



Broadcast Newsletter

IN THIS ISSUE:

OWNERSHIP REPORTING 2017 (NOW 2018)	1
ONGOING BROADCAST DEREGULATION IS HERE.....	2
NEW CROSS-SERVICE FM TRANSLATOR UPDATE	2
POST-INCENTIVE AUCTION – 2ND PRIORITY WINDOW ANNOUNCED ...	2
FIRST TV REPACK TRANSITION PROGRESS QUARTERLY REPORT DUE OCTOBER 10TH.....	3
NATIONAL EAS TEST UPDATE.....	3
AM REVITALIZATION RUMBLES ON	3
DATES TO REMEMBER.....	4

OWNERSHIP REPORTING 2017 (NOW 2018)

Citing the need to finalize the new form and make it available for electronic filing for the first time in the License Management System, the FCC has [announced](#) a two-month extension of the deadline for all broadcast stations to file their 2017 Biennial Ownership Reports. As a result, reports that would have been due by December 1, 2017, are now due no later than March 2, 2018. The old filing schedule for noncommercial stations that was suspended a year ago will extend through March 2, 2018 as well (i.e., a noncom station with a report due on Jan 1 under the old schedule should wait until March 2nd).

Despite the extension, all stations will still need to pay attention to and capture their ownership as of October 1, 2017. That's because the biennial report – though extended into 2018 – will still have to report a station's ownership information as it was on October 1, 2017. That's the case even if a station's ownership changes in the five months between that date and the new March 2, 2018 deadline.

The new form isn't available for stations to review or become familiar with yet. But the FCC promises that when it is, a public notice will be issued and assistance provided to stations as needed. You won't be able to start working on a draft of the form within LMS until December 1, 2017 though, which is when the FCC will "open" the window for filing the form. We are not clear yet on how "smart" the form will be, or whether it will populate information from previously filed forms in CDBS. These factors could make completing the form more difficult and time-consuming.

Notable aside: March 2nd is the day after the March 1st deadline for all broadcast stations to have completed a migration of their public file to the FCC's online portal. So if you've not taken a step toward getting online with your station's public file, now is a good time to start preparing.

ONGOING BROADCAST DEREGULATION IS HERE

We've seen plenty of rules and policies affecting broadcasters find the trash bin at the FCC since Chairman Pai became chairman in January 2017. But apparently, they've only just begun. At the recent NAB Radio Show, Chairman Pai highlighted some of those deregulatory actions, but then announced a new effort to double down with cleaning out the "underbrush" from the FCC's media regulations.

With that, Chairman Pai announced that "for the foreseeable future" he would be teeing up a monthly notice of proposed rulemaking targeting outdated or unnecessary regulations for elimination. True to his word, at the Commission's September meeting, the FCC issued a rulemaking notice proposing to eliminate an ancient rule on the books requiring broadcasters to maintain a paper copy of the FCC's rules applicable to them. Now that doesn't mean broadcasters wouldn't have to follow the existing rules; it just means that ordering and keeping a complete paper copy of the rules – silly in today's computer age – would no longer be required.

Pai also mentioned that he will put an order before the Commission this fall that would eliminate the main studio rule for broadcasters. In our view, if broadcasters want to have such a studio, that's a business decision, but the FCC should not mandate that every station have one within a certain distance of its community of license, with two full-time employees always there, and with certain capabilities to originate programming. That's a cookie-cutter, one-size-fits-all approach that is unnecessarily burdensome in today's broadcast world.

We applaud Chairman Pai for moving forward with meaningful reform. There's plenty of underbrush to be cleared.

NEW CROSS-SERVICE FM TRANSLATOR UPDATE

Almost two months have now passed since the close of the FCC's first 2017 filing window for Class C and D AM stations for new cross-service FM translator permits. The Audio Division has kept pretty quiet on the processing timeline for

applications filed during the window. We do know that over 1000 applications were filed, and about 25 were dismissed for various disqualifying reasons. All other applicants are waiting for official word from the FCC on the next steps for their applications.

There is enough information in the FCC's database for engineers to determine whether an application is mutually exclusive with another one, so applicants can get a pretty good idea of whether their proposal is a "singleton" and can be granted once the FCC gives a green light for stations to file a complete application. The anti-collusion rules remain in effect, so be careful regarding discussions about your application's status or any bidding strategy if your application ends up being mutually exclusive with another (remember, this is an auction proceeding).

We know, we know, the waiting is the hardest part (so says Tom Petty). We're listening for rumors, or even hints from the staff. Nothing yet. We think they may be combining the announcement about this window with the scheduling and announcement of the second window, which will be open to all AM station classes. But we really don't know. So that's just a guess. In the meantime, don't lose hope.

POST-INCENTIVE AUCTION – 2ND PRIORITY WINDOW ANNOUNCED

The FCC has [announced](#) a second priority filing window for all stations making a post-auction channel change. Eligible stations may make pattern changes and increase power in this window, subject to the interference rules. In addition, stations that were not re-packed to different channels have an opportunity to make a filing to modify their facilities if the interference received from post-auction stations exceeds certain levels.

The filing window will open October 3rd and close on November 2nd at 11:59 p.m. EDT. Although situations will vary by market, it is very likely that this window will be the only opportunity for stations to seek substantial facility modifications (including increases in power) for the next several years. Equipment and facility needs that go beyond

replicating a station's pre-auction facility will not be reimbursable.

FIRST TV REPACK TRANSITION PROGRESS QUARTERLY REPORT DUE OCTOBER 10TH

All repacked TV and Class A stations, and those that voluntarily changed from the UHF to VHF band, have yet another quarterly report to add to their to-do list. The FCC had previously announced but recently issued a [notice](#) reminding those stations to file the transition progress reports no later than October 10, 2017. Stations will have to file this quarterly report during the 10 days following the end of each calendar quarter until construction of post-auction facilities is completed.

The report asks for status updates on a variety of issues related to a station's channel change, including tower modifications, equipment purchases, installation plans, complications encountered and permitting issues. Station engineers familiar with transition progress will be best suited to complete this report each quarter.

NATIONAL EAS TEST UPDATE

The National EAS Test took place as scheduled on September 27, 2017. All stations were required to file EAS Form Two with the FCC no later than midnight that day (except for those in Hurricane-affected areas, who have more time). The final filing requirement for this year's test is for each station to file EAS Form Three no later than November 13, 2017. EAS Form Three is available for loading, completion and filing now.

FCC OVERNIGHT DELIVERY ADDRESS CHANGE

The FCC has announced a change in the filing location for all documents and packages sent to FCC headquarters via UPS, FedEx, Freight, or any overnight mail other than USPS Express Mail). The new address is 9050 Junction Drive, Annapolis Junction, MD 20701. The address for US Postal Service deliveries has not changed, and remains 445 12th Street, SW, Washington DC 20554.

For those TV stations being repacked to different channels post-auction that have not yet filed FCC Form 1876, the overnight address change above alters the delivery instructions on those forms. Pay close attention!

AM REVITALIZATION RUMBLES ON

The FCC has adopted the latest [Report & Order](#) revitalizing the AM broadcast radio service. While mostly technical, this order relaxes several FCC rules related to how stations prove the performance of their stations with authorized patterns. Specifically, the order relaxes the rule for partial proofs of performance on certain directional AM antenna systems, eliminates periodic performance re-certifications, modifies field strength measurements, and codifies the standards under which a new Moment-Method proof of performance is needed. The potential cost savings to AM stations is significant.

The AM Revitalization docket is not nearly over. Still under consideration are:

(1) a proposal to reduce daytime and nighttime protection to Class A AM stations, eliminate nighttime skywave protection of these stations, and eliminate critical hours (two hours pre-sunset/post-sunrise) protection of these stations;

(2) a proposal to reduce co-, first-, and second-adjacent channel protections to Class B, C and D AM stations, and to eliminate third-adjacent channel protection to those stations;

(3) a proposal to modify nighttime root sum-square (RSS) calculations, which values quantify the skywave interference contributions of AM stations to other AM stations and help to calculate nighttime interference-free service, by returning to the pre-1991 method of calculating such values; and,

(4) a proposal to require surrender of one of the authorizations from each of the 25 stations that did not surrender one of its dual standard band-expanded band AM authorizations after the five-year dual-operation period specified by the Commission and the terms of their authorizations. The FCC may move these forward, or propose alternatives in the future.

DATES TO REMEMBER

October 1, 2017

AM & FM Stations in Florida, Puerto Rico, the U.S. Virgin Islands, Iowa and Missouri: if five 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 in Florida, Puerto Rico and the U.S. Virgin Islands Only:** your Form 323-E ownership report that would have been due on this date has been suspended until March 2, 2018.

AM & FM Stations in Alaska, American Samoa, Guam, Hawaii, Mariana Islands, Oregon and Washington: if five 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:** your Form 323-E ownership report that would have been due on this date has been suspended until March 2, 2018.

TV & Class A Stations in Iowa and Missouri: if five 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:** your Form 323-E ownership report that would have been due on this date has been suspended until March 2, 2018.

TV & Class A Stations in Florida, Puerto Rico, the U.S. Virgin Islands, Alaska, American Samoa, Guam, Hawaii, Mariana Islands, Oregon and Washington: if five full-time employee threshold is met, complete EEO public file report and post same in online public file and station website.

TV & Class A/LPTV Stations Entitled to Must-Carry: deadline for making cable and DBS carriage elections for the 2018-2020 three-year carriage cycle.

October 10, 2017

TV, Class A, AM & FM Stations (commercial & noncommercial): complete 3rd Quarter 2017 issues/program reports and place in public file.

TV & Class A stations (commercial only) and any LPTV station with must-carry rights: complete and electronically file via LMS the FCC Form 398 Children's TV Programming Report for 3rd Quarter 2017, and also

compile and post to the public file records relating to the station's compliance with children's programming commercial limits for 3rd Quarter 2017. **TV & Class A stations** changing channels as part of the repack or based on voluntary receipt of auction funds should file a transition progress report in LMS.

Class A stations only: complete and post to your online public file a certification of ongoing Class A eligibility.

October 25, 2017

Deadline for any TV station that received auction proceeds and has a right to channel share post-auction to file a request for extension of the November 24, 2017 deadline for filing a channel share application.

November 13, 2017

Deadline for all broadcast stations to file EAS Form 3 in ETRS as part of EAS National Test.

November 24, 2017

Deadline for TV stations with winning auction bids that did not have pre-auction channel share agreements but preserved a right to enter into a post-auction channel share agreement to enter into a channel share agreement and file it with a minor modification application to modify the station's transmitter site to the shared location. This is also the deadline for winning auction bidders to request additional time beyond January 23, 2018 to continue operations on their pre-auction channel.

December 1, 2017

Deadline for all digital television licensees to file the ancillary/supplementary services Form 317 in LMS.

© 2017 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