pillsbury *Antenna*™ AUGUST 2016

AN UPDATE ON COMMUNICATIONS LAW & ISSUES

Nationwide EAS Test Set for September 28; Stations Must Register by August 26

The FCC and the Federal Emergency Management Agency ("FEMA") have scheduled a nationwide test of the Emergency Alert System ("EAS") for September 28. A secondary test date is set for October 5, if necessary. All EAS participants are required to participate in the test and must be prepared for both the primary and the secondary test dates.

In its Public Notice announcing this test, the Commission's Public Safety and Homeland Security Bureau states that this nationwide test will assess the effectiveness and reliability of the EAS with emphasis on FEMA's Integrated Public Alert and Warning System ("IPAWS"), the integrated gateway through which common alerting protocol-based EAS alerts are transmitted to participants. The test message, to be transmitted in both English and Spanish, will clearly indicate that it is only a test. It will be formatted in both audio and text that can be populated into accessible video crawl. The test will provide an opportunity to evaluate these features and other measures that the Commission has adopted to address issues that were identified in connection with the

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FCC Recaps Bona Fide News Interview Rule

The FCC's Media Bureau has released a *Declaratory Ruling* granting a request from Hearst Television, Inc. that its program, "Matter of Fact with Fernando Espuelas," be declared a bona fide news interview program, and therefore exempt from the equal opportunities obligations of Section 315 of the Communications Act.

Section 315(a) provides that, if a broadcast licensee allows a legally qualified candidate for public office to "use" a broadcast station, it must afford equal opportunities to other candidates for the same office. The statute also lists four categories of programs that are exempt from this requirement: (1) bona fide newscast, (2) bona fide news interview, (3) bona fide news documentary (where the candidate's appearance is incidental to the subject matter), and (4) on-the-spot coverage of bona news events.

The Bureau explained the factors that it considers when evaluating whether a program qualifies as a "bona fide news interview:" (1) whether the program is regularly scheduled, (2) whether the broadcaster or an independent producer controls

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DOJ Rejects Fractional Licensing of Music for PROs under Consent Decrees

The Antitrust Division of the United States Department of Justice ("DOJ") has concluded its review of the Consent Decrees that have governed the music licensing operations of the American Society of Composers, Authors and Publishers ("ASCAP") and Broadcast Music, Inc. ("BMI") since 1941. These performing rights organizations ("PROs") and other stakeholders in the music industry had asked the DOJ to interpret or to initiate modifications of the Decrees so as to allow, among other things, fractional licensing and the partial withdrawal of rights by a copyright holder. After a multi-year investigation that included gathering comments from stakeholders, the DOJ has released a statement explaining that it believes the Decrees currently in effect do not permit either practice and declining to initiate the process for modifying the Decrees to allow these practices.

The PROs are membership organizations whose

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FCC Filing Fees to Rise

The FCC has announced that filing fees charged for applications and other filings will be increased soon. The Commission is required by the Communications Act to review its schedule of filing fees every two years, and if necessary, to adjust them to reflect changes in the Consumer Price Index. The Commission states that the Consumer Price Index for all Urban Consumers increased by 1.8% from October 2013 to October 2015. Accordingly, the FCC is generally increasing its filing fees at similar rates. The agency was not required to propose new fees and publish them for public comment in advance of adopting them because the Commission is mandated by statute to adopt them. The new fees will become effective as of August 26.

The following chart shows the current charge and new figure for most of the filing fees of interest to broadcasters. These fees are listed in Section 1.1104 of the Commission's rules. They pertain to applications for commercial stations only. Applications for noncommercial stations and applications filed by government entities are fee-exempt.

Application Type	Current Fee	New Fee
Full power and Class A Television		
New and major change construction permit	$4,695	$4,785
Minor change construction permit	1,050	1,070
New license	315	325
Rulemaking petition	2,900	2,955
AM Radio		
New and major change construction permit	4,180	4,255
Minor change construction permit	1,050	1,070
New license	690	700
Directional antenna	700	805
Remote control	65	70
FM Radio		
New and major change construction permit	3,760	3,830
Minor change construction permit	1,050	1,070
New license	215	220
Directional antenna	660	670
Rulemaking petition	2,900	2,955
TV, Class A TV, AM and FM		
License renewal	190	190
Assignment/transfer of control (long form)	1,050	1,070
Assignment/transfer of control (short form)	150	155
Call sign	105	105
Special temporary authority	190	190
Ownership report	60	70
Main studio request	1,050	1,070
FM translator, FM booster, LPTV, TV translator, TV booster		
New and major change construction permit	790	805
New license	160	165
License renewal	65	70
Special temporary authority	190	190
Assignment/transfer of control (all forms)	150	155

New EAS Event Codes Created

The FCC has created three new event codes for the Emergency Alert System ("EAS") pertaining to extreme wind and storm surges, particularly in connection with hurricanes. These new codes were requested by the National Weather Service ("NWS") so as to harmonize the EAS with the NWS's weather radio system. The Commission added these event codes to the list appearing in Section 11.31(c) of its rules by way of a *Report and Order* in Docket 15-94.

The EAS Protocol uses fixed codes to identify various aspects of the alert. Among these is the three-character event code which describes the nature of the alert. The EAS Protocol identifies National event codes, such as "NPT," for National Periodic Tests, which EAS participants use as part of required Presidential alerts and tests. Other codes signify state and local events which participants use when they transmit weather and other voluntary alerts.

Two of the new event codes cover storm surges: SSA for "Storm Surge Watch," and SSW for "Storm Surge Warning." NWS intends to issue these alerts when there is a significant risk of life-threatening inundation from rising water moving inland from the ocean. The "watch" would be issued 48 hours in advance of the event and a "warning" would be issued 36 hours ahead of the event.

The other new code is EWW, for "Extreme Wind Warning." This code will be used with alerts issued to warn of the onset of extreme sustained winds of 115 miles per hour or greater associated with major land-falling hurricanes (category 3 and higher).

Existing EAS equipment will need to be updated to accommodate the new codes. Comments in the record of this proceeding from equipment manufacturers indicate the codes can be implemented with inexpensive software downloads that could be installed in as little as ten minutes in each unit. The Commission concluded that the benefits to be gained from enhanced storm warning capabilities outweighed the fairly nominal implementation costs. The burden of those costs is further mitigated by the fact that use of these codes is voluntary for EAS participants.

Manufacturers will be required to integrate these codes into equipment yet to be manufactured or sold no less than six months after September 12, 2016, the effective date of the rule amendments. They would also have to make software updates for existing equipment available for downloading by the same deadline. The Commission anticipates that the facilities for the new codes will be in place in time for the 2017 hurricane season.

DOJ Rejects Fractional Licensing of Music *continued from page 1*

members hold the copyrights to musical scores and the lyrics that accompany them. Their purpose is to facilitate the licensing of the performance rights for their members' works to music users, including broadcasters. In most cases, broadcasters obtain the copyright licenses to perform music on the air with blanket licenses good for the entire repertoire of each of these two PROs, and a third one that is not subject to a consent decree, the Society of European Stage Authors and Composers ("SESAC"). In recent years, a fourth PRO, Global Music Rights, with a much smaller repertoire has entered the market as well.

Concerns about the anti-competitive nature of ASCAP's and BMI's operations led to the adoption of the Consent Decrees in 1941. The Decrees require each PRO to offer licenses that cover the organization's entire repertoire. Each Decree also established a rate court to which music users or the PRO could resort if they are unable to negotiate the price for a license. These arrangements have been blessed by the Supreme Court in a decision involving BMI. The Court acknowledged that the pooling of competitors' works by the PRO raised troubling concerns. However, those disadvantages are outweighed by the benefits offered by the blanket license system that no individual rights holders could match, including the immediate use of covered compositions without the delay that would result from negotiating with each individual copyright holder.

Under copyright law, joint authors of a single work are treated as "tenants-in-common," each with the right to grant nonexclusive licenses to use the entire work without the consent of the co-owner(s), provided that the licensor shares the proceeds of the license with the co-owner(s) on a pro-rata basis. This is the default position that governs in the absence of any other agreement between or among the co-owners, which they are free to negotiate and adopt at anytime.

Situations in which a musical work has multiple authors give rise to the possibility of fractional licensing. A fractional license conveys rights only from the partial owner of the work. To be able to use the work, the music user would need to acquire a license as well from the other co-owner(s). Where the co-owners do not belong to the same PRO, this means that the music user must obtain a license from multiple PROs.

Under present practice, when there are multiple authors of a work who do not all belong to the same PRO, one PRO offers a full license in the work. If the other authors belong to other PROs, and the default position on sharing license fees is in effect, they are compensated by way of the broadcasters' licenses with the other major PROs.

Licensing a work with multiple authors is therefore not generally a problem for broadcasters who carry licenses from all three major PROs. How the fees are distributed by the PROs to their members is irrelevant to broadcasters. However, music stakeholders have proposed that the DOJ adopt the position that if co-owners of a work agree to handle their fractional interests in separate transactions with music users, then each PRO would license only that fraction of the work belonging to its member. The music user would then have to make a separate licensing transaction with the other co-owner(s), either through one or more other PROs, or independently. This method of operating would appear to have little effect on broadcasters who have blanket licenses from all three PROs. However, it could pose problems in the growing number of cases where a fractional interest in the work is held by someone represented by Global Music Rights, or by a party who is not a member of any PRO.

The DOJ refused to adopt this position, relying on decades of usage under the Consent Decrees and the Supreme Court's ruling. It said that ASCAP and BMI are required to offer the complete repertoire of the works of their members. Licensing a fractional copyright interest is inconsistent with that principle. The DOJ said that would place undue burdens on music users to locate and negotiate with all other copyright owners, and it would give hold-out owners of fractional interests undue leverage.

Joint copyright owners remain free to agree to any arrangements between or among themselves concerning fractional licensing that they wish to adopt. However, if they restrict each other from offering a whole license in the work and they are not members of a common PRO, neither ASCAP nor BMI will be able to license that work.

Music stakeholders also proposed a change in the Consent Decrees to allow a copyright owner to withdraw from PRO representation some portion of its rights while maintaining others for the PRO to license. The rights frequently mentioned that some copyright holders would like to withdraw concern usage by digital music services. The DOJ again found that such a truncation of the PROs' licensing capabilities is contrary to the provisions of the Consent Decrees and denied this request.

The DOJ recognizes that there has been confusion in the industry about fractional licensing, giving rise to a variety of licensing practices. Therefore, it announced that it will forego enforcement of the full-work license requirement for one year to give PROs and copyright holders time to bring their practices and agreements into compliance.

DEADLINES TO WATCH

License Renewal, FCC Reports & Public Inspection Files

August 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 **California, Illinois, North Carolina, South Carolina** and **Wisconsin.**

August 1, 2016 Deadline to file Biennial Ownership Report for all noncommercial radio stations in **Illinois** and **Wisconsin**, and noncommercial television stations in **California, North Carolina** and **South Carolina**. (The FCC has amended its rules so as to reschedule this filing date for December 1, 2017, pending review by the Office of Management and Budget. As of this writing, that review has not been completed. Until OMB approves the new forms, the prior rule and schedule will remain in effect.)

August 1, 2016 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).

August 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 Illinois and Wisconsin; and all television stations in employment units with five or more full-time employees in **North Carolina** and **South Carolina**.

October 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 **Alaska, American Samoa, Florida, Guam, Hawaii, Iowa, Mariana Islands, Missouri, Oregon, Puerto Rico, Virgin Islands** and **Washington**.

October 3, 2016 Deadline to file Biennial Ownership Report for all noncommercial radio stations in **Iowa** and **Missouri**, and noncommercial television stations in **Alaska, American Samoa, Florida, Guam, Hawaii, Mariana Islands, Oregon, Puerto Rico, Virgin Islands** and **Washington**. (The FCC has amended its rules so as to reschedule this filing date for December 1, 2017, pending review by the Office of Management and Budget. As of this writing, that review has not been completed. Until OMB approves the new forms, the prior rule and schedule will remain in effect.)

October 3, 2016 Deadline for all broadcast licensees and permittees of stations in **Alaska, American Samoa, Florida, Guam, Hawaii, Iowa, Mariana Islands, Missouri, Oregon, Puerto Rico, Virgin Islands** and **Washington** 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).

October 3, 2016 Deadline to file EEO Broadcast Mid-term Report for all radio stations in employment units with more than 10 full-time employees in Iowa and Missouri; and all television stations in employment units with five or more full-time employees in **Florida, Puerto Rico** and **Virgin Islands**.

October 10, 2016 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.

October 11, 2016 Deadline to file quarterly Children's Television Programming Reports for all commercial full power and Class A television stations.

Rulemakings to Amend FM Table of Allotments

The FCC is considering an amendment proposed to the FM Table of Allotments to add the following channel. The deadlines for filing comments and reply comments are shown. The petitioner, the Cheyenne River Sioux Tribe, requests a Tribal Priority for the proposed allotment.

Community	Channel	MHz	Comments	Reply Comments
Eagle Butte, SD	228C1	93.5	Aug. 8	Aug. 23

Cut-Off Dates for FM Booster Applications

The FCC has accepted for filing the applications for new FM booster stations as described below. The deadline for filing a petition to deny these applications is indicated. Informal objections may be filed any time prior to grant of the application.

Community	Parent Station	Channel	MHz	Filing Deadline
Pueblo, CO	KIQN	277	103.3	Aug. 31
Pueblo, CO	KFVR	234	94.7	Aug. 31

DEADLINES TO WATCH

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
Hawaii	State Primary	Aug. 13	June 29 - Aug. 13
Wyoming	State Primary	Aug. 16	July 2 - Aug. 16
Guam	Territorial Primary	Aug. 27	July 13 - Aug. 27
Arizona	State Primary	Aug. 30	July 16 - Aug. 30
Florida	State Primary	Aug. 30	July 16 - Aug. 30
Massachusetts	State Primary	Sep. 8	July 25 - Sep. 8
Delaware	State Primary	Sep. 13	July 30 - Sep. 13
New Hampshire	State Primary	Sep. 13	July 30 - Sep. 13
Rhode Island	State Primary	Sep. 13	July 30 - Sep. 13
United States	General Election	Nov. 8	Sep. 9 - Nov. 8

Cut-Off Dates for Noncommercial FM Applications

The FCC has accepted for filing the application for new noncommercial 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
Shungnak, AK	269	101.7	Nome Seventh-day Adventist Church	Aug. 11

Cut-Off Dates for Low Power Television Applications

The FCC has accepted for filing the following digital low power television applications. The deadline for filing petitions to deny any of these applications is **August 14, 2016**. Informal objections may be filed anytime prior to grant.

Community	Station	Channel	Applicant
Montgomery, AL	New	23	King Forward, Inc.
Aspen, CO	New	18	MIK, LLC
Key West, FL	W06DD-D	6	James J. Chladek
Columbus, GA	New	28	DTV America 1, LLC
Valdosta, GA	New	31	King Forward, Inc.
South Sioux City, NE	KSXC-LD	26	Venture Technologies Group, LLC
Potsdam, NY	W26EP-D	26	Northeast Gospel Broadcasting, Inc.
Raleigh, NC	WBXU-LD	16	L4 Media Group, Inc.
Quebradillas, PR	WWKQ-LD	19	CMCG Puerto Rico License, LLC
Eagle Pass, TX	KEAP-LD	17	CTV Broadcasting, LLC
Lubbock, TX	KFMP-LD	28	Venture Technologies Group, LLC
Yakima, WA	New	24	Iglesia Pentecostal Visperia Del Fin

Deadlines for Comments In FCC and Other Proceedings

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

Docket	Comments	Reply Comments
Docket 16-155; NPRM Foreign ownership	Aug. 18	Sept. 2
Public Notice; FCC/CGB-5 Creation of Consumer and Governmental Affairs Bureau Stakeholder Database	Aug. 18	N/A
Docket 16-212; Public Notice Petition to increase foreign ownership stake in Frontier Media, LLC from 20% to 100%		Aug. 22
Docket 16-161; NPRM Revisions to public inspection file requirements		Aug. 22
Docket 16-238; Public Notice Petition to increase foreign ownership stake in Hemisphere Media Group, Inc. in excess of the 25% threshold	Aug. 29	Sept. 13
Docket 16-217; Public Notice Petition to increase foreign ownership stake in Univision Holdings, Inc. in excess of the 25% threshold		Sept. 7
Docket 16-247; Public Notice Status of competition in video programming market	Sept. 21	Oct. 24

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
Station identification, Sections 73.1201, 74.783, 74.1283	Aug. 24
EAS test reports, Part 11	Aug. 24
Commercial broadcast ownership reports, Section 73.3615, Form 2100, Schedule 323 (formerly Form 323)	Sept. 19
Noncommercial broadcast ownership reports, Section 73.3615, Form 2100, Schedule 323-E (formerly Form 323-E)	Sept. 19

ALL EAS PARTICIPANTS MUST REGISTER WITH EAS TEST REPORTING SYSTEM BY AUGUST 26, 2016

FCC Recaps Bona Fide News Interview Rule

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the program, and (3) whether the producer's decisions on format, content and participants are based on newsworthiness rather than on an intention to advocate for or against an individual's candidacy.

In its Request for Declaratory Ruling, Hearst described "Matter of Fact" as a regularly scheduled, half-hour weekly program that is carried on 26 Hearst-owned stations and 45 other stations. The host, Fernando Espuelas, is a national radio host and political commentator. Hearst asserted that the program "seeks to put political information in context by explaining issues in a down-to-earth and relevant manner that is inclusive of younger, and more diverse audiences." Hearst states that the format, content and production of "Matter of Fact" remain entirely within the control of Hearst and Mr. Espuelas. The program is produced at Hearst's Washington, D.C. news bureau by two Hearst executive producers, one Hearst senior producer, and Mr. Espuelas. Hearst claims that every stage of production – "from content to format to guest selection, shooting, editing, and delivery – are entirely within the control of Hearst." According to the Request, no candidate has input into the format content or production of the program. Topics to be discussed are selected and guests are invited to appear on the basis of their newsworthiness, and not for the purpose of advocating for or against any candidate or position.

The Bureau found Hearst's description of the program and its production processes to be completely consistent with its policy for determining that a program qualifies as a bona fide news interview program. "Matter of Fact" is therefore exempt from the equal opportunities mandate. This Ruling is a timely guide for program producers during the current election campaign.

Recruiting on Your Website Is not Enough

The FCC's Media Bureau has issued a *Forfeiture Order* for a penalty of $11,000 against Full Channel TV, Inc., a cable television system in Bristol, Rhode Island, for violations of the Commission's EEO rules. The Bureau found that Full Channel had failed to comply with the agency's recruitment, self-assessment, EEO public file report and public inspection file requirements. The Commission's EEO rules are essentially the same for cable systems and broadcast stations.

The Bureau conducted an audit of Full Channel for EEO compliance in 2011. The findings of this audit led to the issuance of a *Notice of Apparent Liability for Forfeiture* ("NAL") in April 2011. The Bureau found that Full Channel had filled three full-time vacancies and failed to recruit widely for any of them. Two employees were hired in October 2010 and April 2011 using vacancy announcements that were posted only on the cable system's website. A third employee was hired in January 2011 using a vacancy announcement that was posted only on Craigslist. The Commission's recruitment rules, among other things, require the employer to "widely disseminate information concerning the vacancy."

In response to the NAL, Full Channel asserted that its online advertising for these vacancies was sufficient. It argued that its Internet-only notices reached more potential qualified applicants than print advertising would have reached because online advertising is more effective and far-reaching in its community. Full Channel said that "69% of Rhode Island homes and 72% of nearby Massachusetts homes were connected to the Internet with access to Craigslist." Online advertising is more likely to reach computer literate applicants according to Full Channel, which it seeks. Full Channel also reported that in addition to Internet advertising, it "cultivates relationships with technical schools and training programs" and utilizes "job fairs, specific contact people, referrals from current employees and past employees, and cable television advertisements" for recruiting purposes.

The Bureau ruled that Full Channel's recruiting program was insufficient. Although the Commission does not require a specific number of recruitment sources, if the source or sources used cannot reasonably be expected to reach the entire community, the employer will not be in compliance with the agency's rules. The Bureau observed that by Full Channel's own reckoning, 31% of Rhode Island homes and 28% of nearby Massachusetts homes are not connected to the Internet and therefore would not have readily available access to the company's online vacancy notices. The Bureau said that the FCC's EEO policy requires an employer to recruit from non-Internet sources, as well as the Internet, to ensure that its information about vacancies is widely disseminated. The Bureau also cautioned that relying on an employer's own employees or private contacts does not constitute the public outreach recruitment contemplated under the Commission's rules.

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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 **September 26, 2016**. Informal objections may be filed anytime prior to grant of the application.

Present Community	Proposed Community	Station	Channel	Frequency
Brewton, AL	Jay, FL	WOWB	215	90.9
Strasburg, CO	Watkins, CO	KJHM	268	101.5
Bethany Beach, DE	West Ocean City, MD	WKZP	240	95.9
Peachtree City, GA	Union City, GA	WRDG	244	96.7
Grand Portage, MN	Grand Marais, MN	New	245	96.9
Beulah, ND	New England, ND	KQLZ	239	95.7
New England, ND	Beulah, ND	KLTQ	250	97.9
Clarendon, PA	Sheffield, PA	WKNB	282	104.3
Sheffield, PA	Clarendon, PA	WLSF	286	105.1
Camden, SC	Saint Stephen, SC	WEAF(AM)	N/A	1120
Benavides, TX	Agua Dulce, TX	KOUL	299	107.7
Delta, UT	Gunnison, UT	KMGR	239	95.7

Buyer Cannot Build Station Prior to Purchase

The parties to an agreement for the sale of the construction permit for FM translator station K277CT, Cottage Grove, Oregon, have agreed to settle an investigation by the FCC's Media Bureau concerning the unauthorized transfer of control of the station prior to the sale by admitting to the violation and agreeing to pay a civil penalty of $5,000. The significant element of violation consisted of the buyer's construction of the station prior to consummating the purchase.

Tom Hodgins filed an application for a construction permit for the station in 2003. While that application was pending, Hodgins granted an option to purchase the permit, if the application was granted, to McKenzie River Broadcasting Company. Under the option agreement, McKenzie was to reimburse Hodgins for all documented reasonable expenses related to obtaining the construction permit. Upon signing the agreement, McKenzie paid Hodgins a non-refundable advance of $1,000. The application was eventually granted on December 4, 2013. Hodgins filed an application for a license on February 5, 2014.

On May 5, 2014, Hodgins and McKenzie filed an application for FCC consent to the sale of the station to McKenzie pursuant to the option agreement. Upon inquiry by Bureau staff, it came to light that McKenzie's personnel had actually overseen construction of the station and McKenzie had paid the expenses for that construction while the station was still owned by Hodgins.

To conserve the resources of the parties and terminate the proceeding as economically as possible, Hodgins and McKenzie agreed to settle the proceeding in a Consent Decree with the Bureau. Hodgins and McKenzie admitted to violating the statutory prohibition on transferring control of a station without FCC approval, and jointly agreed to pay a civil penalty of $5,000.

The Bureau agreed to terminate the proceeding and not use any evidence developed in it as the basis for further investigations or proceedings against Hodgins or McKenzie. In the absence of other issues that would preclude the grant of the assignment application, the Bureau also agreed to grant it upon payment of the civil penalty.

Nationwide EAS Test Set for September 28 *continued from page 1*

nationwide test conducted in 2011.

Performance results for the test will be gathered in the FCC's EAS Test Reporting System ("ETRS"). All participants are reminded that they must register with the ETRS and file the ETRS Form One by August 26. These tasks must be accomplished online at the following FCC website: https://www.fcc.gov/general/eas-test-reporting-system. Test participants will file Form Two by 11:59 p.m. Eastern Time on September 28 to provide day-of-test data. Finally, post-test data is to be submitted by each participant on Form Three by November 14.

The Bureau suggests that participants should coordinate with their State Emergency Coordination Councils to prepare for the test by taking the following measures as may be needed or appropriate:

- Review and, if necessary, update state EAS plans.
- Ensure that the EAS Operating Handbook is available to personnel at normal duty positions.
- Review the EAS Operating Handbook for actions to be taken by operators upon receipt of the test alert, and tailor actions as may be necessary that are specific to the facilities.
- Ensure that EAS equipment operates in compliance with the EAS rules, such as being capable of receiving and processing the national periodic test code, and the "six zeroes" national location code.
- Upgrade EAS equipment software and firmware to the most recent version.
- Update ETRS Form One as needed so that it contains accurate information.
- If EAS equipment clocks do not automatically synchronize to an Internet time source, manually synchronize them to the official time provided by the National Institute of Standards and Technology.

FILING WINDOW FOR "250-MILE" FM TRANSLATOR MODIFICATIONS TO BECOME AM FILL-IN TRANSLATORS NOW THROUGH OCTOBER 31, 2016

RADIO STATIONS IN TOP-50 MARKETS WITH 5 OR MORE FULL TIME EMPLOYEES SHOULD HAVE BEGUN USING ON-LINE PUBLIC FILE AS OF JUNE 24, 2016 FOR NEW DOCUMENTS. DEADLINE TO UPLOAD PRIOR EXISTING DOCUMENTS IS DECEMBER 24, 2016

Website Recruiting Is not Enough *continued from page 6*

In addition to the deficiencies in its recruitment program, the Bureau also determined that Full Channel had failed to compile and maintain an EEO public file report for the reporting period ending in 2011, and to make its EEO public file report available for public inspection in its public file and on its website. In reaction to all of these violations, the Bureau had proposed in the NAL a forfeiture of $11,000.

Full Channel argued that the fine should be canceled or reduced in view of the small percentage of its staff that was subject to the noncompliance. The positions for which Full Channel had not properly recruited amounted to a small percentage of its 21-member staff. The Bureau countered that it calculated compliance in relation to the number of vacancies filled and not the size of the staff. The Bureau found that Full Channel had failed to properly recruit for any of the three vacancies that it filled during the reporting period – a noncompliance rate of 100%. The Bureau imposed the full amount of the $11,000 fine, as had been proposed in the NAL.