



Broadcast Newsletter

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One Day Left to File Biennial Ownership Reports

Licensees of commercial and non-commercial full power television, Class A television, low power television, AM radio and FM radio stations have one more day, until December 1, 2023, to file biennial ownership reports. Licensees with parent entities must also submit reports for those parent entities by the deadline.

All information in the biennial report must be accurate as of October 1, 2023. For commercial stations, a filing fee of \$95 per station must be remitted at the time of filing. Paying the fee is a critical step, as failure to do so will result in a “dismissal” of the report fourteen days later, and the result (if not caught and remedied within the filing window) is that the station is deemed not to have filed a timely report. Non-timely or unfiled ownership reports are a significant matter before the FCC, and often result in inquiries or fines at license renewal.

DECEMBER LPFM FILING WINDOW AND END OF FM TRANSLATOR/LPFM MINOR MODIFICATION FILING FREEZE

Unless delayed again, the FCC’s LPFM filing window will open on December 6. Applicants for new LPFM stations will have almost seven days to submit their applications. The filing window will end at 6 pm EST on December 13.

The closing of the LPFM filing window will automatically end the FM translator/LPFM minor modification filing freeze that has been in place for several weeks. Minor modification applications can be loaded and completed now so that they are ready to be submitted immediately following the close of the window.

BROADCAST STATION EEO AUDIT RESPONSES DUE DECEMBER 14

In a [public notice](#) issued October 30, 2023, the FCC announced its second round of broadcast station EEO

audits in 2023. The notice, which includes the letter to licensees and a list of the stations audited, set the deadline for responding as December 14, 2023. As with the last several audits, stations must respond to the audit by uploading their response to the online public file by the deadline instead of mailing anything to the FCC. Extensions, or clarifications of response obligations can be obtained via EB-eeo@fcc.gov or calling 202-418-1450. The scope of audits can make responding very time consuming, so getting started early is wise.

DECEMBER 1 DEADLINE FOR DTV ANCILLARY/SUPPLEMENTAL SERVICES REPORT

December 1, 2023 is the deadline for full power, low power and Class A television stations to file FCC Form 2100, Schedule G, and pay 5% of gross revenues from any ancillary or supplementary services provided between October 1, 2022 and September 30, 2023. Noncommercial television stations pay on 2.5% of gross revenue. Instructions for completing and submitting Schedule G can be reviewed at this [link](#).

Stations only have to file this report and remit payment if they actually transmitted ancillary and supplemental services during the applicable period. Ancillary and supplemental services include computer software distribution, data transmissions, teletext, interactive materials, aural messages, paging services, or audio signals, and subscription video. Free over the air video content is not an ancillary or supplemental service.

CHAIRWOMAN CIRCULATES PROPOSAL TO PRIORITIZE RENEWAL AND ASSIGNMENT APPLICATIONS FOR CERTAIN BROADCASTERS

In a brief November 14, 2023 [news release](#), FCC Chairwoman Jessica Rosenworcel announced the circulation to Commissioners of a proposal to support local journalism by giving priority processing to renewal and assignment applications of broadcast stations that provide locally originated programming.

A summary of the proposal is all that was announced, so we don't yet have any detail as to what the FCC would consider "locally originated" programming or what type of priority would result from a presumed application certification that a broadcaster is providing such programming.

Currently, FCC rules provide for a 30-day public comment period for assignment and transfer of control applications, with applications generally being acted upon within the immediately following 30-day period (although of late, that is often longer, depending on whether a radio or television station is involved). Our understanding is that FCC staffers do not begin to substantively review assignment or transfer of control applications until after the 30-day public comment period is complete, so maybe the proposal will move reviews earlier. In unique circumstances with staff pre-coordination, an application can be granted soon after the comment period ends. Perhaps this type of "early" processing is envisioned in the new proposal.

For renewal applications, the proposal might be considering shortening the processing time by acting immediately after the period for public comment ends. Currently, renewal applications are filed four months prior to license expiration, and unless there are issues, are generally acted upon about four months later within the week before or after license expiration.

We'll be interested to see if this proposal advances. As a general matter, the amount of time that expedited application processing might save is not significant, so unless the FCC really retools the application process or rules, the value of a "prioritization" may not be enough to convince stations to complete a programming "local origination" certification to obtain prioritization benefits. The details will tell us more, but this sounds a little like the FCC trying to indirectly learn which broadcasters are providing locally originated programming, or in what amounts, as part of assessing whether stations truly serve their communities in the public interest. We can imagine uncomfortable scenarios where stations must end up certifying "no" in a license renewal application to a detailed question on whether and what amounts

of locally originated programming they provide. Tricky, to say the least.

FCC UNDER DECEMBER 27 DEADLINE TO REACH DECISION IN 2018 QUADRENNIAL REVIEW OF BROADCAST OWNERSHIP RULES

The FCC Chairwoman has now circulated a draft Report & Order in the FCC's 2018 Quadrennial Review of its broadcast ownership rules, where a possible relaxation of the local radio ownership rules and the future of the television dual network rule are at issue. The circulated draft comes too late to make the agenda for the FCC's December 13th open meeting. In the absence of a decision by the court-ordered December 27th deadline, the FCC will have to report to the court why it has not been able to release an order. To borrow a popular analogy, it would be safe to say that the Commission is on a proverbial "hot seat" provided by a US Court of Appeals that of late has not looked kindly upon the authority of administrative agencies. In the end, with the addition of a 3rd Democratically appointed commissioner, a 3-2 decision along partisan lines is likely. But issuing an Order by the December 27th deadline? Maybe not so likely.

DECEMBER 12TH DEADLINE TO COMPLY WITH NEW EAS RULES

EAS rules adopted by the FCC in September 2022 go into effect on December 12, 2023, requiring broadcasters receiving EAS alerts to default for at least 10 seconds to the IPAWS internet-based alert system to see if a CAP-formatted message comes through. If it does, stations must rebroadcast the CAP message. If it does not, stations would retransmit the EAS Alert received from the broadcast primary station specified in the State EAS Plan.

For those stations using Sage EAS equipment, the FCC recently [granted](#) an extension until March 11, 2024 before those stations must follow the new rules.

DATES TO REMEMBER

December 1, 2023

Deadline for all Commercial and Noncommercial Broadcast Stations (except for LPFM, TV Translator, or Radio Translator Stations) to file biennial ownership report in LMS. Information must be current as of October 1, 2023. For commercial station licensee entities, the new filing fee of \$95 per station will apply.

Radio and TV Stations located in Alabama, Georgia, Colorado, Minnesota, Montana, North Dakota, South Dakota, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont: if five (5) full time employee threshold is met, prepare EEO public file report covering the period from December 1, 2022 – November 30, 2023, upload it to the station online public inspection file and post it on the station website.

Mid-Term EEO Review for Radio stations located in Alabama and Georgia: if station employment unit has **eleven (11) or more full-time employees**, an independent **mid-term EEO review** of your last two EEO public file reports by the FCC will occur in connection with the 2022-23 EEO public file report due December 1; when uploading the report, indicate that the SEU has 11 or more full-timers using the "Mid-Term Review" tab in the OPIF settings section. If the SEU has **between five and ten full-time employees**, when uploading the 2022-23 report, indicate that the SEU has fewer than 11 full-time employees using the "Mid-Term Review" tab in the OPIF settings section (by doing so, no mid-term review of the SEU will take place).

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, 2022 and September 30, 2023. 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.

December 6, 2023

LPFM filing window opens at 12:01 EST for new LPFM applications.

December 12, 2023

Effective Date of new EAS Rules requiring broadcast stations receiving EAS alerts to default for at least 10 seconds to the IPAWS internet-based system in order to receive a CAP-enabled message for retransmission

December 13, 2023

LPFM Window Closes at 6 p.m. EST and Filing Freeze for LPFM and FM Translator minor modification applications simultaneously ends.

December 14, 2023

Response Deadline for broadcast stations included in the Enforcement Bureau's October 30, 2023 EEO Audit.

January 10, 2024

TV, Class A, AM & FM Stations (commercial & noncommercial): deadline to complete and upload to online public file the 4th Quarter 2023 issues/program lists and any foreign sponsorship identification reports.

Class A TV Stations Only: deadline to complete and post to your online public file the 4th Quarter 2023 certification of ongoing Class A eligibility.

Noncommercial Broadcast Stations: deadline to complete and post to your online public file the 4th Quarter 2023 report for any 3rd Party Fundraising conducted during the quarter.

January 30, 2024

All Commercial Full Power and Class A Television Stations – deadline to complete and submit the 2023 children's television report in LMS and separately upload children's television commercial limits certifications for all of 2023 in the station online public file.

January 31, 2024

Web Streaming Stations: deadline to remit annual license 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, 2024

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, 2023 – January 31, 2024, upload it to the station online public inspection file and post it on the station website.

Mid-Term EEO Review for Radio stations located in Arkansas, Louisiana and Mississippi: if station employment unit has **eleven (11) or more full-time employees**, an independent **mid-term EEO review** of your last two EEO public file reports by the FCC will occur in connection with the 2023-24 EEO public file report due August 1, and when uploading the report, indicate that the SEU has 11 or more full-timers using the "Mid-Term Review" tab in the OPIF settings section. If the SEU has **between five and ten full-time employees**, when uploading the 2023-24 report, indicate that the SEU has fewer than 11 full-time employees using the "Mid-Term Review" tab in the OPIF settings section (by doing so, no mid-term review of the SEU will take place).

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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