

Federal Communications Commission

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

In the Matter of)	
)	
)	File No. EB-FIELDWR-12-00003700
Kaiser Permanente)	
Licensee of Station WQPH211)	NOV No. V201332960008
Oakland, California 94612)	
)	

NOTICE OF VIOLATION

Released: November 6, 2012

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

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules),¹ to Kaiser Permanente, licensee of radio station WQPH211 in Oakland, California. 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 2, 2012, the Enforcement Bureau's San Francisco Office received an interference complaint from the licensee of land mobile radio station WNKP863 concerning an interfering signal that was degrading communications to their radio signals within the area of their operation in Burlingame, California. Station WNKP863 reported that the interfering signal on their radio mobile frequency of 464.425 MHz was a strong steady data burst in rapid intervals.

3. On August 8 and 9, 2012, in response to the interference complaint, an agent of the San Francisco Office using mobile direction finding techniques located the source of the interfering signal on 464.425 MHz transmitting from a radio station located at 1800 Harrison St., Oakland, California. The agent monitored and confirmed that the reported data burst was a strong digital encrypted signal transmitted from a fixed mobile relay radio station, WQPH211, operating on the same frequency. On

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

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August 9, 2012, the agent inspected station WQPH211 and observed the following violations:

- a. 47 C.F.R. § 90.205(h)(1): “The maximum allowable station effective radiated power (ERP) is dependent upon the station's antenna HAAT and required service area and will be authorized in accordance with table 2 . . .” During the time of investigation, the San Francisco agent observed that WQPH211 transmitted signal strength level was 31.0 dBu from the actual location, 37°38’22.54” north latitude and 122°25’17.05” west longitude, approximately 25.0 km radius from its fixed mobile relay station location. The station exceeded its authorized 39.0 dBu signal strength within the 5 km radius of its service area of operation.
- b. 47 C.F.R. § 90.425(a)(1): “Stations licensed under this part . . . shall be identified by the transmission of the assigned call sign during each transmission or exchange of transmissions, or once each 15 minutes during periods of continuous operation.” On August 9, 2012, the San Francisco agent observed during the period of approximately 11:00 a.m. to 1:00 p.m. (PDT) that no call sign was transmitted. Station WQPH211 failed to identify with its call sign.
- c. 47 C.F.R. § 90.403(e): “Licensees shall take reasonable precautions to avoid causing harmful interference. This includes monitoring the transmitting frequency for communications in progress and such other measures as may be necessary to minimize the potential for causing interference.” At the time of the investigation, the agent determined that the WQPH211 digital transmission on 464.425 MHz was interfering with another licensee operating on the shared channel frequency within approximately 25 km radius from its fixed mobile relay station location. Station WQPH211 failed to monitor station operation within the area of its operation.

4. Pursuant to Section 308(b) 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, Kaiser Permanente 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

5. In accordance with Section 1.16 of the Rules, we direct Kaiser Permanente to support its

³ 47 U.S.C. § 308(b).

⁴ 47 C.F.R. § 1.89(c).

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response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Kaiser Permanente with personal knowledge of the representations provided in Kaiser Permanente'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

6. 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 Francisco Office
5653 Stoneridge Drive, Suite 105
Pleasanton, California, 94588-8543

7. This Notice shall be sent to Kaiser Permanente at its address of record.

8. 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

David K. Hartshorn
District Director
San Francisco Office
Western Region
Enforcement Bureau

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.

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

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).