

**Federal Communications Commission**

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

In the Matter of	)	
	)	
Estate of James Rouse	)	File No.: EB-FIELDSCR-18-00026746
	)	
Licensee of Station WTOW	)	Facility ID: 31856
	)	
Washington, North Carolina	)	FRN: 0010019768
	)	
	)	

**NOTICE OF VIOLATION**

**Released: November 29, 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 Federal Communications Commission’s (Commission) rules<sup>1</sup> to the Estate of James Rouse, licensee of radio station WTOW-AM, and owner of the unregistered antenna structure located at coordinates 35° 32’ 7.00” North Latitude, 77° 4’ 4.00” West Longitude in Washington, North Carolina. Commission rules require antenna structures over 200 feet in height above ground that require notice of proposed construction to the Federal Aviation Administration (FAA) to be registered with the Commission, and to meet painting and lighting requirements, as further discussed below. Pursuant to Section 1.89(a) of the Commission’s rules, issuance of this Notice does not preclude the Enforcement Bureau from taking further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation(s) noted herein.<sup>2</sup>

2. On October 17, 2018, an agent of the Enforcement Bureau’s Atlanta Office inspected the antenna structure located at coordinates 35° 32’ 7.00” North Latitude, 77° 4’ 4.00” West Longitude in Washington, North Carolina and observed the following violation(s):

- a. 47 C.F.R. § 17.4(a): “The owner of any proposed or existing antenna structure that requires notice of proposed construction to the Federal Aviation Administration (FAA) due to physical obstruction must register the structure with the Commission.” According to 47 C.F.R. § 17.7: “A notification to the FAA is required, except as set forth in paragraph (e) of this section, for any of the following construction or alteration: (a) Any construction or alteration of more than 60.96 meters (200 feet) in height above ground level at its site.” An agent verified the antenna structure exceeds 200 feet in height and therefore requires registration with the FCC. The agent researched the FCC antenna structure database and did not find a registration for this antenna structure.
- b. 47 C.F.R. § 17.6(a): “The antenna structure owner is responsible for maintaining the painting and lighting in accordance with this part.” According to the FCC license for WTOW-AM, the tower exceeds 200 feet in height above ground and requires painting and lighting to meet the specifications of paragraphs 1, 3, 12, and 21 in FCC Form 715 (the structure be painted and have at its top a flashing red beacon along with steady

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<sup>1</sup> 47 CFR § 1.89.

<sup>2</sup> *Id.* § 1.89(a).

burning red side obstruction lights at two-thirds and one-third of the overall height of the tower, and the lights were to be displayed continuously or controlled by a light sensitive device.). At approximately 7:00 p.m. EDT under dark, clear skies, an agent observed all obstruction lighting was extinguished.

- c. 47 C.F.R. § 17.48(a): “The owner of any antenna structure which is registered with the Commission and has been assigned lighting specifications referenced in this part shall report immediately to the FAA, by means acceptable to the FAA, any observed or otherwise known extinguishment or improper functioning of any top steady burning light or any flashing obstruction light, regardless of its position on the antenna structure, not corrected within 30 minutes...” On March 30, 2018, after receiving a complaint about the tower light outage, the FCC verified there was not a current NOTAM issued on the antenna structure and had a NOTAM issued.

3. On October 17, 2018, an agent of the Enforcement Bureau’s Atlanta Office monitored radio station WTOW and observed the following violation(s):

- a. 47 C.F.R. § 73.1740(a): “All commercial broadcast stations are required to operate not less than the following minimum hours: (1) AM and FM stations. Two-thirds of the total hours they are authorized to operate between 6 a.m. and 6 p.m. local time and two-thirds of the total hours they are authorized to operate between 6 p.m. and midnight, local time, each day of the week except Sunday.” The agent verified the station was silent while inspecting the station at the transmitter site. On August 21, 2018 an individual listed on a prospective purchaser’s ownership report stated the station was off the air. According to FCC records, the FCC has not issued a Special Temporary Authority (STA) to WTOW allowing the station to be silent. Furthermore, as of the date of this NOV, WTOW has not applied for an STA to remain silent.

4. Pursuant to Section 308(b) of the Communications Act of 1934, as amended (Act), and Section 1.89 of the Commission’s rules, we seek additional information concerning the violations and any remedial actions taken.<sup>3</sup> Therefore, the Estate of James Rouse 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>

5. In accordance with Section 1.16 of the Commission’s rules, we direct the Estate of James Rouse to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized representative of the Estate of James Rouse with personal knowledge of the representations provided in the Estate of James Rouse’s response, verifying the truth and accuracy of the information therein, and confirming that all of the information requested by this Notice which is in the Estate of James Rouse’s possession, custody, control, or knowledge has been produced.<sup>5</sup> To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is

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<sup>3</sup> 47 U.S.C. 308(b); 47 CFR § 1.89.

<sup>4</sup> 47 CFR § 1.89(c).

<sup>5</sup> Section 1.16 of the Commission’s 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.

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punishable by fine or imprisonment under Title 18 of the U.S. Code.<sup>6</sup>

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 Regional Office  
P.O. Box 1493  
Powder Springs, GA 30127  
Field@FCC.gov

7. This Notice shall be sent to the Estate of James Rouse at 853 Olivia Drive, Greenville NC 27834.

8. 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

Ronald Ramage  
Regional Director, Region Two  
Enforcement Bureau

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<sup>6</sup> 18 U.S.C. §§ 1001, *et seq.*; *see also* 47 CFR § 1.17.

<sup>7</sup> 5 U.S.C. § 552a(e)(3).