

**Federal Communications Commission**

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

In the Matter of )  
 )  
Caroline K. Smith ) File No.: EB-FIELDSCR-17-00025525  
ASR # 1261197 )  
 )  
Channing, Texas )

**NOTICE OF VIOLATION**

**Released: December 14, 2017**

By the Regional Director, Region Two, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the rules of the Federal Communications Commission (FCC's or Commission's) <sup>1</sup> to Caroline K. Smith (Smith), owner of an antenna structure registered under Antenna Structure Registration (ASR) Number 1261197 in Channing, Texas. Pursuant to Section 1.89(a) of the Commission's rules, issuance of this NOV does not preclude the Commission's Enforcement Bureau (Bureau) from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation(s) noted herein.<sup>2</sup>

2. On October 25 and 26, 2017, in response to a complaint, Agents from the Dallas Office (Dallas Office) of the Bureau and observed violations of the following rules:

- a. 47 CFR § 17.6. "The antenna structure owner is responsible for maintaining the painting and lighting in accordance with this part." At the time the Agents inspected the lights on October 25, 2017, which was after sunset and before dawn, the agents observed that the required nighttime obstruction lighting was not illuminated.
- b. 47 CFR § 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." On October 25, 2017, one of the Agents

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<sup>1</sup> 47 C.F.R. § 1.89.

<sup>2</sup> 47 C.F.R. § 1.89(a).

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contacted the contact representative in the ASR on file with the FCC. A different person, Mr. Smith, returned the Agent's call and said he was the antenna structure owner's representative. During a phone call with Mr. Smith on November 8, 2017, Mr. Smith stated that he was unaware of any tower lighting outages. He also stated that he paid someone to monitor the tower lights, but since they were not performing their duties, he would replace the person with a remote monitoring system. During the period of September 15, 2017 until November 8, 2017, there is no indication that the lighting on this tower was being observed as required.

- c. 47 CFR § 17.48(a): "The owner of any antenna structure which is registered with the Commission and has been assigned lighting specifications referenced in this part [s]hall report immediately by telephone or telegraph to the nearest Flight Service Station or office of the Federal Aviation Administration 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. Such reports shall set forth the condition of the light or lights, the circumstances which caused the failure, the probable date for restoration of service, the FCC Antenna Structure Registration Number, the height of the structure (AGL and AMSL if known) and the name, title, address, and telephone number of the person making the report." On November 9, 2017, Mr. Smith contacted the Federal Aviation Administration (FAA) to notify them of the lighting outage and to request that a Notice of Airman (NOTAM) be issued. The FAA issued a NOTAM. At the time of the inspection, neither the antenna structure owner nor her representative knew about the lighting outages nor had they reported the obstruction light outages to the FAA.

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,<sup>3</sup> and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Ms. Smith 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.<sup>4</sup>

4. In accordance with Section 1.16 of the Rules, we direct Ms. Smith to support her response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by her or her authorized representative with personal knowledge of the representations provided in the response, verifying the truth and accuracy of the information therein,<sup>5</sup> and confirming that all of the information

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<sup>3</sup> 47 U.S.C. § 403.

<sup>4</sup> 47 C.F.R. § 1.89(c).

<sup>5</sup> 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

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requested by this Notice which is in her 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.<sup>6</sup>

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  
Office of the Director - Region Two  
P.O. Box 1493  
Powder Springs, GA 30127

6. This Notice shall be sent to Caroline K. Smith at the address of record.

7. The Privacy Act of 1974<sup>7</sup> 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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Ronald Ramage  
Director - Region Two  
Enforcement Bureau

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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.

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

<sup>7</sup> P.L. 93-579, 5 U.S.C. § 552a(e)(3).