



Broadcast Newsletter

IN THIS ISSUE:

HURRICANE SEASON BEGINS.....1

**NPRM ISSUED FOR REVISION OF THE
FM TRANSLATOR INTERFERENCE
RULES - UPDATE.....1**

**FCC OPENS RULEMAKING
PROCEEDING ELIMINATING
BROADCAST LICENSE POSTING
REQUIREMENTS2**

**REGISTER NOW TO PROTECT
YOUR C-BAND RECEIVE-ONLY
EARTH STATION.....2**

**PROMETHEUS FILES AN INFORMAL
OBJECTION TO NEARLY 1000 FM
TRANSLATOR APPLICATIONS2**

**FORM 2100, SCHEDULE G
FILING REQUIREMENTS LIMITED2**

**90-DAY PERIOD FOR BROADCAST
APPLICANTS TO RESOLVE MUTUAL
EXCLUSIVITY FROM INCENTIVE
AUCTION TRANSITION PROCESS3**

DATES TO REMEMBER..... 3-4

HURRICANE SEASON ACTIVITY

The start of hurricane season is technically June 1st. But not this year! The Gulf Coast already experienced its first named storm of the season (Alberto) and it came a week before the official start of hurricane season. Luckily, we dodged that bullet. Of utmost importance are the safety of our staff and families along with maintaining seamless, uninterrupted service to our valued clients. HCCB has a Hurricane Preparedness Plan in place that will enable us to seamlessly service our clients without interruption. In the event an evacuation is necessary, we will post a notice on the firm's website, www.hardycarey.com, advising of our status and the various ways to reach the firms' attorneys and staff. If you are in a hurricane prone area, now is the time to review safety plans for your families, staff and businesses. Make thorough preparations to stay safe this hurricane season!

NPRM ISSUED FOR REVISION OF THE FM TRANSLATOR INTERFERENCE RULES - UPDATE

On May 10, 2018 the FCC issued a Notice of Proposed Rulemaking to streamline FM translator interference complaint and remediation procedures. The NPRM essentially adopts the draft notices that were released several weeks ago without significant revision. The Notice of Proposed Rulemaking available [here](#) on translator interference sets out proposals for the number of listeners required to complain before an interference complaint would be processed, and suggests limiting complaints of interference to those arising within the 54 dBu contour of the full-power station complaining of the interference.

Be sure to have your voice heard. Comments are due 30 days after the date of publication in the Federal Register expected sometime in the near future. Reply comments are due 60 days after the date of publication in the Federal Register.

FCC OPENS RULEMAKING PROCEEDING ELIMINATING BROADCAST LICENSE POSTING REQUIREMENTS

The FCC continues to take great strides in reducing regulatory burdens for licensees (thankfully). At the recent May 10, 2018 meeting, the FCC issued a NPRM asking whether regulations requiring the physical posting of broadcast licenses and related authorizations at certain physical locations are outdated, unnecessary or unduly burdensome. With all of this information now readily available online in the FCC's public databases, it seems the answer is clearly a resounding YES to it being outdated, unnecessary and unduly burdensome...similar to the recently eliminated Main Studio and public inspection file rules.

REGISTER NOW TO PROTECT YOUR C-BAND RECEIVE-ONLY EARTH STATION

On April 19, 2018, the FCC issued a public notice of a temporary freeze on applications for new or modified fixed satellite service earth stations and fixed microwave stations operating in the 3.7-4.2 GHz band, the C-Band. As a limited exception to the freeze, a 90-day window allowing existing entities that own unregistered fixed satellite receive earth stations to register or license them. You can also modify licensed or registered earth stations during the 90-day window.

By registering your satellite receive facility, you will protect that facility from interference when the Commission acts to permit mobile broadband and other uses of the band.

The form to file is FCC Form 312 which needs to be completed and filed online in the [FCC's IBFS system](#). Your FRN and password are needed to log in. Please note that the Commission has waived the need for frequency coordination for these registration applications. To assist you in preparing the application click [here](#) to see a copy of the form and the instructions. A sample completed registration form can be found [here](#). (Note: Question B11 will need to be answered "No"). If you need assistance with these filings, please contact our office.

PROMETHEUS FILES AN INFORMAL OBJECTION TO NEARLY 1000 FM TRANSLATOR APPLICATIONS

On May 16, 2018, Prometheus Radio Project, a pro-LPFM advocate and two other organizations filed an Informal Objection to nearly 1000 pending FM Translator applications. The gist of the Informal Objection is a claim that the Commission did not provide sufficient protection for future LPFMs in its recent AM Revitalization/FM Translator windows. It is our belief that the objection has a number of flaws—including that the objection functions as an untimely attempt to review the AM Revitalization Orders and that the Petitioners have no standing (no connection to the case and no harm suffered) to challenge virtually any of the individual applications.

Interestingly, the Commission, on May 22, 2018 the Commission released a decision on Prometheus' Petition for Reconsideration of the Commission's February 2017 Second Report and Order in the AM Revitalization docket. In that decision, the Commission rejects at least part of Prometheus' assertions in the Informal Objection related to protecting future LPFM applications.

The Commission staff has informally encouraged pending translator applicants to hold off on responding the Informal Objection (hopefully because they intend to dismiss the Objection in full). At the very least, expect that the filing of this Informal Objection will delay the processing and grant of pending transmitter applications.

FORM 2100, SCHEDULE G FILING REQUIREMENTS LIMITED

In a Report and Order released April 13, 2018, the FCC revised Commission rules to require the filing of Form 2100, Schedule G only to those DTV broadcast stations that "actually provided feeable ancillary or supplemental services during the relevant annual reporting period." Thankfully, the Commission again noted the unnecessary burdens on a substantial number of broadcasters (only 12 stations reported revenues from ancillary or supplemental services out of over 6000 stations required to file the Schedule G.) The record also reflected no negative impact on the Commission's ability to comply with the statutory requirements to

collect the fees owed. Public interest is served as more unnecessary and wasteful burdens are eliminated from the broadcaster's regulatory to do list.

90-DAY PERIOD FOR BROADCAST APPLICANTS TO RESOLVE MUTUAL EXCLUSIVITY FROM INCENTIVE AUCTION TRANSITION PROCESS

Commission staff completed initial processing of all applications filed by eligible full power and Class A stations for alternate channels and expanded facilities during the two windows of the post-incentive auction repacking process. Appendix A to the Public Notice released on April 30, 2018 by the Media Bureau lists all of the applications that cannot be granted due to mutual exclusivity.

The identified applicants may submit either engineering amendments to unilaterally resolve their mutual exclusivity, or settlements including negotiated engineering solutions to resolve the mutual exclusivity. The proposals must be submitted within a 90-day period, which ends July 30, 2018, and are submitted as amendments to the pending applications in LMS. The amendments must not create new mutual exclusivity or application conflicts.

DATES TO REMEMBER

June 1, 2018

LPTV and TV Translator Special Displacement Filing Window closes

AM & FM Stations in the District of Columbia, Maryland, Michigan, Ohio, Virginia & West Virginia, Arizona, Idaho, Nevada, New Mexico, Utah & Wyoming: if (5) full-time station employment unit employee threshold is met, complete EEO public file report and place it in the station online public inspection file as well as post on station website.

TV & Class A Stations in Arizona, Idaho, Nevada, New Mexico, Utah and Wyoming: if five (5) full-time station employment unit employee threshold is met, complete EEO public file report and post same in online public file as well as post on station website and prepare **and** electronically file mid-term EEO Form 397 via the License Management System (LMS).

TV & Class A Stations in the District of Columbia, Maryland, Virginia, West Virginia, Michigan & Ohio: if five (5) full-time station employment unit employee threshold is met, complete EEO public file report and post same in online public file.

June 14, 2018

FM Translator **Auction 100** Settlement Filing Window Closes

June 19, 2018

FM Translator **Auction 83** Mock Auction

June 21, 2018

FM Translator **Auction 83** Begins

July 10, 2018

TV, Class A, AM & FM Stations (commercial & noncommercial): complete 2nd quarter 2018 issues/program reports. **TV & Class A** stations post the report to your online public file. **AM & FM Stations** place in your public file (if already moved online, place in online public file).

TV & Class A stations (commercial only): complete and electronically file via LMS the FCC Form 398 Children's TV Programming Report for 2nd Quarter 2018. 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 TV Stations Only: complete and post to your online public file a certification of ongoing Class A eligibility.

Full power and Class A stations transitioning: complete and electronically file transition update via LMS Form 2100 Sch. 387. Your report should be automatically linked by the FCC to your online public file.

July 18, 2018

Broadcast Stations using C Band earth stations to receive programming or for other uses should register with the FCC to protect and maintain their accommodations in that band.

July 30, 2018

Full power and Class A: Engineering amendments or settlements to resolve mutual exclusivity due (filed as an amendment in LMS) from identified full power and Class A applicants for alternate channels and expanded facilities relating to the post-incentive auction repacking process.

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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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