

Federal Communications Commission

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

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| In the Matter of |) | |
| |) | |
| Industrial Communications Company |) | |
| Registrant of Antenna Structure |) | File No. EB-09-NY-0026 |
| ASR # 1209893 |) | |
| Belvidere, New Jersey |) | NOV No. V200932380017 |
| |) | |

NOTICE OF VIOLATION

Released: February 2, 2009

By the District Director, New York 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 Industrial Communications Company (“Industrial”), owner of antenna structure 1209893 in Belvidere, New Jersey.
2. On January 27, 2009, an agent of the Commission’s New York Office conducted an investigation of antenna structure 1209893 and observed the following violations:
 - a. 47 C.F.R. § 17.4 (b) of the rules states “[e]xcept as provided in paragraph (e) of this section, each owner must file FCC Form 854 with the Commission. Additionally, each owner of a proposed structure referred to in paragraphs (a)(1) or (a)(3) of this section must submit a valid FAA determination of ‘no hazard.’” FAA determination 1999-AEA-2347-OE originally specified that painting and lighting was not required, but the determination was modified by the FAA on August 10, 2005, to require painting and lighting in accordance with FAA Advisory Circular 70/7460-1K Paragraphs 4, 8, and 12. Industrial must submit Form 854 to the Commission to change the painting and lighting specifications to be consistent with the current FAA determination of no hazard.
 - b. 47 C.F.R. § Section 17.48(a) of the Rules states that “[t]he owner of any antenna structure which is registered...[s]hall 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.”² Antenna structure number 1209893 is registered with the Commission and, according to FAA determination 1999-

¹47 C.F.R. § 1.89.

² 47 C.F.R. § 17.48(a).

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AEA-2347-OE, is required to have obstruction marking and lighting in accordance with FAA Advisory Circular 70/7460-1K Paragraphs 4, 8, and 12. Specifically, the structure is required to switch from white flashing strobe lights to flashing red obstruction lights at sunset local time. On December 8, 2008, January 7, and January 22, 2009, the New York Office received reports that the white strobe obstruction lights on antenna structure number 1209893 did not switch to flashing red obstruction lights after sunset local time, and that this problem was reported to the tower owner. An investigation revealed that the FAA was not notified of the failure to switch to the red obstruction lights.

3. Pursuant to Section 403 of the Communications Act of 1934, as amended,³ and Section 1.89 of the Commission's Rules, Industrial 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 Industrial. 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
New York Office
201 Varick Street, Suite 1151
New York, NY 10014

4. This Notice shall be sent to Industrial Communications Company at its address of record.
5. The Privacy Act of 1974⁴ 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.⁵

FEDERAL COMMUNICATIONS COMMISSION

Daniel W. Noel
District Director
New York District Office
Northeast Region
Enforcement Bureau

³47 U.S.C. § 403

⁴P.L. 93-579, 5 U.S.C. § 552a(e)(3).

⁵18 U.S.C. § 1001 *et seq.*

