, or International Morse, with all encoding disabled.” At the time of the monitoring, no identification of the station was observed.

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 violation and any remedial actions taken. Therefore, Prudential 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

4. In accordance with Section 1.16 of the Rules, we direct Prudential to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Prudential with personal knowledge of the representations provided in Prudential’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 Prudential’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

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.

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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 York Office
201 Varick Street, Suite 1151
New York, New York 10014

6. This Notice shall be sent to Prudential 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

Stephen Maguire
District Director
New York District Office
Northeast Region
Enforcement Bureau

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).