



Broadcast Newsletter

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EEO BROADCAST STATION AUDIT RESPONSES DUE APRIL 12TH

In the last week of February, the FCC [announced](#) its first EEO audit of broadcast stations for 2018, including 300 radio and television stations. For the first time, many stations received notice of the audit via email (though letters were also sent). Also as a first, instead of sending in EEO audit responses by snail mail to the FCC, responses are to be made simply by uploading it to the station's online public inspection file. The deadline to respond is April 12, 2018. If you're behind the curve in getting yours done, and need more time, email the very helpful head of the EEO section, Lewis Pulley (lewis.pulley@fcc.gov) and request additional time.

TV REPACK REIMBURSEMENT DEVELOPMENTS

A few recent, critical developments bear noting in the arena of getting funds to reimburse stations impacted by the repack of the television band spectrum into channels 2-36.

First, the FCC [announced](#) on March 8, 2018 that announced an additional reimbursement allocation for stations entitled to reimbursement. Initially, stations were only allocated 52% of their then-current verified cost estimates (62% for NCE stations) to cover up-front costs, down payments on equipment and other pre-implementation costs. While not announcing the amount of the additional allocation, the FCC has indicated that it will be made around mid-April. Stations will then have access to additional funds to finance their repack efforts.

Second, Congress passed and the President signed the Omnibus Spending Bill for 2018, which included an additional \$1 billion for spectrum repack expenses, specifying another \$600 million for eligible TV repack stations, and adding \$150 million for reimbursement of LPTV displacement costs and \$50 million for FM stations that may incur costs due to repacked TV stations having to replace antennas/equipment. The LPTV and FM station monies are the first time that reimbursement relief has been allocated for stations other than actual repacked TV stations, and is a significant win by the FCC and broad-

casters who lobbied long and hard for additional and specific funding. The FCC is expected to quickly implement its new Congressionally-granted authority.

ONLINE PUBLIC FILE TIPS

With the March 1st deadline for all stations to transition to the online public inspection file now having passed, it might be easy to put the file out of mind. But resist that temptation. As noted in our dates to remember, all stations must prepare and post a 1st Quarter 2018 issues/programs list to their online public file no later than April 10, 2018. Remember to double check after posting (preferably through the publicly accessible site) to be sure your document has completely loaded and is visible/accessible.

All stations had to turn the online file “ON” for the public to access it, but there is a separate “certification” that is technically supposed to be completed as well. That certification confirms that all documents have been uploaded and none are still being maintained on paper (i.e., the FCC allowed stations to retain political public file materials existing as of March 1, 2018 in a paper file because they were voluminous, so not everything is in the file).

If your station has uploaded everything, the certification can be found by logging in to your file, clicking on the Settings Tab, and then clicking on the Certification tab. There, you will see this language: *This is to certify that you have uploaded all existing public file material required to be included in the online public inspection file. Once this certification is completed, a notification will be added to all pages on your online public file that you have fully transitioned to online public file.* From there, you click on “ Yes, I certify that I have uploaded all existing public file material required to be included in the online public inspection file” and it’s all done. From then on, language will appear at the top of your publicly accessible file heralding the news that all material is uploaded. It says - *This entity has confirmed that it has completed uploading all existing public file material required to be included in the online public file.*

One final reminder: stations with a website are required to post a link on their website to the station’s online public file. The rule also requires that the station must also provide contact information for a station representative on its website that can assist any person with disabilities with issues related to the content of the public files. The FCC doesn’t say how or where to do that on your website, and an argument could be made that any contact info for a station staffer on the website would be enough. But perhaps something like this would work best: *Persons with disabilities may contact _____ at [phone/email] for assistance with issues related to the content of the public files.*

FM TRANSLATOR AUCTIONS 83 AND 99 DEADLINES

The FCC is moving quickly on conducting auctions for mutually exclusive FM translator window-filed applications, setting two auctions in coming months. Although the applications in Auction 83 (pending since 2003) are much older than those in Auction 99 (pending since 2017), the FCC is going to conduct Auction 99 first.

Auction 99 will decide the winners out of these [26 applications](#), and will begin May 15, 2018. The Auction 99 [public notice](#) covers all the details, with upfront payments due April 19, 2018 at 6 p.m. ET, an auction tutorial available May 4, and a mock auction slated for May 11th.

Auction 83, which will decide the winners of translator permits in the groups on [this list](#), will begin June 21, 2018. But several requirements and deadlines precede the auction start, many of which require action by participants to avoid disqualification. First, all applicants must update and verify information on FCC Form 175 during a window that opens April 16, 2018 at 12 noon ET, and closes April 26, 2018 at 6 p.m. ET. Upfront payments are due no later than May 31, 2018 at 6 p.m. ET. And finally, an optional mock auction will be held June 19, 2018 before the actual auction gets underway on June 21st. The full Auction 83 [public notice](#) includes these and other important details.

LPTV DISPLACEMENT WINDOW NEARS

On April 10, 2018, the FCC will open a [Special Displacement Window](#) for LPTV and TV translator stations. Applications for stations meeting the displacement criteria can be filed through May 15, 2018. If stations have not done so already, now is the time to call your consulting engineer for assistance in making a displacement determination or preparing the engineering for a displacement application.

Confused? The FCC held a webinar on Wednesday, February 28, 2018 that is available at this [link](#).

CROSS-SERVICE FM TRANSLATOR AUCTION 100 LONG FORM FILING WINDOW

The FCC has announced the list of Auction 100 FM translator applications that are “singletons” (not mutually exclusive with other applicants), and therefore can be granted without having to go through the auction process. That singleton list can be accessed in the excel spreadsheet available at this [link](#).

As the FCC’s recent [notice](#) announced, all applicants on the list must file a Long Form 349 during a filing window that opens April 18, 2018 and closes May 9, 2018. Applications filed before or after the window are not acceptable and will be dismissed. The application filing fee must be submitted as well.

The long Form 349 isn’t as easy as it looks, so start early, and be sure to have your consulting engineer involved so that the information submitted meets the FCC’s requirements. In the last singleton processing window, those who filed early were the first permits granted, so if you’re in a hurry to get your permit, file on the first day.

DATES TO REMEMBER

April 1, 2018

AM & FM Stations in Delaware & Pennsylvania: if five (5) full-time station employment unit employee threshold is met, complete EEO public file report and post in public file and on station website. **If station employment unit has 11 or more full-time employees**, also prepare and electronically file mid-term EEO Form 397 and place/post copy of filed report in public inspection file.

AM & FM Stations in Texas, Tennessee, Kentucky, Indiana: If five (5) full-time station employment unit employee threshold is met, complete EEO public file report and place/post in public file and on station website.

TV & Class A Stations in Texas: if five (5) full-time station employment unit employee threshold is met, complete EEO public file report and post in online public file and on station website, and also prepare and electronically file mid-term EEO Form 397 and place copy of filed report in public inspection file.

TV & Class A Stations in Tennessee, Kentucky, Indiana, Delaware & Pennsylvania: if five (5) full-time station employment unit employee threshold is met, complete EEO public file report and post in online public file and on station website.

April 10, 2018

TV, Class A, AM & FM Stations (commercial & noncommercial): complete 1st quarter 2018 issues/program reports and post to your online public inspection file.

TV & Class A Stations (commercial only): complete and electronically file via LMS the FCC Form 398 Children’s TV Programming Report for 1st Quarter 2018. **Also** compile and post to online public file records relating to station’s compliance with children’s programming commercial limits.

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

TV & Class A Stations Changing Channels in the Post-Auction Repack: prepare and file via LMS the required transition progress report.

NCE Stations Only: for any third-party fundraising conducted in the 1st Quarter of 2018, complete and place in the public file the required disclosure regarding the fundraising effort.

April 10, 2018

LPTV Special Displacement Filing Window Opens

April 12, 2018

EEO Audit Responses Due for stations included in audit list (see article above)

April 16, 2018

Auction 83 FCC Form 175 Remedial/Update Filing Window opens at 12 noon ET

April 18, 2018

Auction 100 FM Translator Long Form 349 Filing Window opens

April 19, 2018

Upfront payments due for Auction 99 applicants

April 26, 2018

Auction 83 FCC Form 175 Remedial/Update Filing Window closes at 6 p.m. ET

May 9, 2018

Auction 100 FM Translator Long Form 349 Filing Window closes

May 15, 2018

Auction 99 begins

LPTV Special Displacement Filing Window closes

May 31, 2018

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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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