

Federal Communications Commission

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

In the Matter of)	
)	
Merdarler Enterprises, Inc.)	File No.: EB-FIELDSCR-19-00029092
Owner of Antenna Structure)	
ASR No. 1200586)	
)	
Lake Butler, Florida)	FRN: 0012424818
)	

NOTICE OF VIOLATION

Released: May 20, 2019

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 Merdarler Enterprises, Inc. (Merdarler), owner of an antenna structure registered under Antenna Structure Registration (ASR) No. 1200586 in Lake Butler, Florida. Pursuant to Section 1.89(a) of the Rules, issuance of this NOV 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 May 7, 2019, the Commission’s Enforcement Bureau received information indicating that none of the required obstruction lighting on Antenna Structure 1200586 was currently functioning, and that the structure has been unlit for several months. An agent of the Enforcement Bureau’s Miami Office subsequently investigated and found the following violations:

- a. 47 C.F.R. § 17.4(j): “Any change or correction in the overall height of one foot or greater or coordinates of one second or greater in longitude or latitude of a registered antenna structure requires prior approval from the FAA and modification of the existing registration with the Commission.” The ASR for antenna structure 1200586 lists its NAD83 coordinates as 29° 56' 29.8" North latitude, 82° 23' 50.4" West longitude. Based on information reported by the FAA, and confirmed using commercially available mapping tools, the antenna structure appears to be located at NAD 83 coordinates 29° 56' 26.66"

¹ 47 CFR § 1.89.

² 47 CFR § 1.89(a).

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North latitude, 082° 23' 50.46" West longitude, which is approximately 3 seconds of latitude (approximately 317 feet) from its registered location.

- 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.” On May 7, 2019, an agent of the Miami Office spoke by telephone to Merdarler’s CEO, who stated that he was aware that the structure has been unlit for some time, and that he had turned off the electrical power to the structure. He also indicated that he had not yet taken any steps to restore the lighting on the structure.
- c. 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.” The ASR for antenna structure 1200586 specifies a dual lighting system with red lights for nighttime and high intensity flashing white lights for daytime and twilight use, in accordance with FAA Chapters 4, 5, 7, 9, 13 of FAA Circular Number 70/7460-1H. Based on the agent’s investigation, which included a conversation with Merlarder’s CEO, none of the lights on the tower are functioning.
- d. 47 C.F.R. § 17.47(a)(1), (2): “The owner of any antenna structure which is registered with the Commission and has been assigned lighting specifications in this part [s]hall make an observation of the antenna structure's lights at least once each 24 hours either visually or by observing an automatic properly maintained indicator designed to register any failure of such lights, to insure that all such lights are functioning properly as required; or alternatively [s]hall provide and properly maintain an automatic alarm system designed to detect any failure of such lights and to provide indication of such failure to the owner.” Based on the agent’s investigation, which included a conversation with Merlarder’s CEO, Merlarder did not make daily observations of the antenna structure’s lights, nor did Merlarder have a functioning automatic alarm system.
- e. 47 C.F.R. § 17.48: “The owner of any antenna structure which is registered with the Commission and has been assigned lighting specifications referenced in this part: (a) 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. 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.” Based on the agent’s investigation, which included a conversation with Merlarder’s CEO, the lights on the antenna structure have been extinguished since January 8,

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2019 or earlier, and Merlarder was notified of this condition on January 8, 2019. However, at no time did Merlarder itself report the obstruction light outages to the FAA as required. The light outages were reported by another party.

- f. 47 C.F.R. § 17.56: “Replacement or repairing of lights, automatic indicators, or automatic control or alarm systems shall be accomplished as soon as practicable.” Based on the agent’s investigation, which included a conversation with Merlarder’s CEO, Merlarder has known since January 8, 2019 or earlier, that the lights on the antenna structure were extinguished. As of May 7, 2019, Merlarder had not taken any steps to restore the lighting.
- g. 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).” As of May 16, 2019, the ASR database showed that the ownership information (owner physical address and telephone number) was incorrect and had not been updated.

3. Pursuant to Section 403 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, Merdarler 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 Merdarler to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Merdarler with personal knowledge of the representations provided in Merdarler’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. § 403.

⁴ 47 CFR § 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 to the following address:

Federal Communications Commission
Office of the Director – Region Two
P.O. Box 1493
Powder Springs, GA 30127
FIELD@FCC.GOV

6. This Notice shall be sent to Merdarler Enterprises, 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
Director – Region Two
Enforcement Bureau

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

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).