



Broadcast Newsletter

IN THIS ISSUE:

**JOE CHAUTIN TO BE AT
NAB LAS VEGAS1**

2021 REG FEES DUE BY 9/24.....1

**BURIED IN FCC REQUIREMENTS?
.....2**

**MEDIA BUREAU CONTINUES EEO
AUDITS2**

**AUCTION 109 WINNERS
ANNOUNCED2**

**Ready for the November NCE
Radio Filing Window?2**

DATES TO REMEMBER.....3

JOE CHAUTIN AT NAB LAS VEGAS

Our firm’s managing partner, Joe Chautin, will be in Las Vegas, Nevada from October 9-12 for the rescheduled National Association of Broadcasters Show. If you or any of your employees are headed to the convention, Joe is available to meet, and can be reached at ichautin@hardycarey.com.

2021 REGULATORY FEES DUE BY SEPTEMBER 24TH

The FCC has adopted its final [report and order](#) for 2021 Annual Regulatory Fees, and in a break for commercial broadcasters, agreed to avoid substantial increases in regulatory fees (especially for radio). The Media Bureau has now issued a [public notice](#) announcing that the Fee Filer system is open for fees to be paid, and that the deadline for making the payments is 11:59 p.m. EDT September 24, 2021.

Regulatory fees apply to commercial broadcast stations, unless exempt. Stations can be exempt if the licensee is non-profit and has submitted its proof of non-profit status to the FCC, or if the licensee is a governmental entity. A licensee with total regulatory fees less than \$1,000 is also exempt from paying regulatory fees. Stations that are still being affected by the COVID-19 pandemic can still opt to pay fees in portions under an installment plan.

As a reminder, regulatory fees must be paid for all broadcast facility licenses granted on or before October 1, 2020, and for initial construction permits that were granted on or before October 1, 2020 for AM/FM radio stations, VHF/UHF broadcast television stations, and satellite television stations.

Fees paid later than the required deadline will incur an automatic 25% penalty. We will be in touch with clients that owe fees within a few days after fee and deadline information becomes available.

Use this [link](#) to log in and pay regulatory fees. For details on what stations owe, see this [link](#).

BURIED IN FCC REQUIREMENTS?

Need a chuckle? We know that broadcasters can often feel like they are buried under a mound of FCC rules and requirements. Well, for at least a brief period on August 16th, the Commission appeared to confirm that feeling. While logging in to a station's online public file to upload an item, we noticed an FCC message banner at the top of the screen that warned of on and off issues with the system. But instead of stating that the issues would be intermittent, the message instead warned that "*users may experience internment errors,*" which caused us to laugh out loud. Every now and again, humor helps us to see reality.

Tip: if you stay ahead of filing requirements and calendar good reminders, you won't feel buried -- despite what any FCC warning message tells you.

MEDIA BUREAU CONTINUES EEO AUDITS

In keeping with its usual twice-a-year schedule for EEO Audits, the FCC's Enforcement Bureau issued a new list of broadcast stations selected for an audit of their EEO compliance. This audit follows an audit announced in March of this year.

A total of 166 stations were selected for this new audit, and responses must be uploaded to the station online public file no later than September 20, 2021. Check the notice and list for your station at this [link](#). If stations were recently audited, either in a random audit or as part of license renewal, the FCC will take excuse the need to respond. Station employment units with fewer than five full time employees must still respond, but the information required is far less than for stations with 5 or more full-timers.

AUCTION 109 WINNERS ANNOUNCED

On August 12, 2021, the FCC issued a [public notice](#) announcing the conclusion and winners of the AM and FM construction permits in Auction 109. The winners [list](#) accompanied the notice.

Certain payments for the winning bidders were due August 26.

Long form applications must be filed in LMS no later than 11:59 pm EDT on September 13, 2021. The FCC was able to activate a long form application using the FRN of the winning bidder so that the application is only accessible in LMS to the winning bidder when logged in with their FRN. An initial error in the filing fee for the long form has been fixed. Auction winners filing their long form will have to make a \$3,870 fee payment, which is separate and apart from any amounts due for the permit.

Interestingly, only 97 of the 139 channels were sold (all FM), leaving 38 FM channels and all four of the AM permits unsold. Most of the unsold permits were in rural or mountainous areas and were allotted to smaller communities.

READY FOR THE NOVEMBER NCE RADIO FILING WINDOW?

Last month, the FCC announced the [procedures](#) for the November 2-9, 2021 filing window for new NCE radio stations, and made the new form for the window available in LMS on August 2, 2021. Applicants interested in filing applications during the window (there is a limit of 10) should have already begun working on applications rather than wait to do so during the short seven-day filing window. The applications are complex and require specific information and supporting documentation for applicants, all of whom must complete the sections claiming points and computing possible tiebreakers.

New reasonable assurance information for transmitter sites/towers must be supported with contact information (certification is no longer the standard). Applicants should be sure that the specified community of license actually meets the FCC's community of license criteria. During the last filing window 15 years ago, several applicants that won on points later lost the permit when applications were challenged because communities specified did not meet the minimum criteria.

With only about two months remaining until the filing window opens, time is getting short. Plan

ahead so that you have time to accurately complete forms and include all required support. Rushing is a recipe for mistakes.

DATES TO REMEMBER

September, 2021

All commercial broadcast stations: Unless exempt because the licensee is non-profit or governmental, or because the total of all regulatory fees for a licensee are below the \$1,000 *de minimis* threshold, annual regulatory fees are due in September. The Media Bureau will soon announce the specific time window and deadline for fees to be paid, but typically it is during the second half of the month. Check the FCC's website or fee filer for updates.

September 13, 2021

Auction 109 Winners: deadline to file long form application for winning bid facilities.

September 20, 2021

Broadcast Stations Selected for EEO Audit: deadline for all stations selected in the August 6, 2021 EEO Audit to upload their response and supporting documentation to their public files.

September 27, 2021

All Broadcast Stations Required to Have EAS Equipment: If not yet completed, this is the deadline to file ETRS Form 3 for the 2021 National EAS Test conducted August 11.

October 1, 2021

Radio Stations located in Alaska, American Samoa, Guam, Hawaii, Marianas Islands, Oregon and Washington – deadline to file license renewal application and EEO program report; on-air/online announcements and public file certifications are required under the new local public notice rule.

Television Stations located in Iowa and Missouri – deadline to file license renewal application and EEO program report; on-air/online announcements and public file certifications are required under the new local public notice rule.

Radio and TV Stations located in Alaska, American Samoa, Guam, Hawaii, Marianas Islands, Oregon, Washington, Iowa, Missouri, Florida, Puerto Rico and the Virgin Islands: if five (5) full time employee threshold is met, prepare EEO public file report covering the period from October 1, 2020 – September 30, 2021, upload it to the station online public inspection file and post it on the station website.

All Commercial and Noncommercial Broadcast Stations, except for LPFM, TV Translator, or Radio Translator Stations: First date to file biennial ownership report in LMS. Information must be current as of October 1, 2021. The deadline for submitting the report is December 1, 2021. For commercial station licensee entities, the new filing fee of \$85 per station will apply.

October 5 – November 9, 2021

Filing Freeze: the FCC will not accept FM reserved band minor change applications or FM non-reserved band adjacent channels (channels 221 –223) and intermediate frequency (IF) (channels 254-274) minor change applications after 11:59 p.m. EDT, October 4, 2021 through the close of the NCE filing window ending at 7:00 pm EST on November 9, 2021.

October 8, 2021

Repacked TV Stations in Phases 1-5. This is the deadline to submit all remaining invoices and supporting documentation using the Reimbursement Form 399, and initiate interim close-out procedures. This deadline includes stations that were authorized to repack earlier than Phase 1.

November 2-9, 2021

Filing Window for New NCE-FM Stations. The window will open at 12:01 am EDT on Tuesday, November 2, 2021, and close at 6:00 pm EST on Tuesday, November 9, 2021.

© 2021 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