

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

**CERTIFIED MAIL:
RETURN RECEIPT REQUESTED**

Orchard Park Inn
Mike Ambu
Orchard Park, New York

File No.: EB-05-BF-110

Citation No.: C20063228002

CITATION

Released: July 11, 2006

By the Resident Agent, Buffalo Office, Northeast Region, Enforcement Bureau:

1. This is an Official Citation issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended (“Act”),¹ to the Orchard Park Inn for violation of Section 76.605(a)(12) and 76.1804 of the Commission’s Rules (“Rules”).²

2. On June 15, 2006, an agent from the Commission’s Buffalo Office of the Enforcement Bureau inspected a non-cable multichannel video programming distributor (“MVPD”) system located at the Orchard Park Inn, 2268 Southwestern Blvd., Orchard Park, New York. Pursuant to Section 76.620 of the Rules, non-cable MVPDs are subject to the requirements set forth in Sections 76.605(a)(12) and 76.1804.

3. Section 76.605(a)(12) of the Rules provides that “[as] an exception to the general provision requiring measurements to be made at subscriber terminals, and without regard to the type of signals carried by the cable television system, signal leakage from a cable television system shall be measured in accordance with the procedures outlined in 76.609 (h) and shall be limited to 20 microvolts at three meters for frequencies over 54 up to and including 216 MHz.”³ An agent conducted field strength measurements at three meters from the MVPD equipment room located at the Orchard Park Inn on the frequency 133.2625 MHz and measured an emission of 560 microvolts, which exceeds the field strength allowed on that frequency by the Rules.

4. Section 76.1804 of the Rules requires that a MVPD notify the Commission before transmitting any carrier or other signal component with an average power level across a 25 kHz bandwidth in any 160 microsecond time period equal to or greater than 10^{-4} watts at any point in the cable distribution system on any frequency or frequencies in the aeronautical radio frequency bands (108-137 and 225-400 MHz). The notification must be made on FCC Form 321. The Orchard Park Inn was using the frequency 133.2625 MHz, an aeronautical frequency, but had not notified the Commission using FCC Form 321. (Procedures for notifying the Commission are attached).

¹47 U.S.C. § 503(b)(5).

²47 C.F.R. §§ 76.605(a)(12), 76.1804.

³47 C.F.R. § 76.605(a)(12).

5. Subsequent violations of the Act or the Rules may subject the violator to severe penalties, including, but not limited to, substantial monetary fines and criminal sanctions including imprisonment.⁴

6. Section 503(b)(5) of the Act provides that the Orchard Park Inn may request a personal interview at the closest FCC location,⁵ namely:

Federal Communications Commission
Buffalo Office
6400 Sheridan Drive
Suite 140
Williamsville, New York 14221

which you can contact by telephone at (716) 626-2454. You must schedule this interview to take place within 14 days of the date of this Citation. The Orchard park Inn may submit a written statement to the same address within 14 days of the date of this Citation. Any written statement should specify what actions have been taken to correct the violation outlined above. Please reference case number EB-06-BF-110 when corresponding with the Commission.

7. Under the Privacy Act of 1974, 5 U.S.C. § 552a(e)(3), we are informing you that the Commission's staff will use all relevant material information before it to determine what, if any, enforcement action is required to ensure your compliance with the Rules. This will include any information that you disclose in your reply.

FEDERAL COMMUNICATIONS COMMISSION

David A. Viglione
Resident Agent
Buffalo Office
Northeast Region
Enforcement Bureau

⁴See 47 U.S.C. §§ 401, 501, 503.

⁵47 U.S.C. § 503(b)(5).