



Broadcast Newsletter

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ANNUAL REGULATORY FEES DUE IN SEPTEMBER

While the final fee amounts and filing window have not yet been announced, all commercial broadcasters will have to pay annual FCC regulatory fees for Fiscal Year 2020 this September. Typically, the final regulatory fee order is released in the first week or so of September, and in conjunction with that release, the FCC's Fee Filer system is activated so that stations can find the amounts due. The Fee Filer system is also where stations will electronically submit fees by the deadline.

This [link](#) will take stations to the Fee Filer system, where the licensee's FRN or CORES username will be needed to log in. Currently, the alert in red letters at the top of the page notes that the module for making FY 2020 regulatory fee payments is not yet available. Check back periodically; at some point, it will change to allow the viewing of fees and payment submission. Last year, the *de minimis* threshold was \$1,000, so if a station regulatory fee (or combined fees for one licensee) was lower than that, no amount had to be paid. It's unknown whether the threshold amount will remain at \$1,000 or not, and of course fees for stations that were below the threshold last year may have gone up, so be sure to log in and double check your fee amount.

C-BAND LUMP SUM REIMBURSEMENT ELECTION DEADLINE NEARS

The FCC has extended the deadline for C-Band earth station registration holders to make an election for a lump-sum reimbursement for costs associated with relocating away from spectrum designated for auction to wireless 5G providers. Registrants have the option of choosing (1) an actual-cost reimbursement method where satellite carriers will receive most of the funds to purchase new equipment or modify existing equipment, and the registrant would file for and receive reimbursement for certain costs, or

(2) an alternative lump sum reimbursement amount that makes the registrant responsible for purchasing and installing equipment necessary to move to the upper portion of the C-Band.

Those making a lump sum election must do so no later than September 14, 2020 by submitting certain required information and certifications into the FCC's electronic comment filing system. Details on the information required and submission instructions are available in paragraphs 41-42 of this [Public Notice](#). Lump sum amount details can be found on pages 18-19 of the [Cost Catalog](#). To determine whether a C-Band registration is on the FCC's incumbent list (one of the criteria for lump sum reimbursement eligibility), click [here](#) to access a searchable incumbent list excel spreadsheet.

POLITICAL FILE COMPLIANCE REMAINS A HOT-BUTTON ISSUE

Since our article in last month's newsletter about the FCC's new enforcement actions for political file non-compliance in connection with license renewal, at least another 30-40 station owners have entered into consent decrees that require future reporting but do not assess monetary forfeitures. While some of the latest consent decrees contain some nuances (such as allowing stations to adopt compliance manuals from national broadcast organizations), the scope and reporting requirements remain the same. Signing a consent decree results in the pending license renewal application being granted, barring other issues with the renewal application.

It is our understanding that a *de minimis* amount of political file non-compliance may provide an "escape" from having to either sign a consent decree or elect a monetary forfeiture route, but we urge all stations to pay particular attention to political file compliance. As we

mentioned last month, the time of a political file uploads is critical. The information should be uploaded as soon as requests are made/orders placed or a use is made of the station. The rule says "as soon as possible" and defines that as "immediately absent unusual circumstances." The FCC is interpreting that to mean within 24 hours.

While we're on the subject of political file compliance, don't forget that September 4, 2020 marks the opening of the 60-day lowest unit rate period for the November 3, 2020 general election. Also, remember that lowest unit rates apply to political candidates, but not to political action committees or non-candidate interest group ads.

If you have questions about station political ad or public file requirements, we are available to assist.

RADIO DUPLICATION RULE ELIMINATED

On August 6, 2020, the FCC [voted](#) to eliminate the radio duplication rule for both AM and FM broadcast radio services. Some variation of the rule has been on the FCC's books since 1964.

The rule prohibited commonly owned broadcast radio stations from duplicating a certain percentage of programming when stations operated in the same service and geographic area. The FCC cited several reasons for eliminating the rule, including helping struggling stations stay on the air, facilitating a potential voluntary digital transition in the AM service, and ultimately allowing stations to improve service to their communities.

2021-23 CARRIAGE ELECTION DEADLINE IS OCTOBER 1

October 1, 2020 is the deadline for television stations to make their triennial carriage election with cable and satellite providers that will govern their carriage status on those systems during the 2021-23 carriage cycle, which begins January 1, 2021 and ends December 31, 2023.

The rules on how to make carriage elections were changed in this [2019 FCC Order](#) with further details in this [February 2020 Public Notice](#). This time, instead of finding addresses, preparing and then sending separate election letters to every MVPD via certified mail, full power commercial and NCE television stations (and Class-A stations eligible for must-carry) will simply prepare and place a single *election statement* in the station's online public file (in the "Must-Carry or Retransmission Consent" folder, which can be found in the "More Public Inspection Files" section). If a station is going to elect mandatory carriage for all MVPD systems in its DMA, it can simply specify that in a uniform, blanket election statement. Or if a station plans to elect mandatory carriage on some systems, and retransmission consent on others, the single election letter uploaded to the public file can delineate those differences for the various MVPD systems in its DMA. A failure to upload an election statement by the deadline will result in a default election to "must-carry" status, *and* a violation of the broadcast public file rule (which specifically requires that the statement be timely uploaded).

If a station, for any MVPD, is changing its election choice for the 2021-23 carriage cycle from the one it used for the 2017-20 election cycle (i.e., from must-carry to retransmission consent), an *election change notice* for those MVPDs must be completed, uploaded to the public file as an attachment to the single election statement, and emailed to only that MVPD, copying a special FCC notification email (electionnotices@fcc.gov). The same October 1, 2020 carriage election deadline applies to these election change notices, which must include the station's call sign, community of license, DMA, specific change in election status, an email address, phone number, name of a station contact person, and whether the station is changing its election for some or all of the MVPD's systems.

If a station does not receive a response verifying receipt of its change notice, or gets an indication that the message was not delivered, it must call the MVPD to confirm receipt or arrange re-delivery. If the email is timely/properly sent to the MVPD email address, and no verification is possible, the change notice will still be considered to have been properly delivered if it was also properly copied to the FCC's election notice email and is timely placed in the public file. Remember, this additional "election change notice" step is only required if a station is changing its election from the last cycle for a MVPD, and then need only be sent to that MVPD.

To eliminate confusion, we recommend that at the time a station uploads its carriage election statement, all prior carriage elections in the file be removed.

After the October 1, 2020 deadline, should a station receive a carriage refusal notice, or any other notice that places carriage of the station in doubt (such as a signal strength issue), certain deadlines may be triggered to file carriage complaints with the FCC. Stations should regularly monitor any emails received at the carriage election email address provided earlier this summer (full power stations did so via the online public file; Class A and LPTV's eligible for must-carry simply rely upon the email address for the station in LMS).

DATES TO REMEMBER

September 4, 2020

Sixty-day **Lowest Unit Rate** period for the November 3, 2020 general election opens.

September 14, 2020

Extended deadline for **C-Band registration holders on the FCC's incumbent list** to file election for lump sum reimbursement in lieu of actual cost reimbursement. Lump sum election is optional, not mandatory.

September 2020

Fiscal year 2020 annual regulatory fees for **commercial broadcast stations** will be due sometime during a yet to-be-announced window in September, 2020.

October 1, 2020

Deadline for all **Full Power Commercial and Noncommercial Television** stations to place their 2021-23 carriage election statement in the public file, and deadline for all **Class-A and Low Power Television** stations eligible for mandatory carriage to send notice of their 2021-23 carriage election via email to MPVD providers

Radio Stations located in Iowa and Missouri – deadline to file license renewal application and EEO program report, and air first post-filing license renewal announcement; additional post-filing announcements are due October 16, November 1, November 16, December 1 and December 16.

Television Stations located in Florida, Puerto Rico and the Virgin Islands – deadline to file license renewal application and EEO program report, and air first post-filing license renewal announcement; additional post-filing announcements are due October 16, November 1, November 16, December 1 and December 16.

Radio and TV Stations located in Florida, Puerto Rico, Virgin Islands, Iowa, Missouri, Alaska, American Samoa, Guam, Hawaii, Marianas Islands, Oregon, and Washington, : if five (5) full time employee threshold is met, prepare EEO public file report covering the period from October 1, 2019 – September 30, 2020 and post it to the station online public inspection file and on the station website

October 10, 2020

TV, Class A, AM & FM Stations (commercial & noncommercial): complete 3rd Quarter 2020 issues/program lists and upload to online public file.

TV & Class A stations (commercial only): note that there is **no** requirement to compile and post to the public file records showing compliance with children's programming commercial limits for the 3rd quarter of 2020. *This requirement has transitioned to an annual certification, with the certification for all of 2020 due on January 31, 2021. However, we recommend that you continuously confirm that commercial limits restrictions are being met.*

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

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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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