

FCC Opens FM Class C4 Inquiry

The FCC has initiated a study of the potential advantages and disadvantages associated with a proposal to create a new class of FM station. The Commission's *Notice of Inquiry* (FCC 18-69) in Docket 18-184 is its first response to a 2013 Petition for Rulemaking filed by FM broadcaster SSR Communications, Inc., in which SSR advocated for the creation of FM Class C4. In terms of power and the size of service area, this category of FM station would fall between the existing Class C3 and Class A.

SSR's proposal would be implemented only in Zone II, where Classes C, C0, C1, C2 and C3 are presently allocated. Zone II generally encompasses the southeastern United States, the northern fringe of the northeastern states, and the states west of the Mississippi River except for most of California. The Class C4 station would have a minimum effective radiated power ("ERP") that must exceed 6 kilowatts and a maximum of 12 kilowatts, with a radiation center 100 meters above average terrain. The ERP that Class C3 stations must exceed would be increased to 12 kilowatts, while C3 maximum ERP would remain at 25 kilowatts.

FM stations are generally protected for the maximum

continued on page 8

LPFM Advocates Rebuffed on Translator Objections

The FCC has rejected multiple recent efforts by advocates for low power FM interests to persuade the Commission to give more consideration to LPFM when developing and implementing its policies regarding the FM translator service. In an *Order on Reconsideration* (FCC 18-64) in Docket 13-249, the Commission has denied a Petition for Reconsideration filed by Prometheus Radio Project concerning the permissible placement of cross-service FM translators in relation to the AM stations they rebroadcast. On another front, the Commission has rejected the Informal Objection that Prometheus had jointly filed with the Center for International Media Action and Common Frequency, Inc., against nearly 1,000 pending FM translator applications.

continued on page 3

Lower Regulatory Fees Proposed for FY 2018

As required by Section 9 of the Communications Act, the FCC has launched its annual ritual to set regulatory fees for the fiscal year ending September 30, 2018. In a *Notice of Proposed Rulemaking* in Docket 18-175, the agency has proposed the allocations among its regulatees for the \$322,035,000 that Congress requires it to collect. This total is significantly less than the figure for fiscal year 2017, which was approximately \$365.7 million.

A little more than a third of this year's total amount, 35.16%, or \$113.22 million, is proposed to be imposed on entities regulated by the Media Bureau, including broadcast licensees. The reduction in the total amount to be collected will be reflected in lower fees this year for most broadcast stations. The proposed 2018 regulatory fees for most of the authorizations of interest to broadcasters are listed in the chart below. For comparison, the chart also shows the figures for the fees imposed last year.

After adopting the final fee schedule in a subsequent report and order, the Commission will set a deadline for paying these charges. In past years, the payment due date has fallen

continued on page 7

IN THIS ISSUE

Uniform Systems Adopted for State EAS Plans.....	2
Modernization Proposed for Leased Access Rules....	2
Deadlines to Watch	4-5
Proposed FCC Regulatory Fees for Fiscal Year 2018	7

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Uniform Systems Adopted for State EAS Plans

By a *Report and Order* (FCC 18-39) in Docket 15-94, the FCC has established the Alert Reporting System (“ARS”). The ARS will be a comprehensive online filing system for the Emergency Alert System (“EAS”), combining the existing EAS Test Reporting System (“ETRS”) and a new, streamlined electronic system for the filing and viewing of State EAS Plans. The ARS will replace paper-based filing requirements for State EAS Plans. The Commission says that this will minimize the burdens on State Emergency Communications Committees (“SECCs”), and allow the FCC, the Federal Emergency Management Agency (“FEMA”), and EAS participants better access to timely information about EAS operations.

In April 2017, the Commission’s Public Safety and Homeland Security Bureau released a report on the results of the second nationwide EAS test, which had been conducted during the previous September. That report included the observation that there was “strong evidence that many test participants do not understand their roles in the EAS structure and are unfamiliar with the State EAS Plans that inform them of those roles.” In this *Report and Order*, the Commission sets about to make the State EAS Plans more accessible and to promote uniformity among them.

The Commission’s rules require that a State EAS Plan be filed for every state, documenting its EAS distribution architecture. This includes the assignment and sequence of the daisy-chain of broadcast stations that monitor one another for reception and transmission of alerts. State EAS Plans are drafted by SECCs, assisted by Local Emergency Communications Committees (“LECCs”). The SECCs and LECCs are volunteer organizations composed of state broadcasters associations, EAS participants, and emergency management personnel.

The FCC amended its EAS rules to require SECCs to file State EAS Plans electronically online. The Commission believes that this will provide a baseline level of uniformity across

State Plans. This filing platform for State EAS Plans, combined with the existing ETRS (the platform for participants to report results of Nationwide EAS Tests), will become the ARS. The online filing system will be a tool for participants to review the alerting architecture and show an end-to-end picture of the EAS distribution system for each state.

To ensure uniformity, the Commission will provide a template for State Plans that SECCs are required to use. The Commission indicated that designations for key EAS sources have been used inconsistently by SECCs, giving rise to confusion and inefficiency. To resolve this issue, the agency amended Section 11.18 of its rules to define the required standardized designations, as follows:

(1) **Primary Entry Point (“PEP”)**: “A private or commercial radio broadcast station that cooperatively participates with FEMA to provide EAS alerts to the public. PEPs are the primary source of initial broadcast for a Presidential Alert.”

(2) **National Primary (“NP”)**: “An entity tasked with the primary responsibility of receiving the Presidential Alert from a PEP and delivering it to an individual state or portion of a state.”

(3) **State Primary (“SP”)**: “An entity tasked with initiating the delivery of EAS alerts other than the Presidential Alert.”

(4) **Local Primary (“LP”)**: “An entity that serves as a monitoring assignment for other EAS Participants with the state.” LP sources may be numbered, such as LP-1 and LP-2. They are the sources monitored by other EAS Participants in the local area.

(5) **Participating National (“PN”)**: “An EAS Participant that transmits national, state, or local area EAS Messages, and is not otherwise designated within the State EAS Plan.”

(6) **State Relay (“SR”)**: “An entity not otherwise designated that is charged with retransmitting EAS alerts for the purpose of being monitored by an LP or PN.”

continued on page 8

Modernization Proposed for Leased Access Rules

The FCC has released a *Further Notice of Proposed Rulemaking* (FCC 18-80) in Docket 07-42 in which it proposes to update the regulations governing leased access to cable television channels. The Commission’s leased access rules require cable television operators to set aside channel capacity for commercial use by unaffiliated video programmers.

The agency last addressed the issues raised in this proceeding in a 2008 *Report and Order and Notice of Proposed Rulemaking* (FCC 07-208). In that order, the Commission adopted various rules governing the channel leasing process and the relationship between the cable system and the channel lessee. Three parties appealed this order in three different U.S. Circuit Courts of Appeals. The three cases were eventually consolidated in the Sixth Circuit, where the court issued a stay that blocked the rules from taking effect. As of the release of this *Further Notice*, that stay remained in effect.

The Commission has tentatively concluded that with the passage of so much time, it should vacate the 2008 order and begin a fresh effort to re-evaluate the 25-year-old pre-

2008 rules that remain in effect. Because the rules adopted in the 2008 order never became effective, vacating the order should not have any impact on any party’s compliance with or expectations about leased access requirements.

The Communications Act includes provisions concerning leased access with the stated purpose of promoting “competition in the delivery of diverse sources of video programming and to assure that the widest possible diversity of information sources are [sic] made available to the public from cable systems in a manner consistent with growth and development of cable systems.” The Commission observes that much in the video programming landscape has changed since the leased access regime was first adopted in 1984. Comment is solicited on the current state of the industry. How many leased access programmers exist now, and is their number increasing or decreasing? What portion of cable capacity is devoted to leased access channels? What impact has the development of direct broadcast satellite, fiber optic

continued on page 6

LPFM Advocates Rebuffed on Translator Objections continued from page 1

After significant deliberation, in the *Second Report and Order* in the AM Revitalization proceeding, Docket 13-249, the Commission decided to adopt a rule allowing cross-service FM translator stations to be placed anywhere within the *greater* of the parent AM station's 2 mV/m daytime contour or a radius of 25 miles around the AM antenna site as long as the translator's 60 dbu contour did not exceed both of those markers. Although the Commission had proposed that in situations where the 2 mV/m contour exceeded the 25-mile radius, the translator 60 dbu service contour would be restricted to the area within 40 miles of the AM antenna site, this limitation was not adopted. This represented an expansion of the area available for establishing most cross-service translators. Prior to this ruling, this area was limited to the *lesser* of the 2 mV/m contour or the 25-mile radius.

Prometheus is generally concerned about the expansion of translators and the area where they can be developed because it fears such expansion may encroach on potential opportunities for LPFM. Prometheus petitioned for reconsideration, making two arguments:

(1) The decision not to adopt a set distance limit (specifically, the 40-mile radius) on the siting of cross-service translators was not a logical outgrowth of the Commission's original proposal to adopt such a limit and therefore violated the Administrative Procedure Act ("APA").

(2) The decision was arbitrary and capricious, was contrary to the goals of the Local Community Radio Act of 2010 ("LCRA"), and falsely equated the public interest value of smaller commercial AM stations with the community-oriented noncommercial LPFM service.

The Administrative Procedure Act requires an administrative agency to publish its proposals for adopting or changing rules and to make them available for public comment. If a provision of a rule is adopted that was not expressly proposed, it must be deemed a logical outgrowth of the original proposal in the deliberative process in order to comply with the APA's requirements for advance public notice. Prometheus claimed that the eventual absence of the 40-mile limit in the final rule was not a logical outgrowth of the original proposal to adopt such a limit. The Commission rejected this argument by noting that in a deliberation about whether to adopt a new rule the possibility of simply declining to adopt the proposal is a foreseeable outcome. This decision therefore did not violate the APA.

Regarding the assertion that its decision was arbitrary and capricious, the FCC said that it had indeed considered the impact that this action would have on the LPFM service. It said that it also considered the benefits that could accrue to AM stations by giving them greater flexibility in siting their translators. It concluded that the public interest benefits for the AM service would be significant, and that nothing in the record – including Prometheus's contribution – demonstrated that any harm that LPFMs might suffer would outweigh the benefits for AM. Prometheus complained that increasing the radius around an AM station where a new translator could be placed would result in LPFMs being "boxed in" because translators would inevitably be allowed to come closer to

LPFM stations or open channels that might be future LPFM opportunities. The Commission dismissed this argument by pointing out that if translators have a larger area in every direction in which to move and develop, they could just as likely move away from LPFM stations as move toward them.

Prior to the release of the Commission's *Order on Reconsideration*, Prometheus joined with two other advocates for LPFM interests, the Center for International Media Action and Common Frequency, Inc., to file Informal Objections against 994 (according to the FCC's count, although the objectors said there were 998 applications) pending applications for new or modified FM translator stations. The gist of the objectors' allegations concerned the FCC's obligations under LCRA to ensure that FM spectrum remains available for LPFM stations during the current expansion of the FM translator service. They said that the statute requires the Commission, when licensing new FM translators, FM boosters and LPFM stations, to ensure that licenses are available for each category of station based upon the needs of each local community. These categories are to be equal in status. The objectors asserted that the Commission is receiving, processing and granting large numbers of FM translator applications without ensuring that adequate spectrum remains for LPFM stations. They noted that as of the writing of their Petition, the FCC's records showed that there were 2,362 licensed LPFM stations, 9,057 licensed translator stations, and 5,699 pending translator applications.

After the enactment of LCRA in 2010, the FCC imposed requirements on thousands of pending translator applications that had been filed in the 2003 translator filing window intended to encourage conservation of spectrum for future LPFM use. Applicants were limited to 10 active applications. Those who had filed more than 10 (some had submitted dozens or even hundreds of applications) were forced to select the 10 applications they wanted to keep while the rest were dismissed. Applicants were also required to conduct non-preclusion studies to demonstrate that open channels would remain available for LPFM use after the grant of their pending applications. Applications that were deemed too preclusive of future LPFM development were dismissed. This culling process resulted in the dismissal of nearly 4,000 translator applications.

However, since that time, the petitioners claim that the FCC has failed to enforce LCRA. They complain that no such preclusion studies or documentation of community need for specific types of service have been required of or furnished by the translator applicants filing in the AM cross-service filing windows. Without such demonstrations, these applications are in violation of LCRA and subject to dismissal, according to the petitioners.

The Commission dismissed the Informal Objection first on a variety of procedural grounds, including that the Objection did not allege specific defects with each application it opposed. Instead, the objectors offered vague assertions about the target group as a whole. The Commission's rules require an objector to demonstrate specific problems with

continued on page 6



DEADLINES TO WATCH



License Renewal, FCC Reports & Public Inspection Files

- | | | | |
|---------------|--|----------------|---|
| June 1, 2018 | Deadline to place EEO Public File Report in public inspection file and on station's Internet website for all nonexempt radio and television stations in Arizona, District of Columbia, Idaho, Maryland, Michigan, Nevada, New Mexico, Ohio, Utah, Virginia, West Virginia and Wyoming. | July 10, 2018 | Deadline to file quarterly Children's Television Programming Reports for all commercial full power and Class A television stations. |
| June 1, 2018 | Deadline to file EEO Broadcast Mid-term Report for all television stations in employment units with five or more full-time employees in Arizona, Idaho, Nevada, New Mexico, Utah and Wyoming. | July 10, 2018 | Deadline to file quarterly Transition Progress Reports for television stations subject to modifications in the repack. |
| June 1, 2018 | Deadline for all broadcast licensees and permittees of stations in Arizona, District of Columbia, Idaho, Maryland, Michigan, Nevada, New Mexico, Ohio, Utah, Virginia, West Virginia and Wyoming to file annual report on all adverse findings and final actions taken by any court or governmental administrative agency involving misconduct of the licensee, permittee, or any person or entity having an attributable interest in the station(s). | July 10, 2018 | Deadline for noncommercial stations to file quarterly report re third-party fundraising. |
| July 1, 2018 | Deadline for video programmers to file annual certification of compliance with the FCC's closed captioning rules. (Broadcast television stations are exempt from this requirement.) | August 1, 2018 | Deadline to place EEO Public File Report in public inspection file and on station's Internet website for all nonexempt radio and television stations in California, Illinois, North Carolina, South Carolina and Wisconsin. |
| July 10, 2018 | Deadline to place Issues/Programs List for previous quarter in public inspection file for all full service radio and television stations and Class A TV stations. | August 1, 2018 | Deadline to file EEO Broadcast Mid-term Report for all television stations in employment units with five or more full-time employees in California. |
| | | August 1, 2018 | Deadline for all broadcast licensees and permittees of stations in California, Illinois, North Carolina, South Carolina and Wisconsin to file annual report on all adverse findings and final actions taken by any court or governmental administrative agency involving misconduct of the licensee, permittee, or any person or entity having an attributable interest in the station(s). |

Cut-Off Date for AM and FM Applications to Change Community of License

The FCC has accepted for filing the AM and FM applications identified below proposing to change each station's community of license. These applications may also include proposals to modify technical facilities. The deadline for filing comments about any of the applications in the list below is **July 10, 2018**. Informal objections may be filed anytime prior to grant of the application.

PRESENT COMMUNITY	PROPOSED COMMUNITY	STATION	CHANNEL / FREQUENCY
Granite City, IL	St. Louis, MO	WGNU(AM)	N/A 920
Bloomington, IN	Trafalgar, IN	WTTS	222 92.3
Morristown, IN	Greenfield, IN	WJCF-FM	201 88.1
Malvern, IA	Ralston, NE	KIMI	299 107.7
Greenwood, MS	Bolton, MS	WKXG(AM)	N/A 1550
Ralston, NE	Malvern, IA	KMLV	201 88.1
Elmira, NY	Ridgebury, PA	WCIH	212 90.3
Knoxville, TN	Maryville, TN	WKVL(AM)	N/A 850
Llano, TX	Granite Shoals, TX	KAJZ	293 106.5
Nephi, UT	Saratoga Springs, UT	KBJF	213 90.5
Ogden, UT	Tremonton, UT	KUAO	201 88.1
Shoshoni, WY	Casper, WY	KWWY	267 101.3
Shoshoni, WY	Sheridan, WY	KTWY	248 97.5

**SETTLEMENT WINDOW
FOR FULL POWER AND CLASS A TV STATIONS
TO RESOLVE CONFLICTS BETWEEN
POST-INCENTIVE AUCTION APPLICATIONS
MAY 1 – JULY 30, 2018**

**FILING WINDOW FOR APPLICATIONS
TO REGISTER OR LICENSE EXISTING
SATELLITE EARTH STATIONS IN 3.7-4.2 GHZ BAND
APRIL 19 – JULY 18, 2018**



DEADLINES TO WATCH



Deadlines for Comments in FCC and Other Proceedings

DOCKET COMMENTS REPLY COMMENTS

(All proceedings are before the FCC unless otherwise noted.)

Docket 18-134; Public Notice Petition for Declaratory Ruling re foreign ownership in Hemisphere Media Group, Inc.		June 19
Docket 17-179; Public Notice Amendment to applications of Sinclair Broadcast Group to acquire control of Tribune Media Company	June 20	July 5
Docket 18-22; NPRM Encouraging new technologies		June 20
Docket 18-175; NPRM Regulatory fees	June 21	July 6
Docket 18-152; Public Notice Interpretation of Telephone Consumer Protection Act in light of recent court ruling		June 28
Docket 18-119; NPRM FM translator interference	July 6	Aug. 6
U.S. Copyright Office Docket 2005-6; NPRM Copyright royalty reporting practices of cable systems	Oct. 4	Oct. 25
Docket 18-121; NPRM Posting of licenses	FR+30	FR+45
Docket 18-184; NOI FM Class C4	FR+30	FR+60
Docket 07-42; FNPRM Leased commercial access rules	FR+30	FR+45

FR+N means the filing deadline is N days after publication notice of the proceeding in the Federal Register.

Lowest Unit Charge Schedule for 2018 Political Campaign Season

During the 45-day period prior to a primary election or party caucus and the 60-day period prior to the general election, commercial broadcast stations are prohibited from charging any legally qualified candidate for elective office (who does not waive his or her rights) more than the station's Lowest Unit Charge ("LUC") for advertising that promotes the candidate's campaign for office. Lowest-unit-charge periods are imminent in the following states.

STATE	ELECTION EVENT	DATE	LUC PERIOD
Alaska	State Primary	Aug. 21	July 7 - Aug. 21
Arizona	State Primary	Aug. 28	July 14 - Aug. 28
Colorado	State Primary	June 26	May 12 - June 26
Connecticut	State Primary	Aug. 14	June 30 - Aug. 14
Delaware	State Primary	Sept. 6	July 23 - Sept. 6
District of Columbia	State Primary	June 19	May 5 - June 19
Florida	State Primary	Aug. 28	July 14 - Aug. 28
Guam	Territory Primary	Aug. 25	July 11 - Aug. 25
Hawaii	State Primary	Aug. 11	July 27 - Aug. 11
Kansas	State Primary	Aug. 7	June 23 - Aug. 7
Maryland	State Primary	June 26	May 12 - June 26
Massachusetts	State Primary	Sept. 18	Aug. 4 - Sept. 18
Michigan	State Primary	Aug. 7	June 23 - Aug. 7
Minnesota	State Primary	Aug. 14	June 30 - Aug. 14
Missouri	State Primary	Aug. 7	June 23 - Aug. 7
New Hampshire	State Primary	Sept. 11	Aug. 28 - Sept. 11
New York	State Primary	June 26	May 12 - June 26
Oklahoma	State Primary	June 26	May 12 - June 26
Rhode Island	State Primary	Sept. 12	Aug. 29 - Sept. 12
Tennessee	State Primary	Aug. 2	June 18 - Aug. 2
Utah	State Primary	June 26	May 12 - June 26
Vermont	State Primary	Aug. 14	June 30 - Aug. 14
Virgin Islands	Territory Primary	Aug. 4	June 20 - Aug. 4
Washington	State Primary	Aug. 7	June 23 - Aug. 7
Wisconsin	State Primary	Aug. 14	June 30 - Aug. 14
Wyoming	State Primary	Aug. 21	July 7 - Aug. 21

Cut-Off Date for Noncommercial FM Applications

The FCC has accepted for filing the applications for new noncommercial FM stations identified below. Petitions to deny must be filed by the deadline shown. Informal objections may be filed anytime prior to grant of the application.

COMMUNITY	CHANNEL	MHz	APPLICANT	FILING DEADLINE
Central, AK	242	96.3	Big River Public Broadcasting Corp.	June 21
Circle, AK	230	93.9	Big River Public Broadcasting Corp.	June 21
Healy, AK	242	96.3	40 Below Broadcasting	June 21
Savoonga, AK	207	89.3	Nome Seventh-day Adventist Church	June 21

Modernization Proposed for Leased Access Rules continued from page 2

and Internet services had on such operations? Do the existing rules facilitate or discourage leased access development and operation?

The Commission discusses several specific rules for which beneficial modifications might be adopted. The first of these concerns the obligations of cable systems to respond to requests for leased access information. Under the present rules, small cable systems are not required to respond to queries that are not considered to be “bona fide” requests for carriage information. A “small” cable system is defined as one that has fewer than 15,000 subscribers and that is owned by a company with fewer than 400,000 subscribers in the aggregate among all of its systems. To produce a bona fide request that would obligate a small cable system to respond, a programmer seeking to lease a channel must disclose (1) the desired contract length, (2) the desired time slot, (3) the anticipated carriage commencement date, and (4) the nature of the programming. Small cable systems are not obligated to respond to requests that do not include these elements whereas systems that do not qualify as small must respond to all queries for access regardless of the information provided in the initial communication. Cable systems that do not qualify as small, are not permitted to request information from the prospective programmer due to the Commission’s concern that a cable system’s questions might be used to discourage programmers. The required response from every cable system regardless of size must include (1) how much capacity is available, (2) a complete schedule of the operator’s leased access rates, (3) rates for technical and studio costs, and (4) a sample leased access contract if requested. The Commission

proposes to change the rule to extend the bona fide request limitation to all systems regardless of size. Programmers would need to include all of the elements of the bona fide request in their queries to all cable systems.

The second potential rule change pertains to the timeframe for cable systems to respond to queries. Under the current rules, small systems have 30 days in which to respond, while all other systems must do so within 15 days. Without proposing a figure, the Commission asks for public comment about how much time systems need to prepare their responses.

The third regulatory element to be reviewed concerns fees. Under the current rules, cable systems are prohibited from charging programmers application fees or deposits. The Commission now invites comment about whether such fees may be appropriate to help systems to defray the costs of preparing responses to programmers’ queries. The agency asks whether it should adopt a schedule of specific “nominal” amounts for applications and deposits. In the alternative, should the Commission allow cable systems to set the amount of their fees and deposits, and then only evaluate what is “nominal” on a case-by-case basis when programmers complain? If a deposit is paid by a programmer who does not go on to lease a channel, what portion of the deposit should be refundable, if any?

The Commission invites comments on these proposals and it solicits suggestions about any other ways in which the leased access rules should be modernized. Comments will be due in Docket 07-42 30 days after notice of this proceeding is published in the Federal Register. The deadline for reply comments will be 45 days after that publication.

LPFM Advocates Rebuffed on Translator Objections continued from page 3

each specific application it opposes.

More importantly, the agency also denied the Informal Objection on separate and independent substantive grounds. The Commission rejected the objectors’ conclusion that equality of status of the secondary FM services necessarily implies that the FCC must ensure that all remaining available spectrum in all markets is equally apportioned among LPFM, translator and booster stations. The Commission said that the objectors ignore the fundamental differences between the LPFM service and the translator service that make equal spectrum allocations neither a desirable nor an achievable goal. It reasoned that translators are inexpensive to construct and operate, and can effectively bring service to rural and underserved areas. On the other hand, LPFM stations are better suited to serve more densely populated areas.

The objectors argued that the Commission is improperly biased toward translators because, they claim, translators are governed by more favorable licensing rules. The Commission rejected the notion that LCRA requires identical signal engineering rules for the services to have equal status. The agency observed that LCRA itself establishes remediation standards for translators that are different from those set for LPFM stations.

The only new FM translator applications that have been filed since the enactment of LCRA have been submitted in Auctions 99 and 100 as cross-service AM fill-in proposals. Applications in these filing windows were strictly limited as to the number of applications that could be filed, the nature of the applicants and the proposed locations. These factors placed these filing windows in sharp contrast to the Auction 83 filing window where any party could file applications without limits as to number, location or transferability. The Commission said that these differences accounted for a reasonable difference in managing the two groups of applications. The AM Revitalization filing windows had “a vastly smaller preclusive impact on LPFM licensing than processing all of the Auction 83 applications pending at the time the LCRA was enacted would have had.” The Commission said that its failure to impose the Auction 83 processing policies on the new applications merely recognized the differences between the two groups of applicants and did not indicate that the agency had neglected to comply with LCRA.

The Informal Objection was dismissed in part and denied in part.

Lower Regulatory Fees Proposed for FY 2018 continued from page 1

in September. Failure to pay a regulatory fee by the established deadline will result in a 25% late fee penalty. Fees are calculated on the basis of the status of the authorization as of the beginning of the fiscal year on October 1, 2017. Former television licensees that relinquished their authorizations in the incentive auction after October 1 will still be liable for regulatory fees related to those licenses. Nonprofit entities are exempt from regulatory fees, including for commercial stations that they own.

In addition to proposing the FY2018 fees generally, the Commission also proposed to alter its methodology for calculating fees for broadcast television stations in the future. The agency tentatively concluded such a change would be a permitted amendment under the statute, but would require at least 90 days' advance notice to Congress before it could become effective. Therefore, if the proposed changes are adopted, they could not become effective before FY2019.

Regulatory fees for full power television stations are presently calculated on the basis of the ranking of the station's Nielsen designated market area ("DMA"). The Commission proposes instead to calculate these fees on the basis of the population in the station's projected noise-limited service contour. The agency invites comment on the question of

whether a better measure of a station's service market could be obtained for facilities on the fringe of a DMA using actual covered population rather than DMA ranking.

The Commission suggests two ways in which population figures could be used to determine the fee and it asks for comment about them. One would be simply to multiply the population figure by a constant monetary factor. Each station's fee would be a unique figure related to the specific population count for its service area. An alternate method would be to divide station service areas into size categories, or tiers, as is done for radio, and base the fee on the size of the range of population figures in the tier. Just as an illustrative example, all stations with service area populations greater than 1,000,000 but not more than 3,000,000 might be in one tier and they would all be charged the same amount for their regulatory fees.

Comments in this proceeding must be filed by June 21. Reply comments will be due July 6. Note that because the Commission is required to impose and collect fees by the Communications Act, the basic issue of whether fees should be imposed is not open for comment. The topics that are open for comments include the methods for allocating and calculating fees for specific regulatees.

PROPOSED FCC REGULATORY FEES FOR FISCAL YEAR 2018

Type of Authorization	Proposed FY2018	Actual FY2017
Full Power Television		
Markets 1-10	\$ 49,750	\$ 59,750
Markets 11-25	37,450	45,025
Markets 26-50	25,025	30,050
Markets 51-100	12,475	14,975
Remaining Markets	4,100	4,950
Construction Permit	4,100	4,925
Satellite Television Station (all markets)	1,500	1,725
Low Power TV, TV/FM Translators and Boosters	380	430
AM Radio Construction Permit	550	555
FM Radio Construction Permit	965	980
Satellite Earth Station	325	360

PROPOSED FY 2018 REGULATORY FEES FOR RADIO

Population Served	AM Class A	AM Class B	AM Class C	AM Class D	FM A, B1, C3	FM B,C,C0,C1,C2
0-25,000	\$ 880	\$ 635	\$ 550	\$ 605	\$ 965	\$ 1,100
25,001-75,000	1,325	950	825	910	1,450	1,650
75,001-150,000	1,975	1,425	1,250	1,350	2,175	2,475
150,001-500,000	2,975	2,150	1,850	2,050	3,250	3,725
500,001-1,200,000	4,450	3,225	2,775	3,050	4,875	5,575
1,200,001-3,000,000	6,700	4,825	4,175	4,600	7,325	8,350
3,000,001-6,000,000	10,025	7,225	6,275	6,900	11,000	12,525
6,000,000+	15,050	10,850	9,400	10,325	16,500	18,800

ACTUAL FY 2017 REGULATORY FEES FOR RADIO

Population Served	AM Class A	AM Class B	AM Class C	AM Class D	FM A, B1, C3	FM B,C,C0,C1,C2
0-25,000	\$ 895	\$ 650	\$ 555	\$ 610	\$ 980	\$ 1,100
25,001-75,000	1,350	995	830	915	1,475	1,650
75,001-150,000	2,375	1,700	1,475	1,600	2,600	2,925
150,001-500,000	3,350	2,525	2,200	2,425	3,875	4,400
500,001-1,200,000	5,325	3,800	3,300	3,625	5,825	6,575
1,200,001-3,000,000	7,975	5,700	4,950	5,425	8,750	9,875
3,000,001-6,000,000	11,950	8,550	7,400	8,150	13,100	14,800
6,000,000+	17,950	12,825	11,100	12,225	19,650	22,225

FCC Opens FM Class C4 Inquiry continued from page 1

coverage allowed for their class even if they do not operate with full facilities for the class. SSR argued that the FCC is overprotecting such stations, wasting spectrum and precluding the development of additional service to the public. SSR proposed a regime under which non-reserved band stations (i.e., in the FM band from 92 to 108 MHz) would be protected only to their actual service contours rather than for a larger possibly unused allotment. Interference protection for noncommercial FM stations in the reserved band (88 to 92 MHz) is already calculated this way.

Under Section 73.215 of the Commission's rules, non-reserved band stations can request to be contour-protected (rather than have protection for the entire allotment) in circumstances where short-spacing and contour protection are desirable due to constraints such as the requirement to provide a minimum level of service to the community of license or the lack of suitable antenna sites. SSR suggested that any station not operating with full facilities for its class should be designated as a Section 73.215 station. A station would be susceptible to 73.215 designation if it had been operating with less than maximum facilities continuously for 10 years prior to the filing of a triggering application by another party proposing to occupy the unserved area in the allotment. The applicant would be required to certify that no other channel is available for the proposed service. SSR recommends that if the Commission found the application to be acceptable for filing, it would issue a show-cause order to the sub-maximum station. The station would then have 30 days in which to state its intention to file an application to upgrade to full facilities for the class, or to challenge the triggering application. Upon indicating its intention to upgrade, the station would have an additional 180 days in which to file a construction permit application. Failure to act within the initial 30-day period, to file the construction permit application within 180 days, or to build out the upgrade as authorized in the ensuing construction permit would result in the station being designated for treatment as a 73.215 station. The Commission would then process the triggering application.

SSR said that its proposal would allow "hundreds" of Class A stations to have opportunities to upgrade, providing improved

service to "millions of potential listeners." The Commission estimates that there are 127 Class C3 stations operating with less than full facilities for their class. The Commission solicits public comment on SSR's proposal. Would Class A stations benefit from such opportunities? Would this proposal improve service to the public or encourage diversity of broadcast ownership? Would there be a detrimental effect on existing stations or their audiences? Would SSR's proposal improve FM service coverage, or merely contribute to a higher "noise floor" overall while only modestly benefitting individual stations?

The show-cause procedure suggested by SSR is similar to the process currently used by the Commission to reclassify Class C stations as Class C0. The agency observes that the procedure frequently leads to contentious drawn-out proceedings. The Commission requests comment on a process for blanket reclassification as an alternative. If this proposal were adopted, a deadline would be set for all sub-maximum Class C3 stations to apply for construction permits to upgrade to full facility. Those who failed to file applications by the deadline would be automatically designated as 73.215 stations.

The Commission queries whether the 10-year period for operating with sub-maximum facilities should pertain to the time that the station has been on the air, or to the time that the station has been owned by the current licensee. Should the term, "sub-maximum facilities," be strictly construed, or should there be a minimum threshold for service nominally less than literal full facilities to avoid being vulnerable to a downgrade?

The Commission is mindful of significant increase in recent years of secondary low power FM and translator stations. What impact would creation of a Class C4 have on them? Are there ways to mitigate or eliminate a negative impact of this proposal on secondary services? The Commission stated that it "would be reluctant to adopt any proposal in this area that would have a significantly negative impact on FM translators and LPPM stations."

The deadline for comments in Docket 18-184 will be 30 days after notice of the proceeding is published in the Federal Register. Reply comments will be due 60 days after publication.

Uniform Systems Adopted for State EAS Plans continued from page 2

(7) **State Relay Network ("SRN"):** "A network composed of State Relay (SR) sources, leased common carrier communications facilities or any other available communications facilities."

The Commission also established uniform governance structures and operational elements for the SECCs, as well as uniform content for the State EAS Plans, including monitoring assignments. SECCs will be required to come into compliance with these new uniformity rules by the

later of the first anniversary of publication in the Federal Register of a Public Notice announcing: (1) that the Office of Management and Budget has approved these information collection procedures, or (2) the availability of the ARS platform to receive information.

The FCC expects these changes to make it easier for EAS participants to function in the system and to fulfill their responsibilities.

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