



Broadcast Newsletter

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FCC FINALLY ISSUES AM REVITALIZATION ORDER

After much deliberation and delay, the FCC has finally acted in its proceeding to revitalize the AM broadcast band, adopting in a [single document](#) an order, further proposed rulemaking, and a notice of inquiry.

While the order relaxed AM station city-grade requirements, eliminated the ratchet rule, eliminated the need to get prior approval to use MDCL technology, and relaxed AM antenna efficiency standards, the FM translator opportunities adopted by the FCC have gotten the most attention, by far.

AM stations that have long desired to acquire an FM translator for use with their station have been frustrated by the FCC's existing restrictions on FM translator modifications, which only allowed moves over short distances and therefore limited the pool of available translators that could be acquired by AM stations. The FCC's order eliminates those restrictions by allowing FM translators to be relocated up to 250 miles to a rule-and interference-compliant vacant FM channel with a transmitter location and 60 dBu coverage within the permissible AM station contour.

Two modification filing periods or windows will be opened in 2016 for this purpose. The first will be six months long, and allow Class C & D stations to apply to acquire and modify such translators. The second filing period will immediately follow the first and will be three months long, with all classes of AM stations (except for those who filed in the first window) eligible to participate.

If you were thinking this might all start in late 2016, think again. The Media Bureau has already issued a [public notice](#) about the first modification window, which will open in the first quarter of 2016. And that means the second window will open in the third quarter of 2016. So stations should be acting now to capitalize on these opportunities.

Significantly, the FCC has indicated that it will allow reasonable extensions of FM translator permits that are set to expire, so applicants in these two modification windows should not eliminate permits expiring in 2016 in their search.

But wait, there's more. If an AM station does not file an application in the 2016 modification windows, it will be eligible to file in two auction windows, the first of which will launch in 2017 and be open only to Class C & D stations, followed by a second auction window open to all AM station classes (except those that participated in the first auction window).

The FCC has also proposed additional rule changes that create flexibility and cost savings for AM stations, and has requested additional information and comment on a proposal to grant main studio waivers for commercial AM owners that own and consolidate a studio with other co-owned stations located outside the current main studio location limits, or to allow a reduction in station minimum staffing requirements to single station owners (and perhaps others). Either proposal could create substantial cost savings for station owners.

Now that the FCC has opened the door to additional changes, AM stations should flood the FCC with comments in support of these or other changes so that maximum relief can be obtained.

TV AUCTION FILING WINDOW ANNOUNCED

In another hefty [public notice](#), the FCC has announced that the filing window for full power and Class A television stations to participate in the 2016 TV Incentive Auction will open at 12 noon ET on December 1, 2015 and close at 6 pm ET on December 18, 2015. If a station does not file an application during this window to become a qualified bidder in the auction, it will have made a final decision not to participate in the auction.

But the flip side is not true. **Stations submitting an application to become a qualified bidder will not be making an irreversible decision to participate in the auction.** They have until March 29, 2016 to do that, which is the deadline by when applicants will have to submit their preferred opening round bidding option to remain qualified to bid. So let's review. A station can file an application in the December 2015 window, and then later decide to back out by simply not

submitting its preferred bidding option by the March 29, 2016 deadline.

Stations filing in the December window will be using FCC Form 177, which has not yet been released. Yes, we find that quizzical (and perhaps a bit bizarre) too, but the notice does at least describe some of the types of information that will be required. And to help even more, the FCC has just announced a [November 17th webinar](#) to help filers understand the form and the filing process so as to avoid errors. Are filers required to attend or watch the webinar? No. But the FCC strongly encourages it. We think that is a good idea too.

For stations that want to enter into pre-auction channel share agreements, efforts should already be under way to finalize those agreements in writing because executed, un-redacted versions of channel share agreements must be submitted with a station's Form 177 in the December filing window. If you wait until the last day of the window to file (something we do not recommend), you have roughly 50 days remaining to negotiate and sign those agreements.

In case you were expecting smooth sailing and calm in the weeks and months to come before the March 29, 2016 deadline for stations to submit their preferred bidding option, you would be mistaken. The FCC will continue to issue orders, notices, reconsideration decisions, instructions, clarifications, etc. during that period. So stations should stay plugged in. There will also be webinars to watch.

One more thing before we go. The close of the December filing window will mark the start of the "quiet period" under the FCC's anti-collusion rules. What does that mean? Well, we recommend your careful reading (and sharing with others in your organization) of [this public notice](#), which provides some interpretive guidance on the nature and scope of prohibited communications during the quiet period.

Those prohibitions certainly apply to auction participants. You don't want to trip over these rules, and you come to your attention. For good measure, we'll include the [link again](#). Now for our friendly instructions. Read. Repeat.

Exhausted yet? While we don't advise on health matters, you might want to consider some vitamins, orange juice, strong coffee and energy boosters for the months to come. We suspect they'll be needed.

COMMERCIAL STATION OWNERSHIP REPORTS DUE BY DECEMBER 2ND

Commercial broadcast stations have been able to file their biennial ownership reports since October 1, 2015, and have until December 2, 2015 to complete all report filings. Information in the reports must be current as of at least October 1, 2015 (i.e., not earlier than that date).

The FCC conducted a commercial station ownership report filing demonstration on September 22, 2015, and it is available for public viewing [here](#).

Station licensees should remember to remit associated filing fees, even if a report is a resubmission and certification of a 2013 report. Reports filed for related entities are fee exempt.

STREAMLINED FOREIGN OWNERSHIP APPROVAL FOR BROADCASTERS PROPOSED

While we're on the subject of ownership, we note that the FCC has proposed to extend the same streamlined procedures and rules used to review foreign ownership in common carrier licensees to – you guessed it – broadcasters.

In case you weren't aware, the Communications Act limits foreign ownership in broadcast licensees to a 25% controlling interest. If foreign ownership will go above that mark, the FCC reviews that situation on a case-by-case, public interest driven analysis. That process is far from standardized, so it is daunting to even conceive of using it, much less doing so.

Under the FCC's new standardized process, certain policies will be codified to make the process more certain, and provide avenues for seeking approval of up to 100% foreign ownership, subject to the FCC's public interest review, or allowing increases

up to 49.99% for previously approved owners without the necessity of a new filing.

You can read about the proposal [here](#), and chime in with comments if you so desire.

NEW BROADCAST CONTEST RULES NOT YET IN EFFECT

The new broadcast contest rules we reported on a few newsletters ago have inched forward to a date when they will become effective, but have not crossed the finish line yet.

The FCC published the new rules in the Federal Register on October 23rd, but the rule must still go through approval at the Office of Management and Budget because it involves information collection. OMB doesn't move very fast, but there is hope that we'll see an effective date for the new rule sometime in the first quarter of 2016.

In case your brain is filled with too many other things to remember what the FCC did with this rule, here's a reminder. The new rule allows stations the option of publishing station contest details online instead of on-air, with some restrictions or requirements.

FORM 317 DEADLINE IS DECEMBER 1ST

All digital television stations – full power, Class A or LPTV -- must file Form 317 with the FCC by December 1, 2015. Don't remember what that form reports? Well, it requires a licensee to tell the FCC whether it transmitted any ancillary or supplementary services via its digital spectrum during the last 12 months ending September 30. And even if a station did not transmit such services, it still has to file the form and certify that it did not.

What are ancillary or supplementary services? Another good question. Those services include computer software distribution, data transmissions, teletext, interactive materials, aural messages, paging services, audio signals, and subscription video. If a station has transmitted such services, it must pay 5% of any revenue received on those transmissions.

This is one of those “every year” filings, so keep your records handy and add the deadline to your reminder list.

DATES TO REMEMBER

October 1 – December 2, 2015: BIENNIAL OWNERSHIP REPORT WINDOW OPEN. Filing required for all commercial stations including LPTV and TV translators. Information must be accurate as of September 30, 2015.

October 30, 2015: reply comments due on proposal to keep at least one TV channel post-auction vacant for white space devices and wireless microphones.

November 17, 2015: Workshop on Reverse Auction Application Process for Incentive Auction

December 1, 2015:

Form 317 due for all digital full-power TV, Class A TV, LPTV and TV translators.

AM & FM Stations in Alabama & Georgia: 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 Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island & Vermont: 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 Colorado, Minnesota, Montana, North Dakota & South Dakota: 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 Alabama, Connecticut, Georgia, Maine, Massachusetts, New Hampshire, Rhode Island & Vermont: 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 Colorado, Minnesota, Montana, North Dakota & South Dakota: 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.

December 1, 2015 12pm ET: filing window OPENS for full power and Class A stations to participate in 2016 TV Incentive Auction.

December 18, 2015 6pm ET: filing window CLOSES for full power and Class A stations to participate in 2016 TV Incentive Auction.

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