



Broadcast Newsletter

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JOE CHAUTIN AT NAB CONVENTION

From April 16-19, 2016, HCCB Managing Partner Joe Chautin will be attending the National Association of Broadcasters' convention in Las Vegas. If you're attending and would like to meet with Joe, please email him at jchautin@hardycarey.com. At the convention, Joe can be reached by phone or text at 504-439-2350.

TV AUCTION BEGINS

On March 29, 2016, the FCC's TV Incentive Auction officially began as of the closing of the initial commitment window at 6 p.m. EST. The auction is technically in round one, but subsequent rounds will not begin until the clock phase of the auction, estimated for early May. The FCC's computers are crunching station initial commitment data to see which bids to accept, which bidders remain alive for the next round and their status, and also confirming which stations didn't participate and are subject to repacking after the auction. In the next two weeks, stations that made an initial commitment will receive a third confidential letter advising of their status. Those stations that remain eligible for round two will also find out which mock auction they will participate in, as well as when round two will commence, kicking off the clock phase of the auction.

During the clock phase, the FCC will conduct at least one and probably two rounds per day, Monday through Friday. Bidders will find out their status electronically after each round. There are six different statuses that are possible for clock phase participants, as follows:

(1) *Bidding In The Current Round*: this status applies if the station can be feasibly assigned a channel in its pre-auction band, in which case the system will offer a new reduced price offer for each of the options currently available to the station. As long as a station has this status, it will be offered lower prices and asked to submit a bid in each round.

(2) *Frozen – Provisionally Winning*: this status applies if the station can never be assigned a feasible channel in its pre-auction band in the current stage of the auction, in which case, for the remainder of that stage, the current price and option for the station will remain unchanged. If the final stage rule is actually met in that stage, the station will become a winning station. If it is not met, the station's status will be updated for the next round (multiple bidding rounds can occur within a single stage of the auction; a new auction stage begins if the prior stage does not meet the final stage rule and the FCC has to lower its spectrum clearing target)

(3) *Frozen – Currently Infeasible*: this status is only possible for a VHF station, and will only apply if a feasible channel assignment cannot be found in the VHF station's pre-auction band in the current round, but might be found in a later round of the current stage. The station's option and price are frozen, and it will not be asked to specify a new bid amount for that round.

(4) *Frozen – Pending Catch Up*: With this status, a station's current option and price are frozen. The station was provisionally winning in an earlier stage, but now is not because a new stage has started and the prices have been reset to a level that is higher than the station's provisionally winning bid from the prior stage. So the station is waiting until the bid values "catch up" (i.e., fall) to the station's last bid amount. No lower price is offered and no bid is necessary because the old bid carries forward.

(5) *Exited – Voluntary*: This status applies if the station's prior round bid to drop out has been processed, or the station failed to place a bid despite its "bidding in the current round status" in the prior round. A station with this status can no longer place bids and is designated for repacking.

(6) *Exited – Not Needed*: A station will see this status when the auction system has determined that a feasible channel assignment in its pre-auction band will always be available. As a result, the station is no longer needed and will be designated for repacking.

AM REVITALIZATION UPDATE

The FCC's efforts to continue revitalizing the AM radio service are alive and well. The comment period on the FCC's further proposed rulemaking and notice of inquiry has now closed, and many voiced their support for further rule changes.

There is no specific timeline for the FCC to act on these additional rule changes, and we note that it took the FCC months after comments were received to issue its first AM revitalization report and order last year. We hope for speedier action this time around, especially given that the thorny FM translator opportunity for AM stations is not a factor this time. Hopefully, we'll see action by late summer on the next round of rule changes to help AM stations.

The FCC continues to issue modified permits from the filings in its first filing window for Class C and D AM stations to acquire and relocate existing commercial FM translator stations or permits up to 250 miles. Applications can be filed in this window until July 28, 2016. The next day, July 29, 2016, will mark the start of the second 2016 filing window in which Class A and B stations (in addition to Class C and D stations that did not participate in the first window) can file to relocate and modify existing commercial band FM translator licenses or permits up to 250 miles. The second window closes at 5:59 p.m. ET on October 31, 2016.

FCC EEO AUDIT RESPONSES DUE APRIL 11

In late-February, the FCC sent letters to 279 radio and television stations requesting an audit of their EEO compliance. If your station received one, the deadline for responding is April 11, 2016. If you're worried that an EEO audit letter intended for your station perhaps didn't make it all the way from your mailbox to your desk, you can always check [this list](#) to see if you were one of the lucky auditees.

Auditees should remember to exclude personal information about individuals such as social security numbers or home addresses. Also, the accuracy of auditee responses must be certified by an officer, partner or other principal of the station licensee.

NEW FILING SYSTEM FOR CHILDREN'S TV QUARTERLY REPORTS

In case you haven't started preparing your quarterly children's television report, don't go to the old filing system to do so. Beginning with the first 2016 quarterly report, which must be filed between April 1-10, 2016 and will cover the first three months of the year, the FCC's Form 398 Children's Television Programming Report will have to be filed in the FCC's new Licensing and Management System (LMS). The FCC's [February 9, 2016 public notice](#) details the procedure to use for accessing the form once a station is logged in to LMS.

Our sage advice and tips from last month's newsletter are worth repeating, so here goes. We have noted that forms filed in LMS periodically do not automatically appear in a TV station's online public inspection file. Stations should double check to be sure that the filed form appears in the online public file, and not just assume that it will. The FCC's public notice makes clear that if the report is not linked to the station's online public file by

the deadline for filing the report, the station licensee must manually upload a copy of the report to the online public file.

And here's another note. If you file a report on the 10th day after the quarter, it will likely not appear in the online public inspection file until the next day, and that could mean that even though you timely filed the form, you were late in placing it in the public file by the 10th day of April. Failure to timely place a report in the file may result in sanctions. So if you file the report on April 10, check the online public file to be sure it appears there, and if not, print it out and upload it so you don't end up on the FCC's naughty list in your next renewal.

DATES TO REMEMBER

January 29, 2016 – July 28, 2016: 1st AM window for Class C and D AM stations to file modification applications for commercial band FM translators. Window closes **July 28, 2016**.

April 1, 2016:

AM & FM Stations in Indiana, Kentucky & Tennessee: 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 and place copy in public file.

TV & Class A Stations in Delaware, Indiana, Kentucky, Pennsylvania & 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.

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

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

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. **NCE Stations Only:** also file biennial ownership report via Form 323-E.

April 10, 2016:

TV, Class A, AM & FM Stations (commercial & noncommercial): complete 1st quarter 2016 issues/program reports. TV & Class A stations post same to your online public file. AM & FM Stations place in your public file.

TV & Class A stations (commercial only): complete and electronically file **VIA LMS** FCC Form 398 Children's TV Programming Report for 1st Quarter 2016. Your report should be automatically linked by the FCC to your online public file. Also compile and post to online public file records relating to station's compliance with children's programming commercial limits.

Class A Stations Only: complete and post to your online public file certification of ongoing Class A eligibility.

April 18, 2016: reply comments on AM revitalization due.

May 9, 2016: comments due on EAS NPRM.

June 1, 2016:

AM & FM Stations in Michigan & Ohio: 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 and place copy in public file.

TV & Class A Stations in DC, Maryland, Virginia & West Virginia: if full-time employee threshold is met, complete EEO public file report and post same in public file as well as on station website and 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 and place copy in public file.

AM & FM Stations in Arizona, DC, Idaho, Maryland, Nevada, New Mexico, Utah, Virginia, West Virginia & Wyoming: if full-time employee threshold is met,

complete EEO public file report and post same in 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 and station website.

TV & Class A 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 and on station website. **NCE Stations Only:** also file biennial ownership report via Form 323-E and place copy in public file.

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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.

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