

Federal Communications Commission

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

In the Matter of)	
)	
Acumen Communication)	File No. EB-FIELDWR-13-00007151
Licensee of Station WQHT586)	
Rancho Palos Verdes, California)	NOV No. V201332900016
)	

NOTICE OF VIOLATION

Released: March 20, 2013

By the Acting District Director, Los Angeles Office, Western Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission’s rules (Rules),¹ to Acumen Communication, licensee of radio station WQHT586 in Rancho Palos Verdes, 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 violation(s) noted herein.²

2. On January 28, 2013, an agent of the Enforcement Bureau’s Los Angeles Office monitored radio station WQHT586 located in Rancho Palos Verdes, California and observed the following violations:

- a. 47 C.F.R. § 90.403(c): “Except for stations that have been granted exclusive channels under this part and that are classified as commercial mobile radio service providers pursuant to Part 20 of this chapter, each licensee must restrict all transmissions to the minimum practical transmission time and must employ an efficient operating procedure designed to maximize the utilization of the spectrum.” At the time of the investigation, the agent observed that WQHT586 was transmitting on 151.550 MHz nearly continuously.

- b. 47 C.F.R. § 90.403(e): “Licensees shall take reasonable precautions to avoid causing harmful interference. This includes monitoring the transmitting frequency for communications in progress and such other measures as may be necessary to minimize the potential for causing interference.” At the time of the investigation, the agent monitored WQHT586 and observed a digitally modulated continuous signal on 151.550 MHz, a frequency shared with other

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

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licensees in the Los Angeles area. The agent observed no evidence of monitoring the transmitting frequency for communications in process or other measures to avoid interference by WQHT586.

- c. 47 C.F.R. § 90.425(a): “Stations licensed under this part shall transmit identification in accordance with the following provisions: (a) *Identification procedure*. Except as provided for in paragraphs (d) and (e) of this section, each station or system shall be identified by the transmission of the assigned call sign during each transmission or exchange of transmissions, or once each 15 minutes (30 minutes in the Public Safety Pool) during periods of continuous operation. The call sign shall be transmitted by voice in the English language or by International Morse Code in accordance with paragraph (b) of this section. If the station is employing either analog or digital voice scrambling, or non-voice emission, transmission of the required identification shall be in the unscrambled mode using A3E, F3E or G3E emission, or International Morse, with all encoding disabled.” At the time of the monitoring, no identification of the station was observed.

3. On February 8, 2013 an agent of the Los Angeles Office inspected radio station WQHT586 located in Rancho Palos Verdes, California and observed the following violation:

- a. 47 C.F.R. § 1.903(a): “*General rule*. Stations in the Wireless Radio Services must be used and operated only in accordance with the rules applicable to their particular service as set forth in this title and with a valid authorization granted by the Commission under the provisions of this part, except as specified in paragraph (b) of this section.” At the time of the inspection the station was not using trunking technology and all communications between the base station on 151.550 MHz and mobile units on 159.675 MHz were on a single channel pair.

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 taken. Therefore, Acumen Communication 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 Acumen Communication to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and

³ 47 U.S.C. § 308(b).

⁴ 47 C.F.R. § 1.89(c).

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dated by an authorized officer of Acumen Communication, with personal knowledge of the representations provided in Acumen Communication'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

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

7. This Notice shall be sent to Acumen Communication 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

Margaret M. Egler
Acting District Director
Los Angeles Office
Western Region
Enforcement Bureau

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)'.⁷" 47 C.F.R. § 1.16.

⁶ 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).