



Broadcast Newsletter

IN THIS ISSUE:

**BIENNIAL OWNERSHIP REPORT
FILINGS DUE BEGINNING OCT 1 1**

**FCC SEEKS INFO ON ACCESSIBILITY
OF CHILDREN’S TV PROGRAMMING..... 2**

**REIMBURSEMENT DEADLINE
APPROACHES FOR PHASE 1-5
REPACKED TV STATIONS 2**

**NOVEMBER 2-9 NCE RADIO FILING
WINDOW FAST APPROACHING 2**

**UPTICK OF ADMONISHMENTS, CONSENT
DECREES AND FORFEITURES DURING
LICENSE RENEWAL 3**

**LIMITED RADIO FILING FREEZE
BEGINS OCTOBER 5..... 3**

DATES TO REMEMBER..... 3-4

BIENNIAL OWNERSHIP REPORT FILINGS DUE BEGINNING OCTOBER 1

October 1 marks the start of a two-month window in which all commercial and noncommercial broadcast stations must prepare and file a biennial ownership report with the FCC. Only low power FM stations, TV translator stations, and FM translator stations are exempt from the requirement.

Reports must be filed electronically in the FCC’s Licensing and Management System. The licensee’s FRN (or an authorized CORES username) must be used to log in to the system. All information reported in the form must be current as of October 1, 2021. In cases where a licensee is owned by one or more parent entities, those organizations must also file reports in addition to the licensee. Organizational charts are required to explain ownership structures, where applicable.

One section of the ownership report requires the listing of certain contracts that a licensee may be party to. The FCC’s rule mandating ownership reports specifically refers to Section [73.3613](#) of the FCC’s rules for details on which contracts must be reported. Redacted copies or a list of those contracts must be in a station’s online public file.

The FCC is closely scrutinizing ownership reporting during the license renewal process, and took the unusual step in June 2021 of issuing a [reminder and warning](#) about incomplete or inaccurate ownership reporting by stations. The FCC compiles data on broadcast station ownership from the biennial filings, and recently issued its [Fifth Report](#) highlighting current ownership and trends. Commissioner Geoffrey Starks and Acting Chairwoman Jessica Rosenworcel issued separate statements after the Fifth Report was published, noting low minority and female ownership and urging accuracy in reporting as well as renewed efforts to encourage diversity of ownership.

The Media Bureau also recently issued a new [reminder](#) that the biennial ownership reporting filing window opens October 1 and that all reports must be filed no later than December 1. The reminder also announced that the Bureau

will host a public information session on October 5, 2021 at 2:00 p.m. Bureau staff will present an overview of biennial Forms 323 and 323-E and respond to questions raised by online attendees. This session is designed to assist both novice and experienced filers. The October 5, 2021 information session will be convened in an online format and will be available to the public via live feed from the FCC's web page at www.fcc.gov/live. The public may also follow the meeting on the Commission's YouTube page at <https://www.youtube.com/user/fccdotgovvideo>. The video will remain available after the session. Detailed information on the ownership report forms and requirements can be reviewed at this [link](#).

FCC SEEKS INFORMATION ON ACCESSIBILITY OF CHILDREN'S TV PROGRAMMING

The FCC issued a September 7 [Public Notice](#) requesting input on the current accessibility of children's television programming to children with disabilities. Comments are due October 7; reply comments are due November 8.

Recent changes to the children's television programming requirements have created some accessibility concerns because newly allowed short-form programming and optional use of multicast streams for some programming potentially mean that programs become exempt from closed captioning requirements. The FCC is unable to independently assess the extent of closed captioning in such instances, which resulted in its request for comment. One potential outcome of this proceeding may be changes to the closed-captioning rules for certain children's television programming.

REIMBURSEMENT DEADLINE APPROACHES FOR PHASE 1-5 REPACKED TV STATIONS

The FCC has issued a new [Public Notice](#) reminding full power and Class A television stations that were assigned new channels and transitioned in Phases 1-5 of the post-television auction repack to submit all remaining reimbursement invoices no later than October 8, 2021. To do so, a station must file a final Form 399 in LMS submitting all remaining

invoices for reimbursement and certifying that its request for reimbursement is final. This submission will initiate interim close-out procedures for the station, and allow the FCC to process and complete the reimbursement process. While limited extensions of the October 8th deadline may be possible, the circumstances would have to be extraordinary.

The Notice includes a reminder that stations in all phases can initiate close-out procedures as soon as construction is complete. The 444 repacked stations assigned to Phases 6-10 have a March 22, 2022 deadline to submit all remaining invoices and initiate interim close-out procedures. All MVPDs, FM stations, and LPTV/translator stations who intend to seek reimbursement must submit all remaining invoices and supporting documentation using the Reimbursement Form, and initiate interim close-out procedures by September 5, 2022.

If an entity does not plan to submit any invoices for reimbursement, it should contact the Fund Administrator immediately to close out their accounts. Entities failing to file any invoices or initiate interim close-out procedures by the invoice filing deadline assigned to that entity will be closed out of the reimbursement program on that filing deadline date, and any allocations made to that entity's account will be returned to the Fund and available for allocation to other entities in the reimbursement program.

NOVEMBER 2-9 NCE RADIO FILING WINDOW FAST APPROACHING

Parties interested in filing for a new noncommercial educational radio station during the upcoming November 2-9 filing window should have already begun working on applications in LMS. The applications require detailed information and pre-filing actions/verifications, and are time-consuming. In addition, certain aspects of the process are complicated and require qualified engineering and legal input. Errors make it easy for the FCC to dismiss applications, as alluded to more than once in the announced [procedures](#).

Applicants are limited to filing 10 applications in the filing window. That limit applies to attributable

parties as well – i.e., an applicant and all parties attributable to that applicant (directors, officers) together have a limit of 10 applications. If board members or officers serve on boards of other possible filers in the window, be sure to confirm whether those other entities are participating in the filing window in order to avoid going over the 10-application limit.

A separate exhibit must be provided in the application detailing the new reasonable assurance information for transmitter sites/towers. The full name of the person contacted, the person's telephone number, and whether the contact person is the tower owner, agent, or authorized representative must be uploaded as an exhibit to the application.

Applications cannot be filed until the first day of the filing window. LMS has been programmed to prevent early filings, which avoids wasted effort and dismissed applications.

UPTICK OF ADMONISHMENTS, CONSENT DECREES AND FORFEITURES DURING LICENSE RENEWAL

Recent weeks have seen a decided uptick in the number of actions being taken against broadcast stations during the license renewal process.

Several TV stations have been admonished for late uploads to the online public file, like this [one](#) that had 11 issues/programs lists uploaded to the station public file between one day and one month late.

A number of notices of apparent liability for monetary forfeitures have also been issued in recent weeks, including a \$7,000 [fine](#) for not timely filing a renewal application and unauthorized operation, and a \$3,000 [fine](#) for 10 late uploads of issues/programs lists to the public file, 2 of which were more than a year late, 3 of which were between one month and one year late, and 5 of which were between one day and one month late.

Consent decrees have continued as well, with multiple stations agreeing to them in exchange for license renewal. Most often, consent decrees involve situations with numerous late uploads to the

station public file and other related compliance issues, as reflected [here](#) and [here](#). Decrees do not normally include fines, but do require heavy post-renewal regular reporting to the FCC on compliance, and self-reporting of any violations during the decree reporting period.

LIMITED RADIO FILING FREEZE BEGINS OCTOBER 5

In connection with the FCC's scheduled November 2021 filing window for new noncommercial FM radio stations, a limited application filing freeze will begin on October 1 and continue through the close of the filing window on November 9. The freeze includes all reserved band minor change applications and amendments, as well as minor change applications and amendments for non-reserved channels 221, 222, 223 and IF channels 254-274.

Freezes are common before filing windows. They promote transparency and predictability for window filers, and provide time for applicants and consulting engineers to verify spectrum availability.

In the new LMS filing system, the FCC has the ability to disable the ability of certain stations to file minor modification applications, and we anticipate that the FCC will use that function for this freeze. As a result, all noncommercial stations and the commercial stations on the non-reserved band channels listed above will likely get a "cannot be filed at this time" message if they attempt to load a minor modification application during the freeze period.

DATES TO REMEMBER

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.

October 10, 2021

TV, Class A, AM & FM Stations (commercial & noncommercial): deadline to complete 3rd Quarter 2021 issues/program lists and upload to online public file.

Class A TV Stations Only: deadline to complete and post to your online public file a 3rd Quarter 2021 certification of ongoing Class A eligibility.

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.

December 1, 2021

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

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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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