

## Procedures Set for LPTV and FM Reimbursement

Deadline for Initial Claim Form Is October 15, 2019

The FCC's Incentive Auction Task Force and Media Bureau have released two Public Notices announcing the availability of the form for low power television and television translator stations ("LPTV") and FM stations to seek reimbursement for their expenses incurred because of the post-incentive auction repack (DA 19-774), and setting out the procedures for the reimbursement process (DA 19-767).

Applicants for reimbursement funds must submit their initial Reimbursement Form by 11:59 p.m., Eastern Time, on October 15, 2019. The Reimbursement Form is to be completed and filed electronically as FCC Form 2100, Schedule 399, in the Media Bureau's Licensing and Management System ("LMS").

To be eligible for reimbursement funds, a station must have incurred expenses related to modifications that were necessitated by the modifications of full power or Class A television stations in the repack. Each eligible LPTV station

*continued on page 6*

## Modernization Proposed for MVPD Notices to Stations

The FCC has proposed to change the required delivery mode for notices about signal carriage that cable television systems and direct broadcast satellite ("DBS") providers (collectively, "multichannel video programming distributors," or "MVPDs") must send to television stations from regular or certified postal mail to email. This proceeding, launched by a *Notice of Proposed Rulemaking* (FCC 19-68) in Docket 19-165, is part of the Commission's ongoing initiative to modernize media regulation.

The Commission proposes to revise its rules to require MVPDs to electronically deliver certain mandatory written notices to television stations at email addresses that stations would be required to designate and identify in their online Public Inspection Files. The agency has tentatively concluded that this rule change should pertain to the following situations in which cable systems are required to communicate with television stations:

*continued on page 8*

## New FM Translator Interference Rules Now Effective

Pending Complaints May Need Supplements

The FCC's new regulations governing interference between FM translators and other stations became effective as of August 13, 2019. These rules were adopted by the Commission earlier this year in a *Report and Order* (FCC 19-40) in Docket 18-119.

Parties wishing to complain about interference thought to be caused by a translator must now follow a standardized procedure that requires specific information to be included with the complaining station's initial pleading. The petitioner will need a minimum number of listener interference complaints ranging from six to 25, depending on the size of the population served by the station.

*continued on page 6*

### IN THIS ISSUE

New Rural FM Stations .....	2
Sponsorship ID Trouble .....	3
LPFM Tech Proposals.....	3
Deadlines to Watch.....	4-5
TV Freeze Lifted .....	7

For more information about or help with any of the items reported in **Antenna™** please contact:

pillsbury

1200 Seventeenth St. NW  
Washington, D.C. 20036

Tel: 202.663.8167

Fax: 202.663.8007

E-mail: [scott.flick@pillsburylaw.com](mailto:scott.flick@pillsburylaw.com)

# Proposal Would Foster New Rural Noncommercial FM Stations

The FCC has solicited public comment on a Petition for Rulemaking filed by REC Networks (“REC”) proposing the adoption of rules and/or waiver policies intended to foster the development of new FM radio stations in communities outside of urbanized areas. REC calls it “A Proposal for Small Town America.” Although REC may be best known as an advocate for low power FM, the focus of this Petition is to create opportunities for new Class A stations in the portion of the FM band reserved for noncommercial use, below 92 MHz. The petitioner proposes to accomplish this principally by relaxing the protection standards for stations on second- and third-adjacent channels.

REC seeks to address an issue that it sees as a problem – the perceived scarcity of local radio service in small communities outside of urbanized areas. Although these communities typically can receive service originating from an urbanized area, the interference protection rules often preclude them from having their own station as a local transmission service. REC asserts that such communities should be given an opportunity to develop new local radio service, to be provided by new local entrants. REC has identified 2,559 communities throughout the United States that might benefit from the rules it proposes. These communities have the following characteristics:

- (1) they are listed in the U.S. Census Gazetteer, at least as a Census Designated Place, and thus would likely be considered eligible for an FM allotment;
- (2) they currently have no full power radio station licensed to them;
- (3) they have no noncommercial channels available at the reference coordinates because of contour overlap restrictions;
- (4) they are outside of the Nielsen top 50 radio markets;
- (5) their reference coordinates are outside of the Census Bureau’s designated urbanized areas; and
- (6) they have noncommercial channels that would otherwise be available if the protected contours of stations on second- and third-adjacent channels were disregarded.

REC argues that this paucity of local service could be mitigated by allowing properly situated new stations to operate without regard to the protected contours of second- and third-channel adjacent stations as presently identified in the rules. REC cites various Commission waiver policies and practices that already encourage or permit small amounts of predicted interference. Furthermore, REC observes that receiver quality is much improved from the era when the interference rules were written – a development that it claims pushes the existing interference rules toward obsolescence. New receivers are more likely to distinguish between separate signals on adjacent channels. REC notes that outside of North America, the International Telecommunications Union does not even specify any protection ratio for third-adjacent FM channels.

REC says its proposed policy could be achieved by adopting new rules and/or waiving current rules. REC offers suggested waiver policies and proposed new rules. In the next noncommercial FM filing window, REC asks that applicants meeting the following criteria should be permitted by waiver or by rule to overlap the contours of stations on second- and third-adjacent channels:

(1) The proposed community of license must meet the Commission’s criteria for a community for FM allotment purposes.

(2) The proposed station must be the first primary aural service assigned to the proposed community of license.

(3) The proposed transmitter site must not be in a county that is included in a Nielsen top 50 radio market.

(4) The 60 dbu contour of the proposed station may not cover any portion of an urbanized area.

(5) The applicant cannot have any attributable interest in any other broadcast station, and must maintain both its headquarters and the residence of at least 75 percent of the members of its governing board within 20 miles of the proposed transmitter site.

(6) The application must include a demonstration that a minimal nondirectional Class A facility of 100 watts at 30 meters above average terrain would be precluded on all 20 noncommercial band channels by the rules that require protecting second- and third-adjacent channels. The study must also show that at least one overlapping noncommercial signal is currently placing a “coverage contour” over both the proposed antenna site and a portion of an urbanized area.

(7) The proposed facility must have a service contour radius of not less than six kilometers and not more than 13 kilometers, and a maximum effective radiated power of 250 watts.

(8) The proposed facility must protect all stations on channels in the non-reserved band above 92 MHz and all foreign stations in accord with the existing standard protection criteria.

(9) The proposed facility must not produce a prohibited contour overlap with any noncommercial station on a co- or first-adjacent channel. If interference is predicted to be caused to second- and third-adjacent channel stations, the population within the area receiving interference should not exceed 0.2 percent of the total population in the receiving station’s protected contour, and in any event, should not exceed 3,000 people. Prior to the grant of such a proposal, the overlapped station would have an opportunity to respond to a show-cause order and explain why the interference should not be permitted.

Interested parties may file comments about this Petition for Rulemaking until August 26. The deadline for reply comments will be September 9.

# FCC Proposes New Sponsorship ID Fine Against Cumulus

The FCC has proposed a \$233,000 penalty against Cumulus Radio, LLC, and certain of its subsidiaries (collectively “Cumulus”) for violations of the requirement to identify the sponsor of sponsored radio programming and for violating the terms of a 2016 Consent Decree that settled a proceeding about similar rule violations. This action was adopted in a *Notice of Apparent Liability for Forfeiture* (“NAL”) (FCC 19-70). Section 317 of the Communications Act and Section 73.1212(a) of the Commission’s rules require broadcasters to identify for their audiences the source of the payments or other consideration received for sponsored programming. In this proceeding, the Commission sanctioned Cumulus for a total of 26 apparent violations in connection with spots aired by six radio stations in Michigan and one station in Georgia.

In January 2016, Cumulus entered into a Consent Decree to resolve an investigation about allegations that its station in Dover, New Hampshire, WOKQ(FM), had broadcast a significant number of paid announcements without properly identifying the sponsor. As elements of that settlement, Cumulus agreed to pay a civil penalty of \$540,000, and to implement a compliance plan that included personnel training about the sponsorship identification obligations of broadcasters and a commitment to report any new noncompliance with the sponsorship identification rules within 15 calendar days of discovering the noncompliance. The compliance plan covered all Cumulus stations throughout the country and was in effect from January 2016 to January 2019.

The NAL describes more recent events as follows. In a letter dated January 8, 2018, Cumulus reported to the Commission’s Enforcement Bureau that a noncompliant spot had aired variously on six of its stations in southeastern Michigan for a total of 13 broadcasts on May 16, 2017. Cumulus said that the incidents had been promptly reported to the corporate official designated in its compliance plan as the compliance officer, and that it had taken steps immediately to prevent further incidents of noncompliance. Further, the company continued to conduct training for its employees about the sponsorship rules.

On May 29, 2018, Cumulus reported another series of broadcasts of a spot that lacked appropriate sponsorship identification. This was a political ad for a gubernatorial candidate that aired 13 times on one Macon, Georgia, station on May 14 and 15, 2018. Again, the matter was promptly reported to the compliance officer and steps were taken to prevent reoccurrence of this violation. Shortly thereafter, the company conducted a special training session for employees at its stations in the Macon market.

On the basis of this self-reporting by Cumulus, the Commission concluded that the company’s stations had violated the sponsorship ID rule on 26 occasions. The schedule of base amounts for forfeitures in Section 1.80(b) of the Commission’s rules sets a base forfeiture of \$4,000 for sponsorship identification violations. The Commission has the discretion to adjust the amount of the base forfeiture in either direction as the circumstances may warrant. In this case, the Commission said that the totality of the circumstances warranted an upward adjustment of the forfeiture, recalling

four previous rulings in which the Commission has found Cumulus stations to have committed significant rule violations, including the WOKQ proceeding. The agency concluded that, given the totality of the circumstances, an upward adjustment from \$4,000 to \$8,000 for each of the 26 violations was justified, bringing the total fine to \$208,000.

The WOKQ Consent Decree included a provision requiring Cumulus to report any additional violations within 15 days. The violations at the stations in Michigan occurred in May 2017, but were not reported to the FCC until January 2018. Consequently, the Commission found that Cumulus had violated the terms of the Consent Decree. The agency observed that Cumulus failed to explain or justify the delay in reporting the 2017 violations. The agency said that even if this failure was due to inadvertent oversight, such inadvertence does not mitigate the late reporting.

Section 1.80 of the Commission’s rules does not specify a base amount for a forfeiture to be imposed for the violation of a consent decree. However, in a prior case where a licensee had violated a consent decree by failing to pay a civil penalty and to file a compliance report, the Commission levied a \$25,000 fine. Citing that decision as precedent, the agency imposed a \$25,000 forfeiture in this case for the Consent Decree violation. Adding this amount to the fines for the errant broadcasts of sponsored spots brings the total forfeiture to \$233,000.

In a separate Dissenting Statement, Commissioner Geoffrey Starks asserted that the \$25,000 fine for noncompliance with Consent Decree did “not follow well-established Commission precedent and is not, in my mind, commensurate with the misconduct and violations at issue.” He expressed his concern that this decision would be cited as precedent in future investigations as a signal that the Commission does not take compliance with consent decrees seriously. He feared this would undermine the deterrent effect of the Commission’s enforcement actions.

Cumulus has 30 days in which to pay the forfeiture or to respond to the Commission with arguments as to why the proposed forfeiture should be reduced or cancelled.

---

## Technical Improvements Proposed for LPFM

The FCC has released a *Notice of Proposed Rulemaking* (FCC 19-74) in Docket 19-193 which includes proposals to update the technical rules governing the Low Power FM (“LPFM”) service. This action comes in response to a June 2018 Petition for Rulemaking submitted by LPFM advocate, REC Networks (“REC”). The Commission says that these proposals are intended to improve LPFM reception and increase flexibility for selecting a transmitter site.

The Commission proposes to allow LPFM stations to employ directional antennas – both off-the-shelf and custom models. However, it also asks whether LPFM licensees have the technical and financial abilities needed to design, construct, and maintain

*continued on page 8*



# DEADLINES TO WATCH



## License Renewal, FCC Reports & Public Inspection Files

- |  |   |
|--|---|
| <p>August 1      Deadline to file license renewal applications for radio stations in <b>North Carolina</b> and <b>South Carolina</b>.</p> <p>August 1      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 <b>California, Illinois, North Carolina, South Carolina</b> and <b>Wisconsin</b>.</p> <p>August 1      Deadline for all broadcast licensees and permittees of stations in <b>California, Illinois, North Carolina, South Carolina</b> and <b>Wisconsin</b> 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).</p> <p>August 1 &amp; 16      Radio stations in <b>the District of Columbia, Maryland, North Carolina, South Carolina, Virginia</b> and <b>West Virginia</b> broadcast post-filing announcements regarding license renewal applications.</p> <p>August 1 &amp; 16      Radio stations in <b>Florida, Puerto Rico</b> and <b>the Virgin Islands</b> broadcast pre-filing announcements regarding license renewal applications.</p> <p>September 1 &amp; 16      Radio stations in <b>North Carolina</b> and <b>South Carolina</b> broadcast post-filing announcements regarding license renewal applications.</p> <p>September 1 &amp; 16      Radio stations in <b>Florida, Puerto Rico</b> and <b>the Virgin Islands</b> broadcast pre-filing announcements regarding license renewal applications.</p> <p>October 1      Deadline to file license renewal applications for radio stations in <b>Florida, Puerto Rico</b> and <b>the Virgin Islands</b>.</p> <p>October 1      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 <b>Alaska, American Samoa, Florida, Guam, Hawaii, Iowa, the Mariana Islands, Missouri, Oregon, Puerto Rico, the Virgin Islands</b> and <b>Washington</b>.</p> | <p>October 1      Deadline for all broadcast licensees and permittees of stations in <b>Alaska, American Samoa, Florida, Guam, Hawaii, Iowa, the Mariana Islands, Missouri, Oregon, Puerto Rico, the Virgin Islands</b> and <b>Washington</b> 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).</p> <p>October 1 &amp; 16      Radio stations in <b>Florida, Puerto Rico, North Carolina, South Carolina</b> and <b>the Virgin Islands</b> broadcast post-filing announcements regarding license renewal applications.</p> <p>October 1 &amp; 16      Radio stations in <b>Alabama</b> and <b>Georgia</b> broadcast pre-filing announcements regarding license renewal applications.</p> <p>October 10      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.</p> <p>October 10      Deadline to file quarterly Children's Television Programming Reports for all commercial full power and Class A television stations.</p> <p>October 10      Deadline to file quarterly Transition Progress Reports for television stations subject to modifications in the repack.</p> <p>October 10      Deadline for noncommercial stations to file quarterly report re third-party fundraising.</p> |
|--|---|

### TELEVISION REPACK

#### STATIONS ASSIGNED TO PHASE 5

TESTING PERIOD BEGINS: **AUGUST 3, 2019**  
COMPLETION DEADLINE: **SEPTEMBER 6, 2019**

#### STATIONS ASSIGNED TO PHASE 6

TESTING PERIOD BEGINS: **SEPTEMBER 7, 2019**  
COMPLETION DEADLINE: **OCTOBER 18, 2019**



# DEADLINES TO WATCH



## Deadlines for Comments in FCC and Other Proceedings

DOCKET

COMMENTS

REPLY COMMENTS

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

RM-11846; Public Notice Petition for Rulemaking redevelopment of new noncommercial FM stations outside of urbanized areas	Aug. 26	Sep. 9
Docket 19-140; NPRM Aviation Radio Service	Sep. 3	Sep. 30
Docket 19-165; NPRM Electronic delivery of MVPD notices to television stations	Sept. 4	Sep. 19
Docket 05-231; Public Notice Petition for Rulemaking re live closed captioning quality metrics	Sep. 13	Sep. 30
Docket 18-202; FNPRM Kidvid rules	Sep. 16	Oct. 15
Docket 19-177; NPRM EEO compliance and enforcement	Sep. 20	Nov. 4
Docket 11-154; Public Notice Waiver of IP closed captioning requirement for Pluto TV	Oct. 24	Nov. 7
Docket 17-317; FNPRM Must-carry notifications	FR+30	FR+45
Docket 19-193; NPRM LPFM technical rules	FR+30	FR+45

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

## Paperwork Reduction Act Proceedings

The FCC is required under the Paperwork Reduction Act to periodically collect public information on the paperwork burdens imposed by its record-keeping requirements in connection with certain rules, policies, applications and forms. Public comment has been invited about this aspect of the following matters by the filing deadlines indicated.

TOPIC	COMMENT DEADLINE
Commercial leased access rates, Sections 76.970, 76.971, 76.975	Sep. 20
DTV transmission and PSIP standards, Section 73.682(d)	Sep. 23
Disturbance of AM coverage patterns, Sections 1.30003, 1.30004, 1.30005, 73.875, 73.1657, 73.1690	Sep. 23
Operating power and mode tolerances, Section 73.1560	Sep. 30
Video description, Section 79.3	Sep. 30
Public Inspection Files; political files, Sections 73.3526, 73.3527, 73.1212, 73.1701, 73.1943	Oct. 7
Children's television programming, Section 73.671, 73.673	Oct. 7

**EFFECTIVE DATE FOR NEW RULES RE  
FM TRANSLATOR INTERFERENCE**

**August 13, 2019**

**FILING DEADLINES RELATED TO  
NATIONWIDE EAS TEST**

**ETRS Form Three September 23, 2019**

## Procedures Set for LPTV and FM Reimbursement continued from page 1

must certify that it was (1) licensed or had an application for a license pending on April 13, 2017, and (2) licensed and operating for not less than two hours on each day of the week, and not less than 28 hours per calendar week, for nine of the 12 months prior to April 13, 2017. The on-air operations must be documented (for example by attaching program guides, electricity bills, etc.).

To qualify as eligible, an FM station must certify that it was licensed or had an application for a license pending, and that it was operating, on April 13, 2017. The FM station will have to explain how and why the repack necessitated (1) the permanent relocation of its transmitter site, (2) the temporary dismantling of some or all of its facilities at the main transmitter site, or (3) the construction and operation of interim auxiliary facilities.

Estimates of reimbursable costs or itemization of actual expenses must be submitted in the Reimbursement Form, along with supporting documentation. The Form includes a cost catalog that can be used as the basis for estimates. The catalog is not intended to be exhaustive and stations are not required to limit their selection of models or brands to those listed in the cost catalog. Soft costs, such as fees for consultants and attorneys, are also eligible for reimbursement.

After the Reimbursement Forms have been filed by October 15, Media Bureau staff will review the eligibility certifications and estimated or actual costs. The Bureau will then make an allocation from the TV Broadcast Relocation Fund for each station seeking funds. Congress has authorized up to \$150 million of the Relocation Fund to be used for LPTV reimbursements, and up to \$50 million for reimbursements to FM stations. Stations may draw from this allocation to be reimbursed when costs are actually incurred. Stations need to be aware that the availability of funds to cover 100% of their expenses is not guaranteed. It is possible that the Relocation Fund could be depleted before all of the costs for LPTV and FM stations are covered.

Stations must submit invoices and/or receipts for their expenses and file Form 1876 to identify the bank account where the reimbursement funds are to be directly deposited by the Commission. Stations should note that the Form 1876 is not filed electronically online. It can be completed and downloaded from the Commission Registration System Incentive Auction Financial Module. Then it must be signed and notarized. The original copy and bank documentation are to be sent to the Commission's Travel & Operations Group in Annapolis Junction, Maryland, for processing.

Stations must document their actual expenses by providing all relevant invoices and receipts. All relevant supporting documents pertaining to eligible reimbursable expenses must be retained until 10 years after the station receives its final payment from the Relocation Fund. Stations that request reimbursement may be subject to audits, information requests, data or disbursement validations, site visits, or other verification procedures.

## New FM Translator Interference Rules Now Effective continued from page 1

The accompanying chart indicates the minimum number of listener complaints required in each station size tier.

POPULATION WITHIN COMPLAINING STATION'S PROTECTED SERVICE CONTOUR	MINIMUM LISTENER COMPLAINTS REQUIRED
1-199,999	6
200,000-299,999	7
300,000-399,999	8
400,000-499,999	9
500,000-599,999	10
600,000-699,999	11
700,000-799,999	12
800,000-899,999	13
900,000-999,999	14
1,000,000-1,499,999	15
1,500,000-1,999,999	20
2,000,000 or more	25
LPFM station with fewer than 5,000	3

The listener complaints must come from separate receivers at separate locations. Only one complaint will be acceptable from locations where there may be multiple receivers, such as multiple-dwelling apartment buildings. Each site where interference is alleged to occur must fall within the 45 dbu contour of the desired station. An application for a new translator construction permit can be opposed with a demonstration that it would cause interference to a regularly used signal within the 45 dbu contour of the desired station. In these cases, the 45 dbu contour must be calculated with the Commission's standard prediction methodology set out in Section 73.313 of the Commission's rules. Alternative propagation modeling systems, such as Longley-Rice, cannot be employed for this purpose.

The Commission says that it will entertain requests for waivers of the 45 dbu limit if the requester can demonstrate the existence of a sizable community of listeners outside of that contour. The interference claim must include at least 20 listener complaints from outside the 45 dbu contour. Other relevant factors to be considered would be whether geographic features or power/directionality enhance reception at the relevant listener locations, and the length of time that the desired station has served the relevant listening community, thereby creating an expectation of service.

The Commission will not impose a deadline for filing a complaint after a translator begins broadcasting. However, all of the listener complaints must be dated within the span of a year of one another. The earliest listener complaint must be dated no earlier than 12 months prior to the submission of the interference claim to the FCC.

Each listener complaint must be signed and dated. Electronic signatures are acceptable. It is the complaining station's responsibility to verify the validity of listener statements and failure to do so or to knowingly submit false information will subject the station to enforcement action.

*continued on page 7*

# New FM Translator Interference Rules Now Effective

*continued from page 6*

The listener complaint must include the following items: (1) the complainant's full name, address, and phone number; (2) a clear, concise, and accurate description of the location where the interference is alleged to occur; (3) a statement that the complainant listens to the desired station using an over-the-air signal at least twice per month; and (4) a statement that the complainant has no legal, employment, financial, or familial relationship with the desired station. Commercial station advertisers and noncommercial station underwriters are deemed to have a financial connection with the station. However, the existence of any of the following activities will not be considered as evidence to support a claim that a listener has a connection with the station: (1) social media connections such as following or friending a station or its personnel; (2) membership in a listener club or participation in station-run promotions, contests, and events; (3) charitable donations to the station; or (4) serving as a volunteer at a station or at station-run events, as long as the volunteer does not hold a regular position at the station comparable to a station employee.

Listener complaints need not be unsolicited. Broadcasters concerned about translator interference may alert their listeners to possible interference and may gather listener statements on a standardized form or letter. However, stations must avoid misleading listeners about the translator station and the prospect for interference. Listener complaints that come directly to the FCC will be forwarded to the desired station to use in connection with whatever broader interference claim it wishes to make.

The pleading presenting the interference claim to the FCC must also include technical exhibits: (1) a map plotting the location of each alleged interference site within the 45 dbu contour of the desired station; (2) a statement that the complaining station is operating within its authorized parameters; (3) a statement that the complaining station licensee has used commercially reasonable efforts to inform the translator licensee of the claimed interference and to attempt to reach a private resolution; and (4) undesired to desired signal strength data demonstrating that at each listener location the ratio of undesired to desired signal strength exceeds -20 dB for co-channel situations, -6 dB for first-adjacent channel situations or 40 dB for second- or third-adjacent channel situations, calculated using the Commission's standard contour prediction methodology.

Upon receipt of an interference petition from a station, Commission staff will review the contents for compliance with the rules. The validity of the listener complaints will be presumed. If the filing complies with the requirements stated above, the Commission will direct the complainant station to deliver the interference claim packet to the translator operator. The translator operator will then have the burden to rebut the presumption of the validity of the listener complaints, if it wishes to do so.

The translator must respond to a valid and complete interference claim by remediating the interference.

The translator has the option to apply to move to any other vacant same-band (reserved noncommercial or non-reserved commercial) channel as a minor change. The translator might also reduce its power or relocate its antenna. Otherwise, the translator operator may attempt to work with each listener complainant to resolve their complaints if the problem is the consumer's equipment. However, listeners are not required to cooperate with the translator. In cases where the listener agrees to cooperate, the interference must actually be addressed. The translator operator may not attempt to persuade the listener to withdraw the complaint with the promise of monetary or other consideration.

Upon completing its remediation effort, the translator and the complaining station must attempt to cooperate to develop a mutually satisfactory report to the Commission with technical data to demonstrate that the interference has been eliminated. If they are unable to agree on a method or the data, a mutually satisfactory third-party engineer will be engaged to prepare the report. The Commission staff will make the final determination about whether the interference has been resolved.

The Commission did not adopt a universally applicable deadline for resolving interference. However, it did direct the Media Bureau to establish a schedule within the context of each specific case, with 90 days as a general guideline for the amount of time allowed for submitting a resolution report.

Previously filed applications and complaints that remained pending as of August 13, 2019, will be subject to these new rules. If necessary, parties will have an opportunity to submit supplemental filings to include newly required information.

---

## Freeze Lifted for Certain TV Minor Change Applications

The FCC's Media Bureau has issued a Public Notice (DA 19-684) announcing that it has lifted the freeze imposed on April 5, 2013, on the filing and processing of certain minor modification applications for full power and Class A television stations. In that action, the Bureau prohibited full power stations from requesting any increase in their noise-limited contours, and Class A stations were prohibited from applying to extend their protected contours in any direction.

The freeze on these types of applications is lifted for full power and Class A television stations that were reassigned to new channels in the post-incentive auction repack and have not yet completed the transition to their post-auction channels. This will relieve stations of the need to request a rule waiver in order to complete the transition to the repacked channel in circumstances where the replacement equipment or facilities cannot be made to produce precisely the station's authorized coverage area. The freeze is lifted only for the stations described above, and remains in effect for all other stations.

The Bureau states that these minor modification applications will be processed on a first come/first served basis. The filing of an acceptable application will cut off the filing rights of subsequently filed conflicting applications.

## Modernization Proposed for MVPD Notices to Stations *continued from page 1*

- (1) Notice of an intention to commence a new cable system (Section 76.64(k));
- (2) Notice of activation of a new cable system (Section 76.1617);
- (3) Notice that a station is about to be deleted from or repositioned on the system (Section 76.1601);
- (4) Notice of a change of the system's principal headend (Section 76.1607);
- (5) Notice that a cable operator intends to integrate multiple cable systems requiring a uniform carriage election (Section 76.1608);
- (6) Notice that a cable system is no longer exempt from the network non-duplication and syndicated exclusivity rules (Section 76.1609).

The Commission proposes the same changes for the notices that DBS providers are required to give stations in certain circumstances:

- (1) Notice prior to retransmitting a significantly viewed station into the market (Section 76.54(e));
- (2) Notice prior to launching local-into-local service in the market (Section 76.66(d));
- (3) Notice prior to launching HD carry-one, carry-all in the market (Section 76.66(d));
- (4) Notice of intent to fulfill or deny a station's local carriage request (Section 76.66(d));
- (5) Identification of each affiliate of the same network that the DBS provider reserves the right to retransmit into a station's market (Section 76.66(d));

(6) Notice of location of the DBS provider's local receive facility (Section 76.66(f));

(7) Notice when adding or deleting a station that substantially duplicates or no longer duplicates another station (Section 76.66(h)).

Sections 614(b)(9) and 615(g)(3) of the Communications Act require that cable systems provide "written notice" to television stations prior to deleting or repositioning a local station on a cable system. The Act also requires notice by "certified mail" when a DBS provider launches local-into-local service in a market. The Commission solicits comments as to whether an email message can qualify to satisfy these statutory requirements about how notice is to be delivered to the television station.

Full service and Class A television stations would be required to post the email address at which they wish to receive such notices in their online Public Inspection Files. The Commission asks for comment about how low power television and translator stations, which are not required to have public inspection files, can disclose their email contact information. The agency suggests that the email address could be published on the licensee's regular website, if it has one.

The Commission has generally tentatively concluded that the public interest would be served by replacing paper mail with electronic mail to deliver these required notices. The agency invites commenters to provide cost-benefit analyses, as well as other comments that may be useful and relevant. Comments must be submitted in Docket 19-165 by September 4. Reply comments will be due by September 19.

---

## Technical Improvements Proposed for LPFM *continued from page 3*

directional facilities. In connection with the installation of a directional antenna, full power stations are required to conduct a proof of performance. The Commission asks whether requiring the LPFM directional station to resolve actual interference complaints would be an acceptable alternative to a proof of performance in view of the limited resources of most LPFM stations.

LPFM stations are currently required to protect both full power and low power television ("LPTV") stations on television channel 6 – which is on the spectrum adjacent to the lower end of the FM band – by way of minimum distance separation criteria. This rule is an obsolete artifact of the era of analog television broadcasting, when the analog television audio was subject to interference from radio audio on the adjoining frequencies. The Commission says that 117 LPTV stations presently operate on channel 6 – 54 of them still in analog. All LPTV analog broadcasting must cease by July 13, 2021. The Commission proposes to abolish this rule as of that date. Until then, the agency said it would continue to entertain waiver requests.

The Commission observes that there are 26 LPTV stations on the air that supplement their analog channel 6 television signals

with audio programming on 87.7 MHz FM as a type of radio service. The agency asks whether elimination of FM radio's protection of television channel 6 is compatible with the LPTV operations on 87.7 MHz if those operations were allowed to continue.

The FCC proposes to relax the definition of a minor change for geographic relocation of the LPFM station's transmitter site. Under the present rules, an LPFM station may move its antenna site to any point within a 5.6-kilometer radius. The new proposed rule would require that the new transmitter site be no more than 5.6 kilometers from the old site, or that the 60 dbu contours of the original facilities and the new proposed facilities overlap. This change would allow somewhat greater flexibility for relocating an LPFM station.

The Commission also proposes to allow LPFM licensees to own and operate booster stations for the first time.

The Commission invites comment on these and other proposals affecting LPFM in Docket 19-193. Comments will be due within 30 days of publication of notice of this proceeding in the Federal Register. Reply comments will be due 45 days after that publication.

The Pillsbury Law ANTENNA™ is an information service about current events in communications law published by Atlantic Star Media, Inc. This publication is produced only to report on current events and factual matters in the field of communications law. Publication and dissemination of this material is not intended to constitute the practice of law or the rendering of legal advice. No attorney-client relationship shall be deemed to exist between the provider and the reader or between the publisher and the reader as a result of the publication, dissemination, distribution or other use of this material. The publisher makes its best effort to ensure that the information reported is accurate, but no warranty, express or implied, is given as to the accuracy or completeness of any information or statement published herein. Copyright 2019 by Atlantic Star Media, Inc. All rights reserved.