

Federal Communications Commission

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

In the Matter of)	
)	
Subcarrier Communications, Inc.)	File No. EB-FIELDWR-12-00004500
Antenna Structure Registrant)	
ASR # 1221036)	NOV No. V201232800091
Wendover, UT 84083)	
)	

NOTICE OF VIOLATION

Released: September 28, 2012

By the District Director, Denver District 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 Subcarrier Communications, Inc. (Subcarrier), registrant of Antenna Structure # 1221036 in Wendover, UT. Pursuant to Section 1.89(a) of the Commission’s 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 noted herein.²

2. On September 9, 2012, and again on September 11, 2012, an agent of the Enforcement Bureau’s Denver District Office inspected Antenna Structure # 1221036 located by exit 4 of Interstate 80 about 3 miles east of Wendover, and observed the following violation:

- a. 47 C.F.R. § 17.23: “Unless otherwise specified by the Commission, each new or altered antenna structure to be registered on or after January 1, 1996, must conform to the FAA’s painting and lighting recommendations set forth on the structure’s FAA determination of ‘no hazard...’” Antenna Structure # 1221036 is required to be lit in accordance with Chapters 4, 8, and 13 of FAA Circular Number 70/7460-1J. These require dual lights at the top of the antenna structure. During the daytime inspections on September 9, 2012, and September 11, 2012, the agent observed that no light was on and no light was flashing.

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

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3. 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 taken. Therefore, Subcarrier 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 Subcarrier to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Subcarrier with personal knowledge of the representations provided in Subcarrier'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
Denver District Office
215 S. Wadsworth Blvd., Suite 303
Lakewood, CO 80226

6. This Notice shall be sent to Subcarrier Communications, Inc., at its address of record.

³ 47 U.S.C. § 403.

⁴ 47 C.F.R. § 1.89(c).

⁵ 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 C.F.R. § 1.16.

⁶ 18 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.

FEDERAL COMMUNICATIONS COMMISSION

Nikki P. Shears
District Director
Denver District Office
Western Region
Enforcement Bureau

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).