

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

In the Matter of)	
)	
Puerto Rico Electric Power Authority)	
)	File Number EB-02-SJ-010
Owner of Antenna Structure Located at:)	
Atalaya substation, Ramal Road #411, Barrio)	
Atalaya, Rincon, Puerto Rico, (18-18-43.8 North)	NAL/Acct. No. 200232680003
latitude and 067-10-56.6 West longitude))	
)	FRN 0001-7284-01
San Juan, PR)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: February 20, 2002

By the Enforcement Bureau, San Juan Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture, we find that **Puerto Rico Electric Power Authority** has apparently violated Section 17.4(a) of the Commission's Rules¹ by failing to register its antenna structure located in Atalaya, Rincon, Puerto Rico (18-18-43.8 North latitude) and 067-10-56.6 West longitude). We conclude that the **Puerto Rico Electric Power Authority** is apparently liable for forfeiture in the amount of three thousand dollars (\$3,000).

II. BACKGROUND

2. On January 23, 2002, an agent of the FCC's San Juan Office inspected a **Puerto Rico Electric Power Authority** antenna structure located at the Atalaya substation, Ramal Road #411, Barrio Atalaya, Rincon, Puerto Rico, (18-18-43.8 North latitude and 067-10-56.6 West longitude). The agent observed no tower registration number visible on or near the base of the structure.

3. On January 29, 2002, the FCC San Juan Office informed Roberto Baez and Roberto Jiménez from **Puerto Rico Electric Power Authority** that the tower had no registration number posted. Jimenez provided a copy of Federal Aviation Administration ("FAA") Form 7460-1 Notice of Proposed Construction filed on November 16, 2001, with the FAA. Jiménez

¹ 47 C.F.R § 17.4(a).

stated that the tower had not been registered with the FCC. A check of the FCC tower database confirmed there was no record of registration for the tower.

III. DISCUSSION

4. Section 17.4(a) of the Rules provides that, effective July 1, 1996, owners of any existing antenna structures that require notification to the Federal Aviation Administration must register the structure with the Commission.² Puerto Rico Electric Power Authority constructed a tower that required notification to the FAA, but failed to register the tower with the FCC. We find that Puerto Rico Electric Power Authority willfully³ violated Section 17.4(a) by failing to register their antenna structure as of January 29, 2002.

5. Pursuant to Section 1.80(b)(4) of the Commission's Rules,⁴ the base forfeiture amount for the violation cited in this Notice of Apparent Liability is \$3,000 (failure to file required forms or information). Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"),⁵ requires us to take into account "... the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require." Considering the record as a whole and the statutory factors listed above, this case warrants a forfeiture in the amount of \$3,000.

IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Communications Act of 1934, as amended,⁶ and Sections 0.111, 0.311 and 1.80 of the Commission's Rules,⁷ **Puerto Rico Electric Power Authority** is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of three thousand dollars (\$3,000) for violating Section 17.4(a) of the Commission's Rules⁸ by failing to register an antenna structure

² *Id.*

³ Section 312(f)(1) of the Communications Act of 1934, as amended ("Act"), 47 U.S.C. § 312(f)(1), which applies equally to Section 503(b) of the Act, provides that "[t]he term 'willful,' when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act...." *See Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁴ 47 C.F.R. § 1.80(b)(4)

⁵ 47 U.S.C. § 503(b)(2)(D).

⁶ 47 U.S.C. § 503(b).

⁷ 47 C.F.R. §§ 0.111, 0.311, 1.80.

that requires notification to the Federal Aviation Administration.

7. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules,⁹ within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, **Puerto Rico Electric Power Authority** SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

8. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced above.

9. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE NAL/Acct. No. and FRN referenced above.

10. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

11. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.¹⁰

12. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail Return Receipt Requested to **Puerto Rico Electric Power Authority**, to the attention of Víctor M. Caparrós, P O Box 364267, San Juan, PR 00936-4267.

FEDERAL COMMUNICATIONS COMMISSION

⁸ 47 C.F.R. § 17.4(a)

⁹ 47 C.F.R. § 1.80.

¹⁰ See 47 C.F.R. § 1.1914.

William Berry
Resident Agent - San Juan