



Broadcast Newsletter

IN THIS ISSUE:

ONE DAY LEFT TO FILE 2021 BIENNIAL OWNERSHIP REPORTS..... 1

1,282 APPLICATIONS FILED IN NOV 2-9 NCE-FM RADIO FILING WINDOW; 60-DAY SETTLEMENT WINDOW BEGINS 1

ANNUAL CHILDREN’S TV REPORT AND COMMERCIAL LIMITS DUE IN JANUARY..... 2

FCC ANNOUNCES 2022 AUCTION OF FULL POWER TV STATION CONSTRUCTION PERMITS 2

STATION WEBPAGE OPIF WEBSITE LINK ISSUES..... 3

FM DIRECTIONAL ANTENNA RULEMAKING..... 3

NEXT GEN TV RULE CHANGES PROPOSED..... 3

DATES TO REMEMBER..... 3-4

ONE DAY LEFT TO FILE 2021 BIENNIAL OWNERSHIP REPORTS

Broadcast stations have one more day to file 2021 biennial ownership reports, which are due no later than December 1. FCC staff members have confirmed that unlike in previous years, the FCC will not be extending the deadline to file 2021 reports, so if yours has not yet been filed, do so by the deadline to avoid fines.

All commercial and noncommercial broadcast stations must 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. Detailed information on the ownership report forms and requirements can be reviewed at this [link](#).

1,282 APPLICATIONS FILED IN NOVEMBER 2-9 NCE-FM RADIO FILING WINDOW; 60-DAY SETTLEMENT WINDOW BEGINS

The FCC received a total of 1,282 applications in the recent one-week filing window for new NCE-FM radio station construction permits. Of that number, [883 applications](#) propose parameters that are mutually exclusive with other applications, consisting of 231 total groups that will be processed under the FCC’s comparative analysis rules unless applicants enter into settlement agreements or file technical amendments to cure conflicts. The FCC [announced](#) a 60-day settlement window ending January 28, 2022 for applicants to file technical amendments or settlement proposals, and will expedite the processing of all complete and rule-compliant settlement agreements and technical amendments filed by that deadline.

A few hundred applications proposed parameters that did not conflict with other applicants, and these “singleton” applications are gradually being accepted for filing via an FCC public notice that announces a 30-day period to file petitions to deny against the application. Singleton applications have been reviewed by the FCC for compliance

with its technical rules. The public notice accepting singleton applications for filing triggers the local public notice requirements for applicants to post an online announcement about the filed application for 30 days.

Applicants were limited to filing 10 applications in the filing window, and some of the 1,282 total applications will be dismissed as a result of applicants that filed more than the limit, or others that proposed facilities that violated the FCC's technical rules.

For applicants that are considering technical amendments, those can be filed as part of a settlement agreement or unilaterally. Those amendments will be processed under the NCE first-come, first-served cut-off rule. The FCC lifted its temporary freeze on application amendments as of 6:00 p.m. EST November 29, 2021, so technical amendments can be filed immediately.

Detailed procedures for resolving conflicts are set forth in the FCC's November 29, 2021 [public notice](#) announcing the start of the 60-day settlement window.

ANNUAL CHILDREN'S TV REPORT AND COMMERCIAL LIMITS CERTIFICATIONS DUE IN JANUARY

In January 2022, commercial full power and Class-A TV stations will have to prepare and file children's television reports for 2021 and upload children's television commercial limits certifications to their public file for 2021. The actual deadline is January 30, 2022 (which lands on a Sunday so it will roll to January 31, 2022 under the FCC's rules). The form can be loaded and worked on now in LMS, but filing of the form will not be enabled until January 1. Failure to timely file the report can result in fines during license renewal.

Commercial limits compliance is an ongoing requirement, but is documented once annually by stations and uploaded to the station online public file. Stations should conduct detailed reviews of their compliance for the year before uploading documents in support. The FCC's rules require that stations limit the amount of "commercial matter" appearing in programs aimed at children 12

years old and younger to 12 minutes per clock hour on weekdays and 10.5 minutes per clock hour on the weekend. The definition of commercial matter includes not only commercial spots, but also (i) website addresses displayed during children's programming and promotional material, unless they comply with a four-part test, (ii) websites that are considered "host-selling" under the Commission's rules, and (iii) program promos, unless they promote (a) children's educational/informational programming, or (b) other age-appropriate programming appearing on the same channel.

FCC ANNOUNCES 2022 AUCTION OF FULL POWER TV STATION CONSTRUCTION PERMITS

On November 19, 2022, the FCC [announced](#) its plans for a June 2022 auction of [27 construction permits](#) for full power television stations, most of which are located in western states. The permits are for specific channel allotments contained in the Table of Television Allotments and assigned at the indicated communities for which there currently is not a licensee.

The FCC's notice proposes competitive bidding rules for the auction, with comments due December 13, 2021 and reply comments due December 23, 2021. The minimum opening bid and upfront payment amounts can be commented upon. Most start at \$200,000, with three at \$500,000 and one at \$1,000,000.

Interested parties should begin exploring tower/transmitter site options now given that site options may be limited due to the location of the allotments.

No specific deadlines have been announced for the auction, which has been designated Auction 112. We expect a public notice with the auction rules and deadlines sometime in January 2022.

STATION WEBPAGE OPIF WEBSITE LINK ISSUES

Several state broadcaster associations have recently sent alerts that station online public file links that are required to be available on the first page of station websites may not be functioning

correctly due to FCC software updates or maintenance.

Specifically, if the link on a station's website specifies lower case letters for the station (i.e., publicfiles.fcc.gov/fm-profiles/kxyz-fm) the link does not function. However, if the call letters are capitalized, the link works and takes the viewer to the FCC-hosted station online public file.

Stations are required to have a working link to their online public file on the homepage of their websites. Double check yours today to be sure it functions properly.

FM DIRECTIONAL ANTENNA RULEMAKING

The FCC has published a [notice of proposed rulemaking](#) to allow FM broadcasters using directional antennas to verify the antennas' directional patterns through use of computer modeling rather than the physical modeling and measurement required under current rules.

This NPRM will provide regulatory parity across all broadcast applicants and licensees. Among the broadcast services (AM and FM radio and digital television), only FM radio specifically requires physical measurements for directional antennas, preventing manufacturers and broadcasters from relying on computer modeling to verify directional antenna patterns. The proposed rule changes would give FM and Low Power FM (LPFM) applicants the same flexibility currently afforded AM and DTV applicants in verifying directional antenna patterns, potentially offering significant cost savings when installing directional FM antennas without increasing the potential for interference.

NEXT GEN TV RULE CHANGES PROPOSED

In response to a petition filed by NAB, the FCC has launched a proposed [rulemaking](#) to change certain of its Next Gen TV rules to ensure that viewers have access to the widest possible range of over-the-air programming while TV stations voluntarily transition to the ATSC 3.0 standard.

The proposal would allow Next Gen TV stations to include within their license certain of their non-

primary video programming streams that are airing in a different service on "host" ATSC 1.0 stations. Comments can be filed now in the FCC's electronic comment filing system.

DATES TO REMEMBER

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.

Radio Stations located in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont – 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 Colorado, Minnesota, Montana, North Dakota and South Dakota – 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 Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, Alabama, Georgia, Colorado, Minnesota, Montana, North Dakota, and South Dakota: if five (5) full time employee threshold is met, prepare EEO public file report covering the period from December 1, 2020 – November 30, 2021, upload it to the station online public inspection file and post it on the station website.

Full Power TV, Class A, and LPTV Stations: Deadline to file FCC Form 2100, Schedule G, and pay 5% of gross revenues from any ancillary or supplementary services provided between October 1, 2020 and September 30, 2021. NCE TV stations pay on 2.5% of gross revenue. Ancillary and supplemental services do not include free over the air video content, but do include computer software distribution, data transmissions, teletext, interactive materials, aural messages, paging services, or audio signals, and subscription video. Stations that provided no such services do not have to file a report.

January 10, 2022

TV, Class A, AM & FM Stations (commercial & noncommercial): deadline to complete 4th 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 4th Quarter 2021 certification of ongoing Class A eligibility.

January 28, 2022

Mutually Exclusive Groups in 2021 NCE FM Filing Window: deadline to file settlement agreements or technical amendments to resolve conflicts

January 30, 2022

TV & Class A stations (commercial only): compile and post to the station online public file records certifying compliance with children's programming commercial limits for all of 2021 **and** prepare and electronically file the Children's Television Report (Form 2100, Schedule H) in LMS documenting station compliance with children's educational and informational programming requirements for all of 2021. This form is loadable now in LMS so stations can begin working on it at any time.

February 1, 2022

Radio Stations located in New Jersey and New York – 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 Kansas, Nebraska and Oklahoma – 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 New Jersey, New York, Kansas, Nebraska, Oklahoma, Arkansas, Louisiana and Mississippi: if five (5) full time employee threshold is met, prepare EEO public file report covering the period from December 1, 2020 – November 30, 2021, upload it to the station online public inspection file and post it on the station website.

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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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