

FCC Proposes Next Generation TV

The FCC has proposed to authorize television stations to broadcast in the ATSC 3.0 mode, popularly called “Next Generation TV” or “Next Gen TV.” ATSC 3.0 is a suite of new television transmission standards developed by the Advanced Television Systems Committee (“ATSC”). In a *Notice of Proposed Rulemaking* in Docket 16-142, the Commission has requested public comment on a wide range of issues involved in implementing this new system.

ATSC 3.0 is designed to be capable of merging the qualities of over-the-air broadcasting with the broadband viewing and information delivery methods of the Internet – all within the 6 MHz channel presently allocated for a digital broadcast television station. This system was advocated last year in a Petition for Rulemaking filed with the FCC by a coalition of broadcast and consumer electronics interests. The petitioners described the system as having the potential for improved broadcast signal reception, delivery of Ultra High Definition video and audio, more localized program streams, interactive services and an advanced emergency alert system.

The FCC is clear to affirm, however, that despite the addition
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Prohibition on Reverse Auction Communications Waived; New TV Table of Assignments Imminent

The FCC’s Wireless Telecommunications Bureau has waived the rule that prohibits applicants in the reverse auction portion of the incentive auction from communicating to each other or to forward auction applicants about their bids and bidding strategies. Reverse auction applicants are now permitted to disclose the bidding conduct and their bids with other applicants. Indeed, some applicants have made such disclosures in public announcements. The waiver does not cover forward auction applicants.

The purpose of the rule is to prevent collusion and to protect the integrity of the auction process. However, now that the final stage rule in the auction has been satisfied and the reverse auction portion of the incentive auction has been completed, the Bureau reasons that there is no longer any risk of collusion. Communications between broadcasters can have no effect on the bidding. Each reverse auction bidder has made
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Siting Rule Relaxed for AM Fill-In Translators

The FCC has amended its rule for siting FM fill-in translators that rebroadcast an AM station so as to allow more flexibility in the placement of the translator. This action was adopted in the *Second Report and Order* in the AM Revitalization proceeding, Docket 13-249.

When the Commission created the AM fill-in rule for FM translators, it established the parameters that restrict the station’s coverage area. The translator’s 60 dbu contour cannot extend beyond the smaller of the AM station’s 2 mV/m daytime contour or a circle with a radius of 25 miles centered at the AM station’s antenna site.

The Commission received numerous comments in this proceeding complaining that this rule is too restrictive. Some AM stations are unable to take full advantage of an FM translator because of conditions such as being located far away from the intended target population or deployment of a directional antenna with a deep null that pulls the 2 mV/m AM contour close to the AM antenna site.

Heeding those comments, in the *Further Notice of Proposed Rulemaking*, the agency proposed to change
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New FCC Sets Aside Previous Actions and Practices

The change of presidential administrations in January was accompanied by a corresponding change of administrations at the FCC. During the Obama era, Democrats held a 3-2 majority on the Commission. Now during the early part of the new Trump administration, Republicans have a 2-1 majority. There are two vacant seats. The new Commission Chairman is Republican Ajai Pai, who was a frequent critic of the actions of the previous Chairman and majority. Now Chairman Pai is leading the Commission in setting aside and/or rescinding some of the Commission's recent actions with which he disagreed.

Noncommercial Broadcast Ownership Reports

Conforming its practices for noncommercial broadcasters to those previously in effect for commercial stations, in early 2016, the FCC adopted a requirement that every officer and director of a noncommercial broadcast licensee must be identified with an FCC Registration Number ("FRN") in the licensee's ownership reports. Obtaining an FRN entails submitting one's Social Security number to the FCC. In the alternative, a person can be identified in an ownership report with a Restricted Use FRN ("RUFN"). To get an RUFN, a person must enter his or her complete name, residential address, date of birth, and the last four digits of the Social Security number.

Many noncommercial broadcasters petitioned the Commission to reconsider the personal FRN requirement. They argued that personal data is not secure in the FCC's online database; that personal identification of noncommercial officers and directors serves no useful purpose and does not further the FCC's task of measuring the progress of minority and female ownership in broadcasting; and that such an intrusion into the personal affairs of volunteer non-profit board members would likely inhibit their participation on such boards.

Acting on delegated authority in early January, the Media Bureau released an *Order on Reconsideration* affirming the Commission's original order and completely rejecting all of the noncommercial parties' objections to the FRN requirement for their officers and governing board members. Commissioners Pai and Michael O'Rielly, issued a statement highly critical of the Bureau's action. They said that the Commission's original order imposed "unnecessary requirements on noncommercial . . . stations."

In early February, the new Acting Chief of the Media Bureau issued an *Order* setting aside the Bureau's *Order on Reconsideration* before it became effective. She stated that "these petitions for reconsideration are more appropriately handled at the Commission level." The petitions were returned to pending status. For the time being, the FRN requirements for noncommercial stations remain in effect. However, given Chairman Pai's and Commissioner O'Rielly's strong feelings on this topic, it seems likely that the Commission will take some action to revise or rescind this rule. Biennial ownership reports are not due to be filed until December 1.

Processing Guidelines for Sharing Arrangements

In March 2014, the Media Bureau issued a Public Notice

to offer guidance to parties in television station transactions that included proposals for sharing arrangements and contingent interests. The Bureau announced that it would closely scrutinize any application proposing that two or more stations in the same market would:

- Enter into an arrangement to share facilities, employees, and/or services or to jointly acquire programming or sell advertising, including a Joint Sales Agreement, or Local Marketing Agreement, or any other agreement or arrangement that would have the same practical operational or financial effect as any of these agreements, and
- Enter into an option, right of first refusal, put/call arrangement, or other similar contingent interest or a loan guarantee.

The Bureau said that in each situation the applicants must provide sufficient information and documentation to fully describe the proposed transaction, including any side agreements, and establish that it is an arm's-length transaction that would not impair the existing licensee's control over station operations and programming, result in attribution of the relationship, or be otherwise contrary to the public interest.

Soon after the new administration assumed control of the FCC, the Media Bureau issued a Public Notice rescinding the 2014 Public Notice, "in its entirety and effective immediately[.]" No further explanation was offered. Because the item at issue was a processing guideline rather than a regulation, neither the implementation of the policy in the 2014 Public Notice nor its rescission is subject to the notice and comment requirements for a rulemaking proceeding.

Political File Records

In January of this year, the Media Bureau admonished a number of television stations for failing to maintain in their political files all of the documentation required by Section 315(e) of the Communications Act. The Bureau's action came in response to complaints filed by public interest groups who had monitored the stations' files. Although the stations that were the subject to these actions believed they had complied with the statute, the Bureau prescribed in fine detail the required information that it wanted to see in the file. While it only admonished the stations involved in this action, the Bureau gave notice that the provisions of this order would be a guideline for future enforcement actions.

The principal rulings in the order included the following:

(1) When a request for political time triggers the disclosure obligations under Section 315(e)(1)(B), the station must disclose the names of all candidates (and the offices for which they are running), all elections, and all national legislative issues of public importance to which the communication refers.

(2) Stations must disclose all of the chief executive officers or members of the executive committee or board of directors of the sponsor.

(3) The concept of an issue of national legislative importance is broad enough to include not only matters under current legislative debate, but also issues currently being deliberated by the public that may be the subject of future or past

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100 Percent Foreign Ownership Approved for Broadcast Parent

The FCC's Media Bureau has issued a *Declaratory Ruling* in which it found that the public interest would be served by granting applications filed by Frontier Media, LLC, for Commission consent to transfer 100% control of Frontier to two Australian citizens (50% each). The Australians thereby would come to acquire 100% indirect control of four broadcast licensee companies which Frontier controls or owns. The four companies are Alaska Broadcast Communications, Inc., Juneau Alaska Communications, LLC, Texarkana Radio Center Licenses, LLC and Jo-Al Broadcasting, Inc. Collectively, they hold licenses for 7 AM stations, 8 FM stations, 13 FM translators and one TV translator in Alaska and the Texarkana market. This is the first case in which the FCC has granted an application for 100% foreign control of the parent business entity of a broadcast licensee.

The Bureau reviewed this proposal in accord with the strictures of Section 310(b)(4) of the Communications Act, which states that "[n]o broadcast . . . license shall be granted to or held by . . . any corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or revocation of such license."

Under procedures established in the Commission's 2013 *Broadcast Clarification Ruling*, an applicant proposing a transaction that would result in foreign ownership in excess of the 25% threshold must submit a petition for a declaratory ruling that the proposed ownership arrangement would not be contrary to the public interest. There is no standardized review process for such petitions. They are reviewed case-by-case on the basis of the facts specific to each proposal. (The Commission adopted provisions in 2016 to streamline the review process for such proposals. However, that order has not yet taken effect. Therefore, the Bureau's procedures in this case are governed by the agency's 2013 ruling.)

Frontier is an Alaska limited liability company that is proposed to have two members – each holding a 50% interest – Richard Burns and Sharon Burns. The Burnses

are Australian citizens who have legally lived and worked in the United States since 2006. Until now, each of them has held a 10% interest in each of Frontier's subsidiary licensee companies. After the transaction, they will hold no direct interest in those companies. Frontier's Petition for Declaratory Ruling describes the Burnses as longtime participants in the civic and commercial life of the community of Juneau, Alaska. Richard has served as CEO and manager of the Alaska stations since 2006, and the Texarkana stations since 2013.

Following the procedures adopted in the *Broadcast Clarification Ruling*, the Bureau consulted with relevant Executive Branch agencies with expertise in national security, law enforcement, foreign policy and trade policy. After reviewing the proposal, those agencies filed a letter with the FCC stating that they had no objections to the application and no requests for conditions on the grant of it.

*This is
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The Bureau issued the requested *Declaratory Ruling* and granted the applications, concluding that the proposal would serve the public interest because it would: (1) increase the likelihood of continued service to small communities by authorizing investment by individuals who are ready, willing and able to operate the stations based on their experience operating them to date; (2) facilitate foreign investment in the U.S. broadcast radio market; and (3) potentially encourage reciprocal investment opportunities for U.S. companies in foreign markets.

However, the Bureau's approval came with conditions. Frontier must obtain prior Commission approval for any change in its ownership in which any individual foreign investor or group that is not specifically approved in this *Declaratory Ruling* acquires a direct or indirect voting or equity interest in Frontier, whether or not that interest is insulated. If at any time, Frontier knows or has reason to know that it is no longer in compliance with this *Declaratory Ruling*, Section 310(b) of the Communications Act, or the FCC's foreign ownership rules then in effect, it must file a statement with the Commission within 30 days of the date that it knew or had reason to know of the noncompliance, explaining the circumstances and how it intends to correct the problem, either by filing a new petition for a declaratory ruling or by reducing the foreign interest.



DEADLINES TO WATCH



License Renewal, FCC Reports & Public Inspection Files

- 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**.
- April 10, 2017 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.
- April 10, 2017 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.

Community	Channel	MHz	Comments	Reply Comments
Fort Walton Beach, FL	295A	106.9	Mar. 27	Apr. 11

Deadlines for Comments In FCC and Other Proceedings

Docket	Comments	Reply Comments
(All proceedings are before the FCC unless otherwise noted.)		
Docket 16-306; Public Notice Repack transition report form and filing requirements		Mar. 13
Docket 17-22; Public Notice Termination of dormant proceedings		Mar. 20
Docket 16-251; Public Notice Revision or elimination of certain regulations	May 4	N/A
Docket 16-142; NPRM Next Generation TV	May 9	June 8

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 **April 28, 2017**. Informal objections may be filed anytime prior to grant of the application.

Present Community	Proposed Community	Station	Channel	Frequency
Chandler, AZ	Maricopa, AZ	KPNG	204	88.7
Fountain Hills, AZ	Maricopa, AZ	KLVK	206	89.1
Maricopa, AZ	Avondale, AZ	KLVA	288	105.5
Newbury, MA	Seabrook, NH	WVCA	201	88.1
North Dartmouth, MA	Newport, RI	WUMD	207	89.3
Clayton, NM	Hartley, TX	KUHC	213	90.5
Weatherford, TX	Mineral Wells, TX	KYQX	207	89.3
Canaan, VT	Milan, NH	WVOX	231	94.1

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the rule to require the FM translator's 60 dbu contour to be completely contained within the greater (rather than the lesser) of the AM station's 2 mV/m daytime contour or the 25-mile radius of the AM antenna site. This proposal was accompanied by the caveat that in no case should the FM 60 dbu contour extend farther than 40 miles from the AM antenna site. However, numerous commenters said that that limitation was still too restrictive.

The Commission decided to adopt the proposal without the 40-mile limit. Thus, the translator can serve any area within even the largest 2 mV/m AM contours. Responding to comments that eliminating the 40-mile limit would allow AM stations to unduly expand their coverage areas, the agency observed that it has held in previous rulings that the 2 mV/m contour coverage area is an AM station's primary service area.

During 2016 the FCC conducted two filing windows for AM station owners to acquire and relocate FM translators to rebroadcast their stations. Translators could be moved up to 250 miles without incurring the restrictions of the major-change rule. The Commission says that it granted over 1,000 applications to relocate translators. The agency wants to provide those applicants who participated in the translator modification windows with maximum flexibility to deliver service to their new communities. Accordingly, such an applicant may take advantage of this new siting rule and apply to move a translator again with a minor change application that was already relocated under the special translator filing windows last year – provided that the new antenna site would place the station within 250 miles of its original pre-window site as required under the filing procedures for the modification windows.



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
Experimental broadcast authorizations, Section 73.1510	Mar. 13
FM translator time of operation, Section 74.1263	Mar. 13
Rebroadcasting programming of another station, Sections 73.1207, 74.784, 74.1284	Mar. 17
Auction and licensing disclosures, Sections 1.2110, 1.2111, 1.2112	Mar. 27
CORES registration and update forms, Forms 160 and 161	Mar. 27
Remittance advice form, Form 159	Apr. 17
Children's television programming, Sections 73.671, 73.673	May 1
Accessibility of emergency information, Sections 79.2, 79.105, 79.106	May 1

Prohibition on Reverse Auction Communications Waived

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its final irrevocable bid, no licensee can change its reverse auction bid and the outcome of the reverse auction cannot be changed for any one applicant or as a whole.

Broadcasters' freedom to communicate with each other will facilitate their efforts to prepare for the post-auction transition and repacking. The Commission has sent confidential letters to all full power and Class A television stations to inform them what modifications they will be required to implement in the repacking. In the next several weeks, the Media Bureau will release a Public Notice formally announcing the close of the reverse auction and the new television table of assignments for the entire country.

This Public Notice will also assign each station that has to modify its facilities to a "transition phase," or specific time period during the repacking transition when it will be expected to construct its new facilities. The release of the Public Notice will trigger the beginning of a 90-day period during which each station that must modify its facilities will be required to file its construction permit application. That 90-day period will be followed by 10 sequential transition phases, succeeding one another over a three-year period. The stations assigned to each transition phase will take their respective turns in completing construction and going on the air with their new facilities.

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of capabilities for new services that might not be deemed “broadcasting” in the legal sense of the word, the basic ATSC 3.0 service is to be considered broadcasting as that term is defined in the Communications Act. As such, Next Gen TV stations will be subject to all of the same public interest rules and obligations that pertain to all other television broadcast licensees. Transmitting at least one free over-the-air program stream for the general public will continue to be required. The petitioners stated that many of the public interest services could be improved through deployment of ATSC 3.0, such as enhanced EAS, captioning and video program description offerings.

The Commission invites comment on which types of ATSC 3.0 services will be provided over the air to consumers for free, and what additional services or features might involve a fee. Should broadcasters who choose to deploy a higher video format, such as 4K resolution, be required to offer it over the air at no cost? What features might be available only with an Internet connection? Which services or features would be “ancillary services” as defined in the rules, and therefore subject to the Commission’s 5 percent fee? Are there non-broadcast services that a Next Gen TV broadcaster might offer that would not fall in the category of “ancillary services”? What is the regulatory significance of an ATSC 3.0-based service that is provided for free as compared to one that incurs a charge?

The technology of the ATSC 3.0 transmission system is described as consisting of three layers:

(1) The foundational physical layer defines the core transmission system. This layer includes the definition of the RF waveform used in ATSC 3.0 and the coding and error correction elements that make the signal robust and determine coverage and interference qualities.

(2) The management and protocols layer connects the physical layer with the presentation layer. It supports service delivery and synchronization, service announcement and personalization, interactive services and companion-screen services. This layer specifies Internet Protocol (“IP”) transport for delivery of streaming broadcast video, audio and file content. This allows full integration of the broadcast service with Internet services. The use of IP also permits the broadcast station to localize and personalize its services.

(3) The applications and presentation layer conveys the elements that the audience sees and hears.

The Commission proposes to establish ATSC 3.0 as an optional standard that can be used by stations on a voluntary basis while they continue to provide the current-generation ATSC 1.0 service to the public. The agency proposes to require a minor modification application for authorization to convert to ATSC 3.0. ATSC 3.0 is not backward-compatible with the ATSC 1.0 standard currently in use by broadcast television. That means that the public would not be able to use receivers with the tuners currently in place to watch programming delivered with the Next Generation TV signal. Therefore, even if all stations upgraded to ATSC 3.0 at the same time, there would remain the problem of the inade-

quate supply and market penetration of the new receivers for the public. To address this problem, the Commission proposes a system in which two stations with substantially the same coverage patterns would cooperate with each other to use their digital multicast channels to simulcast each other’s programming. One station would carry both program streams in ATSC 1.0 and the other would transmit both streams in ATSC 3.0. All programming would be available to the public in both formats without the need for additional spectrum. At some point in the future when ATSC 3.0 receivers achieve a satisfactory level of market penetration, ATSC 1.0 transmissions could be discontinued and each station could revert to carrying just its own 3.0 signal.

The petitioners assert that the transition could be easily managed. The interference characteristics of the two systems are similar enough that they can be operated by different stations in the same area and in the same band using the existing interference rules and allotments. The turnovers in both industry and consumer equipment would be optional and market-driven.

The Commission discusses approaches to the problem of receiver compatibility and turn-over. Section 15.117(b) of the Commission’s rules, implementing the agency’s authority under the 1962 All Channel Receiver Act, requires that all television broadcast receivers be capable of receiving all channels allocated by the Commission to the television broadcast service. The Commission tentatively concludes there is no need presently for a Next Gen TV tuner mandate because the transition to ATSC 3.0 would be voluntary and market-driven. ATSC 1.0 operations could continue indefinitely. Accordingly, the agency proposes to amend Section 15.117(b) to clarify that the requirement does not apply to the reception of ATSC 3.0 signals. In the alternative, the Commission asks whether it should require receivers manufactured after a certain date to be capable of receiving ATSC 3.0. If so, what should that date be? The agency also seeks information about the prospect that most receivers currently in use could be fitted with an adaptor that would enable them to receive ATSC 3.0.

The proposed transition plan raises questions about how to regulate the paired-station program carriage. Should a simulcast be separately licensed as a second channel of the originating station, or as a multicast stream of the host station? In the alternative, could a station be authorized to broadcast via a host station with a special temporary authority? In any case, a complex agreement would certainly be needed, and the agency asks whether the parties should file that agreement with the agency. Commenters are asked to address whether a host noncommercial station could simulcast the programming of a commercial station.

In the Petition for Rulemaking, the petitioners asserted that the simulcasting ATSC 3.0 and ATSC 1.0 stations should serve a “substantially similar community of license.” The Commission asks whether the simulcast coverage area must completely replicate its original coverage area? If not,

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governmental action. In spots that mention a federal candidate and the candidate's position on any topic of national concern, that topic must be included in the disclosure.

In early February, before these actions had become final, the Acting Chief of the Media Bureau issued an *Order* setting them aside. The only commentary offered was that "those matters are more appropriately addressed at the Commission level."

Consent Decrees

During his first weeks in office, Chairman Pai issued several statements to announce what he described as "process reforms." One of these concerned the Enforcement Bureau's use of consent decrees to resolve investigations of rule violations. In exchange for terminating the proceeding, the party being investigated may in some cases agree to certain terms, frequently including the payment of a forfeiture (which the party hopes will be less than might otherwise be imposed) and implementation of a compliance plan.

A consent decree could be adopted at any phase of the enforcement proceeding – including subsequent to a vote by the Commissioners to propose or impose a forfeiture. Chairman Pai disapprovingly cited a practice that he said had been prevalent in recent years. In cases where the full Commission had voted on a disposition of the matter, the former Chairman would authorize the Chief of the Enforcement Bureau to enter into a consent decree without bringing the case back before the full Commission. He observed that often the other Commissioners were given hardly any notice of such decrees before they were released to the public.

Chairman Pai has ordered a halt to that practice. Where the full Commission has voted on a matter, any resolution of it by a consent decree must come back before the full Commission again for a vote. The Chairman said that this would promote the Commissioners' involvement in and accountability for important enforcement decisions.

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what degree of replication should be required between the two stations? Could service restrictions be relaxed during the later phases of the transition when there are more ATSC 3.0 receivers in use and it becomes more difficult for an ATSC 1.0 station to find a simulcasting partner station? Should broadcasters be permitted to simulcast in a lower quality format than they did before entering into the simulcast arrangement?

The Commission suggests that market-wide simulcasting arrangements might be feasible. Should the agency encourage or favor such arrangements? Does it have the authority to require all of the stations in a market to agree to such arrangements? Regardless of whether there are market-wide simulcasting agreements, how will the deployment of ATSC 3.0 affect stations that are small, in rural areas, low power or noncommercial?

These matters also raise issues concerning the carriage of stations by multichannel video programming distributors ("MVPDs"). The Commission proposes that must-carry obligations would attach only to ATSC 1.0 signals. Stations and MVPDs would be free to negotiate retransmission consent agreements for both ATSC 1.0 and 3.0 signals. Under the scenario where the originating station is licensed for the simulcast stream broadcast by another station, the Commission believes that the channel has must-carry status. Where there is significant variation between the coverage areas of the originating station and the host station, the Commission asks for public comment as to which coverage area should give rise to MVPD must-carry obligations.

In situations where multiple ATSC 1.0 signals are carried on a station pursuant to multicast arrangements, the issue of must-carry rights for the originating station is murkier. The host station has must-carry rights for only one program stream. The Commission asks for comment about whether it

could impose must-carry status on a second ATSC 1.0 signal with the program stream originating from the sharee station and transmitted by the host station. In the alternative, should it enforce must-carry status for the ATSC 3.0 signal on the originating station? In that connection, the Commission notes that many MVPDs are not yet able to carry ATSC 3.0.

The proposed authorization of ATSC 3.0 poses three potential interference issues: (1) interference to ATSC 1.0 signals; (2) interference to other ATSC 3.0 signals; and (3) interference to non-television services that operate within or adjacent to the television band. The Commission proposes to treat ATSC 3.0 signals as though they were ATSC 1.0 digital signals, with identical technical parameters. Thus, ATSC 3.0 would be compatible with the current regime for interference regulation. Comments are invited on whether the technical parameters should be based on physical differences between the ways that broadcasters would deliver the two signals.

Because ATSC 3.0 signals contain multiple video streams each requiring a signal strength threshold, the Commission proposes to require Next Gen TV stations to provide at least one free program stream comparable to a digital TV signal to ensure viewers within the DTV-equivalent service area continue to receive service at the current DTV protection levels. The DTV-equivalent service area for a station transmitting in ATSC 3.0 is proposed to be determined with the methodology and planning factors defined for ATSC 1.0 in OET Bulletin No. 69. For a Next Gen TV UHF station, the DTV-equivalent service area would be defined at 41 dBu V/m plus a dipole adjustment factor.

The Commission solicits public comment in Docket 16-142 on these and many subsidiary issues. Comments will be due May 9. The reply comment deadline is June 8.

Catalog of Reimbursable Repacking Expenses Finalized

The FCC's Media Bureau has released the final version of the catalog of eligible reimbursement expenses for which television stations can expect to be reimbursed during the post-incentive auction repacking process. Disbursements will be made to stations from the \$1.75 billion TV Broadcaster Relocation Fund (also called the Reimbursement Fund) created by Congress and funded from incentive auction proceeds.

Preliminary drafts of the catalog were published previously for public comment. The Bureau says that comments it received generally fell into three categories: (1) requests to add expense categories; (2) requests to modify existing expense categories; and (3) requests to adopt or clarify particular reimbursement policies and/or processes.

The Bureau responded to the first line of comments with the reminder that the catalog is not intended to be all-inclusive of every possible expense category. The Bureau said that many types of expenses not specifically enumerated in the catalog can be included in broad categories, and beyond that, there will be a line item on the Reimbursement Form for a catch-all "Other." Commenters suggested adding line items for such things as professional services, and temporary facilities and equipment. The Bureau explained that to the extent such items are legitimately necessary to facilitate the transition, they can be claimed but they must be documented. Items that the Bureau rejected as not being eligible for reimbursement included the cost for a station's internal staff to accomplish transition-related tasks, and increases in post-transition operating costs. Reasonably necessary expenses for new equipment will be reimbursable, but the Bureau cautions stations that they should reuse their own existing equipment to the extent possible.

The comments advocating modifications to existing expense categories centered around changing the baseline costs listed in the catalog. The Bureau responded that stations will be able to seek reimbursement of costs higher than those listed in the catalog if they can justify and document those expenses.

Requests for reimbursement policy clarifications included a query about foreign vendors. A domestic equipment supplier requested that equipment and services provided by foreign vendors be excluded from eligible reimbursement. Without discussing the merits of such a policy, the Bureau merely stated that the issue was beyond the scope of the Public Notice in which it had requested comment.

Some commenters requested guidance about how to account for shared costs, such as when multiple repacked stations share a tower site. The Bureau said that it is up to the par-

ties sharing the costs to allocate those costs among themselves. Each party then eligible for reimbursement would simply claim for reimbursement its own share of the cost. The same procedure would govern calculations for cost-sharing with a station not eligible for reimbursement. There may be circumstances, however, in which expenses related to a non-eligible party may be claimed by an eligible station. A reimbursement-eligible station that has contractual obligations with an entity not eligible for reimbursement may submit reimbursement claims for expenses incurred by the non-eligible entity that the eligible station is obligated to pay if the contract for that obligation was entered into on or before June 2, 2014 (the release date of the incentive auction *Report and Order*).

Guidance was requested regarding how to account for the cost and time ranges for leased equipment. The Bureau expects that stations may need to lease equipment necessary for temporary use during the transition. The Reimbursement Form will accommodate this provided that the lease term falls within the three-year repacking transition period. The Commission is limited to reimbursing for expenses incurred during the three-year period. The catalog does not include predetermined leasing prices. Stations that claim such expenses will need to support those claims with documentation.

Commenters sought clarification on whether a station could be reimbursed for replacing older equipment with upgraded facilities (such as substituting a new solid state transmitter for an inductive output tube transmitter). The Bureau said that the reimbursement process would allow stations to upgrade their equipment by requiring them to pay the difference between equipment comparable to their pre-auction facilities and the upgraded equipment for use in the post-auction station. If modifying the existing equipment would cost more than purchasing new upgraded equipment, the less expensive upgrade would be reimbursable – supported with appropriate documentation.

Finally, the Bureau announced its policy for ensuring that the baseline costs listed in the catalog remain current throughout the reimbursement period. Those figures will be monitored and adjusted annually in accord with changes in the Producer Price Index as calculated by the Bureau of Labor Statistics. The Bureau also committed to monitor industry prices and to propose adjustments to the catalog baseline costs if those prices increase faster than the Index.

The catalog can be downloaded from the FCC's website, at the Daily Digest page for February 9.

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