

## Plan Adopted for Post-Auction Transition Schedule

The FCC's Media Bureau has adopted a plan to govern the schedule for repacking stations during the post-Incentive Auction transition in the television band. The transition is set to happen over a 39-month period following the conclusion of Auction 1000 in which the spectrum presently allocated for television channels 38 through 51 is being sold to the providers of wireless services. Television stations on those channels that will remain on the air will, in most cases, be required to relocate to a new frequency below channel 37. Many stations currently on channels 2 to 36 may also need to modify their facilities in order to accommodate the stations moving down from the higher channels. The Bureau proposed the plan and released it for public comment last September. The plan establishes a methodology with priorities and objectives for conducting the modification of a majority of the stations in the country over three years' time in what the Commission hopes will be as smooth a transition as possible. The Bureau adopted the plan essentially as proposed, with some minor clarifications.

*continued on page 6*

## Application Procedures for TV Repack Announced

The FCC's Media Bureau has announced the procedures for applications that television stations must file to participate in the post-Incentive Auction repacking of the television band. As of this writing, the forward auction portion of Stage 4 of the Incentive Auction continues. However, bidding has already produced enough anticipated revenue to satisfy the Commission's minimum requirements for selling the spectrum. This benchmark was achieved on January 18. This means that the final stage rule has been satisfied and that the auction will conclude when the bidding ends in this stage.

In due course, the Bureau will release a Public Notice announcing that the auction has closed and setting out the new national assignment table for television stations (the "Closing Public Notice"). Stations reassigned to new channels and band changing stations (that is, stations moving to the high or low VHF bands) will have 90 days from the release date of the Closing Public Notice in which to file construction permit applications for the new facilities assigned to them.

Stations filing applications during the 90-day window will be permitted to apply to expand their coverage contours beyond those in the facilities assigned to them in the Closing

*continued on page 2*

## Correspondence From Public No Longer Required in Public File

The FCC has voted to eliminate the requirement for commercial broadcasters to keep copies of letters and emails from the public in their local public inspection files. This amendment to the agency's rules was adopted in a *Report and Order* in Docket 16-161.

Section 73.3526(e)(9) of the Commission's rules currently mandates that commercial stations must retain in their public files "[a]ll written comments and suggestions received from the public regarding operation of the station unless the letter writer has requested that the letter not be made public or the licensee believes the letter should be excluded from public inspection because of the nature of its content." This obligation was first imposed on broadcasters in 1973 under the theory that it would help members of the community to determine the nature of feedback being received by the station and assess whether their own views were shared by the public at large.

The Commission has concluded that changes in

*continued on page 3*

### IN THIS ISSUE

Kidvid on Multicast Channel.....	3
Deadlines To Watch.....	4-5
Rule Elimination.....	5
LPTV Companion Channels.....	7
Current Legislation.....	8

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

**pillsbury**

1200 Seventeenth St. NW  
Washington, DC 20036

Tel: 202.663.8167

Fax: 202.663.8007

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

# Application Procedures for TV Repack Announced continued from page 1

Public Notice. A reassigned station may propose to extend its coverage contour if the proposed facilities:

(1) are necessary to achieve the coverage contour specified in the Closing Public Notice or to address loss of coverage area resulting from its post-auction channel assignment;

(2) will not extend a full power station's noise limited contour or a Class A station's protected contour by more than one percent in any direction; and

(3) will not cause new interference beyond 0.5 percent to the technical parameters assigned to any other station in the Closing Public Notice.

A band changing station may propose facilities with a larger contour as long as it will not cause new interference beyond the 0.5 percent threshold to any other station. These stations are not limited to the one-percent contour increase restriction imposed on other stations.

Applicants hoping for expedited service in processing their applications can expect results within 10 business days if the application:

(1) does not propose to expand the station's coverage beyond that assigned in the Closing Public Notice;

(2) proposes facilities that would serve at least 95% of the population that would be served by the facilities assigned in the Closing Public Notice; and

(3) is timely filed within the 90-day filing window.

Reassigned stations and band changing stations that determine they are unable to construct facilities consistent with the technical parameters specified in the Closing Public Notice, including within the permissible variations described above, or for other reasons are unable to file their applications within the 90-day filing window may request a waiver of the filing deadline. The Bureau says that such requests are more likely to succeed if they include a demonstration that there are extraordinary technical or legal obstacles beyond the station's control that necessitate the extension. Even if an extension of the filing deadline is granted, the station will be expected to complete construction on time in its assigned phase. (See the accompanying story about the Transition Schedule for an explanation of construction phases.)

Following the processing of the applications submitted during the 90-day filing window, the Bureau will open two more 30-day filing windows for stations to apply for alternate channels or expanded facilities. The first of these "priority" windows will be open for applications from (1) reassigned stations and band changing stations that are unable to construct the facilities specified for them in the Closing Public Notice; (2) any reassigned station, band changing station, or non-reassigned station entitled to protection in the repacking process that is predicted to experience a greater than one percent loss in population served as a result of the repacking process; and (3) Class A stations that were not protected in the repacking process and were

displaced. All other reassigned and band changing stations may file applications in the second window.

Applications for expanded facilities must meet the standard criteria to be minor-change applications. Applications for alternate channels will be considered major-change applications. Band changing stations may not apply for channels outside of their post-auction bands.

Applications filed in either of the priority windows will be deemed as having been filed on the last day of the window and will not be protected from applications filed later in the same window. Mutually exclusive applicants will be given a 90-day period in which to resolve the conflict, either by technical solution or by settlement.

Reassigned stations and band changing stations may request one extension of the construction permit for post-auction facilities for up to 180 days. This request is to be filed not less than 90 days before the construction deadline and must demonstrate that the delay is due to circumstances that were unforeseeable or beyond the station's control. Regardless of the status of a station's post-auction facilities, it will not be permitted to operate on its pre-auction channel beyond the phase completion date for the phase to which it has been assigned, absent a Special Temporary Authorization ("STA"). If this results in a gap in the station's operations, it may be able to rely on the use of an STA on a temporary channel or auxiliary facilities. All such requests will be evaluated in terms of their potential impact on the overall transition process. In any event, no station will be allowed to operate on its pre-auction channel after the end of the 39-month transaction period.

Stations in transition to a new channel will be required to inform their viewers of the changes. During the last 30 days of operation on the pre-auction channel, stations must air either 60 seconds of on-air consumer education PSAs or 60 seconds of crawls per day. Certification of compliance with this requirement must be placed in the station's online public file. Stations changing channels must also provide notice to all multichannel video programming distributors that carry the station and that will continue to be obligated to carry it.

Stations that are relinquishing their spectrum rights completely must also notify their viewers by way of at least one PSA and one crawl in every quarter of every day for 30 days prior to the date on which operations cease.

A station that plans to share spectrum with a host station must file a construction permit application no later than 60 days prior to its deadline to cease operating on its pre-auction channel – which will be no later than 120 days after receiving its share of auction proceeds. The sharee's application must specify the same facilities as authorized for the sharer station. If the sharer station is a reassigned station or a band changing station, the sharee will need to file applications consistent with the modifications undertaken by the host shared station. The stations' Channel

*continued on page 7*

# Digital Multicast Channels Need Kidvid Too

To terminate an investigation, the licensee of WUTR(TV), Utica, New York, has entered into a Consent Decree with the FCC in which it agreed to pay a civil penalty of \$29,000 for failing to broadcast adequate Core Programming for children on the station's secondary digital channel.

Under the Children's Television Act ("CTA") and Section 73.671 of the Commission's rules, full power and Class A television stations are required to serve "the educational and informational needs of children through both the licensee's overall programming, and programming specifically designed to serve such needs." Programming specifically designed for children's educational and informational needs is defined as "Core Programming." The Commission has adopted a license renewal application processing guideline of at least three hours per week of Core Programming. Under this guideline, the Media Bureau will approve the CTA portion of a renewal application if the applicant shows that it has broadcast at least three hours per week of Core Programming as averaged over six months. If the applicant does not meet this guideline, the application is referred by the Bureau to the Commission for further review.

With the development of the capacity for digital multicast program streams, the Commission extended the processing guideline to cover multicast channels as well. To meet this guideline, a station must air a weekly average of at least 0.5 hour of additional Core Programming for every increment of 1 to 28 hours of programming aired on additional streams other than the station's main channel. A station is permitted to schedule all of the required children's programming, except

for the three hours required on the main channel, on any combination of its multicast streams provided that the stream on which the programming is aired has comparable cable and satellite coverage to the stream whose programming generated the requirement.

WUTR's 2015 license renewal application did not meet the processing guideline with respect to the station's secondary multicast stream during the period from the first quarter of 2009 through the third quarter of 2011. It came to light that the shortfall in children's programming was largely due to the fact that from March 2009, WUTR was rebroadcasting the programming of low power television station WPNY-LP on its multicast channel. Low power stations do not have obligations for children's programming. WUTR management mistakenly believed that because WPNY-LP was exempt from the children's programming requirements, WUTR's program stream was also exempt. The Bureau referred the application to the full Commission, who then initiated an investigation.

Upon recognizing its error, the station determined that a consent decree would be the most desirable way to resolve the matter. Under the terms of the Consent Decree, WUTR admitted to the rule violation and agreed to pay a civil penalty of \$29,000. In return, the Commission agreed to terminate the investigation and that the facts developed in this investigation will not be the basis for any future enforcement action against the station. The Commission also directed the Media Bureau to grant the renewal application upon payment of the civil penalty.

---

## Correspondence From Public No Longer Required in Public File

*continued from page 1*

lifestyle and technology since the 1970s have mooted the need for this rule and made it not only irrelevant, but also a needless burden on broadcasters. The record in this proceeding revealed that very few people actually visit stations to avail themselves of these correspondence stashes. Interactions between stations and their audiences are now much more likely to occur on social media. The widespread use and ready availability of social media platforms make them effective vehicles for stations to monitor the interests of their communities and to receive input from local residents.

All public inspection files for television stations are presently maintained online. Radio stations are in the midst of a transition toward online public files. When the Commission adopted rules for the public file to go online, it exempted correspondence from the list of items to be uploaded, but stations were required to continue to keep public correspondence in local files at the station. Eliminating the correspondence element entirely will allow

commercial stations to realize the cost savings and efficiencies of a public file that is entirely online. The Commission also found that this rule change promotes regulatory parity by eliminating a requirement for commercial broadcasters that other entities required to maintain a public file do not have.

The license renewal application directs commercial television and Class A television applicants to submit a summary of written communications received from the public regarding violent programming. The Commission directed the Media Bureau to delete this provision from the license renewal application form and to revise the form consistent with this decision.

This rule change must be approved by the Office of Management and Budget. Until that approval is obtained, the rule remains in effect and stations are obliged to continue to comply with it. Upon OMB approval, the Media Bureau will announce the effective date for this relaxation of the public file rule.



# DEADLINES TO WATCH



## License Renewal, FCC Reports & Public Inspection Files

February 1, 2017 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.**

February 1, 2017 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).

February 1, 2017 Deadline to file EEO Broadcast Mid-term Report for all radio stations in employment units with more than 10 full-time employees in **Kansas, Nebraska and Oklahoma**; and all television stations in employment units with five or more full-time employees in **Arkansas, Louisiana and Mississippi.**

April 1, 2017 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 3, 2017 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 3, 2017 Deadline to file EEO Broadcast Mid-term Report for all radio stations in employment units with more than 10 full-time employees in **Texas**; and all television stations in employment units with five or more 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 16-418; Public Notice Request for Declaratory Ruling by Matrix Capital Management Master Fund, L.P. to permit increase in foreign ownership stake in Pandora Media, Inc.		Feb. 7
---	--	--------

Docket 16-410: Public Notice Petition for Rulemaking to allow greater reliance on Internet sources for EEO recruitment requirements		Feb. 14
---	--	---------

U.S. Copyright Office Docket 2015-7; NOI Safe harbor provisions of the DMCA	Feb. 21	N/A
---	---------	-----

Docket 16-41; NPRM Fostering diversity of video programming		Feb. 22
---	--	---------

Docket 16-251; Public Notice Revision or elimination of certain regulations	May 4	N/A
---	-------	-----

Docket 16-306; Public Notice Repack transition report form and filing requirements	FR+15	FR+25
--	-------	-------

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





# DEADLINES TO WATCH



## 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 21, 2017**. Informal objections may be filed anytime prior to grant of the application.

Present Community	Proposed Community	Station	Channel	Frequency
Norfolk, CT	Canaan, CT	WSGG	207	89.3
Cartersville, GA	East Point, GA	WYXC	N/A	1260
Lowell, MA	Lawrence, MA	WLLH	N/A	1400
Beulah, MI	Traverse City, MI	WOUF	257	99.3
Traverse City, MI	Beulah, MI	WLDR-FM	270	101.9
St. George, SC	Walterboro, SC	WWOS	N/A	810
Walterboro, SC	Burton, SC	WALI	229	93.7
Weatherford, TX	Mineral Wells, TX	KYQX	207	89.3

## 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
Rebroadcasts, Sections 73.1207, 74.784, 74.1284	Feb. 7
CORES registration, Form 160	Feb. 13
Wireless interference to television stations in 600 MHz band	Feb. 13
Public inspection files, Sections 73.3526, 73.3527; and political files Sections 73.1212, 76.1701, 73.1943	Feb. 16
Foreign ownership proposals	Feb. 27
Significantly viewed signals, Section 76.54	Feb. 27
Presunrise and postsunset authorization for AM stations, Section 73.99	Feb. 28
Satellite delivery of network programming to underserved households, Section 73.686	Feb. 28
Experimental broadcast authorizations, Section 73.1510	Mar. 13
FM translator time of operation, Section 74.1263	Mar. 13
Auction and licensing disclosures, Sections 1.2110, 1.2111, 1.2112	Mar. 27

# Rules to be Reviewed for Revision or Elimination

The FCC's Office of Communications Business Opportunities has published a list of rules adopted or revised during the calendar years from 2001 through 2004 that are subject to possible revision or elimination under the Regulatory Flexibility Act. That law requires federal agencies periodically to review their rules that have or might have a significant economic impact on a substantial number of small entities with a view toward revising or eliminating them so as to minimize that impact.

The following sections of the Commission's rules of most interest to broadcasters are being reviewed:

- 73.152(b) Modification of AM directional antennas
- 73.607(b) Availability of TV channels
- 73.621(i) Noncommercial television
- 73.623(h) Digital TV applications
- 73.871 Amendments to low power FM applications
- 73.1010(a)(9) Rule cross references
- 73.1015 Truthful submissions
- 73.2080 Equal employment opportunity
- 73.6016 Digital Class A TV protection to full power TV
- 73.6017 Digital Class A TV protection to Class A stations
- 73.6018 Digital Class A TV protection to digital TV
- 73.6027 Class A TV notifications
- 73.7003(e)-(f) Noncommercial comparative selection procedures
- 74.5(a)(8) Rule cross references
- 74.785 LPTV digital data service pilot
- 76.57(c) TV Channel position on MVPD system
- 76.62(g) Manner of MVPD carriage
- 76.66 Satellite carriage of broadcast signals
- 79.2 Accessibility of emergency information
- 79.3 Video description

The Commission invites public comment about whether these rules should be revised or eliminated. Comments can be filed in Docket 16-251 until May 4, 2017.

# Post-Auction Transition Schedule continued from page 1

The final stage rule of the auction was satisfied during the Stage 4 forward auction on January 18. That means that the bids from buyers have produced enough proceeds to satisfy the Commission's minimum requirements for the sale of the spectrum. This condition had not been met during the first three stages of the Incentive Auction, and the quantity of spectrum offered for sale had to be reduced in each succeeding stage. While forward bidding continued after January 18, the specific amount of spectrum to be repurposed was set and the Commission could develop the new television assignment plan. The Bureau has sent a confidential letter to each eligible full power and Class A television station that was not a provisionally winning bidder to go off air at the end of the Stage 4 reverse auction. The letter identifies the station's post-auction channel assignment, technical parameters and its assigned transition phase.

Each station will be assigned to one of 10 transition phases, with sequential testing periods and completion dates. The testing period for each phase will have designated start and end dates, ending on the phase completion date. The Bureau will set these dates in a Public Notice announcing the closing of the auction and the new television assignment table for the entire nation (the "Closing Public Notice"). The completion date will be the deadline for each station in that phase to complete the construction of its new facilities and will be the last date on which it can broadcast on its pre-auction channel (absent the grant of a Special Temporary Authorization ("STA") or permit extension). A station may engage in planning and construction activities at any time prior to its phase completion date, but equipment testing on the post-auction channel must be restricted to the testing period designated for the entire group of stations in the phase. This coordinated effort is necessary to avoid interference.

The Bureau will assign each station to a phase with the use of a computer program developed for that purpose called the Phase Assignment Tool. The Phase Assignment Tool is designed to organize the transition in an orderly manner that considers station dependencies (i.e., pairs or groups of stations that depend on each other to modify their facilities in a certain sequence so as to avoid interference) and interference constraints in addition to accounting for specific complexities experienced by individual stations, while at the same protecting viewers.

The Phase Assignment Tool will assign stations to specific phases so as to comply with each of the following constraints:

- (1) a station cannot cause more than two percent new pairwise interference to another station during the transition;
- (2) no stations in Canada will be assigned to a phase earlier than the third phase;
- (3) there will be no more than 10 phases;
- (4) all stations within a designated market area ("DMA") will be assigned to no more than two phases;

(5) the difference between the number of stations in the smallest phase and in the largest phase will be no more than 30 stations;

(6) every transitioning station will be assigned to a phase;

(7) no phase can have more than 125 stations linked together;

(8) no station in the "complicated" category (with unusual technical, legal or physical obstacles that impede the necessary modifications) will be assigned to Phase 1.

The Phase Assignment Tool will analyze all of the possible solutions that satisfy all of these constraints and then select one that best meets defined objectives. The objectives are:

(1) all U.S. stations with pre-auction channels in the 600-MHz band (channel 38 and above) would be assigned to earlier phases, while all Canadian stations and U.S. stations with pre-auction channels in the remaining television bands would be assigned to later phases;

(2) the sum, over all DMAs, of the number of times that consumers in a DMA must rescan their receivers would be minimized;

(3) the total number of linked stations would be minimized;

(4) the number of stations in each phase would be equalized as much as possible.

Although not formally included in the defined objectives, the Bureau says that it will also attempt to avoid as much as possible scheduling phase completion dates in the northern states in the middle of winter.

After all transitioning stations have been assigned to a phase, the Bureau will use another program, the Phase Scheduling Tool, to estimate the average amount of time it will take all stations in a phase to complete their transition. It does this by simulating the process of planning and construction for each station in the phase. The length of time needed to complete the transition in a phase may vary depending on the simulation order of the stations in each phase. An average will be derived by running the Phase Scheduling Tool 100 times for each phase. This average will be the basis for setting the dates for testing and completion in each phase.

The plan does not include temporary channel assignments. However, a station with difficult problems may request an STA to operate temporarily on a channel that is neither its pre-auction nor post-auction channel – either by itself or sharing a channel with another station. The temporary facility must replicate the station's pre-auction coverage area and population served.

The Bureau published detailed instructions and explanations for application procedures in a separate Public Notice. These are reported in a related article elsewhere in this newsletter.

*continued on page 7*

# Application Procedures for TV Repack Announced continued from page 2

Sharing Agreement must be submitted with the application. The sharee will be required to cease broadcasting on its pre-auction channel not later than 180 days after receiving its share of auction proceeds.

Involuntarily reassigned stations will be eligible for reimbursement of their reasonably incurred expenses from auction proceeds held in the Reimbursement Fund. Band changing stations will not be eligible for reimbursement. Stations which are not assigned new channels in the Closing Public Notice will not be eligible for reimbursement either, even for modifications they may find necessary or beneficial to address or to mitigate the negative impact of the repacking process on their operations.

Eligible stations must file their estimates for the costs of equipment and services no later than 90 days after release of the Closing Public Notice. Estimates can be based either on the predetermined cost estimates listed in the Commission's catalog of eligible expenses or on documented price quotes from vendors. The Bureau will review these estimates and designate an initial reimbursement allotment for each station from which the station may draw down payments. The Bureau will announce later the specific procedures for filing actual reimbursement claims. Reimbursement payments can be issued only during the

statutory three-year reimbursement period. The Bureau will announce a date prior to the end of this three-year period for the final submission of all claims.

Instead of receiving reimbursement for relocation expenses, a reassigned station may request a waiver of the FCC's service rules that would allow it to make flexible use of its reassigned spectrum to provide services other than broadcast television. The station would have to continue to offer at least one free over-the-air broadcast program stream to the public. The remainder of the station's spectrum capacity could be used for whatever other type of service the licensee proposes and the Commission permits. The operation would be subject to all applicable interference protection rules. Reassigned stations seeking to offer such services must file their waiver requests within 30 days of release of the Closing Public Notice.

Low power television and television translator stations will not be protected in the repacking process and may be displaced. After the conclusion of the transition period, the Bureau will issue a Public Notice listing potential channels in areas where these stations are displaced. This Public Notice will be followed not less than 60 days later by a filing window for LPTV and translator displacement applications.

---

## Post-Auction Transition Schedule continued from page 6

Many commenters advocated relaxation of anti-collusion rule restrictions that prohibit applicants from communicating with each other about their bidding during the silent period associated with the auction. In a subsequent Public Notice, the Wireless Telecommunications Bureau announced a limited waiver of the rule with respect to communications that disclose reverse auction bids or bidding strategies. The Bureau reasoned that the results of the reverse auction are now irrevocable and cannot be affected by applicants' disclosures. Furthermore, the sharing of information about bidding results among broadcasters will facilitate the post-auction transition process. The waiver pertains only to the reverse auction. The anti-collusion rules remain in effect for the forward auction.

As for its part, the Commission reaffirmed its commitment to keep confidential for two years the existence of every reverse auction application that did not result in a winning bid.

The Bureau refused to adopt any new measures to alleviate the concerns of low power television and television translator licensees. The secondary status of these stations makes them vulnerable to displacement if and when the new assignment plan assigns a full power or Class A station on their channels. In that event, LPTV and translator stations will be able to participate in a special filing window for them to request an alternate channel at the close of the repacking process. Many of these licensees fear that the spectrum available to them in that filing window will be inadequate.

---

## LPTV Digital Companion Channels Frozen

The FCC's Media Bureau has frozen the filing of new applications for digital companion channels for low power TV ("LPTV") and TV translator stations. Analog LPTV and translator stations that may not yet have transitioned to the digital mode have the opportunity to operate a digital companion channel as an element of their transition. The Bureau stopped accepting these applications because the post-Incentive Auction repacking of the television band is about to begin. During an imminent 39-month transition period, hundreds of full power and Class A television stations will be in motion, seeking new channels and/or new transmitter sites. To add new unprotected LPTV authori-

zations into this environment would be unproductive and serve to increase confusion. Applications already on file will be processed.

A special filing window will be opened after the conclusion of the 39-month repacking period exclusively for displaced LPTV and TV translator stations to apply for displacement channels. The Bureau said that following the special filing window for displaced stations, it will again accept applications for digital companion channels. The deadline for these stations to complete their digital transitions will be one year after the conclusion of the 39-month post-auction repacking period.

# Congress Active on Broadcast Issues

Legislation of interest to broadcasters has sprouted early in the newly installed 115th Congress. The most wide-reaching of the active bills is one entitled the Federal Communications Commission Process Reform Act of 2017 (H.R. 290). As the name suggests, this bill would require the Commission to revise its procedures. The agency would have one year from the law's enactment in which to adopt a new regime to govern its rulemaking process. Required elements of that new structure include the following:

(1) A standard minimum length of time for comments and reply comments in rulemaking proceedings;

(2) Policies for treatment of comments, ex parte communications, and data or reports submitted in a rulemaking proceeding after the comment period to ensure that the public has adequate notice of and opportunity to respond to such materials before the Commission relies on them to make a ruling;

(3) Quarterly reports on the Commission's website and submitted to Congress on the status of open rulemaking proceedings;

(4) Deadlines for the Commission to respond to petitions for declaratory rulings, petitions for rulemaking, and petitions for reconsideration;

(5) Requirement that a notice of proposed rulemaking include the precise text of the rule being proposed;

(6) Specific mechanisms to measure and evaluate the effectiveness of new or changed program activities.

Also within the one-year time frame, the Commission would be required to complete an inquiry proceeding to consider the following:

(1) Procedures for allowing a bipartisan majority of Commissioners to place an item on the agenda of an open Commission meeting;

(2) Procedures for informing all Commissioners of a reasonable number of options for resolving matters before the agency;

(3) Procedures for ensuring that all Commissioners have adequate time to review a matter prior to having to vote on it;

(4) Advance publication of the text of agenda items to be voted upon at a Commission meeting so that the public has an opportunity to read the text before a vote is taken;

(5) Publishing the full text of orders and decisions not more than 30 days after they are adopted;

(6) Establishing deadlines for the disposition of applications and considering whether charging application fees would enhance the Commission's ability to meet such deadlines;

The bill would give groups of Commissioners the flexibility to meet in private to confer and collaborate, provided that records of who attended the meeting and what was discussed are published within two business days. Such private meetings among Commissioners are prohibited now.

The House of Representatives passed the FCC Reform Act and sent it to the Senate, where it is pending before the Commerce Committee.

The Securing Access to Networks in Disasters Act of 2017 (also known as the SANDy Act, after Hurricane Sandy) would designate broadcasters (as well as a broad range of other communications industry personnel) as first responders in emergency scenarios involving disasters. As such, they would be eligible to pass through security lines to enter affected areas for the purpose of repairing and maintaining transmission facilities so that broadcast services to the public can be maintained during the emergency. This bill has also passed the House and is pending in the Senate Commerce Committee.

H.R. 583 is a bill introduced in the House by the Chairwoman of the Communications and Technology Subcommittee, Marsha Blackburn (R-TN). This legislation would order the FCC to repeal its action taken in early January to require noncommercial broadcast licensees to include an FCC Registration Number ("FRN") for each officer and board member listed in their biennial ownership reports. To obtain an FRN, the registrant has to upload personal information, such as a social security number, to the FCC's website. This made the rule controversial with non-commercial broadcasters. The bill was referred to the House Energy and Commerce Committee, where it remains.

Finally, there is the perennial legislation to defund public broadcasting. Congressman Doug Lamborn (R-CO) has introduced H.R. 727 to prohibit Federal funding of the Corporation for Public Broadcasting after fiscal year 2019. The Corporation is regularly funded for two years in advance. Consequently, fiscal year 2020 is the next year to be budgeted. The bill was referred to the House Committee on Energy and Commerce

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 correct, but no warranty, express or implied, is given as to the accuracy or completeness of any information or statement published herein. Copyright 2017 by Atlantic Star Media, Inc. All rights reserved.