

In the Matter of

Big Broadcasting, Inc.
Licensee of Station KOKO-FM
Facility ID # 3970
Kerman, California

NOV No. V201332960012

File No. EB-FIELDWR-12-00002952

NOTICE OF VIOLATION

Released: December 21, 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,¹ to Big Broadcasting, Inc., licensee of radio station KOKO-FM serving Kerman, 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 April 19, 2012, an agent of the Enforcement Bureau's San Francisco District Office inspected radio station KOKO-FM located in Fresno, California and observed the following violations:

- a. 47 C.F.R. § 11.35(a): "EAS Participants must determine the cause of any failure to receive the required tests or activations specified in Sections 11.61(a)(1) and (a)(2). Appropriate entries indicating reasons why any tests were not received must be made in the broadcast station log as specified in Sections 73.1820 and 73.1840 of this chapter for all broadcast streams"
- b. 47 C.F.R. § 11.61(a): "EAS Participants shall conduct tests at regular intervals, as specified in paragraphs (a)(1) and (a)(2) of this section. Additional tests may be performed anytime. EAS activations and special tests may be performed in lieu of required tests as specified in paragraph (a)(4) of this section." KOKO-FM failed to ensure that, over the three

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

months prior to the inspection, that RMTs of the EAS system were transmitted.

- c. 47 C.F.R. § 11.52(d)(1): "EAS participants must monitor two EAS sources. The monitoring assignments of each broadcast station and cable system and wireless cable system are specified in the State EAS Plan..." The State Plan, revised as of January 20, 2004, specified the LP-2 assignment to be KFSN-TV Channel 30, Fresno, CA. At the time of inspection KOKO-FM was not monitoring the LP-2 station."

- d. 47 C.F.R. § 73.3526(e)(12): "For commercial AM and FM broadcast stations, every three months a list of programs that provided the station's most significant treatment of community issues during the preceding three month period. The list for each calendar quarter is to be filed by the tenth day of the succeeding calendar quarter (e.g. January 10 for the quarter October--December, April 10 for the quarter January--March etc). The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The description of the programs shall include, but shall not be limited to, the time, date, duration, and title of each program in which the issue was treated. The lists described in this paragraph shall be retained in the public inspection file until final action has been taken on the station's next license renewal application." Radio station KOKO-FM's public inspection file did not have the third and fourth quarters of the Issues and Programs List for the calendar year of 2011.

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 regulatees. We also must investigate violations of other rules that apply to broadcast licensees.

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 the station may have taken. Therefore, Big Broadcasting, 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 Big Broadcasting, Inc. to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by

³47 U.S.C. § 308(b).

⁴47 C.F.R. § 1.89(c).

an authorized officer of Big Broadcasting, Inc. with personal knowledge of the representations provided in Big Broadcasting, Inc. 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 District Office
5653 Stoneridge Drive, Suite 105
Pleasanton, CA 94588-8543

7. This Notice shall be sent to Big Broadcasting, Inc. 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

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 unsorn 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.

⁴⁷ 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).