

**Federal Communications Commission**

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

In the Matter of	)	
	)	
305 Community Radio, Inc	)	File No. EB-FIELDSCR-15-00020507
Licensee of Station WMIV-LP	)	
	)	
Facility ID: 191835	)	NOV No. V201632600003
	)	
Miami, Florida	)	

**NOTICE OF VIOLATION**

**Released: March 10, 2016**

By the Resident Agent, Miami 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),<sup>1</sup> to 305 Community Radio, Inc (305 CRI), licensee of Low Power FM (LPFM) station WMIV-LP in Miami, Florida. 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 violation(s) noted herein.<sup>2</sup>

2. On December 9, 2015, and February 23, 2016, based on a complaint, agents of the Enforcement Bureau’s Miami Office monitored transmissions on 107.9 MHz from radio station WMIV-LP and observed the following violation:

- a. 47 C.F.R. § 73.845: “Each LPFM licensee is responsible for maintaining and operating its broadcast station in a manner that complies with the technical rules set forth elsewhere in this part and in accordance with the terms of the station authorization...” WMIV-LP is authorized to operate on frequency 107.9 MHz from coordinates 25° 45’ 18” N latitude and 080° 12’ 32” W longitude, with an antenna height of 45 meters. On December 9, 2015, and again on February 23, 2016, agents determined that WMIV-LP was transmitting from the roof of a high-rise building at coordinates 25° 45’ 54.40” N latitude and 080° 11’ 25.04” W longitude, with an antenna height of approximately 179 meters. 305 CRI personnel later admitted that it had been operating WMIV-LP from that building for approximately one year,

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<sup>1</sup> 47 C.F.R. § 1.89.

<sup>2</sup> 47 C.F.R. § 1.89(a).

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without authorization. Thus, 305 CRI was operating from a location which is 1.33 miles from the authorized coordinates and with an antenna height which exceeds the authorized height by 134 meters.

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,<sup>3</sup> and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, 305 CRI 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.<sup>4</sup>

4. In accordance with Section 1.16 of the Rules, we direct 305 CRI to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of 305 CRI with personal knowledge of the representations provided in 305 CRI's response, verifying the truth and accuracy of the information therein,<sup>5</sup> 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.<sup>6</sup>

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  
Miami Office  
P.O. Box 266468  
Weston, FL 33326

6. This Notice shall be sent to 305 Community Radio, Inc. at its address of record.

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<sup>3</sup> 47 U.S.C. § 308(b).

<sup>4</sup> 47 C.F.R. § 1.89(c).

<sup>5</sup> 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.

<sup>6</sup> 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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7. The Privacy Act of 1974<sup>7</sup> 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

Steven DeSena  
Resident Agent  
Miami Office  
South Central Region  
Enforcement Bureau

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<sup>7</sup> P.L. 93-579, 5 U.S.C. § 552a(e)(3).