



# Broadcast Newsletter

## *In this issue...*

COMMENT DEADLINES SET FOR RADIO  
ONLINE PUBLIC FILE NPRM .....1

2015 BROADCAST EEO AUDITS  
COMMENCED .....1

OWNERSHIP / DIVERSITY REDUX:  
IS THE ANSWER A NEW RESTRICTED USE  
FRN? .....2

ON TOUR: THE FCC'S INCENTIVE  
AUCTION TASK FORCE .....2

FORM 2100 NOW MANDATORY FOR CLASS  
A AND LPTV STATIONS.....3

FCC LPTV WEBINAR SHOWS AUCTION IMPACT  
AND POSSIBLE SOLUTIONS .....3

DATES TO REMEMBER .....4

## **COMMENT DEADLINES SET FOR RADIO ONLINE PUBLIC FILE NPRM**

The FCC has announced March 16, 2015 as the comment deadline in its ongoing [rulemaking](#) proceeding to adopt online public file rules for radio stations. Reply comments will be due by April 4, 2015.

The FCC has proposed requiring radio stations to migrate their public files to an FCC-hosted website. The requirement would begin first for commercial radio stations in the top 1-50 Nielsen Audio radio markets with five or more full time employees. All other radio stations would have a two-year delay in moving public files online. The FCC has asked whether noncommercial stations, and commercial stations with fewer than five fulltime employees, should be permanently exempt from the online public file requirement.

Comments must be filed electronically via the FCC [electronic comment filing system](#).

## **2015 BROADCAST EEO AUDITS COMMENCED**

Several hundred radio and television stations recently received EEO audit notices from the FCC, kicking off their 2015 EEO audit efforts. Each year, approximately five percent of all radio and television stations are selected for EEO audits. Auditees have until March 24, 2015 to respond. A copy of the FCC's audit letter must be placed in each affected station's public inspection file.

Usually, the first notice we receive of a new round of EEO audits is the FCC's public notice announcing an audit. But this time, stations began receiving EEO letters about a week before the [notice](#) was published on February 11, 2015. Our call to the Media Bureau's EEO staff confirmed that the letters were legitimate, and that the notice was to be issued in a few days. Auditees have until March 24, 2015 to respond to the audits. If more time is needed, stations can email Lewis Pulley at

[lewis.pulley@fcc.gov](mailto:lewis.pulley@fcc.gov). He can also respond to any questions.

Pay close attention to the documentation and other information that is being requested, as some of the detail on that has changed. We've been seeing tweaks to the letter for the last several EEO audits, with the FCC refining their processes so that audit information can be more easily processed.

## **OWNERSHIP/DIVERSITY REDUX: IS THE ANSWER A NEW RESTRICTED USE FRN?**

For years, the FCC has tried to figure out the diversity of broadcast station owners in order to decide whether to adopt rules or special ownership opportunities for minorities. They began doing so a few years ago by changing the ownership reporting form and data for commercial stations. They encountered some hiccups when owners were required to obtain an FCC Registration Number (FRN) to help the FCC track ownership interests. Some owners were reluctant to provide personal social security numbers as part of obtaining an FRN. So the FCC temporarily adopted "Special Use FRNs" that were auto-assigned in the ownership report, and did not require submission of social security number information.

Well, it turns out that the Special Use FRN process has been too confusing for the FCC to track. The result is that they are uncertain about the minority status of about 25% of individuals reported as having broadcast ownership interests of some kind. So what to do?

In its latest attempt to get some clarity on this issue, the FCC has issued a [further proposed rulemaking](#) (this is the 7<sup>th</sup> one) proposing the use of a "Restricted Use FRN". Owners with a regular FRN would have to get one in order to report ownership interests in commercial broadcast stations. It would require name, address, gender, ethnicity and the last four

digits of the individual's social security number. Supposedly, there would not be a similar outcry about privacy by using only four of the nine digits in the social security number. Fun, right?

There's more. If the FCC ultimately adopts similar ownership reporting reforms for noncommercial radio stations (still yet to be decided), it proposes that members of the non-profit licensee's board of directors be required to obtain and use Restricted Use FRNs as well. Seems crazy to us, since those individuals are often volunteers and actually hold no equity ownership interest in the station assets. More fun.

Those with an opinion on the FCC's latest ownership-tracking brilliance can let the FCC know what they think. Comments are due by March 30, 2015. Comments must be filed electronically via the FCC [electronic comment filing system](#).

## **ON TOUR: THE FCC'S INCENTIVE AUCTION TASK FORCE**

Despite pending litigation that could derail things, the FCC has targeted early-2016 to begin the voluntary incentive auction that will pay certain full power and Class A television broadcasters to relinquish spectrum so it can be repurposed for mobile broadband use. The FCC plans to open a filing window this fall for eligible broadcast stations to indicate their willingness to participate in the auction. With at least 60 days remaining in that filing window, the FCC will provide opening bid prices to broadcasters, who will then decide whether to participate or not. And sometime this summer, full power and Class A television broadcasters will have to file a certification of their licensed operating parameters.

The FCC has now begun visiting targeted television markets to give a power point presentation and if requested, meet individually with broadcast station owners to discuss any

questions and provide current estimates of the opening bid amounts for the station. We've seen the traveling show and sat in a confidential meeting, and can report that the presentations are straightforward and seek to provide information. The FCC staff members do respond to questions (or promise to get an answer if they don't know it). No arm twisting occurs and no one bites. Among the staff members "on tour" are Gary Epstein, Chair of the Incentive Auction Task Force and an attorney. He is also the main author of the FCC's voluminous Incentive Auction Report & Order.

During the last month, the FCC has announced some of their March 2015 planned visits. New York, Michigan and North Carolina visits are in this [public notice](#). Visits to California can be found [here](#).

Information is power. Representatives of eligible stations should attend one of the announced sessions. Information on how to request a confidential meeting can be found in the notices.

## FORM 2100 NOW MANDATORY FOR CLASS A AND LPTV STATIONS

As of February 23, 2015, all existing Class A, LPTV and TV translator station permittees and licensees are now required to use the Licensing and Management System (LMS) Form 2100 to file applications for permits and licenses and any amendments. The Form 2100 will eventually become the only form all broadcasters will use for filings with the FCC, selecting a series of schedules to complete and file the form. This is the second phase of implementation of the form, which was announced by [public notice](#). In 2014, the FCC began requiring full power television stations to use the form.

## FCC LPTV WEBINAR SHOWS AUCTION IMPACT AND POSSIBLE SOLUTIONS

After a weather delay of a week from its originally scheduled date, the FCC held a webinar addressing its rulemaking on how LPTV and TV translator stations displaced by the incentive auction will be able to channel change or otherwise remain on the air. The webinar was recorded and is available for viewing at [this link](#) (lower left hand corner of the web page).

The FCC didn't really address anything new in terms of its rulemaking, but did review several of its proposals. First, they reviewed the proposal that full power TV stations will have a chance to get translators due to lost coverage area caused by repacking, which could further frustrate attempts by LPTV stations to secure viable options to remain on the air. Second, they reiterated that Class A stations that are repacked will not need to protect LPTVs and TV translators. Third, the FCC reiterated that a transitioned LPTV or TV translator station with a construction permit can ask for an extension of its permit until displacement (in order to avoid double builds). Un-transitioned LPTVs or translators (and those with digital only CPs) will need to build by the new digital transition date (whenever that is set). Finally, the proposed displacement rules allow the change from one DMA to another so long as it is not more than 30 miles and there is contour overlap.

© 2015 Hardy, Carey, Chautin & Balkin, LLP

For more info, contact Joe Chautin, Mark Balkin, or Elise Stubbe.

Phone 985.629.0777

Fax 985.629.0778

[www.hardycarey.com](http://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.

## DATES TO REMEMBER

**February 23, 2015:** **TV & Class A Stations in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont:** complete and post to your public file documents relating to pre- and post-filing broadcast renewal announcements.

**February 24, 2015:** FCC Incentive Auction Broadcaster Information Session in **Nashville, TN**

FCC webinar on LPTV issues in spectrum auction

**February 25, 2015:** FCC Incentive Auction Broadcaster Information Session in **Atlanta, GA**

**February 26, 2015:** FCC Incentive Auction Broadcaster Information Session in **New Orleans, LA (including Hattiesburg, MS)**

**March 1 & March 16:** **TV, Class A & LPTV Stations in Delaware and Pennsylvania:** air your PRE-filing announcements.

**March 1 & 16; April 1 & 16, 2015:** **TV, Class A & LPTV Stations in New York and New Jersey:** air your POST-filing announcements.

**March 16, 2015:** new closed captioning rules take effect, including maintenance of records of monitoring and maintenance, rules regarding captioning quality and standards and captioning best practices.

Comment deadline in Radio Online Public File Rulemaking.

**March 19, 2015:** reply comments due on new proposed contest rules.

**March 30, 2015:** Comment deadline in FCC Ownership / Restricted Use FRN Rulemaking.

**April 1, 2015:** **AM & FM Stations in Indiana, Kentucky, Tennessee, Delaware & Pennsylvania:** if full-time employee threshold is met, complete EEO public file report and place same in public file as well as post on station website.

**AM & FM Stations in Texas:** if full-time employee threshold is met, complete EEO public file report and place same in public file as well as post on station website. **NCE Stations Only:** also file biennial ownership report via Form 323-E.

**TV & Class A TV Stations in Indiana, Kentucky & Tennessee:** if full-time employee threshold is met, complete EEO public file report and post same in online public file as well as post on station website. **NCE Stations Only:** also file biennial ownership report via Form 323-E.

**TV & Class A Stations in Texas:** if full-time employee threshold is met, complete EEO public file report and post same in online public file as well as post on station website.

**TV, Class A & LPTV Stations in Delaware & Pennsylvania:** file your renewal application electronically via Form 303-S. Also file EEO Form 396 with, if applicable, two most recent EEO public file reports. Post current EEO public file report to online public file and post copy on station website, if applicable. **NCE Stations Only:** also file biennial ownership report via Form 323-E.

**April 23, 2015:** **TV, Class A & LPTV Stations in New York and New Jersey:** complete and post to your public file documents relating to pre- and post-filing broadcast renewal announcements.

 Hardy, Carey, Chautin & Balkin, LLP  
ATTORNEYS AT LAW  
1080 West Causeway Approach  
Mandeville, Louisiana 70471-3036