

Federal Communications Commission

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

In the Matter of)	
)	
305 Community Radio, Inc)	File No. EB-FIELDSCR-18-00027466
Licensee of Station WMIV-LP)	
)	
Facility ID: 191835)	
)	
Miami, Florida)	

NOTICE OF VIOLATION

Released: November 16, 2018

By the Regional Director, Region Two, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission’s rules (Rules),¹ 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 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 August 22, 2018, based on a complaint, agents of the Enforcement Bureau’s Miami Office investigated and found the following violations:

- 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 was authorized under its license in effect on August 22, 2018 to operate on frequency 107.9 MHz from coordinates 25° 43’ 51” N latitude and 80° 14’ 13” W longitude (NAD 27), with an antenna height of 62 meters radiation center above ground (RCAG). WMIV-LP had filed a construction permit application on June 6, 2018, which was granted on June 14, 2018, that authorized WMIV-LP to operate on 94.3 MHz from coordinates 25° 43’ 60” N latitude and 80° 17’ 26” W longitude (NAD 27) with an antenna height of 15 m RCAG. On August 22, 2018, agents determined that WMIV-LP was operating on 94.3 MHz from a

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

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building rooftop at coordinates 25° 45' 17.9" N latitude and 80° 12' 32.4" W longitude (NAD 27), with an antenna height of approximately 45 meters RCAG. Thus, the station is operating at variance from both its licensed location and its authorized location with an unauthorized antenna height.

- b. 47 CFR § 73.875: “The following procedures and restrictions apply to licensee modifications of authorized broadcast transmission system facilities... (b) The following changes may be made only after the grant of a construction permit application on FCC Form 318. (1) Any construction of a new tower structure for broadcast purposes, except for replacement of an existing tower with a new tower of identical height and geographical coordinates. (2) Any change in station geographic coordinates, including coordinate corrections and any move of the antenna to another tower structure at the same coordinates. (3) Any change in antenna height more than 2 meters above or 4 meters below the authorized value...” A check of the Commission’s licensing database shows that 305 CRI has not filed an application, nor has it been granted a construction permit, to operate from the antenna structure at the geographic coordinates and antenna height observed by agents on August 22, 2018.

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 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.⁴

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,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

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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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

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

Federal Communications Commission
Atlanta Regional Office
P.O. Box 1493
Powder Springs, GA 30127
FIELD@FCC.GOV

6. This Notice shall be sent to 305 Community Radio, Inc. 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

Ronald Ramage
Regional Director, Region Two
Enforcement Bureau

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

⁷ 5 U.S.C. § 552a(e)(3).