

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

In the Matter of)	
)	
Eversource Energy)	File No.: EB-FIELDNER-18-00026806
)	
Owner of Antenna Structure)	
ASR No. 1065307)	
)	
Barnstable, Massachusetts)	

NOTICE OF VIOLATION

Released: August 10, 2018

By the Regional Director, Region One, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission’s rules (Rules)¹ to Eversource Energy (Eversource), owner of the antenna structure assigned Antenna Structure Registration Number (ASR No.) 1065307 (Antenna Structure) located at 2059 Service Road, Shoot Flying Hill, Barnstable, Massachusetts at the coordinates 41° 40' 56" NL 70° 20' 53" WL. 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 May 8, 2018, an agent of the Enforcement Bureau’s Region One inspected the Antenna Structure and observed the following violations:

- a. 47 CFR § 17.57: “The owner of an antenna structure for which an Antenna Structure Registration Number has been obtained must notify the Commission within 5 days of completion of construction (FCC Form 854-R) and/or dismantlement (FCC Form 854). The owner must also notify the Commission within 5 days of any change in structure height or change in ownership information (FCC Form 854)” At the time of inspection, Eversource had not notified the Commission of the change in ownership for Antenna Structure No. 1065307. Although the ASR No. 1065307 specifies that Commonwealth Electric is the owner of the Antenna Structure, Eversource is the actual owner.

¹ 47 CFR § 1.89.

² 47 CFR § 1.89(a).

- b. 47 C.F.R. § 17.48: “Unless otherwise specified by the Commission, each new or altered antenna structure must conform to the FAA's painting and lighting specifications set forth in the FAA's final determination of ‘no hazard’ and the associated FAA study for that particular structure.” The Antenna Structure is subject to the Antenna Structure Registration (ASR) No. 1065307, which applies painting and lighting requirements from Chapters 4, 8, and 13 of FAA Circular Number 70/7460-1H. ASR No. 1065307 also states that Antenna Structure is 78.0 m (255 feet) in height. Chapter 8 of FAA Circular Number 70/7460-1H indicates that antenna structures of that height require a dual lighting system with medium intensity white obstruction lighting during the daytime and red obstruction lighting at nighttime.³ At the time of the inspection, the agent observed that the Antenna Structure displayed medium intensity white obstruction lighting when it should have displayed red obstruction lighting. Eversource later confirmed the nighttime lighting had malfunctioned.

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,⁴ Section 403 of the Communications Act of 1934, as amended,⁵ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Eversource 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.⁶

4. In accordance with Section 1.16 of the Rules, we direct Eversource to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Eversource with personal knowledge of the representations provided in Eversource’s response, verifying the truth and accuracy of the information therein,⁷ and confirming that all of the information requested by this Notice which is in Eversource’s possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in

³ See Federal Aviation Administration, Advisory Circular: Obstruction Marking and Lighting, FAA AC 70/7460-1H (1992), available at <http://wireless.fcc.gov/antenna/documentation/faadocs/7460-1H.pdf> (FAA Obstruction Marking and Lighting Circular) at Chapter 8, Paragraph 80, Page 21.

⁴ 47 U.S.C. § 308(b).

⁵ 47 U.S.C. § 403.

⁶ 47 CFR § 1.89(c).

⁷ 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 CFR § 1.16.

reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁸

5. All replies and documentation sent in response to this Notice should be marked with the File No. specified above, and mailed to the following address:

Federal Communications Commission
Columbia Regional Office
P.O. Box 130
Columbia, Maryland 20145

6. This Notice shall be sent to Eversource, 247 Station Drive, Westwood, MA 02090. The Privacy Act of 1974⁹ 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

David C. Dombrowski
Regional Director
Region One
Enforcement Bureau

⁸ 18 U.S.C. § 1001 *et seq.* See also 47 CFR § 1.17.

⁹ P.L. 93-579, 5 U.S.C. § 552a(e)(3).