

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

In the Matter of)	
)	
Hubbard's Advertising Agency, Inc.)	File No.: EB-FIELDNER-18-00027957
)	
Licensee of Radio Station WLLL)	
Facility ID No. 17409)	
)	
Antenna Structure Registrant)	
ASR Nos. 1016649)	
)	
Lynchburg, Virginia)	

NOTICE OF VIOLATION

Released: March 5, 2019

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 rules¹ to Hubbard's Advertising Agency, Inc. (Hubbard's Advertising), licensee of the AM station WLLL and owner of antenna structure 1016649 in Lynchburg, Virginia. Pursuant to Section 1.89(a) of the Commission's 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 November 19, 2018 and November 20, 2018, an Agent of the Enforcement Bureau's Region One district inspected AM station WLLL and its Antenna Structure 1016649. During the inspections, the Agent observed the following violations:

- a. 47 C.F.R. § 11.35(a): "EAS Participants are responsible for ensuring that EAS Encoders, EAS Decoders, Attention Signal generating and receiving equipment, and Intermediate Devices used as part of the EAS to decode and/or encode messages formatted in the EAS Protocol and/or the Common Alerting Protocol are installed so that the monitoring and transmitting functions are available during the times the stations and systems are in operation. Additionally, EAS Participants must determine the cause of any failure to receive the required tests or activations specified in §11.61(a)(1) and (2). ... All other EAS Participants must also keep records indicating reasons why any tests were not received, and these records must be retained for two years, maintained at the EAS Participant's headquarters, and made available for public inspection upon reasonable request." At the time of the station inspection on November 20, 2018, station personnel could not demonstrate to the Agent that the EAS equipment was operational.

¹ 47 CFR § 1.89.

² 47 CFR § 1.89(a).

- b. 47 C.F.R. § 73.1820(a)(1)(iii): “Entries must be made in the station log either manually by a person designated by the licensee who is in actual charge of the transmitting apparatus, or by automatic devices meeting the requirements of paragraph (b) of this section... The following information must be entered. An entry of each test and activation of the Emergency Alert System (EAS) pursuant to the requirement of part 11 of this chapter and the EAS Operating Handbook. Stations may keep EAS data in a special EAS log which shall be maintained at a convenient location; however, this log is considered a part of the station log.” At the time of the inspection, there was no station log showing entries of the EAS activations and tests including the required weekly or monthly EAS tests.
- c. 47 C.F.R. § 11.56: “Obligation to process [Common Alerting Protocol] CAP-formatted EAS messages. (a) On or by June 30, 2012, EAS Participants must have deployed operational equipment that is capable of the following: (1) Acquiring EAS alert messages in accordance with the monitoring requirements in §11.52(d)(2); (2) Converting EAS alert messages that have been formatted pursuant to the Organization for the Advancement of Structured Information Standards (OASIS) Common Alerting Protocol Version 1.2 (July 1, 2010), and Common Alerting Protocol, v. 1.2 USA Integrated Public Alert and Warning System Profile Version 1.0 (Oct. 13, 2009), into EAS alert messages that comply with the EAS Protocol...” During the station inspection, Station WLLL did not have the required CAP-formatted EAS equipment.³
- d. 47 C.F.R. § 17.4(g): “[T]he Antenna Structure Registration Number must be displayed so that it is conspicuously visible and legible from the publicly accessible area nearest the base of the antenna structure along the publicly accessible roadway or path. Where an antenna structure is surrounded by a perimeter fence, or where the point of access includes an access gate, the Antenna Structure Registration Number should be posted on the perimeter fence or access gate... If the base of the antenna structure has more than one point of access, the Antenna Structure Registration Number must be posted so that it is visible at the publicly accessible area nearest each such point of access. Materials used to display the Antenna Structure Registration Number must be weather-resistant and of sufficient size to be easily seen where posted.” At the time of the inspection, the Antenna Structure Registration Number (ASRN) 1016649 was not visible at the closest publicly accessible location near the base of the antenna structure.
- e. 47 C.F.R. § 17.23: “[E]ach 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.” On November 19, 2018, 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 and the required red steady-burning obstruction lighting at the mid-level of the structure was extinguished.

³ 47 CFR § 11.56. Review of the Emergency Alert System, 77 Fed. Reg. 16688, 16706 (Mar. 22, 2012), as amended, 77 FR 26701, 26703, (May 7, 2012).

- f. 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 ...[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. If the lights cannot be repaired within the FAA's Notices to Airmen (NOTAM) period, the owner shall notify the FAA to extend the outage date and report a return-to-service date.” At the time of the inspection on November 19, 2018, the top-level flashing red beacon on Antenna Structure 1016649 was extinguished. That same evening, the FCC agent contacted the FAA’s National NOTAM Service Center and had a NOTAM issued for the tower lights.⁴ At the time of the inspection, Hubbard’s Advertising technical director did not know that the obstruction lighting was extinguished the previous evening, nor had they reported the obstruction light outages to the FAA.⁵
- g. 47 C.F.R. § 73.1560(a): “[T]he antenna input power of an AM station, as determined by the procedures specified in Sec. 73.51, must be maintained as near as practicable to the authorized antenna input power and may not be less than 90 percent nor greater than 105 percent of the authorized power.” Based on field strength measurements and observations of the station’s current meter, the Agent determined that Station WLLL was operating with 533% of its authorized nighttime power after sunset on November 19, 2018.⁶ In addition, based on observations of the station’s current meter, the agent determined that Station WLLL was operating at 74% of its authorized day time transmitter power after sunrise on November 20, 2018.⁷

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended, Section 403 of the Communications Act of 1934, as amended, and Section 1.89 of the Commission’s rules, we seek additional information concerning the violation and any remedial actions taken.⁸ Therefore, Hubbard’s Advertising 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.⁹

⁴ The NOTAM number was LYH 11/020, expiration December 31, 2018.

⁵ The main A/C power breaker was found open or “tripped”.

⁶ Using the direct method (antenna base current and the antenna resistance), the agent calculated a nighttime transmitter output power of 224 watts (533% of licensed nighttime power). The agent read the stations base current meter and noted a value of 1.1 amps.

⁷ Using the direct method (antenna base current and the antenna resistance), the agent calculated a daytime transmitter output power of 6660 watts (74% of licensed daytime power). The agent read the stations base current meter and noted a value of 6 amps.

⁸ 47 U.S.C. § 308(b); 47 U.S.C. § 403; 47 CFR § 1.89.

⁹ 47 CFR § 1.89(c).

4. In accordance with Section 1.16 of the Commission's rules, we direct Hubbard's Advertising to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Hubbard's Advertising with personal knowledge of the representations provided in Hubbard's Advertising'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 Hubbard's Advertising possession, custody, control, or knowledge has been produced.¹⁰ 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.¹¹

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

Federal Communications Commission
EB Columbia Regional Office
9050 Junction Drive
Annapolis Junction, Maryland 20701
Field@fcc.gov

6. This Notice shall be sent to Hubbard's Advertising Agency, Inc., PO Box 11375, Lynchburg, Virginia 24506 and its counsel, David Tillotson, Law Office of David Tillotson, 4606 Charleston Terrace, N.W., Washington 20007.

7. The Privacy Act of 1974¹² 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

¹⁰ 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.

¹¹ 18 U.S.C. §§ 1001, *et seq.*; *see also* 47 CFR § 1.17.

¹² 5 U.S.C. § 552a(e)(3).