

Federal Communications Commission

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

In the Matter of)
)
Cortaro Broadcasting Corporation)
)
Licensee of Station KCKY) File Nos.: EB-FIELDWR-17-00024214
Coolidge, Arizona)
)

NOTICE OF VIOLATION

Released: May 26, 2017

By the Regional Director, Region Three, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission’s rules (Rules)¹ to Cortaro Broadcasting Corporation (Cortaro), licensee of FM radio station KCKY in Coolidge, Arizona. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Federal Communications Commission’s (Commission’s) 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 March 28, 29, and 30, 2017, Agents of the Enforcement Bureau’s Los Angeles Office inspected KCKY station facilities in Coolidge, Arizona, and observed violations of the following rules:

- a. 47 CFR § 73.49 “Antenna towers having radio frequency potential at the base (series fed, folded unipole, and insulated base antennas) must be enclosed within effective locked fences or other enclosures. Ready access must be provided to each antenna tower base for meter reading and maintenance purposes at all times. However, individual tower fences need not be installed if the towers are contained within a protective property fence.” At the inspections, agents found no property fence and the gates in both individual tower fences were held closed with a loose loop of chain that could easily be lifted off the adjoining fence post allowing the gates to swing open freely.
- b. 47 CFR § 73.1560(a): “*AM stations.* (1) Except for AM stations using modulation dependent carrier level (MDCL) control technology, or as provided for in paragraph (d) of this section, the antenna input power of an

¹ 47 CFR § 1.89.

² 47 CFR § 1.89(a).

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AM station, as determined by the procedures specified in §73.51, must be maintained as near as practicable to the authorized antenna input power and may not be less than 90 percent nor greater than 105 percent of the authorized power.” At the inspection on March 29, 2017, which was during daylight hours, the Agents found the station transmitter in nighttime configuration with indicated transmitter power of 500 watts which was 10% of the authorized daytime power. At the inspection during daylight hours on March 30, 2017, the station transmitter was configured for daytime operation but only produced 2800 watts, which was 56% of authorized daytime power.

- c. 47 CFR § 73.1300: “Broadcast stations may be operated as either attended (where a designated person is responsible for the proper operation of the transmitting apparatus either at the transmitter site, a remote control point or an ATS control point) or unattended (where highly stable equipment or automated monitoring of station operating parameters is employed). No prior FCC approval is required to operate a station in the unattended mode. Regardless of which method of station operation is employed, licensees must employ procedures which will ensure compliance with Part 11 of this chapter, the rules governing the Emergency Alert System (EAS).” At the inspection on March 29, 2017, the Agents visited the main studio and transmitter building during business hours and found the building door unlocked and slightly ajar. When the Agents went inside, they looked but could find no other persons present at the facility. At the inspection on March 30, 2017, the Chief Operator stated that the station could only be controlled from the transmitter location.
- d. 47 CFR § 73.1820(a): “Entries must be made in the station log either manually by a person designated by the licensee who is in actual charge of the transmitting apparatus, or by automatic devices meeting the requirements of paragraph (b) of this section.... (iii) An entry of each test and activation of the Emergency Alert System (EAS) pursuant to the requirement of part 11 of this chapter and the EAS Operating Handbook. Stations may keep EAS data in a special EAS log which shall be maintained at a convenient location; however, this log is considered a part of the station log.” At the inspection on March 30, 2017, the Chief Operator could not produce any EAS logs.

3. Pursuant to Section 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, Cortaro 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

³ 47 U.S.C. § 403.

⁴ 47 CFR § 1.89(c).

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4. In accordance with Section 1.16 of the Rules, we direct Cortaro to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Cortaro with personal knowledge of the representations provided in Cortaro'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

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
Los Angeles Office
18000 Studebaker Rd. #660
Cerritos, CA 90703

6. This Notice shall be sent to Cortaro Broadcasting Corporation at its address of record.

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 CFR § 1.16.

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

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7. 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.

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Lark Hadley
Regional Director
Region Three
Enforcement Bureau
Federal Communications Commission

⁷ See 5 U.S.C. § 552a(e)(3).