

**Federal Communications Commission**

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

In the Matter of	)	
	)	
State of Nebraska	)	File No. EB-FIELDSCR-12-00005207
Owner of Antenna Structure No. 1027215	)	
	)	NOV No. V201332560003
Kennard, NE	)	
	)	

**NOTICE OF VIOLATION**

**Released: November 6, 2012**

By the District Director, Kansas City 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),<sup>1</sup> to the State of Nebraska (Nebraska), owner of antenna structure number 1027215 in Kennard, Nebraska. 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.<sup>2</sup>

2. Between October 18 and 24, 2012, an agent of the Enforcement Bureau's Kansas City Office (Office) investigated a complaint regarding antenna structure number 1027215 located 3.8 miles east of Kennard, Nebraska and determined the following violation(s):

- 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: (a) 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 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 and the name, title, address, and telephone number of the person making the report. Further notification by telephone or telegraph shall be given immediately upon resumption of

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<sup>1</sup> 47 C.F.R. § 1.89.

<sup>2</sup> 47 C.F.R. § 1.89(a).

## Federal Communications Commission

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normal operation of the light or lights.” On October 18, 2012, an agent from this Office notified the responsible department by phone and email that the Commission had received a complaint that the structure was unlit and that that the FAA must be notified immediately. The responsible department did not notify the FAA of the outage until October 19, 2012. Moreover, the responsible department admitted that they were informed of the outage on August 31, 2012 and failed to take action at that time.

- b. 47 C.F.R. § 17.49: “The owner of each antenna structure which is registered with the Commission and has been assigned lighting specifications referenced in this part must maintain a record of any observed or otherwise known extinguishment or improper functioning of a structure light and include the following information for each such event: (a) The nature of such extinguishment or improper functioning. (b) The date and time the extinguishment or improper operation was observed or otherwise noted. (c) Date and time of FAA notification, if applicable. (d) The date, time and nature of adjustments, repairs, or replacements made.” The department responsible for the structure was unaware of any observation logs being maintained for the past 6 months.
- c. 47 C.F.R. § 17.57: “The owner must immediately notify the Commission using FCC Form 854 upon any change in structure height or ownership information.” On October 18, 2012, the contact information for the structure in Commission’s database was outdated.

3. Pursuant to Section 403 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, the State of Nebraska, 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 the State of Nebraska to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of the State of Nebraska with personal knowledge of the representations provided in the State of Nebraska’s response, verifying the truth and accuracy of the information therein,<sup>5</sup> and

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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 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

**Federal Communications Commission**

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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.<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  
Kansas City Office  
520 NE Colbern Rd  
2nd Floor  
Lees Summit, MO 64086-4711

6. This Notice shall be sent to State of Nebraska at its 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.

FEDERAL COMMUNICATIONS COMMISSION

Ronald D. Ramage  
District Director  
Kansas City District Office  
South Central Region  
Enforcement Bureau

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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)'.<sup>7</sup> 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).