

Federal Communications Commission

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

In the Matter of)	
)	
MTS Inc.)	File No.: EB-FIELDNER-18-0002615
Antenna Structure Registrant)	
ASR# 1011314)	
)	
Bradley, Illinois)	
)	

NOTICE OF VIOLATION

Released: December 4, 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 MTS Inc., registrant of antenna structure ASR# 1011314 in Augusta, Illinois. 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 August 22, 2018, an Agent of the Enforcement Bureau’s Chicago Office observed the following violations:

- a. 47 CFR § 17.23: “...each antenna structure must be painted and lighted in accordance with any painting and lighting requirements prescribed on the antenna structure's registration, or in accordance with any other specifications provided by the Commission.” At the time of inspection, which was after sunset and before dawn, the Agent observed that the top-level obstruction light on the antenna structure was not flashing but instead exhibited a red and white steady-burning light. In addition, the required flashing red obstruction lighting at midpoint of the antenna structure and the required red steady-burning obstruction lighting at the ¼ and ¾ levels of the structure were extinguished.

- b. 47 CFR § 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 ...[s]hall 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 August 23, 2018,

¹ 47 CFR § 1.89.

² 47 CFR § 1.89(a).

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the Agent contacted the Federal Aviation Administration (FAA) to notify them of the lighting outage and to request that a Notice of Airman (NOTAM) be issued. The FAA issued NOTAM # 08-497. At the time of the inspection, MTS Inc. did not know that the obstruction lighting was extinguished, nor had they reported the obstruction light outages to the FAA.

- c. 47 C.F.R. § 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).” MTS Inc. failed to notify the Commission of its change in address or phone number to update the ownership information on the antenna structure registration.

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,³ Section 403 of the Communications Act of 1934, as amended,⁴ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, MTS Inc. must submit a written statement concerning these matters 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.⁵

4. In accordance with Section 1.16 of the Rules, we direct MTS Inc. to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of MTS Inc. with personal knowledge of the representations provided in MTS Inc.’s response, verifying the truth and accuracy of the information therein,⁶ and confirming that all of the information requested by this Notice which is in the company’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.⁷

³ 47 U.S.C. § 308(b).

⁴ 47 U.S.C. § 403.

⁵ 47 CFR § 1.89(c).

⁶ 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.

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

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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
Office of Regional Director
Columbia Regional Office
9050 Junction Drive
Annapolis, Maryland 20701
Field@fcc.gov

This Notice shall be sent to MTS Inc., ATTN: Thomas Harwood, 2500 West Del Monte Street, West Sacramento, CA 95691.

6. The Privacy Act of 1974⁸ 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
Federal Communications Commission

⁸ P.L. 93-579, 5 U.S.C. § 552a(e)(3).