



Broadcast Newsletter

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HCCB AT NAB CONVENTION

HCCB Managing Partner Joe Chautin will be in Las Vegas, Nevada for the 2019 National Association of Broadcasters Convention from April 6-10. If you'd like to meet with Joe at the convention, please email him ahead of time at jchautin@hardycarey.com. At the convention, Joe can be reached by email or cell 504-439-2350.

RADIO LICENSE RENEWALS SET TO BEGIN

On March 15, 2019, the FCC issued its first license renewal "reminder" [public notice](#) for radio stations in the District of Columbia, Maryland, Virginia and West Virginia. Stations there will need to file their renewal applications no later than June 3, 2019, but must begin pre-filing announcements on April 1, 2019 (and again on April 16, May 1, and May 16).

The FCC's notice also advised that the Form 303-S would not be available for use until May 1, 2019. We have since learned from FCC staff that the reason the Form 303-S is not available is because it is being relocated from the Consolidated Database System (CDBS) to the License Management System (LMS). That's right, stations will have to use LMS to file for license renewal, introducing a bit of a learning curve. We also learned that the FCC's announcement about the delay in form availability was prompted by a station that filed its renewal application early, using the form in CDBS. The FCC promptly dismissed that application, directing them to file on the new form when it became available.

Despite being migrated to LMS, there should not be any changes in the renewal form questions (you can review those [here](#)) but stations should be aware of subtle tweaks in question language.

The Bureau's notice announces that further guidance on license renewal is coming in a few weeks. Pay close attention to your station's filing date – a late filed renewal application will get you a base fine of \$3,000. If a renewal application is filed after a station's license expires, an additional base fine of \$4,000 applies.

FCC ISSUES LPTV DISPLACEMENT REIMBURSEMENT ORDER

At long last, the FCC has now adopted a [Report & Order](#) on the eligibility and process for displaced LPTV and TV translator stations to receive reimbursement for costs reasonably incurred in the construction of their new facilities.

A displaced station must meet certain criteria to be eligible for reimbursement. First, it must have filed an application within the 2018 Special Displacement Filing Window (4/10 – 6/1). Second, it must have received a construction permit arising from a grant of that application, and third, been licensed and transmitting for at least 9 of the 12 months prior to April 13, 2017.

A displaced station seeking reimbursement will be required to file an Eligibility Certification and Reimbursement Form by an announced future deadline. The form will be filed in LMS and will be a modified version of Form 2100, Schedule 399. Stations will have to certify that they meet the eligibility criteria, including providing supporting documentation to prove operation during the required pre-April 2017 period, which could, by way of example, include evidence of programming aired by the station during the relevant period such as program guides, electric power bills, or other evidence. *Now is a good time to locate such documentation.* Stations will also have to list their existing equipment and estimated replacement costs.

Stations that have already purchased equipment will be able to submit those invoice amounts instead of estimates. After submitting these forms, the FCC will review all estimates and make a decision on what percentage of expenses will be allocated (i.e., it is possible that there will not be enough in the reimbursement fund to reimburse all displacement costs). From there, the FCC will allocate funds in tranches to stations for their drawdown and use. Stations will have to file Form 1876 to create a reimbursement account, specifying the bank account that will receive reimbursement funds.

While the news is good that monies will be available for reimbursement, the process can be time consuming and detailed. Bring your patience with you. It will be needed.

EEO IS MOVING

On March 15, 2019, the FCC Media Bureau EEO functions were officially [moved](#) to the Enforcement Bureau. EEO Audits and any enforcement actions will now be handled there. The FCC had voted for this move last year, but certain procedural steps were not completed until now.

Broadcasters should not notice a difference in the way they interact with the FCC on routine EEO matters. EEO public file requirements and website posting requirements will remain the same. EEO audits are now responded to by simply uploading materials to the online public file, so that won't change either.

One possible wrinkle could occur at license renewal time. Review of a station's EEO compliance for the prior two years will be done by Enforcement Bureau personnel, with Media Bureau folks handling the rest of the renewal process. In the past, when the Media Bureau had to coordinate with Enforcement related to a complaint that Enforcement may have been handling, it usually meant a delay in license renewal, sometimes just for coordination purposes.

While the Media Bureau will be granting license renewals, it must first get an "all clear" from Enforcement on EEO for each station. We are hopeful that the EEO team in Enforcement will be able to complete reviews for EEO compliance in a timely and responsive manner so that renewal delays can be avoided.

LPTV FREEZE LIFTED FOR DISPLACEMENT AND DIGITAL COMPANION CHANNEL APPLICATIONS

Beginning April 18, 2019, LPTV and TV translator stations will be able to file displacement applications and digital companion channel applications, pursuant to this recently issued [public notice](#) announcement.

Except for the narrow lift of the displacement application freeze for stations that were impacted by the full power and Class A repack, the freeze on displacement applications has been in effect since 2014. Applications for digital companion channels for stations that are still operating in analog have been frozen since 2017.

NCE/LPFM POINT SYSTEM NPRM COMMENT DEADLINES SET

The FCC has [announced](#) the deadlines for comments in its rulemaking proceeding to revise how it awards NCE and LPFM licenses. Comments are due no later than May 20, 2019 with reply comments due June 18, 2019. The rulemaking sets out several proposals designed to improve the rules and procedures to select and license competing applications for new noncommercial educational broadcast stations and low power FM stations. Comments can be filed electronically through the FCC's electronic comment filing system.

DATES TO REMEMBER

April 1, 2019

AM, FM, TV and Class A Stations in Delaware, Indiana, Kentucky, Pennsylvania, Tennessee and Texas: 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. Under FCC EEO rules, a full-time employee is one that works 30 hours per week, on average.

TV & Class A Stations in Delaware and Pennsylvania: if five full-time employee threshold is met, prepare **and** electronically file mid-term EEO Form 397 and place copy of filed report in your public inspection file. Reminder – the Form 397 requires that the station's last two EEO public file reports be submitted to the FCC. Under FCC EEO rules, a full-time employee is one that works 30 hours per week, on average.

Deadline for TV and radio stations included in the FCC's EEO random audit to upload their responses to the station online public inspection file.

Radio Stations in Washington D.C, Maryland and Virginia: broadcast first pre-filing renewal announcement, and do so again on April 16, May 1, and May 16

April 10, 2019

TV, Class A, AM & FM Stations (commercial & noncommercial): complete 1st Quarter 2019 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 1st Quarter 2019, and also compile and post to the public file records relating to the station's compliance with children's programming commercial limits for 1st Quarter 2019.

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 (unless the station has already transitioned).

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

April 12, 2019

Transition Deadline for Post-Auction Phase Two TV and Class A stations to cease operations on pre-auction channels and commence operations on post-auction channels

April 13, 2019

First day of post-auction new channel testing for Phase Three TV and Class A stations.

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