

# Failure to Maintain Tower Lighting May Cost GCI \$20,000

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The FCC on Wednesday found General Communications, Inc. ("GCI") apparently liable in the amount of \$20,000 as a result of an unaddressed lighting malfunction on one of the carrier's communications towers. In the [Notice of Apparent Liability \("NAL"\)](#), the Commission found that as a result of daytime lights on the 56 meter tower being out, GCI committed several rule violations: failure to (1) exhibit the required daytime medium intensity obstruction lighting on its antenna structure, (2) monitor obstruction lighting on a daily basis or maintain a functioning alarm system, and (3) notify the Federal Aviation Administration ("FAA") of the lighting outage, which the FCC considered as being known as a result of the monitoring requirements. The matter came to light when an Enforcement Bureau field agent observed the tower structure was not lit during daytime hours on two consecutive days in September 12. The agent proceeded to contact the FAA and learned that no Notice to Airmen ("NOTAM") had been issued as a result of the outage. The FAA issued the NOTAM immediately after being contacted. Only after being contacted by the Bureau's Anchorage Office did GCI investigate and replace a failing a capacitor on the lighting control board and proceed to install a remote lighting monitoring and alarm system.

It was too little too late. The Commission in the NAL raised the base forfeiture amount from \$10,000 to \$20,000 for the trio of violations on the structure due to GCI's status as a large Tier III carrier serving much of Alaska with revenues on the order of hundreds of millions of dollars annually. The NAL demonstrates once again the Bureau's determination to increase penalties to better serve as deterrent to large companies. This doubling by no means represents the potential ceiling for regulatory penalties on a given tower in such cases. Fortunately, there were no complications in the GCI case. In 1990, Centel agreed to pay the FCC \$1,000,000 following a fatal helicopter crash in North Carolina when a tower under construction failed to have the proper marking and lighting and assessed a \$2 million penalty against the company in 1996 for a series of marking and lighting violations (reduced from \$3,000,000). Naturally, in the hopefully extremely cases where there is an accident and injury to life or property, the exposure to liability can extend beyond the FCC's regulations and enforcement mechanisms. (The marking and lighting regulatory obligations set forth in Part 17 of the Commission's Rules now apply ultimately to antenna structure owners.)

The GCI NAL also serves as a reminder that the Commission's lighting rules include not only obligations for antenna structure owners either to visually inspect lighting at least once daily or to install and maintain a continuous lighting monitoring system. In the latter case, as the NAL reminds, the rules also requires that the alarm systems themselves are inspected every three months. Further, when there is a lighting outage or malfunctioning not corrected within 30 minutes of any top steady burning light or any flashing obstruction light that is observed or otherwise known, *i.e.*, through the alarm system, the antenna structure owner must notify the nearest Flight Service

Station or office of the Federal Aviation Administration. A sound antenna lighting and marking compliance and maintenance policy, and a sufficiently robust monitoring and alarm system, to ensure adherence to the applicable regulations are essential assets for any tower owner.