



Broadcast Newsletter

IN THIS ISSUE:

CHAUTIN TO LEAD FCC SESSION AT NRB CONVENTION	1
MARCH 1 ONLINE PUBLIC FILE DEADLINE FOR RADIO STATIONS.....	1
2017 BIENNIAL OWNERSHIP REPORT DUE MARCH 2ND	2
CHILDREN’S TELEVISION RULE NPRM ON THE HORIZON	2
PAPER CONTRACT FILING RULE ELIMINATION COMMENT DATES.....	2
NOT ONE, BUT TWO FM TRANSLATOR AUCTIONS SCHEDULE.....	2
POST-AUCTION LPTV DISPLACEMENT WINDOW ANNOUNCED.....	3
CROSS-SERVICE FM TRANSLATOR AUCTION 100 UPDATE	3
SITE VISITS ANNOUNCED FOR SELECT TV STATIONS SEEKING REPACK REIMBURSEMENT	3
REQUIREMENT FOR PAPER COPY OF FCC RULES ENDING FOR SECONDARY STATIONS.....	4
UNDERWRITING RULES REMINDER FOR NCE STATIONS	4
DATES TO REMEMBER.....	4

CHAUTIN TO LEAD NRB CONVENTION’S FCC SESSION

Hardy, Carey, Chautin & Balkin’s Managing Partner, Joe Chautin, is in Nashville this week for the National Religious Broadcasters Convention, and will lead the FCC Session in Canal D on Thursday, March 1, from 3:30-5:00 p.m. Other panelists include attorneys David Oxenford and Karyn Ablin. A wide variety of topics are on the agenda as we review the changing regulatory environment and current requirements for broadcasters. Join us for a lively exchange.

Joe will also be attending the National Association of Broadcaster’s Convention in Las Vegas from April 7-11.

He is available to meet with clients at either convention. If you do not already have a meeting arranged and would like to set one up, or if you come to the conventions and have a break when you’d like to meet, just email Joe at ichautin@hardycarey.com or call 504-439-2350.

MARCH 1 ONLINE PUBLIC FILE DEADLINE FOR RADIO STATIONS

If you were hoping for a reprieve on the deadline for radio stations to transition to the online public file, that does not appear to be on the horizon, barring some major crash of the system in the final days before the March 1, 2018 deadline. In fact, the FCC issued a reminder on February 12th as stations make the final push to comply with the requirement. When you get done uploading what is necessary, you must turn the file “ON” for the public to be able to see it, a process that involves a certification page confirming the accuracy of the file’s contents.

One other note. Stations with a website are required to post a link on their website to the station’s online public file. The rule also requires that the station must also provide on their website contact information for a station representative that can assist any person with disabilities with issues related to the content of the public files. The FCC doesn’t say how or where to do that on your website, and an argument could be made that any contact info for a station staffer on the website would be enough. But perhaps something like this would work best: *Persons with disabilities may contact*

_____ at [phone/email] for assistance with issues related to the content of the public files.

2017 BIENNIAL OWNERSHIP REPORT DUE MARCH 2ND

If you're reading this and have not yet filed your 2017 biennial ownership report, time is quickly running out. March 2, 2018 is the deadline for all broadcast stations (except low power FM stations or FM translator-only licensees) to file their 2017 biennial ownership reports.

The old CDBS ownership report is not being used any longer. You must use the ownership report form in the FCC's License Management System, and log in with your FRN in order to file. The system has been slow at times, and periodically boots you out without an explanation. Overnight performance is better.

The issue we've previously pointed out about the filed ownership report not automatically populating in the station online public inspection file has finally been remedied. The report should show up in the public file on the day after it is filed, but double check to be sure.

One final note – the online public file is not a time to “over-achieve” by placing items in the file that don't belong there, or by leaving in auto-populated items that are no longer required. Put only what is required by the rule, and nothing more. And be sure what you put in is done on time.

CHILDREN'S TELEVISION RULE NPRM ON THE HORIZON

Last month, we wrote about FCC Commissioner O'Rielly's January 26 FCC blog post pointing out the burdens of the children's television rule. It seemed to be an initial move toward another deregulatory effort of the Pai-led Commission. And so it was. Commissioner O'Rielly issued a statement confirming that Chairman Pai has now asked him to lead a comprehensive review of the so-called “Kid-Vid” rule, originally adopted in the 1990s.

No notice of proposed rulemaking has been published yet, but we expect it shortly. At a minimum, we expect the requirements for TV

broadcasters to change. And elimination of some requirements is not out of the question. TV stations should chime in when the NPRM is published.

PAPER CONTRACT FILING RULE ELIMINATION COMMENT DATES

The FCC's [notice of proposed rulemaking](#) to eliminate the requirement that broadcasters submit paper copies of certain contracts with the FCC now has comment dates. Comments are due March 19, 2018, with reply comments due no later than April 2, 2018. Comments should be filed in the FCC's electronic comment filing system.

NOT ONE, BUT TWO FM TRANSLATOR AUCTIONS SCHEDULED

After 15 years, an auction for FM translator construction permits from Auction 83 -- a general commercial translator proceeding first begun in 2003 and delayed for multiple reasons -- has now been scheduled for those mutually exclusive applications that remain. A total of 43 mutually exclusive groups have been identified as remaining, involving just over 100 applications. Only those applicants can bid in the auction, which will begin June 21, 2018. It's worth checking [the list](#) to see if one of those applications is yours. The FCC's January 16, 2018 [Public Notice](#) provides all the details, including what will be a “remedial” filing window (to be announced) during which applicants must update FCC Form 175 to become qualified to participate in the auction. Without a filed update, the applicant will be disqualified from the auction.

The FCC has also scheduled an auction for FM translator construction permits from Auction 99, a cross-service FM translator proceeding initiated in 2017. Only 12 mutually exclusive groups and a total of 26 applications are involved – pretty amazing after roughly 1000 applications were filed in this proceeding. The FCC's January 31, 2018 [Public Notice](#) proposed familiar bidding procedures, and listed the [26 applications](#) involved. Auction 99 is only open to those applicants, and then only if they follow the procedures to qualify as bidders. Bidding in Auction 99 is scheduled to begin May 15, 2018.

POST-AUCTION LPTV DISPLACEMENT WINDOW ANNOUNCED

The FCC has announced a [Special Displacement Window](#) for LPTV and TV translator stations from April 10, 2018 – May 15, 2018, and made location and channel data available in advance of the window so stations can make informed decisions about seeking alternative channels. The FCC's data also lists those LPTV and TV translator stations that are being displaced (based on current parameters).

Every LPTV and TV translator station that wants to preserve its operation should retain a consulting engineer to study the FCC's data, determine whether the station is displaced, and if so, prepare and file an application in the filing window. The FCC is hosting a webinar on the channel study data released in advance of the Special Displacement Window. It is scheduled for Wednesday, February 28, 2018 from 1-2p.m. ET. You can review the webinar agenda [here](#). It can be watched live or in recorded form.

CROSS-SERVICE FM TRANSLATOR AUCTION 100 UPDATE

The Auction 100 Cross-Service FM Translator filing window closed on January 31, 2018 with more than 850 new translator applications filed by Class A, B, C or D AM stations that had not previously participated in any of the cross-service FM translator filing windows in 2016 and 2017. A February 2, 2018 [press release](#) announced the closing of the window and number of applications.

The Audio Division has already dismissed about 20-25 applications that specified AM stations that were listed as primary stations in earlier filing windows, or that forgot to also file Form 175. We're expecting a mutually exclusive applications list in the next few weeks, which will set forth a settlement window for parties to file technical amendments to break mutually exclusive situations where possible. Shortly after that, a singleton list should be published with a deadline for singleton applicants to file a full Form 349 application.

SITE VISITS ANNOUNCED FOR SELECT TV STATIONS SEEKING REPACK REIMBURSEMENT

On February 5, 2018, the FCC announced that it would be paying a visit to about 60 television stations that filed for reimbursement of repack expenses in 2017. The visits are part of an effort to validate the existence and functionality of the "baseline" equipment that stations listed as requiring replacement. A third-party audit firm is conducting the visits, and has already reached out to identified stations. They should be complete by end of May 2018.

More audit visits could be scheduled in the future, including visits to verify that stations receiving reimbursement funds to purchase new equipment have deployed the new equipment.

FCC PROPOSES ELIMINATION OF FORM 397 EEO MID-TERM REPORT

On February 22, 2018, the FCC issued a [notice of proposed rulemaking](#) proposing to eliminate the requirement for broadcast stations to file FCC Form 397 EEO Mid-Term Report. Currently, radio stations with eleven or more full-time employees must file the report at the mid-point of their 8-year license term. TV stations must do so if they have five or more full-time employees.

The Form 397 makes various certifications to the FCC about the station's number of employees, and provides the two most recent EEO public file reports. In the NPRM, the FCC has tentatively concluded that Form 397 should be eliminated, but asks several questions about alternative ways for the FCC to collect employee count info at the mid-point of a station's license term. With the online public file requirement to post all annual EEO public file reports, it seems to us that the public – and by extension the FCC – has all of the information it needs already. We're hoping that no "new" regulation is necessary in this instance.

REQUIREMENT FOR PAPER COPY OF FCC RULES ENDING FOR SECONDARY STATIONS

The FCC unanimously adopted a Report & Order February 20, 2018 eliminating the requirement for LPTV, TV translators, FM translators, and TV/FM booster stations to maintain a paper copy of the FCC's rules. Full power broadcast stations did not have a similar requirement, unless of course they also owned one of the above secondary stations. The requirement will go into effect upon publication of the order in the federal register.

UNDERWRITING RULES REMINDER FOR NCE STATIONS

The FCC recently fined a two-station owner \$115,000 as part of a consent decree for numerous violations of the FCC's underwriting policies. In addition, the licensee agreed to a one-year moratorium on seeking or accepting underwriting from for-profit entities, and had to adopt a "rigorous" compliance plan to prevent future violations.

The FCC has been warning for a few years now that it was going to heavily increase fines for NCE stations that violate the underwriting requirements. This is a good example of that intent coming to fruition. Plus, we can't recall an underwriting moratorium as part of a penalty before. The FCC wanted to make a point here, and even issued a press release about the action, calling it the largest penalty ever for violations of the Commission's underwriting rules.

Particularly helpful are the described violations – comparative language ("you can trust Bill Luke car dealership"), price information ("additional holiday bonus savings on select models"), calls to action ("are you ready to buy a house? & "want to know if you qualify?"), menu listing of products or services (six cell phone companies listed), and excessive length of announcements (between 30 and 60 seconds in duration).

NCE stations should have good controls in place to ensure that underwriting announcements comply with Commission policies (not always a straightforward matter).

DATES TO REMEMBER

March 1, 2018

Deadline for all radio stations to transition to the FCC's online public file.

March 2, 2018

Deadline for all broadcast stations (except LPFM and FM translator only licensees) to file their 2017 biennial ownership report, using the new forms in LMS, with an effective date of October 1, 2017.

March 19, 2018

Deadline for filing comments in the FCC's NPRM on the elimination of paper contract filing requirements for broadcast stations.

April 1, 2018

AM & FM Stations in Delaware & Pennsylvania: if five (5) full-time station employment unit employee threshold is met, complete EEO public file report and post in public file and on station website. **If station employment unit has 11 or more full-time employees**, also prepare **and** electronically file mid-term EEO Form 397 and place/post copy of filed report in public inspection file.

AM & FM Stations in Texas, Tennessee, Kentucky, Indiana: If five (5) full-time station employment unit employee threshold is met, complete EEO public file report and place/post in public file and on station website.

TV & Class A Stations in Texas: if five (5) full-time station employment unit employee threshold is met, complete EEO public file report and post in online public file and on station website, and also prepare **and** electronically file mid-term EEO Form 397 and place copy of filed report in public inspection file.

TV & Class A Stations in Tennessee, Kentucky, Indiana, Delaware & Pennsylvania: if five (5) full-time station employment unit employee threshold is met, complete EEO public file report and post in online public file and on station website.

© 2018 Hardy, Carey, Chautin & Balkin, LLP

For more info, contact Joe Chautin or Mark Balkin.

Phone 985.629.0777

Fax 985.629.0778

www.hardycarey.com

Actual resolution of legal issues depends upon many factors, including variations of facts and applicable Federal laws. This publication is not intended to provide legal advice on specific subjects, rather, it seeks to provide insight into legal developments and issues that we feel could be useful to our clients and friends.

 Hardy, Carey, Chautin & Balkin, LLP
ATTORNEYS AT LAW

1080 West Causeway Approach
Mandeville, Louisiana 70471-3036