



# Broadcast Newsletter

## ***IN THIS ISSUE:***

**NOTE OF APPRECIATION ..... 1**

**BRENDAN CARR APPOINTED FCC  
CHAIRMAN EFFECTIVE JAN 25<sup>TH</sup> ..... 1**

**RESPONSES TO RANDOM EEO AUDIT  
DUE DEC 2<sup>ND</sup> ..... 1**

**FINAL FM BOOSTER LOCAL PROGRAM  
ORINATION RULES ADOPTED ..... 2**

**DECEMBER NCE-TV FILING WINDOW  
AND TV APPLICATION FREEZE  
AROUND THE CORNER ..... 2**

**FCC ISSUES PROPOSED RULEMAKING  
TO CLEAN UP AND CLARIFY CERTAIN  
BROADCAST REGS ..... 3**

**DATES TO REMEMBER ..... 3-4**

## **THANKFUL FOR YOU!**

Everyone at Hardy, Carey, Chautin & Balkin, LLP is thankful for the trust you have placed in our firm and the years of relationships that have grown from serving you. May your Thanksgiving include the blessings of family and recognition of the great freedoms we enjoy!

## **BRENDAN CARR APPOINTED FCC CHAIRMAN EFFECTIVE JANUARY 20, 2025**

Newly-elected President Trump has appointed sitting FCC Commissioner Brendan Carr to be FCC Chairman effective January 20, 2025. Current FCC Chairwoman Jessical Rosenworcel's resignation will be effective the same day. In the weeks to follow, President Trump is expected to nominate a third Republican commissioner who will begin serving after Senate approval, giving a 3-2 majority control for Chairman Carr's agenda. Carr was outspoken about stations acting in the public interest in the weeks prior to the election, claiming that political candidate access rules were violated by some network-affiliated television stations. He is widely expected to "undo" the prior Democratically-led Commission's efforts to reinstate EEO Form 395-B to collect broadcast station employee race, gender, and ethnicity information.

## **RESPONSES TO RANDOM EEO AUDIT DUE DECEMBER 2**

Responses to the FCC Enforcement Bureau's random EEO audit are due no later than December 2, 2024. Approximately 150 broadcast radio and television stations were on the list, which can be reviewed as part of this [public notice](#). If your station is on the list, a response must be uploaded to the online public file by the deadline. If the listed station is part of a group of stations included in the same station employment unit, the EEO audit response must be uploaded to the online public file of each station in the station employment unit.

Stations can request an extension if needed by emailing [eb-eeo@fcc.gov](mailto:eb-eeo@fcc.gov), explaining the reason an extension is required. The Bureau is pretty prompt in responding to those requests, but until they do respond and grant more time, the prior deadline remains in effect.

Due to potential impacts from Hurricanes Helene and Milton, stations in Florida, Georgia, North Carolina, South Carolina, Tennessee, and Virginia who need more time to respond can simply use January 16, 2025 to respond in lieu of having to request additional time. If a station in those states has unique circumstances that makes even the January 16 deadline impossible, they should contact the Enforcement Bureau to discuss options.

## **FINAL FM BOOSTER LOCAL PROGRAM ORIENTATION RULES ADOPTED**

A week ago, the FCC released its [Report & Order](#) adopting new rules to allow FM boosters to originate three minutes of each hour to programming different from the content of the primary station they are retransmitting. Designed to hyper-localize content for groups of primary station listeners, the new opportunity is a change to how FM boosters have been historically solely used to rebroadcast signals to areas with poor reception of the primary station's signal.

Certain technical advances now enable FM boosters to customize content within station service areas, even though they operate on the same frequency as the primary station. While temporary experimental use of FM boosters for local content has been allowed since April 2024, the FCC's Order makes the processing, licensing, and service rules permanent.

Applications for new FM boosters will continue to be processed on a first-come, first-served basis, whether they are filed for the traditional "fill-in" purpose or simply to establish a new signal within an area in order to localize content. For existing FM boosters, or for any new FM booster, a local program origination notification will have to be filed with the FCC at least 15 days before local origination can begin.

The new rules will become effective upon publication in the Federal Register, expected in the next several weeks. In the interim, the FCC has directed the Media Bureau to develop the local origination notification form to be filed in LMS. The form will require a broadcaster to provide: (1) the call sign and facility identification number of the program originating FM booster station; (2) if applicable, the date on which the program originating FM booster station will commence or has terminated originating content; (3) the name and telephone number of a technical representative the Commission or the public can contact in the event of interference; (4) a certification that the program originating FM booster station complies with all Emergency Alert System (EAS) requirements in part 11 of our Rules; (5) a certification that the program originating FM booster station will originate programming for no more than three minutes of each broadcast hour; and (6) a certification that the program originating FM booster minimizes interference to the primary station through synchronization or terrain shielding. Booster licensees will be required to file the notification form in the LMS database 15 days prior to commencing origination and 30 days after permanently terminating origination.

If your station is interested in commencing local origination on an existing FM booster, or filing for a new FM booster authorization, we are available to assist.

## **DECEMBER NCE-TV FILING WINDOW AND TV APPLICATION FREEZE AROUND THE CORNER**

The Media Bureau has issued a [reminder](#) about the upcoming December 4-11 NCE-TV filing window where it will accept applications from non-profit and governmental organizations for 12 noncommercial educational television station construction permits in Alabama, Alaska, California, Idaho, Iowa, New Mexico, Oregon, Texas and Virginia. The Media Bureau's October 10<sup>th</sup> [public notice](#), with application instructions and details on the FCC's points system for deciding among competing applicants, should be carefully reviewed in preparing any applications.

The filing window actually opens and closes at specific times, with opening occurring at 12:01 a.m. EST on December 4 and closing occurring at 6:00 p.m. EST on December 11, 2024.

Filing freezes related to the window will impact other broadcasters. The FCC will stop accepting rulemaking petitions for full power TV stations to change channels, as well as both minor and major change applications for full power and Class A television stations, beginning at 12:01 a.m. EST on December 3, 2024 (one day prior to the start of the filing window) through the end of the filing window at 6:00 p.m. EST on December 11, 2024.

## **FCC ISSUES PROPOSED RULEMAKING TO CLEAN UP AND CLARIFY CERTAIN BROADCAST REGULATIONS**

On November 20, 2024, the FCC announced a [rulemaking](#) to amend certain broadcast station regulations that are outdated, ambiguous or inaccurate due to changes in filing systems and procedures over the years. For attorneys that practice before the FCC, these types of proceedings are welcome because they eliminate language that creates confusion and is sometimes inconsistent with filing form instructions or other procedures where competing applications must be considered.

Most of the proposed changes are practical and helpful amendments to eliminate inaccurate references that remain in the rules despite changes elsewhere that make them moot. A few rule changes will eliminate outdated and obsolete requirements. Others will harmonize application processing procedures across all services.

There are two new rule changes of note. The first is a proposal to allow someone other than an officer of an applicant to sign FCC applications. The current "Signature Rule" requires an officer of a corporation, partner of a partnership, or officer member of an unincorporated association to sign applications or amendments on a broadcast entity's behalf. Violations of the Signature Rule are not curable, and several recent applications filed in contested proceedings have been dismissed as a result. The proposed rule would permit a corporation, partnership, or unincorporated

association to designate a "duly authorized employee" to sign applications or amendments on its behalf. The FCC asks numerous questions about the risks associated with such an approach and documentation to prove that such an individual is authorized to sign applications. The FCC also asks whether an LLC member should be authorized to sign applications.

The second notable rule change is a proposal to revise the informal objection rule to require service of pleadings upon an applicant or objector, to limit the type of responsible pleadings, and to impose filing deadlines. In our experience, especially with the advent of online filing, informal objections have become an easy way to delay or even derail application processing, especially because the first time an applicant becomes aware of such a filing is usually when the staff decides to make them aware of a filing that is holding up application processing. A rule change to formalize informal objection pleading cycles and require service of these pleadings would be a helpful path to expedient objection and application processing.

## **DATES TO REMEMBER**

### **December 1, 2024**

**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, 2023 – November 30, 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 Colorado, Minnesota, Montana, North Dakota and South Dakota:** 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 December 1, and when uploading the report, each station in the SEU must 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, each station in the SEU should 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)

**Mid-Term EEO Review for Television stations located in Alabama and Georgia:** if station employment unit has **five (5) 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 your upload of the 2023-24 EEO public file report due December 1. By uploading an EEO public file report, the FCC automatically knows that your television station meets the 5 or more full-time employee threshold for a mid-term review. So unlike for radio, there is no OPIF mechanism available or needed for TV stations to specify the number of SEU employees

**Full Power TV, Class A, and LPTV Stations: Deadline** to file FCC Form 2100, Schedule G, and pay 5% of gross revenues if your station received revenue from any ancillary or supplementary services provided between October 1, 2023 and September 30, 2024. 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 2, 2024

**Deadline for radio and TV stations** included in the FCC’s Second 2024 EEO Random Audit to upload their audit responses to the online public inspection file (upload report to OPIF for all stations in the station employment unit)

## December 3, 2024

**Filing freeze begins** at 12:01 a.m. EST on rulemaking petitions for full power television station channel changes, as well as minor and major change applications for full power and Class A television stations

## December 4, 2024

**NCE TV filing window** opens at 12:01 a.m. EST

## December 11, 2024

**NCE TV filing window** closes at 6:00 p.m. EST. **Filing freeze ends** at 6:00 p.m. EST on rulemaking petitions for full power television station channel changes, as well as minor and major change applications for full power and Class A television stations

## January 10, 2025

**TV, Class A, AM & FM Stations (commercial & noncommercial):** deadline to complete and upload to online public file the 4<sup>th</sup> Quarter 2024 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 4<sup>th</sup> Quarter 2024 certification of ongoing Class A eligibility

**Noncommercial Broadcast Stations:** deadline to complete and post to your online public file the 4<sup>th</sup> Quarter 2024 report for any 3<sup>rd</sup> Party Fundraising conducted during the quarter

## January 30, 2025

**All Commercial Full Power and Class A Television Stations** – deadline to complete and submit the 2024 children’s television report in LMS **and** separately upload children’s television commercial limits certifications for all of 2024 in the station online public file

## January 31, 2025

**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”

© 2024 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](http://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