

Ownership Reports Refined

The FCC has amended its requirements for broadcast ownership reports, most notably addressing concerns about the process for individuals with attributable interests to obtain FCC Registration Numbers (“FRNs”), and expanding the data to be reported by noncommercial licensees. These rulings were adopted in a *Report and Order*, *Second Report and Order*, and *Order on Reconsideration* in Dockets 07-294, 10-103 and 10-234.

The Communications Act instructs the FCC to promote opportunities for small businesses, women and minorities in the broadcasting industry. The Commission states that a necessary precursor to its policy-making efforts in this area is the collection of comprehensive, reliable data reflecting the race, gender and ethnicity of those who hold ownership and other attributable interests in broadcast stations. In striking down the Commission’s “eligible entity” rule (a program intended to foster diversity in broadcast ownership) in 2011, the Third Circuit Court of Appeals directed the agency to obtain more and better data concerning broadcast ownership to support its rulemaking decisions. In an effort to comply with that directive, the Commission seeks to improve its methods for gathering data in its ownership reports.

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Radio Public Files Go Online

Radio stations will soon have to upload and maintain their public inspection files on an FCC-hosted website in lieu of keeping paper or digital files for public review at the main studio. In a *Report and Order* in Docket 14-127, the FCC has adopted rules for online public files for radio that are comparable to those enacted for broadcast television in 2012. In the same order, the Commission also mandated online public files for cable television systems, satellite television, and satellite radio. The Commission’s purpose is to make these files more accessible to the public.

The online public file will include most of the items currently required to be in the public file at the main studio. Documents already available on the FCC’s website, such as applications, Ownership Reports and EEO filings need not be uploaded. The Commission will import these documents to each station’s online file. Every station is required to have a contour map of its service area in the public file. The Commission says that it will generate a contour map for every radio station and make it accessible on the webpage for the station’s public file. Generally, all other public file documents

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Wireless Bureau Wants Follow-Up on ASR Applications

The FCC’s Wireless Telecommunications Bureau has released a Public Notice to announce a tightening of the processing procedures for applications for Antenna Structure Registration (“ASR”). The Bureau’s objective is to improve the efficiency and timeliness of its processing line. If a structure is subject to FCC registration, the Commission will not issue a construction permit for an antenna to be mounted on it until it is registered.

Effective immediately, any ASR application that was filed without an Environmental Assessment and that has been pending for more than 10 months will be returned to the applicant. The applicant will then have 60 days in which to complete the application and resubmit it. Failure to resubmit the application in that period of time will result in the dismissal of the application. If the applicant does resubmit the application

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Missing 'E/I' on Multicast Channels Costs \$6K

The FCC's Media Bureau has proposed to fine WRNN-TV, Kingston, New York, \$6,000 for its failure to display the "E/I" symbol on some of its children's television programming and its failure to self report that miscue on its license renewal application.

Full power and Class A television stations are required under the Children's Television Programming Act of 1990 to provide television programming that meets the educational and informational needs of children. Section 73.671 of the Commission's rules requires stations to meet certain criteria to demonstrate their compliance with the statute. Among other things, the rule requires that programs aired to fulfill the children's programming obligation must signal to the viewing public their educational and/or informational status by displaying "E/I" on the screen throughout the program.

Upon Commission review of the station's 2015 license

renewal application, it came to light that the station had not displayed the "E/I" symbol on children's programming that aired on the fourth and fifth multicast channels since before July, 2012. The station has subsequently notified the Commission that as of January 1, 2016, it is displaying the "E/I" properly on all channels.

The license renewal application for television stations asks the applicant to certify that it has identified its children's programming with the "E/I" symbol during the concluding license term. WRNN-TV responded to that item on the form with a "YES." This, of course, was inaccurate.

On these findings, the Bureau has issued WRNN-TV a *Notice of Apparent Liability for Forfeiture*, proposing to fine the station \$3,000 for the lack of the "E/I" symbol for several years on two multicast channels; and \$3,000 for failing to disclose that rule violation in the license renewal application. The license renewal application was granted.

Copyright Office Studies DMCA Takedown Process

The U.S. Copyright Office has issued a *Notice of Inquiry* to initiate a study of the impact and effectiveness of the safe harbor provisions of the Digital Millennium Copyright Act. Section 512 of the Act establishes a mechanism to protect online service providers from liability for copyright infringement committed by third parties on or through their facilities. Safe harbors are available for (a) serving as a conduit for the automatic transmission of content by third parties; (b) caching (i.e., temporarily storing) material that is transmitted automatically from one third party to another; (c) storing (i.e, hosting) material at the direction of a user on a service provider's system; and (d) referring or linking users to online sites using uniform location tools (such as a search engine). The Office seeks information on the costs and burdens of the notice-and-takedown process on large- and small-scale copyright owners, online service providers and the general public.

Online infringement of copyright is a substantial and growing problem. The Office took note of a study finding that nearly one quarter of the bandwidth in North America, Europe and Asia is devoted to hosting, sharing and acquiring infringing material. Service providers in the United States receive over a million notices of alleged infringement everyday. To take advantage of the safe harbor, the service provider must "takedown" allegedly infringing content promptly after receipt of notice from the copyright holder. The complainant must be the copyright holder or its agent, identify the infringing work, identify where in the service provider's system it can be found, and certify under the penalty of perjury that the notice is accurate and true. There is also a provision for counter-notices by legitimate owners or users of content to assert to the service provider that the original takedown notice was based on some kind of mistake and that the content should be reposted. Thus there is the prospect that content can be popping on and off the web. Furthermore, court cases have held that the service provider is not obligated to filter out the

infringing reposting of copyrighted material that had previously been properly taken down.

Unfortunately, takedown notices are occasionally misused. Sometimes the purpose is to oppose criticism or negative commentary. Sometimes copyright holders request takedowns because they misunderstand the principles of fair use. Takedowns could also have the effect of harassing a political campaign or commercial advertising.

The Copyright Office seeks public input on the efficiency and effectiveness of the safe harbor and takedown provisions of the law for owners and users of copyrighted material. The Copyright Office invites comment on these specific questions, among others:

Is the overall system sustainable in view of the likely continued increase in the volume of takedown notices?

Have the limitations on service provider liability had an impact on the protection and value of copyrighted works? Does the law strike the right balance between service providers and copyright owners?

How does the system work differently for individuals and small-scale entities who conduct manual searches as compared to large-scale entities that conduct automated searches and send takedown notices automatically?

Does the notice and takedown process sufficiently protect against fraudulent, abusive or unfounded notices? How effective is the counter-notice process for addressing false and mistaken assertions of infringement? Are the remedies for misrepresentation in the statute sufficient to deter and address fraudulent or abusive notices and counter-notices?

Comments are due to be filed by March 21 in Docket 2015-7. The Copyright Office will conduct one or more public meetings to discuss issues raised in this proceeding. Meeting details will be announced after the comments have been received.

Ownership Reports Refined

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In 2009, the Commission instituted the requirement that every holder of an attributable interest in the broadcast licensee identified in an ownership report for a commercial station have its, his or her own unique FRN. To obtain an FRN on the Commission's registration system, individuals are asked to input their Social Security number. This aspect of the ownership report regime became very controversial. Many parties expressed concerns about privacy and security issues related to the disclosure of Social Security numbers to the FCC and some sought to have the policy altered or vacated.

While attempting to assure the public that its servers were safe and secure, the Commission offered an alternate procedure as a partial solution – the Special Use FRN (“SUFRN”). If, after making a good-faith but unsuccessful effort to obtain an attributable interest holder's cooperation in registering for an FRN, a licensee is permitted to rely on a feature in the Ownership Report form at the point where the interest holder's FRN would normally be inserted. Upon clicking the SUFRN icon, the system will generate a number that can be used in place of the regular FRN for the purposes of the ownership report. The licensee filing the ownership report is thereupon deemed to have fulfilled its obligation to disclose its interest holder. The interest holder is supposed to have only one SUFRN, and it cannot be used in any other context. However, this arrangement has proved to be unsatisfactory for the Commission's purposes of identifying the interest holdings of every individual across the entire industry. The SUFRN is not a unique identifier because it cannot distinguish between two people with the same name. Furthermore, the Commission has discovered that the SUFRN mechanism has been widely misused. Some individuals have multiple SUFRNs, and some SUFRNs are associated with multiple individuals. Building a database that is complete and useful under these conditions is very problematic. In any event, the Commission says that the SUFRN was intended only to be a temporary interim measure.

To address these various problems, the Commission has adopted a new mechanism called the Restricted Use FRN (“RUFNRN”). To register for an RUFNRN, a person must enter his or her complete name, residential address, date of birth, and the last four digits of the Social Security number. The Commission states that this device avoids the hazards of disclosing the full Social Security number while at the same time providing enough personal data about the registrant to ensure that the RUFNRN is associated with a unique individual. Registrants have the option to register for either a standard FRN (using the complete Social Security number) or an RUFNRN – but not both. Individuals who already have a standard FRN will continue to use it. The RUFNRN may be used only on broadcast ownership reports. It is available only to individuals and not interest holders that are business entities, such as corporations or limited liability companies.

The SUFRN will continue to be available for what the Commission hopes will be the very limited number of situa-

tions where an interest holder refuses to register for either a standard FRN or an RUFNRN. In the event that an SUFRN appears in an ownership report, the Commission says that it may take enforcement action against the filer of the report and/or the recalcitrant interest holder. However, the filer will be exempt from enforcement action if it can substantiate that it employed reasonable good-faith efforts to obtain an FRN or RUFNRN from or on behalf of the interest holder. These efforts should include instructing the individual interest holder about his or her obligations and about potential FCC enforcement action. An SUFRN may be used in the ownership report only if the interest holder continues to refuse to provide a means for obtaining an FRN or RUFNRN after the filer has taken those steps. In certifying the accuracy of the ownership report, the filer will affirm that all information in the report is true to the best of its knowledge and belief. The Commission encompasses within this certification the obligation to verify that each FRN or RUFNRN listed in the report as associated with an individual is correct. This includes confirming that no SUFRN has been listed in the absence of reasonable and good-faith efforts to obtain an FRN or RUFNRN from the interest holder and advising the interest holder of the possibility of FCC enforcement action for failure to register.

When the FRN requirement was introduced for broadcast ownership interest holders in 2009, it pertained only to ownership reports for commercial stations. The Commission has now broadened that requirement to include reports for noncommercial stations too. Thus all officers, members of governing boards and other attributable interest holders of noncommercial licensees must obtain FRNs or RUFNRNs and list them in the noncommercial ownership report.

The Commission has also realigned the schedule for filing noncommercial biennial ownership reports to coincide with the schedule for commercial stations. All broadcasters will now submit their ownership reports in the autumn of odd-numbered years. The data they contain is to be accurate precisely as of October 1. The filing deadline will be December 1 for all stations (rather than the November 1 deadline previously specified in the Commission's rules).

The first batch of biennial ownership reports subject to all of these new rules will be due December 1, 2017. The new rules and the new report forms will not become effective until vetted by the Office of Management and Budget. These forms are migrating from CDBS to the Commission's new filing platform, the Licensing and Management System (“LMS”) and will be integrated into the universal format for broadcast forms as Form 2100 Schedule 323 and Form 2100 Schedule 323-E. Until the new forms are approved by OMB, the old forms will be used for required non-biennial reports (such as after the consummation of an assignment). The Commission's order does not address the transition period. However, presumably the regional rolling schedule of due dates for noncommercial stations' biennial reports will continue until the new system becomes effective.



DEADLINES TO WATCH



License Renewal, FCC Reports & Public Inspection Files

- Feb. 1, 2016 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 **Arkansas, Kansas, Louisiana, Mississippi, Nebraska, New Jersey, New York and Oklahoma.**
- Feb. 1, 2016 Deadline to file Biennial Ownership Report for all noncommercial radio stations in **Arkansas, Louisiana and Mississippi, New Jersey and New York,** and noncommercial television stations in **Kansas, Nebraska and Oklahoma.**
- Feb. 1, 2016 Deadline for all broadcast licensees and permittees of stations in **Arkansas, Kansas, Louisiana, Mississippi, Nebraska, New Jersey, New York and Oklahoma** 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).
- Feb. 1, 2016 Deadline to file EEO Broadcast Mid-term Report for all radio stations in employment units with more than 10 full-time employees in **Arkansas, Louisiana and Mississippi.**
- April 1, 2016 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 **Delaware, Indiana, Kentucky, Pennsylvania, Tennessee and Texas.**
- April 1, 2016 Deadline to file Biennial Ownership Report for all noncommercial radio stations in **Delaware, Indiana, Kentucky, Pennsylvania and Tennessee,** and non-commercial television stations in **Texas.**
- April 1, 2016 Deadline for all broadcast licensees and permittees of stations in **Delaware, Indiana, Kentucky, Pennsylvania, Tennessee and Texas** 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).
- April 1, 2016 Deadline to file EEO Broadcast Mid-term Report for all radio stations in employment units with more than 10 full-time employees in **Indiana, Kentucky and Tennessee.**

Deadlines for Comments In FCC and Other Proceedings

Docket	Comments	Reply Comments
(All proceedings are before the FCC unless otherwise noted.)		
Docket 03-185; 4th NPRM Digital LPTV and TV translator stations	Feb. 22	March 3
U.S. Copyright Office Docket 2015-8; NOI Exemptions to DMCA prohibition on circumvention of controlled access technologies	Feb. 25	March 25
U.S. Copyright Office Docket 2015-7; NOI Effectiveness of DMCA provisions for take-down notices	March 21	N/A
Docket 13-249; FNPRM and NOI Revitalization of AM radio	March 21	April 18
Docket 15-94; NPRM Emergency Alert System enhancements	FR+45	FR+75

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

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 February 8, 2016. Informal objections may be filed anytime prior to grant of the application.

Present Community	Proposed Community	Station	Channel	Frequency
Santa Maria, CA	Montecito, CA	KXFM	256	99.1
Akron, CO	Eckley, CO	New	279	103.7
Boynton Beach, FL	Miami, FL	WLVJ(AM)	N/A	1040
Kendall, FL	Boynton Beach, FL	WURN(AM)	N/A	1020
Miami, FL	Kendall, FL	WMYM(AM)	N/A	990
McCall, ID	Silver City, ID	New	280	103.9
Beverly, MA	Methuen, MA	WMVX(AM)	N/A	1570
Silver Springs, NV	Fallon, NV	New	273	102.5
Moro, OR	White Salmon, WA	New	283	104.5
Longview, TX	Atlanta, TX	New	300	107.9
Midway, TX	Groveton, TX	New	251	98.1
Baggs, WY	Yampa, CO	New	277	103.3



DEADLINES TO WATCH



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 broadcast ownership report, Form 323	Feb. 9
Broadcast main studio location, Section 73.1125	Feb. 9
Broadcast call sign reservation and authorization system	Feb. 9
Low Power FM construction permit application, Form 318	Feb. 12
Cable carriage issues for television stations, Sections 76.57, 76.61, 76.64	Feb. 12
TV broadcaster relocation fund reimbursement form, Form 2100, Schedule 399	Feb. 16
Incentive auction implementation, Section 73.3700	Feb. 19
Special Temporary Authorizations, informal filings, misc. notifications	Feb. 19
Digital television license application, Form 2100, Schedule B	Feb. 19
Class A television construction permit application, Form 2100, Schedule E	Feb. 19
Class A television license application, Form 2100, Schedule F	Feb. 19
Low Power TV construction permit application, Form 2100, Schedule C	Feb. 22
Cable carriage issues for television stations, Sections 76.1601, 76.1607, 76.1608, 76.1617	Feb. 29

Lowest Unit Charge Schedule for 2016 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. Some of these dates are tentative and may be subject to change.

State	Election Event	Date	LUC Period
N. Hampshire	Presidential Primary	Feb. 9	Dec. 26 - Feb. 9
Nevada	Democratic Pres. Caucus	Feb. 20	Jan. 6 - Feb. 20
S. Carolina	Republican Pres. Primary	Feb. 20	Jan. 6 - Feb. 20
Nevada	Republican Pres. Caucus	Feb. 23	Jan. 9 - Feb. 23
S. Carolina	Democratic Pres. Primary	Feb. 27	Jan. 13 - Feb. 27
Alabama	Pres. & State Primary	Mar. 1	Jan. 16 - Mar. 1
Alaska	Republican Pres. Caucus	Mar. 1	Jan. 16 - Mar. 1
Arkansas	Pres. & State Primary	Mar. 1	Jan. 16 - Mar. 1
Colorado	Democratic Pres. Caucus	Mar. 1	Jan. 16 - Mar. 1
Georgia	Presidential Primary	Mar. 1	Jan. 16 - Mar. 1
Massachusetts	Presidential Primary	Mar. 1	Jan. 16 - Mar. 1
Minnesota	Presidential Caucuses	Mar. 1	Jan. 16 - Mar. 1
Oklahoma	Presidential Primary	Mar. 1	Jan. 16 - Mar. 1
Tennessee	Presidential Primary	Mar. 1	Jan. 16 - Mar. 1
Texas	Pres. & State Primary	Mar. 1	Jan. 16 - Mar. 1
Vermont	Presidential Primary	Mar. 1	Jan. 16 - Mar. 1
Virginia	Presidential Primary	Mar. 1	Jan. 16 - Mar. 1
Kansas	Presidential Caucuses	Mar. 5	Jan. 20 - Mar. 5
Kentucky	Republican Pres. Caucus	Mar. 5	Jan. 20 - Mar. 5
Louisiana	Presidential Primary	Mar. 5	Jan. 20 - Mar. 5
Maine	Republican Pres. Caucus	Mar. 5	Jan. 20 - Mar. 5
Nebraska	Democratic Pres. Caucus	Mar. 5	Jan. 20 - Mar. 5
Maine	Democratic Pres. Caucus	Mar. 6	Jan. 21 - Mar. 6
Puerto Rico	Republican Pres. Primary	Mar. 6	Jan. 21 - Mar. 6
Hawaii	Republican Pres. Caucus	Mar. 8	Jan. 22 - Mar. 8
Idaho	Republican Pres. Primary	Mar. 8	Jan. 22 - Mar. 8
Michigan	Presidential Primary	Mar. 8	Jan. 22 - Mar. 8
Mississippi	Presidential Primary	Mar. 8	Jan. 22 - Mar. 8
Florida	Presidential Primary	Mar. 15	Jan. 29 - Mar. 15
Illinois	Pres. & State Primary	Mar. 15	Jan. 29 - Mar. 15
Missouri	Presidential Primary	Mar. 15	Jan. 29 - Mar. 15
N. Carolina	Pres. & State Primary	Mar. 15	Jan. 29 - Mar. 15
Ohio	Pres. & State Primary	Mar. 15	Jan. 29 - Mar. 15
Arizona	Presidential Primary	Mar. 22	Feb. 5 - Mar. 22
Idaho	Democratic Pres. Caucus	Mar. 22	Feb. 5 - Mar. 22
Utah	Presidential Caucuses	Mar. 22	Feb. 5 - Mar. 22
Alaska	Democratic Pres. Caucus	Mar. 26	Feb. 10 - Mar. 26
Hawaii	Democratic Pres. Caucus	Mar. 26	Feb. 10 - Mar. 26
Washington	Democratic Pres. Caucus	Mar. 26	Feb. 10 - Mar. 26
N. Dakota	Republican Pres. Caucus	April 1 - 3	Feb. 16 - April 3
Wisconsin	Presidential Primary	April 5	Feb. 20 - April 5
Wyoming	Democratic Pres. Caucus	April 9	Feb. 24 - April 9
New York	Presidential Primary	April 19	Mar. 5 - April 19
Connecticut	Presidential Primary	April 26	Mar. 12 - April 26
Delaware	Presidential Primary	April 26	Mar. 12 - April 26
Maryland	Pres. & State Primary	April 26	Mar. 12 - April 26
Pennsylvania	Pres. & State Primary	April 26	Mar. 12 - April 26
Rhode Island	Presidential Primary	April 26	Mar. 12 - April 26
Indiana	Pres. & State Primary	May 3	Mar. 19 - April 26
Nebraska	Pres. & State Primary	May 10	Mar. 26 - May 10
West Virginia	Pres. & State Primary	May 10	Mar. 26 - May 10

Cut-Off Dates for Noncommercial FM Applications

The FCC has accepted for filing the application for a new non-commercial FM station as 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	Deadline
Anchorage, AK	259	99.7	Adventist Radio Alaska Corp.	Feb. 11

Requests for Exemption from Closed Captioning Rules

The following video programmers have requested exemption from the FCC's closed captioning rules. Interested parties may file comments and/or oppositions by March 3, 2016, and replies by March 23, 2016, in Docket 06-181 about these requests.

Programmer	Location	Case Identifier
Whitehead Media Ventures	Lynchburg, VA	CGB-CC-1361
National Asian American Coalition	Daly City, CA	CGB-CC-1365
The Marvin Show, LLC	Myrtle Beach, SC	CGB-CC-1366
Dove Broadcasting, Inc.	Taylors, SC	CGB-CC-1367

Inadvertent Misstatement in Application Results in Fine

The FCC's Media Bureau has issued a *Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture* to E-String Wireless, Ltd. following the Bureau's investigation of issues raised in a Petition to Deny E-String's application for consent to a transaction to sell FM translator station K298CB, Beaumont, Texas, to the licensee of KZZB(AM), also in Beaumont, Texas. The end result was a proposed \$9,000 fine stemming from misstatements in an earlier construction permit application and the covering license application concerning the equipment actually installed at the station.

In the Petition to Deny, Southeast Texas Telecom, LLC ("STT"), argued that E-String should be disqualified from being a broadcast licensee because it willfully made false statements in various previous applications concerning the station. The Commission found that STT lacked standing to file a petition to deny because it failed to show how it would be harmed by the proposed sale of the station. The Bureau dismissed the pleading as a Petition to Deny, but then proceeded to consider it as an Informal Objection.

The translator in question originated with a "short-form" application that E-String had filed in the 2003 FM translator auction filing window. In August, 2013, E-String filed a "long-form" construction permit application. In both of those applications, the proposed transmitter site was at a tower on Sawyer Road. After

the 2013 application was granted, E-String applied in 2014 to relocate the transmitter site for its construction permit to the KZZB tower, specifying Channel 246. Later that year, E-String again applied to modify the station so as to operate on Channel 299, but still at the KZZB tower. The station went silent in early 2015 (with Commission authorization), and then E-String sought another modification – requesting Channel 298 and new operating parameters. Each of these applications was uncontested and the grants of all of these applications for construction permits and their covering licenses have become final (i.e., beyond reconsideration or appeal).

The following fact pattern emerged from STT's allegations, E-String's admissions and the Bureau's investigations. E-String had reasonable assurance of availability of the Sawyer Road tower for its 2003 short-form application, and without reconfirming that availability, designated it again in the 2013 long-form application as the transmitter site, including a photograph purported to be of the tower. In filing an application in which a transmitter site is proposed, the applicant certifies that it has reasonable assurance of the availability of that site. In this case, the Sawyer Road tower was destroyed by a hurricane in 2005. E-String failed to confirm a decade after its first application that the tower would still be available to it for the second application. In E-String's defense, the FCC's Antenna Structure Registration

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Wireless Bureau Wants Follow-Up on ASR Applications

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but fails to complete it, the application will be dismissed after an additional six months.

Antenna structure registration is a two-part process. First, the applicant describes the physical characteristics of the proposed structure in order to provide the environmental notice. When the environmental notice is complete, the applicant should amend the application to provide the date the application went on local notice, to certify that the proposed structure will have no significant effect on the environment, and to certify that the information in the application is true.

The Bureau states that a growing number of ASR applicants are failing to complete the second part of the process and leaving their applications in limbo indefinitely. The Bureau is attempting to discourage this behavior and to ensure that the database of pending applications in the ASR system does not become stale.

The Bureau also announced that it will undertake a case-by-case review of all long-pending applications for which the registration process has not been completed. The Bureau may return an ASR application that has been pending for 24 months or more and for which (1) the applicant has not provided the material necessary to complete the Commission's environmental review, or (2) the FCC has issued a Finding of No Significant Impact ("FONSI") but the applicant has failed to complete the registration of the structure. The applicant will have 60 days to resubmit the application before it is dismissed. If, within 12 months after that resubmission, the applicant fails to provide material necessary for the environmental review or fails to register the structure despite the issuance of an FONSI, the Bureau may dismiss the application.

If an applicant continues to wish to pursue registration for a structure after an application has been finally dismissed, it must begin the process again with a new application.

FILING WINDOW FOR "250-MILE" FM TRANSLATOR MODIFICATIONSTO BECOME AM FILL-IN TRANSLATORS

Class C and Class D AM Stations Now - July 28, 2016

All AM Stations July 29 - Oct. 31, 2016

SCHEDULE FOR AUCTION 1000 REVERSE TELEVISION SPECTRUM INCENTIVE AUCTION

BIDDING TUTORIAL AVAILABLE ONLINE FEB. 29, 2016

INITIAL COMMITMENT DEADLINE MAR. 29, 2016,
6:00 PM ET

Radio Public Files Go Online

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required to be in the file as of the deadline for uploading will have to be uploaded by the station to the online file, and subsequently generated documents continuing on an on-going basis thereafter. There are exceptions to this obligation for two categories of documents:

(1) Although the contents of political files must be maintained for two years, stations need only upload currently generated political file documents going forward. Stations must continue to maintain the old paper files at the main studio for the balance of the two-year holding period.

(2) Commercial stations are required to keep correspondence from the general public in their public files, but will not maintain this material online. Stations will be required to continue to maintain a public correspondence file at the main studio for public review.

Complete industry-wide compliance with the online public file regimen will be implemented in phases over two years. The first wave of stations to get involved will consist of all commercial stations in the 50 largest Nielsen radio markets that have five or more full-time employees. These stations must commence uploading their existing files by 30 days after publication of an announcement in the Federal Register that the Office of Management and Budget has completed its review of the Commission's order. This uploading task must be completed by the date six months after the Federal Register announcement. From that date, all new documents must be uploaded going forward.

All other radio stations, including all noncommercial stations of any size and locale, may begin uploading their existing materials any time after the Federal Register publication of the OMB announcement. Their deadline for completing that task is March 1, 2018. By that date, they must also begin uploading currently generated documents, including politi-

cal file documents.

A station can voluntarily begin to upload current documents before its scheduled deadline to do so. However, to maintain consistency and continuity for public file users, stations that begin that practice early must then continue to do so permanently.

In considering whether a top-50 market station has five full-time employees, the Commission will use the same criteria that determine whether a station is subject to certain higher level EEO requirements. The five-full-time-employee threshold applies to station employment units. An employment unit is a group of commonly owned broadcast stations in the same market that share one or more employees. Each radio station associated with a top-50 market employment unit of five or more full-time employees will be in the first implementation wave regardless of the ratio of employees to stations in the unit. A full-time employee is a permanent employee whose regular work schedule is 30 hours per week or more.

The Commission says that it has substantially upgraded the technical capabilities of its system so as to accommodate the increased usage and storage demands that are expected following these rule changes. However, to ensure compliance with the statutory mandate for promptly providing the contents of political files to candidates and the public, stations are required to take precautionary measures so that political files can be accessible immediately in the event the Commission's website becomes unavailable. They must create and keep at the station a back-up copy of the current political file, in either paper or electronic format. The agency suggests that stations could easily comply with this requirement by periodically downloading a mirror-image copy of the public file, including the political file, from the Commission's website.

Inadvertent Misstatement in Application Results in Fine

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database was not updated to indicate the tower's demise until December, 2013. STT charged that E-String had seriously lacked candor and/or misrepresented the facts concerning the tower in its 2013 application.

It also came to light that the equipment actually installed at the KZZB tower site to operate the station differed from that proposed in the second modification application and confirmed in the covering license application. Again, STT argued that E-String was guilty of misrepresentation.

E-String claimed that it was reasonable to rely on the documented 2003 availability of the transmitter site when filing the 2013 application, especially upon finding the tower still listed in the Commission's antenna structure database. E-String said that its consulting engineer had included the photograph in the application without realizing that it was a photograph of another tower in the immediate vicinity of the proposed site.

E-String acknowledged that the facilities it constructed and operated under color of the second modification application differed from what the construction permit application proposed

and what the license application confirmed had been built. E-String characterized this as an innocent misstatement in the construction permit application of its actual plan. One of E-String's principals submitted an affidavit to explain that this was "an inadvertent error caused by [the principal's] attention being spread among multiple translator construction projects for E-String." E-String contended that there was no motive to deceive the Commission about its facilities or the station's operational status because the station soon went off the air so that it could be reconstructed for the third modification.

The Bureau observed that STT's allegations about misrepresentation and lack of candor arose principally from E-String's filing of three applications (the long-form construction permit application, the second modification construction permit application, and the license application to cover the second modification). However, these issues were raised after the grants of all of those applications had become final. The Commission does not re-open proceedings that have become final unless there has been

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Consent Decree Resolves Sponsorship ID Dispute

The FCC's Enforcement Bureau and Cumulus Radio Corporation (CRC), a former Citadel Broadcasting Corporation company operating under a new name, have entered into a Consent Decree terminating the Enforcement Bureau's investigation into alleged violations of the Commission's sponsorship identification rules in 2011 at WOKQ(FM), Dover, New Hampshire, a station which Cumulus Media Inc. (CRC's ultimate parent) acquired when it merged with Citadel. The Consent Decree explained that Cumulus Media Inc. would be responsible for any infractions that occurred under Citadel's watch because Commission policy requires the buyer in a stock transfer to assume the liabilities of the company being acquired. Under the Consent Decree, CRC agreed to pay a civil penalty of \$540,000 and to implement a three-year Compliance Plan that is standard for Consent Decrees involving allegations of violations of the Commission's sponsorship identification rules.

The Enforcement Bureau's investigation was prompted by a complaint alleging that WOKQ aired an advertisement promoting a hydro-electric project (the Northern Pass

Project) in New Hampshire to be built by Northern Pass Transmission LLC (Northern Pass) without identifying Northern Pass as the sponsor of the advertisement. In response to the Bureau's letter of inquiry, CRC explained that the station staff was very much aware of the FCC's sponsorship identification rules and had in fact inserted a sponsorship tag line on advertisements promoting the Northern Pass Project that were purchased by Northern Pass's parent company (because the parent company was not identified in the advertisements). CRC further explained that the station staff believed in good faith that subsequent advertisements purchased by Northern Pass itself complied with the sponsorship identification rules because those latter advertisements expressly referred to "Northern Pass." The bureau disagreed because the advertisements did not explicitly identify "Northern Pass Transmission LLC" as the sponsor.

CRC entered into the Consent Decree to resolve the matter and avoid the expense of further proceedings. The Consent Decree allows CRC to pay the civil penalty of \$540,000 in 36 monthly installments of \$15,000.

Inadvertent Misstatement in Application Results in Fine

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fraud on the agency's processes or the result of the proceeding is "unconscionable." The Bureau held that STT had not presented evidence to show that either of those exceptions to the finality policy pertained in this case. It was too late therefore to revoke E-String's license as STT had originally urged the Bureau to do.

However, the FCC has authority under the Communications Act to impose a forfeiture on E-String for falsely certifying a material fact in those applications, subject to the statute of limitations. E-String was issued a license for the station on October 24, 2014. Under the statute of limitations, the Commission can impose a fine for violations committed after that date and within the station's current license term, which will run until August 1, 2021.

The Bureau decided to use that authority to impose a forfeiture on E-String for violating Section 1.17 of the Commission's rules which requires that submissions to the agency be truthful and accurate. In particular, E-String certified in the license application to cover the second modification construction permit that the station had been constructed as authorized in the permit when that was not the case. The Bureau declined to pursue STT's allegation of the more serious offense of misrepresentation because there was no showing that E-String had intended to deceive. Nonetheless, even absent an intent to deceive, a false statement may constitute an actionable violation of Section 1.17 if it is submitted without a reasonable basis for believing that the statement is correct. The Bureau found that E-String apparently lacked a reasonable basis for the certification because it failed to

verify that the antenna was mounted correctly prior to filing the second license application. Under the totality of the circumstances, the Bureau decided to propose a fine of \$5,000 for the false certification.

Operating the station outside of the parameters of its authorization constituted a separate offense as a violation of Section 73.1745(a) of the FCC's rules. The station broadcast with unauthorized facilities from January 5, 2015 until February 9, 2015. For this the Bureau proposed a fine of \$4,000.

The long-form application that contained the proposal to locate the antenna on a tower that no longer existed and for which E-String had not bothered to confirm availability was beyond sanctioning because the grant had become final. Furthermore, that incident was now excluded from the possibility of a forfeiture by the statute of limitations. Nonetheless, the Bureau admonished E-String for its behavior in this regard, stating that "This conduct is unacceptable, . . ." To highlight the admonishment for years to come, the Bureau ordered E-String, its principals and any entity in which any of them would hold an interest in the future to submit a copy of this *Notice of Apparent Liability* with every broadcast facility application that they file with the FCC during the next five years.

Despite these negative conclusions, the Bureau found that the applicants in the assignment application were qualified. It granted the application and consented to the sale.

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