

Federal Communications Commission

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

In the Matter of)
)
WXXI Public Broadcasting Council Inc.) File No.: EB-FIELDNER-12-00001042
Antenna Structure Registrant)
ASR # 1003954, 1003955, 1003956, and 1003957) NOV No. V201232400032
Licensee of Radio Station WXXI)
Facility ID # 74220)
Rochester, New York)

NOTICE OF VIOLATION

Released: March 19, 2012

By the Acting District Director, Philadelphia Office, Northeast Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission’s rules¹ to WXXI Public Broadcasting Council Inc. (WXXI), licensee of AM Radio Station WXXI in Rochester, New York and registrant of antenna structure numbers 1003954, 1003955, 1003956, and 1003957 (Antenna Structures) in Brighton, New York.
2. On February 22, 2012, agents of the Commission’s Philadelphia Office inspected the Antenna Structures located at 560 French Road, Brighton, New York and observed the following violations:
 - a. 47 C.F.R. § 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 shall 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.” An investigation by this office determined that, although WXXI was aware that the top-level flashing obstruction beacon on antenna structure number 1003957 was steady burning instead of flashing, WXXI did not notify the Federal Aviation Administration within 30 minutes of its observation of the light malfunction.

¹47 C.F.R. § 1.89.

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- b. 47 C.F.R. 17.4(g): "The Antenna Structure Registration Number must be displayed in a conspicuous place so that it is readily visible near the base of the antenna structure. Materials used to display the Antenna Structure Registration Number must be weather-resistant and of sufficient size to be easily seen at the base of the antenna structure." At the time of the inspection, there were no Antenna Structure Registration Numbers posted at or near the base of the Antenna Structures.
 - c. 47 C.F.R. § 17.57: "The owner of an antenna structure for which an Antenna Structure Registration Number has been obtained must... immediately notify the Commission using FCC Form 854 upon any change in structure height or change in ownership information." At the time of inspection, the Antenna Structure Registration database had not been updated for the Antenna Structures to reflect a change in telephone number.
3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,² and Section 1.89 of the Commission's Rules, WXXI Public Broadcasting Council Inc. must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response must fully explain each violation, must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and should include a time line for completion of pending corrective action(s). The response must be complete in itself and signed by a principal or officer of the tower owner. 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
Philadelphia Office
One Oxford Valley Building, Suite 404
2300 East Lincoln Highway
Langhorne, Pennsylvania 19047

4. This Notice shall be sent to WXXI Public Broadcasting Council Inc. at its address of record.

²47 U.S.C. § 403.

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5. The Privacy Act of 1974³ 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. Any false statement made knowingly and willfully in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁴

FEDERAL COMMUNICATIONS COMMISSION

David C. Dombrowski
Acting District Director
Philadelphia District Office
Northeast Region
Enforcement Bureau

³P.L. 93-579, 5 U.S.C. § 552a(e)(3).

⁴18 U.S.C. § 1001 *et seq.*