



Broadcast Newsletter

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COMMERCIAL FM AUCTION 98 FINALIZED; FREEZE ANNOUNCED

The FCC has announced that Auction 98, featuring 131 commercial FM permits, is now scheduled to begin July 23, 2015. The FCC issued its standard procedures for the auction, and re-issued the permit list with no changes from the earlier version.

For anyone that wants to participate, a decision will have to be made soon. That’s because those who want to bid in the auction must file a short-form application during a window between May 18-28, 2015. The short-form application window will open at 12 noon ET on May 18th, and close at 6 p.m. ET on May 28th. If you don’t file in the window, you will not be allowed to participate.

As it normally does, during the short-form application window, the FCC has announced a freeze on the filing of ALL commercial and non-commercial FM minor modification applications. So if you’ve been thinking about filing one, you may want to file that application before the freeze goes into effect.

Up-front payments for qualified bidders will be due by June 29, 2015.

FCC INCENTIVE AUCTION — WAITING ON THE COURT

A 3-judge panel of the DC Circuit Court held oral arguments in March on NAB’s and Sinclair’s challenge to the FCC’s Incentive Auction Report & Order. Both sides were questioned on highly technical matters, including the OET-69 methodology and the FCC’s decision to change certain measuring tools using the 2010 census and protect only populated coverage areas for purposes of auction valuation and during the post-auction repack.

The judges did not signal when they might rule on the case. The NAB’s request for expedited hearing does not dictate a faster decision from the DC Circuit. So it could be soon, or it could be later. And remember, the challengers will have appeal rights, too, with the first step being a request for the case to be heard by all the judges of the DC Circuit, and the next step being a challenge to the U.S. Supreme Court.

Much will turn on the scope and details of the DC Circuit's decision. If the FCC loses, software would have to be re-written which could delay the planned early 2016 auction target. If they prevail, but NAB or Sinclair appeals, the FCC will have to make a very difficult decision as to whether to proceed with auction plans or wait for the appeal outcome.

DIGITAL TRANSITION DATE SUSPENDED FOR LPTV/TV TRANSLATORS

On its own motion, the FCC's Media Bureau has suspended the previously established September 1, 2015 deadline for all LPTV or TV Translator stations to transition to digital operation. The suspension is not indefinite, as it is only in place pending final action in the MB Docket 03-185 rulemaking proceeding. That proceeding is considering various forms of relief of LPTV and TV translator stations that will potentially be displaced in the incentive auction repacking process. In the end, it didn't make sense to require these stations to build out digital facilities when their very existence is threatened, and the solutions for their continued survival are not yet determined.

Importantly, this suspension does not apply to Class A television stations. Those stations can participate in and are protected in the auction, and the FCC has previously advised them that if digital facilities are not built out by May 29, 2015, the FCC will only value in the auction or protect post-auction the station's analog coverage area. Class A stations should take note that any digital permits they hold may have a September 1, 2015 deadline listed on the permit itself, but for valuation/protection purposes, a license to cover the digital permit has to be on file by May 29, 2015, the FCC's previously announced Pre-Auction Licensing Deadline.

ANOTHER AUCTION 83 FM TRANSLATOR SINGLETON WINDOW

On April 21, 2015, the FCC announced a 30-day period ending on May 21, 2015 for 29 of the still-pending FM translator applicants to electronically file FCC Form 349. These 29 applicants are no longer mutually exclusive with any other tech box

proposals that remain pending from the Auction 83 window (which occurred 12 years ago in 2003, by the way).

Applicants may make minor amendments to the initial associated tech box proposal, but may not create a new conflict to any pending Auction 83 tech box proposal, or to any prior-filed Form 349 or 318. Applicants should exercise extreme caution in completing and submitting the Form 349, as errors or the creation of conflicts will result in dismissal.

We especially urge double and triple-checks of the coordinates in the Form 349, as the FCC's new policy on unintentional coordinate errors makes it all but impossible to correct such errors. The May 21, 2015 deadline will be strictly enforced.

The FCC has still not scheduled an auction for remaining mutually exclusive applicants in the window, but the number of remaining applicants keeps shrinking as the passage of time and actions of applicants has created more singleton applications.

FCC WEBSITE CHANGES

The FCC's Chief Information Officer recently blogged about the FCC's efforts to dramatically improve the usability and functionality of the FCC's website. For those of us who use the site regularly, that means change is coming, and pretty quickly.

The FCC isn't just making changes for the sake of change. They've actually done research to identify how website visitors use the website. They've just concluded an effort, done with users, to evaluate and determine the navigation and information architecture of the site. They also did one-on-one interviews with users and stakeholders to identify common tasks and issues.

A prototype of the new FCC website has been launched and can be viewed [here](#). It includes a new, more intuitive information architecture, homepage design that actually features content that users are coming to the site to access daily, and clean typeface to make the site easier to read.

By the end of May, the FCC will implement a new search application into the current FCC website. The new search tool will aggregate results for both the website and EDOCS, plus add filters. In coming months, the FCC will build out the back-end functionality of the website and improve site security. By September 30, 2015, the FCC will launch the new site with all the changes.

PRE-AUCTION TECHNICAL CERTIFICATION FORM APPROVED

In late 2014, we first mentioned to readers that the FCC had submitted an important pre-auction technical certification form to the Office of Management and Budget for approval. Per the FCC's Incentive Auction Report & Order, all full power and Class A television stations will have to file this form before the incentive auction in order to certify their technical facilities to the FCC.

If you are a full power or Class A television station, before you do anything else, click [here](#) and print/save a copy of the form. Then, review it. As you will see, the instructions and the form itself direct precisely the type of information stations will need to obtain in order to complete and file the form.

There is no filing deadline yet, but given the detailed nature of some of the information requested, now is a very good time to gather this information for your station. We estimate (but are only guessing) that the FCC will soon announce a deadline for this form to be filed, and believe it is very likely that the deadline will be sometime this summer.

As mentioned in earlier stories about this schedule, it will be submitted through the FCC's new LMS using the new Form 2100.

Why is this form, and its accurate and timely filing, so important? Well, the FCC plans to use it to identify/value the facilities to be sold or protected in the reverse auction, and for those not sold, to do the repack. Some of the information will also help the FCC become informed on the types of

equipment in use for relocation reimbursement purposes. So accuracy is paramount.

NAB SEEKS WAIVER OF MAY 26TH DEADLINE FOR NEW EMERGENCY ACCESSIBILITY REQUIREMENT

About a year ago, the FCC modified its closed-captioning rules, and among (many) other things, added a requirement for video program providers (i.e., all TV stations) to begin using – by May 26, 2015 – a secondary audio stream to provide emergency information provided visually during non-newscast programming so the blind or visually impaired could hear such information.

The NAB has asked the FCC for a 6-month partial exemption or limited waiver of the requirement, noting that the hardware and software necessary for stations to aurally transcribe emergency information has not yet been released and delivered by vendors, much less installed or tested.

The FCC put NAB's request out on public notice, requesting comments, but has yet to modify the March 26, 2015 deadline.

We note that the new SAP requirement does not apply to EAS-initiated emergency information.

DATES TO REMEMBER

May 11, 2015: Incentive auction general sessions and individual meetings in Orlando, FL

May 12, 2015: Incentive auction meetings and general information session in Miami, FL

May 13, 2015: comments on DBS Market Modification NPRM due

May 18, 2015: Incentive auction meetings and general information sessions in Boston, MA

May 18, 2015: FM translator auction 98 Short Form applications (Form 175) filing window opens at 12pm ET

May 18 – 28, 2015: freeze on commercial or NCE FM minor modification applications

May 19, 2015: Incentive auction meetings and general information sessions in Hartford, CT

May 28, 2015: FM translator Auction 98 Short Form applications (Form 175) filing window Closes at 6pm ET.

May 28, 2015: Reply comments on DBS Market Modification NPRM due

June 1, 2015: AM & FM Stations in DC, Maryland, Virginia & West Virginia: 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. **If station has 11 or more full-time employees,** prepare and electronically file mid-term EEO Form 397 and place copy of filed report in your public inspection file. **NCE Stations Only:** also file biennial ownership report via Form 323-E.

AM & FM Stations in Arizona, Idaho, Nevada, New Mexico, Utah & Wyoming: 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 Arizona, DC, Idaho, Maryland, Nevada, New Mexico, Utah, Virginia, West Virginia & Wyoming: NCE TV Stations in Michigan & Ohio: 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 Stations in Michigan & Ohio: 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.

AM & FM Stations in Michigan & Ohio: 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.

June 1, 2015: Incentive auction meetings and general information sessions in Austin, TX

June 2, 2015: Incentive auction meetings and general information sessions in Dallas, TX

June 8, 2015: Incentive auction meetings and general information sessions in Chicago, IL

June 9, 2015: Incentive auction meetings and general information sessions in Milwaukee, WI

June 23, 2015: TV, Class A & LPTV Stations in Delaware & Pennsylvania: complete and post to your public file documents relating to pre- and post-filing broadcast renewal announcements.

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