



Broadcast Newsletter

IN THIS ISSUE:

NRB CONVENTION MAR 7-11.....	1
FCC's CDBS TRANSITIONED TO ARCHIVE STATUS.....	1
FCC TWEAKS POLITICAL BROADCASTING RULES.....	2
SOHN FCC NOM UPDATE	2
GMR/RMLC SETTLEMENT.....	3
LANDOWNERS ORDERED TO DISMANTLE TOWER.....	3
DATES TO REMEMBER.....	3-4

HCCB AT NRB CONVENTION

Our firm's managing partner, Joe Chautin, will attend the National Religious Broadcaster's convention in Nashville, Tennessee from March 7-11. If you'll be there and would like to meet with Joe, please email him at jchautin@hardycarey.com. Joe will serve as moderator of the NRB Forum - *FCC Policy Power Hour: What Movement in Washington Means for Your Media Company* from 9:30 – 10:45 am on Wednesday March 9, and will also host a workshop on the FCC's EEO Rules from 11:15a – 12n on Thursday, March 10. Safe travels to all attending the convention. Joe will also be at the National Association of Broadcasters convention in Las Vegas in late April 2022.

FCC's CDBS TRANSITIONED TO ARCHIVE STATUS

In a sudden move likely tied to software stability issues, the FCC announced on January 11 that its Consolidate Database System (CDBS) would no longer support active application filings and provided guidance on how those filings should now be submitted. CDBS has been the primary filing database for broadcasters since the 1990s but was slowly being replaced by the Licensing Management System. CDBS stopped accepting filings of any kind on January 12, 2022. Station CDBS access codes and passwords are now moot. Thus far, CDBS remains available as a *searchable* database for a station's prior filings or report submissions to the FCC.

As a quick review, the following filings that are not yet available in LMS and were previously possible only in CDBS now need to be submitted by email to audiofilings@fcc.gov. If a filing requires an FCC form, the FCC requires that the form be downloaded and completed in PDF format. Informal filings such as requests for special temporary authority or silent station notifications can be submitted by letter in PDF or word format. The subject line of any email submitted should include the nature of the submission, the call sign and facility id of the station (if any) and any relevant docket number or file number. Media Bureau staff will reply to emails to confirm receipt, though that may take one to two business days.

A list of the type of filings that will require email submission can be found [here](#). A follow-on [public notice](#) provided additional details, advising that all submissions must include a required Anti-Drug Abuse Action Certification executed by the applicant. If that certification is not in the form being submitted, sample text can be found at <https://www.fcc.gov/media/radio/anti-drug-abuse-act-certification>.

Fee payments for any submissions must be completed in CORES, and applicants must submit an electronic copy of the proof of payment, such as a PDF or remittance notification. To facilitate the payment process, the FCC will enter information on a filing into its systems and provide applicants with the associated file number which can be used for FCC Code 2 in CORES. Once paid, proof can then be sent to the staff. Once the staff enters the data from a submission, it will appear on public notice as applicable.

Several of the remaining types of filings will soon be transitioned to LMS and the FCC will issue a new public notice when that occurs.

Thus far, CDBS does remain available as a *searchable* database for a station's prior filings or report submissions to the FCC.

FCC TWEAKS POLITICAL BROADCASTING RULES

In a unanimously-adopted [order](#) issued January 25, the FCC updated its political programming and recordkeeping rules for broadcast licensees and others.

Specifically, the FCC revised the definition of "legally qualified candidate for public office" by adding the use of social media and creation of a campaign website to the existing list of activities that may be considered by stations in determining whether an individual running as a write-in candidate has made a "substantial showing" of his/her bona fide candidacy.

In addition, the FCC amended its political file rules to align with the Bipartisan Campaign Reform Act of 2002, formally extending the FCC's political file requirements to any request for the purchase of

advertising time that "communicates a message relating to any political matter of national importance" (i.e., issue ads). The BCRA requirements had been enforced by the FCC in the past even though they weren't officially part of the FCC's rules. But now they are. The records that must be placed in the political file for an issue ad are: (a) whether the request to purchase broadcast time is accepted or rejected; (b) the rate charged for the broadcast time; (c) the date and time the communication is aired; (d) the class of time purchased; (e) the issue to which the communication refers; and (f) the name of the person purchasing the time, the name/address/phone of a contact person for that individual, and a list of the chief executive officers or members of the executive committee or of the board of directors of the group purchasing the time.

The FCC has emphasized compliance with the political recordkeeping rules during the current renewal cycle, requiring hundreds of stations to enter into consent decrees for failure to comply. Those decrees impose numerous new obligations for political or issues ads, including reporting any violation, adopting compliance manuals, conducting employee training, and filing compliance reports.

SOHN FCC NOMINATION UPDATE

The Biden Administration's nominee for the remaining vacant FCC Commissioner position, Gigi Sohn, whose nomination was derailed late last year and has now been re-nominated, will receive an up or down vote on February 2 by the Senate Commerce Committee. In recent days, she has agreed to recuse herself for three years from FCC matters concerning retransmission consent and for four years on TV copyright matters as a way to blunt criticism from her involvement with LoCast, a company that aired other television station broadcasts without consent based on a claim that it was non-profit. LoCast lost a lawsuit on the matter and had to pay damages. If voted out of committee, Sohn's nomination will receive a full vote in the Senate.

If confirmed, we expect that Chairwoman Rosenworcel will quickly tee up a vote on a pending EEO rulemaking proceeding that would reinstate a

nearly 20-year-old suspended FCC reporting requirement (previously known as FCC Form 395-B).

GMR/RMLC SETTLEMENT

New performing rights organization Global Music Rights (GMR) and the Radio Music License Committee (RMLC) recently announced a conditional settlement to their litigation concerning rights and rates to certain musical works aired on commercial stations. The settlement will only become effective if enough broadcasters agree to the terms of the agreement by January 31, 2022.

Many commercial stations have been paying license fees to GMR pursuant to “interim” license agreements during the litigation. If not enough stations opt in to the agreement and the settlement fails, GMR has made no mention of further licensing the music via interim license agreements.

LANDOWNERS ORDERED TO DISMANTLE TOWER

In an unusual [decision](#), the FCC issued an order requiring landowners (not the tower owner) to dismantle an unlighted tower that has posed a risk to aviation for several years. The tower had previously been built and used by an FM station owner that long ago forfeited its license to operate the station. The land had changed ownership as well, and the current owners were deemed responsible for dismantling the tower. The FCC ordered that the dismantlement take place within 90 days along with the filing of a dismantlement notice.

Stations should always be vigilant of tower lighting and other requirements, whether they own or lease a tower. The FCC has broad authority to impose obligations to preserve air safety. In any lease, but especially those with landowners to allow construction of a tower, terms regarding who is responsible for dismantlement upon expiration of the lease should be clear.

DATES TO REMEMBER

January 31, 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.

Web Streaming Stations: deadline to remit annual fee and related statement of account with SoundExchange for the statutory license allowing streaming of sound recordings on the web. Payment can be made on SoundExchange’s online filing portal “Licensee Direct.”

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 February 1, 2021 – January 31, 2022, upload it to the station online public inspection file and post it on the station website.

February 11, 2022

TV ATSC 3.0 Licensing Rulemaking – comment deadline.

April 1, 2022

Radio Stations located in Delaware and Pennsylvania – 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 Texas – 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 Delaware, Pennsylvania, Texas, Indiana, Kentucky and Tennessee: if five (5) full time employee threshold is met, prepare EEO public file report covering the period from April 1, 2021 – March 31, 2022, upload it to the station online public inspection file and post it on the station website.

April 10, 2022

TV, Class A, AM & FM Stations (commercial & noncommercial): deadline to complete 1st Quarter 2022 issues/program lists and upload to online public file.

Class A TV Stations Only: deadline to complete and post to your online public file the 1st Quarter 2022 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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