

Federal Communications Commission

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

In the Matter of)	
)	
Foster Communications Company, Inc.)	File No. EB-FIELDSCR-13-00008697
)	
Licensee of Stations KKSA, KCLL-FM, KWFR-FM, and KIXY-FM)	NOV No. V201332500045
)	
Owner of Antenna Structure No. 1048828)	Facility ID Nos.: 22156, 17778, 22159, and 22157
)	
San Angelo, Texas)	
)	

NOTICE OF VIOLATION

Released: June 12, 2013

By the District Director, Dallas Office, South Central 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 Foster Communications Company, Inc., licensee of Stations KKSA (AM), KCLL-FM, KWFR-FM, and KIXY-FM (collectively Stations), and owner of antenna structure number 1048828 in San Angelo, Texas. 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 9, 2013, an agent of the Enforcement Bureau's Dallas Office inspected Stations KKSA (AM), KCLL-FM, KWFR-FM, KIXY-FM and antenna structure number 1048828 located in San Angelo, Texas, and observed the following violation(s):

- a. 47 C.F.R. § 11.35(a): "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). Appropriate entries indicating reasons why any tests were not received must be made in the broadcast station log as specified in

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

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§§ 73.1820 and 73.1840 of this chapter for all broadcast streams.” At the time of inspection, the agent reviewed the last three months of the Stations’ EAS logs and found eight weeks of missing received tests from the assigned LP1 station, without an appropriate entry in the log explaining why the tests were not received. The rest of the Stations’ EAS logs were complete.

- b. 47 C.F.R. § 11.52(d): “[Emergency Alert System] EAS Participants must monitor two EAS sources. The monitoring assignments of each broadcast station, cable system and wireless cable system are specified in the State EAS Plan and FCC Mapbook. They are developed in accordance with FCC monitoring priorities.” At the time of the inspection, the Stations were monitoring three sources, but one of them was not the assigned LP2 station. Moreover, the assigned LP1 station had no input signal. According to the Stations’ EAS logs, the last weekly test from the assigned LP1 station was received on March 15, 2013.
- c. 47 C.F.R. § 17.50: “Antenna structures requiring painting under this part shall be cleaned or repainted as often as necessary to maintain good visibility.” At the time of inspection, the paint on the antenna structure was faded and chipped.
- d. 47 C.F.R. § 73.1350(a): “Each licensee is responsible for maintaining and operating its broadcast station in a manner which complies with the technical rules set forth elsewhere in this part and in accordance with the terms of the station authorization.” At the time of the inspection, Station KCLL-FM was authorized to operate a Studio Transmitter Link (STL) on the frequency 948.00 MHz, but the agent found the STL operating on the frequency 945.50 MHz.
- e. 47 C.F.R. § 73.3526(e)(4): “ Contour maps - A copy of any service contour maps, submitted with any application tendered for filing with the FCC, together with any other information in the application showing service contours and/or main studio and transmitter location (State, county, city, street address, or other identifying information). These documents shall be retained for as long as they reflect current, accurate information regarding the station.” At the time of the inspection, Stations KKSA (AM) and KCLL-FM did not have the contour map in their public inspection files.

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 licensees.

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4. Pursuant to Section 308(b) and 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, Foster Communications Company, Inc. 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 Foster Communications Company, Inc. to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Foster Communications Company, Inc. with personal knowledge of the representations provided in Foster Communications Company, Inc.'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
Dallas Office
9330 LBJ Freeway, Suite 1170
Dallas, Texas 75243

7. This Notice shall be sent to Foster Communications Company, Inc. at its address of record.

³ 47 U.S.C. §§ 308(b), 403.

⁴ 47 C.F.R. § 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.

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

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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

James D. Wells
District Director
Dallas District Office
South Central Region
Enforcement Bureau

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).