

Federal Communications Commission

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

In the Matter of)	
)	
Gulf-California Broadcasting Company)	File No. EB-FIELDWR-12-00001452
Licensee of Radio Station KESQ)	
Facility ID # 52181)	
Indio, CA)	NOV No. V201232940014
)	

NOTICE OF VIOLATION

Released: April 4, 2012

By the District Director, San Diego Office, Western Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission’s Rules,¹ to Gulf-California Broadcast Company (Gulf-CA), licensee of radio station KESQ in Indio, CA. This Notice may be combined with a further action, if further action is warranted.²

2. On February 29, 2012, an agent of the Enforcement Bureau’s San Diego Office inspected radio station KESQ located at Palm Desert, CA, and observed the following violation:

- a. 47 C.F.R. § 11.35(a): “EAS Participants must determine the cause of any failure to receive the required tests or activations specified in Sections 11.61(a)(1) and (a)(2). Appropriate entries indicating reasons why any tests were not received must be made in the broadcast station log as specified in Sections 73.1820 and 73.1840 of this chapter for all broadcast streams” At the time of the inspection, there were no entries in the station’s logs indicating why KESQ did not receive numerous Required Weekly Tests (RWTs) and Required Monthly Tests from KDES-FM and KCLB-FM during the period from December 25, 2011 to February 25, 2012. In addition, there were no entries in the station’s logs indicating why numerous RWTs were not sent by KESQ during the same period.

3. As the nation’s emergency warning system, the Emergency Alert System is critical to public safety, and we recognize the vital role that broadcasters play in ensuring its success. The Commission takes seriously any violations of the Rules implementing the EAS and expects full compliance from its regulatees.

¹47 C.F.R. § 1.89.

²47 C.F.R. § 1.89(a).

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Pursuant to Section 403 of the Communications Act of 1934, as amended,³ and Section 1.89 of the Commission's Rules, we seek additional information concerning the violations and any remedial actions the station may have taken. Therefore, Gulf-CA 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 Commission's Rules, we direct Gulf-CA to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Gulf-CA with personal knowledge of the representations provided in Gulf-CA'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 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. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
San Diego District Office
4542 Ruffner St., #370
San Diego, CA 92111

6. This Notice shall be sent to Gulf-California Broadcast Company, at its address of record.

³47 U.S.C. § 403.

⁴47 C.F.R. § 1.89(c).

⁵Section 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)'.⁶ 47 C.F.R. § 1.16.

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

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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.

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James T. Lyon
District Director
San Diego District Office
Western Region
Enforcement Bureau

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).