

Regulatory Fees Due September 25 Payment Flexibility Offered for Pandemic-Related Hardship

The FCC has set the regulatory fees to be collected for the fiscal year ending September 30, 2020, in a *Report and Order and Further Notice of Proposed Rulemaking* (FCC 20-120) in Docket 20-105. These fees will be due to be paid to the FCC by 11:59 p.m. Eastern Time on September 25. Fees that remain unpaid after that date will incur a 25 percent penalty.

For fiscal year 2020, Congress has directed the FCC to collect \$339 million in regulatory fees to offset the cost of operating the agency. The Commission apportions this total among the regulatees of its four core bureaus – Media, Wireless Telecommunications, Wireline Competition, and International. The formula for this apportionment involves the calculation of the full time equivalent (“FTE”) staff positions needed by each bureau. There are 311 such FTEs, considered “direct” FTEs. The Media Bureau’s share is 37.3 percent of the total, or 116 FTEs. The staff employed in all of the other bureaus and offices are considered “indirect” FTEs, of which there are 911. Responsibility for covering the cost of the indirect FTEs is divided among the four core bureaus

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Processing of Noncom Applications Updated

In a recent letter to a member of Congress, FCC Chairman Pai indicated his expectation that newly amended rules governing the comparative selection process for groups of mutually exclusive noncommercial broadcast applicants would become effective sometime later this year. He further suggested that a filing window for new and major change noncommercial FM applications would follow thereafter. This article discusses those rule amendments. Although the FCC adopted the *Report and Order* (FCC 19-127) that established these changes in December of last year, the Office of Management and Budget has yet to complete its Paperwork Reduction Act review of pertinent aspects of them. That approval is necessary before the revised rules can become effective.

The FCC has updated its rules for processing applications

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Updated Schedule of Filing Fees Proposed

In a *Notice of Proposed Rulemaking* (FCC 20-116) in Docket 20-270, the FCC has invited comment on a new schedule of application filing fees. Enactment of the RAY BAUM’S Act of 2018 has permitted the FCC to restructure and update its filing fee regime.

The current application fee structure was legislated by Congress in 1986. It gave the FCC no discretion to institute updates related to changes in technology or the Commission’s policies and practices. The FCC had authority only to revise the amount of fees every two years to adjust them for inflation. In place of those limitations, the new law requires the FCC (1) to adopt a schedule of application fees to recover the costs of processing applications, and (2) to amend the schedule, as needed, to reflect increases or decreases in those processing costs, and/or to reflect consolidation or addition of new categories. The Commission says that these changes it is now proposing will streamline the fee process, make the system more efficient, add new fees for applications developed since the original fee structure was adopted, and eliminate fees for

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Processing of Noncom Applications Updated continued from page 1

for new and major changes to noncommercial FM and television stations in the *Report and Order* in Docket 19-3. These changes are generally intended to simplify procedures for applicants, permittees, and new licensees. The Commission has affirmed this decision in an *Order on Reconsideration* (FCC 20-121).

When the FCC receives multiple acceptable applications for new noncommercial FM stations or for major changes to such stations on FM channels reserved for noncommercial use that are mutually exclusive with each other, it must decide which one to designate as a tentative selectee. Sections 73.7002 and 73.7003 of the FCC's Rules set out the comparative criteria for making these decisions, and it is these regulations that have been amended. The tentative selectee chosen from the group is then subject to petitions to deny and a more thorough legal and engineering review by Commission staff before grant of the application.

If mutually exclusive FM applications designate different communities of license, the highest level threshold issue concerns which application, if any, would substantially further the fair distribution of service goal stated in Section 307(b) of the Communications Act. In deciding how and where to allocate broadcast services, the statute requires the FCC to do so in a way that will provide a fair, efficient, and equitable distribution of radio service among states and communities. Section 73.7002 of the rules specifies how this determination is made.

Unless a mutually exclusive group of applications includes a Tribal Applicant (for which there is a priority preference under certain conditions), an analysis will be made to determine which, if any, of the applications would provide the first or second reserved noncommercial channel service to be received by at least 10 percent of the population within the proposed 60 dbu contour, constituting at least 2,000 people. An applicant proposing to provide such service will be considered superior to applicants not providing such service. If there is only one such application in the group, that application will move to the tentative selectee stage. If more than one application proposes such service, the applicant providing the highest level of service to the most people will be named the tentative selectee, provided that the difference in population served by the applicant serving the most people is at least 5,000 people more than the next application. If multiple applications are considered essentially equal in this analysis, they will be compared under the point system described below.

Under the old rule, an applicant awarded a construction permit as a result of this analysis was required to operate the new station for four years with technical facilities substantially as proposed and was not permitted to downgrade service to the area on which the preference was based. This provision is amended so as to allow modifications during the first four years on the air where any loss of first or second noncommercial service is offset by at least equal population gains in first, and separately, combined first and second service areas.

If the analysis of the fair distribution of service does not produce a tentative selectee, or if all of the applicants in the group propose the same community of license, the mutually exclusive applications are compared with a point system set forth in Section 73.7003 of the FCC's Rules. Points are awarded on the basis of desired characteristics, and the applicant earning the highest point score is named the tentative selectee.

An established local applicant earns three points. A local applicant is one that has its headquarters, a campus, or the residences of at least 75 percent of the members of its governing board within 25 miles of the reference coordinates of the proposed community of license. A governmental applicant is local if the proposed community of license is within its area of jurisdiction. To be eligible for the points, the applicant must demonstrate that it met this criterion for being local for at least 24 months immediately preceding the close of the filing window.

Under the old rule, the applicant was required to express a commitment to maintain this local quality in its governing documents (such as its bylaws). This requirement about governing documents has been eliminated. In its place, the FCC has added a localism provision to the holding period rule in Section 73.7005. A prevailing applicant that receives localism points in the comparative analysis will be required to maintain localism during the period from the grant of the construction permit application until the station has achieved four years of on-air operations.

An applicant can earn two points in the comparative analysis if it can demonstrate diversity of ownership. This means the applicant must show that neither the applicant nor anyone holding an attributable interest in the applicant holds an attributable interest in any other radio station license or construction permit the principal community contour of which overlaps the principal community contour of the applicant's proposed new station. The principal community contour for FM stations is the 3.16 mV/m contour; for AM stations, it is the 5 mV/m contour.

In addition, the old rule also required the applicant to express its commitment to maintain this diversity of ownership in its governing documents. Under the new rule, the governing documents will no longer need to include such a provision. However, this factor is also being added to the holding period rule. A prevailing applicant that receives points for diversity of ownership will be required to maintain that diversity from the grant of the construction permit until the new station has achieved four years of on-air operations.

Applicants (and their principals) with attributable interests in other stations who wanted to claim the points for diversity of ownership were required, under the old rule, to complete divestiture of those interests by the close of the filing window. This rule has been relaxed to allow applicants having attributable interests in other stations to earn the two points for diversity of ownership if they merely make a contingent divestiture commitment in the application by the

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Processing of Noncom Applications Updated continued from page 2

close of the filing window. The divestiture must be completed before the new station commences program test authority. If the applicant does not win the permit, the contingent divestiture commitment will no longer be in effect.

Other criteria for earning comparative points include: (1) operating a statewide network if the applicant does not qualify for points for diversity of ownership (two points), and (2) proposing to serve the largest geographic area and population in the mutually exclusive group (one point). The FCC did not change these comparative criteria.

The rules provide for a tie-breaker mechanism in the event that two or more applicants in the same group are awarded the same number of points. The applicant with attributable interests in the fewest number of other stations in the same service (radio or television) as of the time of application will become the tentative selectee. If there is still a tie, the applicant with attributable interests in the fewest pending applications for new stations in the same service will prevail. If two or more applicants remain tied, each of them will become a tentative selectee and, if and when their applications are granted, they will operate the station on a time-share basis, each with the same amount of air time.

The new rules modify the tie-breaker process by adding a third-level tie-breaker. If a tie remains after the comparing interests in other stations and applications, a preference will be given to the applicant that: (1) has been unsuccessful in all previous noncommercial filing windows in which it participated – that is, its application was accepted for filing, but was subsequently dismissed in favor of an applicant possessing superior points or tie-breaker criteria, (2) has been in continuous existence from the date of the previous filing until the present, and (3) has no existing station or pending application.

If a tie persists after the third tie-breaker analysis, the remaining tied applicants will be required to attempt to negotiate a written time-share agreement within 90 days. If they are unable to agree upon a time-share plan, the FCC will subject them to mandatory time-sharing. The maximum number of applicants that the Commission will process for mandatory time-sharing is three. If the group includes more than three applicants, the Commission will dismiss all but the three applicants that have been local for the longest uninterrupted periods of time. Each remaining applicant will be eligible for an equal, concurrent, non-renewable license term.

A pending application that experiences a “major change” in ownership is dismissed or receives a new file number. For nonprofit noncommercial applicants, the governing board is usually counted as the ownership. Under the old rules, if there comes a time when at least 50 percent of the members of the governing board were not members at the close of the filing window, a major change has occurred and the application is dismissed.

The FCC has relaxed this practice, realizing that nonprofit organizations often have routine or mandated changes in board membership that do not affect the organization’s mission or operations. The rules have been amended to treat all routine, gradual board turnover as minor. Sudden board changes that take place over the course of less than six months will also be treated as minor unless there is evidence that the change in the board is the result of a conflict within the organization, a takeover, or some other change that would alter the essence or mission of the organization. All changes in board membership during the pendency of the application must be reported in an amendment to the application.

All applicants for new noncommercial stations must have reasonable assurance of the availability of the proposed transmitter site at the time that the application is filed and continuing while the application is pending. The FCC has found that the lack of clear instructions and of a certification in the construction permit application form sometimes results in applicant misunderstandings. To address this problem, the Commission will modify the construction permit application form to include an affirmative certification that the applicant does have such reasonable assurance. The certification will require the applicant to list the name and telephone number of the person contacted to obtain consent to specify the site and to identify that person as the site’s owner, agent, or authorized representative.

A group of mutually exclusive applications may conceivably spread out in a daisy chain formation over a large geographic area, such that applications at either end of the chain may not be directly mutually exclusive with each other, but are linked by the chain of overlapping applications between them. If an applicant at the end of the chain becomes the tentative selectee, all of the other applications are dismissed, including those that were not directly mutually exclusive with the selectee. The issue of selecting a secondary selectee from among the remaining applicants that are not directly mutually exclusive with the first selectee was raised in a Petition for Reconsideration. The petitioner proposed that a new comparative analysis could be conducted of the remaining applicants after the removal from the group of the tentative selectee and all of the applications that were mutually exclusive with it. An additional new radio service could be established for an area that otherwise would not benefit from the tentative selectee. In the *Order on Reconsideration*, the FCC rejected this suggestion on the grounds that it would be administratively inefficient because it would take longer for the Commission to finally resolve a mutually exclusive group, and that it would result in permits being awarded to inferior applicants. The original *Report and Order* remains intact.



DEADLINES TO WATCH



License Renewal, FCC Reports & Public Inspection Files

- September 1 & 16 Radio stations in **Illinois** and **Wisconsin** and television stations in **North Carolina** and **South Carolina** broadcast post-filing announcements regarding license renewal applications.
- September 1 & 16 Requirement to broadcast pre-filing announcements regarding license renewal applications has been **WAIVED** for radio stations in **Iowa** and **Missouri** and television stations in **Florida**, **Puerto Rico**, and **the Virgin Islands**.
- October 1 Deadline to place must-carry / retransmission-consent election notices in Public Inspection File and to deliver election changes to MVPDs.
- October 1 Deadline to file license renewal applications for radio stations in **Iowa** and **Missouri**, and television stations in **Florida**, **Puerto Rico**, and **the Virgin Islands**.
- October 1 Deadline to place EEO Public File Report in Public Inspection File and on station's Internet website for all nonexempt radio and television stations in **Alaska**, **American Samoa**, **Florida**, **Guam**, **Hawaii**, **Iowa**, **Mariana Islands**, **Missouri**, **Oregon**, **Puerto Rico**, **the Virgin Islands**, and **Washington**.
- October 1 Deadline for all broadcast licensees and permittees of stations in **Alaska**, **American Samoa**, **Florida**, **Guam**, **Hawaii**, **Iowa**,

- Mariana Islands**, **Missouri**, **Oregon**, **Puerto Rico**, **the 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 1 & 16 Radio stations in **Illinois**, **Iowa**, **Missouri** and **Wisconsin** and television stations in **Florida**, **North Carolina**, **Puerto Rico**, **South Carolina**, and **the Virgin Islands** broadcast post-filing announcements regarding license renewal applications.
- October 1 & 16 Requirement to broadcast pre-filing announcements regarding license renewal applications has been **WAIVED** for radio stations in **Colorado**, **Minnesota**, **Montana**, **North Dakota**, and **South Dakota** and television stations in **Alabama** and **Georgia**.
- October 10 Deadline to place quarterly Issues/Programs List in Public Inspection File for all full-service radio and television stations and Class A TV stations.
- October 10 Deadline for noncommercial stations to place quarterly report re third-party fundraising in Public Inspection File.

Cut-Off Date for AM and FM Applications to Change Community of License

The FCC has accepted for filing the applications identified below proposing to change the community of license for each station. 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 **October 20, 2020**. Informal objections may be filed anytime prior to grant of the application.

PRESENT COMMUNITY	PROPOSED COMMUNITY	STATION	CHANNEL	FREQUENCY
Elberton, GA	Colbert, GA	WHTD(AM)	n/a	1400
Faribault, MN	Elko New Market, MN	KBGY	298	107.5
Mayville, ND	Northwood, ND	KMSR(AM)	n/a	1520
Belton, SC	Due West, SC	WAHP	203	88.5
Due West, SC	Bowman, GA	WYPJ	237	95.3

Cut-Off Date for Application For Permit to Deliver Programs to Foreign Broadcast Station

The FCC has accepted for filing the following applications for permits to deliver programs to a foreign broadcast station. The deadline for filing comments and petitions to deny these applications is **September 14, 2020**.

APPLICANT	FOREIGN STATION	APPLICATION TYPE
GLR Southern California, LLC	XEWW(AM), Rosarito, Baja California Norte, Mexico	New
GLR Southern California, LLC	XEWW(AM), Rosarito, Baja California Norte, Mexico	Special Temporary Authority



DEADLINES TO WATCH



Deadlines for Comments in FCC and Other Proceedings

DOCKET

COMMENTS

REPLY COMMENTS

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

Docket 17-317; Public Notice (DA 20-949) Public TV request for waiver of NCE translator baseline carriage notice requirements		September 14
RM-11862; Petition for Rulemaking Clarification of Communication Decency Act		September 17
Docket 13-42; NPRM (FCC 20-89) Reallocation of T-Band spectrum		September 29
Docket 20-221; NPRM (FCC 20-92) Updating ex parte rules	October 2	October 19
Docket 20-270; NPRM (FCC 20-116) Application filing fees	FR+30	FR+45

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

Paperwork Reduction Act Proceedings

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

TOPIC	COMMENT DEADLINE
Broadcast station chief operators, Section 73.1870	Sep. 11
Permit-but-disclose proceedings, Section 1.1206	Sep. 11
International broadcast station applications, Forms 420-IB, 421-IB, and 422-IB	Sep. 14
LPTV digital displacement application, Form 2100, Schedule C	Sep. 21
Assignment and transfer-of-control application for LPTV and TV and FM translator stations, Form 345	Sep. 21
Broadcast construction permit applications, Form 301, Form 2100; Schedule A, Form 2100; Schedule 301	Sep. 21
Noncommercial broadcast construction permit application, Form 2100, Schedule 340	Sep. 21
Broadcast assignment and transfer-of-control applications, Form 314 and Form 315	Sep. 21
Local public notice of broadcast application, Section 73.3580	Sep. 21
Broadcast license renewal application, Form 2100, Schedule 303-S	Sep. 21
Settlement agreements between applicants, Section 73.3525	Sep. 21
Public Inspection Files, Sections 73.3526, 73.3527	Sep. 21
Political files, Sections 73.1212, 73.1943, 76.1701	Sep. 21
FM translator and FM booster construction permit application, Form 2100, Schedule 349	Sep. 21
Low power FM construction permit application, Form 2100, Schedule 318	Sep. 21
Class A TV construction permit application, Form 2100, Schedule 301-C	Sep. 21
Application for permit to deliver programs to a foreign broadcast station, Form 308	Sep. 21
Procedures for formal complaints, Form 485	Sep. 25
Application for auxiliary radio service authorization, Form 601	Sep. 25
Candidate ad rates, Section 73.1942	Oct. 8
Application to modify license, Section 73.3544	Oct. 9
Posting or filing of station license, Sections 73.1230, 74.165, 74.432, 74.564, 74.664, 74.765, 74.832, 74.1265	Oct. 9
Maintaining station records, Sections 74.781, 74.1281	Oct. 9
Pleadings in TV-MVPD proceedings, Section 76.7	Oct. 9
Television carriage complaints, Section 76.61	Oct. 9

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in proportion to each core bureau's share of the direct FTEs. Thus the Media Bureau is allotted 37.3 percent of the indirect FTEs, or just under 340. By this formula, Media Bureau regulatees must provide fees amounting to 37.3 percent of the total \$339 million to be collected. The Media Bureau's allocation for 2020 amounts to \$126,447,000. This figure is further divided among the entities regulated by the Media Bureau in proportion to the estimate of services provided to each entity, based on an objective measure of the entity's size.

This year marks the conclusion of a transition in the method for calculating regulatory fees for commercial full-power television stations. What had been a scale of fees based on the size of the station's market has been transformed to a schedule based entirely on the size of the population within the station's service area. The FCC rejected a number of proposals to modify or rescind this methodology. The fee is calculated by multiplying the population within the station's noise-limited contour by \$0.007837. The population data is derived from the TVStudy database. The FCC has calculated the fees for all full-power commercial television stations and listed them in Appendix G attached to *the Report and Order*. The complete list is available online at <https://www.fcc.gov/document/assessment-and-collection-regulatory-fees-fiscal-year-2020>.

As with television, the methodology used to determine the portion of the Media Bureau's fees to be levied on radio stations is based on the FTEs required to service the radio industry. While the number of FTEs attributed to the Media Bureau remained relatively constant from 2019 to 2020, the Commission proposed somewhat higher fees for radio stations for 2020 in the *Notice of Proposed Rulemaking* in this proceeding. Radio commenters asserted that there was no basis for the fees to increase. The FCC explained that there were two factors that resulted in the increases for individual stations: (1) the Media Bureau's share of the Commission's overall total increased from 35.9 percent for 2019 to 37.3 percent for 2020; and (2) the total number of fee-paying radio station units decreased by 180 from 2019 to 2020. However, the amounts of the fees actually adopted for many stations were reduced from the original proposals because the FCC discovered there had been a computational error in the number of paying units subject to fees. When corrected, the number of paying units increased from 9,636 to 9,831, resulting in slight reductions for most stations. The proposed and adopted fees for radio stations are listed in the tables at the conclusion of this article.

The FCC recognizes that the unusual economic circumstances resulting from the COVID-19 pandemic may justify the exercise of its statutory discretion to waive, reduce or defer fees. It has released a *Public Notice* (DA 20-1033) explaining the procedures for requesting such relief. Ordinarily, requests for waivers, reductions or deferrals must be submitted separately pursuant to Section 1.1166(a)

of the rules. However, the FCC will waive that requirement for requests related to the 2020 regulatory fees and accept consolidated requests for more than one kind of relief if the basis for the request is financial hardship. To avoid a 25 percent penalty for unpaid fees, requests for relief must be submitted by email to 2020regfeerelief@fcc.gov not later than 11:59 p.m. Eastern Time on September 25.

To qualify for relief on the basis of financial hardship, the regulatee must show that it lacks sufficient funds to pay its full 2020 regulatory fee while maintaining service to the public. It will not be enough merely to show that revenue decreased during the pandemic. A request for a waiver or reduction of the regulatory fee based on financial hardship must be accompanied by (1) payment of the fee or a request to defer payment, and (2) documentation demonstrating the regulatee's financial hardship. The standard for this demonstration will be somewhat less stringent than the FCC usually requires to support a request to reduce or eliminate a forfeiture for a rule violation. Documentation relief from regulatory fees might include tax returns, a balance sheet, a profit and loss statement, cashflow projections for the next twelve months, a list of highest paid officers and employees with each person's compensation, and/or other documents demonstrating financial decline because of the pandemic. In addition to or instead of seeking a waiver or reduction of the fee, a regulatee may also request an installment payment plan with a nominal interest rate. The same documentation would be necessary to support this request.

Nonprofit entities and government agencies are exempt from paying regulatory fees, including for commercial stations. If the total amount of regulatory fees owed by a regulatee is \$1,000 or less, the debt will be considered *de minimis* and the regulatee will be excused from the obligation to pay. Fees are calculated on the basis of the status of the authorization as of October 1, 2019. In the case where an authorization changes hands during the year, the FCC will look to collect the fee for the entire fiscal year from the owner of the authorization as of the due date for the fee. Fees must be paid through the FCC's Fee Filer system. Payments can be made by credit or debit card, ACH, or wire transfer. Checks will not be accepted.

In the *Further Notice of Proposed Rulemaking*, the FCC invited comment on the creation of subcategories for regulatory fees in future years for nongeostationary orbit satellites. Proposals for such subcategories were submitted in comments received in this proceeding.

The tables below show the proposed and actual fiscal year 2020 fees for most authorizations of interest to broadcasters (except full-power television), along with comparisons to the 2019 fees. The fee for each full-power commercial television station can be viewed online here: <https://www.fcc.gov/document/assessment-and-collection-regulatory-fees-fiscal-year-2020>.

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REGULATORY FEES FOR FISCAL YEAR 2020

Type of Authorization	Actual FY 2019	Proposed FY 2020	Actual FY 2020
Full Power TV Construction Permit	\$ 4,450	\$ 4,950	\$ 4,950
Class A TV, LPTV, TV/FM Translator & Booster	345	315	315
AM Radio Construction Permit	595	620	610
FM Radio Construction Permit	1,000	1,075	1,075
Satellite Earth Station	425	560	560

ACTUAL FY 2019 REGULATORY FEES FOR RADIO

Population Served	AM Class A	AM Class B	AM Class C	AM Class D	FM A, B1, C3	FM B,C,C0,C1,C2
0-25,000	\$ 950	\$ 685	\$ 595	\$ 655	\$ 1,000	\$ 1,200
25,001-75,000	1,425	1,000	895	985	1,575	1,800
75,001-150,000	2,150	1,550	1,350	1,475	2,375	2,700
150,001-500,000	3,200	2,325	2,000	2,225	3,550	4,050
500,001-1,200,000	4,800	3,475	3,000	3,325	5,325	6,075
1,200,001-3,000,000	7,225	5,200	4,525	4,975	7,975	9,125
3,000,001-6,000,000	10,825	7,800	6,775	7,450	11,950	13,675
6,000,000+	16,255	11,700	10,175	11,200	17,950	20,050

PROPOSED FY 2020 REGULATORY FEES FOR RADIO

Population Served	AM Class A	AM Class B	AM Class C	AM Class D	FM A, B1, C3	FM B,C,C0,C1,C2
0-25,000	\$ 1,000	\$ 715	\$ 620	\$ 680	\$ 1,075	\$ 1,250
25,001-75,000	1,500	1,000	930	1,000	1,625	1,875
75,001-150,000	2,250	1,600	1,400	1,525	2,425	2,825
150,001-500,000	3,375	2,425	2,100	2,300	3,625	4,225
500,001-1,200,000	5,050	3,625	3,125	3,450	5,450	6,325
1,200,001-3,000,000	7,600	5,425	4,700	5,175	8,175	9,500
3,000,001-6,000,000	11,400	8,150	7,050	7,750	12,250	14,250
6,000,000+	17,100	12,225	10,600	11,625	18,375	21,375

ACTUAL FY 2020 REGULATORY FEES FOR RADIO

Population Served	AM Class A	AM Class B	AM Class C	AM Class D	FM A, B1, C3	FM B,C,C0,C1,C2
0-25,000	\$ 975	\$ 700	\$ 610	\$ 670	\$ 1,075	\$ 1,225
25,001-75,000	1,475	1,050	915	1,000	1,625	1,850
75,001-150,000	2,200	1,575	1,375	1,500	2,425	2,750
150,001-500,000	3,300	2,375	2,050	2,275	3,625	4,150
500,001-1,200,000	4,925	3,550	3,075	3,400	5,450	6,200
1,200,001-3,000,000	7,400	5,325	4,625	5,100	8,175	9,300
3,000,001-6,000,000	11,100	7,975	6,950	7,625	12,250	13,950
6,000,000+	16,675	11,975	10,425	11,450	18,375	20,925

Signal Delivery Via LPTV Is Valid

The FCC’s Media Bureau has granted the must-carry Complaint of KCDO-TV, Sterling, Colorado, and ordered DISH Network to carry the station’s signal in the Denver Designated Market Area in a *Memorandum Opinion and Order* (DA 20-857). DISH had objected to KCDO-TV’s plan to deliver its signal to DISH’s local-receive-facility (“LRF”) via a co-owned Class A low power television station, KSBS-CD, Denver.

DISH has carried KCDO-TV since 2006 pursuant to the station’s mandatory carriage election. KCDO-TV’s transmitter site is located at Fort Morgan, Colorado, which is northeast of central Denver. KSBS-CD’s transmitter site is located on Lookout Mountain, west of Denver. KSBS-CD originates its own programming for the general public. It also employs a multiplexed subchannel to retransmit KCDO-TV’s primary high-definition signal without alteration to the Denver area.

On July 30, 2019, KCDO-TV’s personnel sent an email to DISH to notify the satellite carrier of its plans to change the method of delivering its signal to the LRF. The station intended to discontinue feeding the signal via fiber and to deliver it over-the-air. KCDO-TV asked DISH to test its reception of the KSBS-CD channel 19.3 signal (which rebroadcasts KCDO-TV) in anticipation of an October 1, 2019, transition date. DISH replied the next day that it was unable to receive the KCDO-TV signal via KSBS-CD because DISH did not carry LPTV stations, and inquired about the future status of the fiber circuit.

Correspondence between the parties’ attorneys continued into February and March 2020, and DISH reiterated that it could not carry KSBS-CD because the LPTV station did not have must-carry rights. KCDO-TV asserted that it had the option to deliver its signal by any means, including via KSBS-CD acting as a translator. KCDO-TV also reminded DISH that DISH had previously carried KCDO-TV via KSBS-CD during an interval when the fiber line had been disrupted – without difficulty.

DISH issued its denial in a letter dated March 19, 2020, relying entirely on its assessment that KSBS-CD had no must-carry rights. It asserted that if KCDO-TV persisted in

attempting to transfer its carriage rights to the LPTV station, KCDO-TV’s programming would be rendered ineligible for must-carry status.

KCDO-TV filed its carriage Complaint with the FCC on April 2, 2020. DISH opposed the Complaint with its argument that it need not carry KSBS-CD because LPTV stations do not have must-carry rights. DISH also argued that KCDO-TV’s Complaint was submitted to the FCC too late to be considered. The Commission’s rules require a complaint to be filed within 60 days of the denial of carriage. DISH said that the 60-day clock had started to run with its July 31 email.

KCDO-TV responded that the email exchange in July had been for the purpose of exploring possibilities, which is why it had asked DISH to test for the quality of its reception of KSBS-CD. It had not made its formal demand until its February 18 letter, to which DISH formally issued a denial on March 19. The Media Bureau said the 60-day period for filing a complaint does not begin when negotiations begin, but rather when there is a definitive negative response to the carriage demand – which in this case occurred on March 19. The April 2 Complaint was therefore timely.

KCDO-TV referenced FCC precedent for the carriage of signals of full power stations delivered via LPTV stations to cable systems and argued that the situation was analogous. DISH countered that the approaches to cable and satellite carriage must differ because some LPTV stations do in fact have must-carry rights on cable, whereas there is no provision in law for LPTV must-carry on satellite. The Media Bureau said that the question of LPTV carriage rights on cable was not germane to the case at hand. The issue was whether KCDO-TV could deliver its signal via a translator. The Bureau cited prior Commission statements approving such delivery methods in the context of both cable and satellite. The Media Bureau concluded that a broadcaster can provide a signal to cable and satellite carriers in any manner it chooses, provided that it bears the cost.

The Media Bureau ruled that KCDO-TV may provide its signal to DISH’s LRF via the use of the KSBS-CD subchannel provided that the signal is good quality at the LRF.

**LOWEST UNIT CHARGE
PERIOD FOR GENERAL ELECTION
SEPTEMBER 4 – NOVEMBER 3, 2020**

**FOREGIN MEDIA OUTLET
DISCLOSURE STATEMENT DUE
OCTOBER 11, 2020**

**LUMP SUM ELECTIONS FOR REIMBURSEMENT OF
RELOCATION EXPENSES FOR SATELLITE SPACE
AND EARTH STATIONS IN 3.7-4.2 GHZ BAND DUE
SEPTEMBER 14, 2020**

**MUST-CARRY AND RETRANSMISSION
CONSENT ELECTIONS DUE
OCTOBER 1, 2020**

Updated Schedule of Filing Fees Proposed continued from page 1

applications that no longer exist. The FCC proposes to reduce the number of application fees in all services from 450 to 167.

The proposed new fees are calculated entirely on the basis of the FCC's estimate of the costs incurred in processing the typical application in each category. These estimates incorporate the direct labor costs for identifiable labor tasks up through the first level of supervision, and an additional allowance for overhead calculated as 20 percent of the labor costs.

The tables below indicate the current and the proposed new fee for most types of applications of interest to broadcasters. New fees appear for some filings that were not

previously feeable, such as the auction short-form application and the petition for a declaratory ruling regarding foreign ownership.

Noncommercial broadcasters and government agencies continue to be exempt from filing fees.

Public comment is invited on the methodology for calculating the proposed fees and on the fees themselves. The deadline for comments will be 30 days after notice of this proceeding is published in the Federal Register. Reply comments will be due 45 days after that publication.

PROPOSED NEW FILING FEES

<u>Application Type</u>	<u>Current Fee</u>	<u>Proposed New Fee</u>
Full Power and Class A Television		
New or major change construction permit	\$ 4,960	\$ 4,260
Minor change construction permit (full power only)	1,110	1,335
New license	355	380
License renewal	200	330
Assignment/ transfer of control (long form)	1,110	1,245
Assignment/ transfer of control (short form)	160	405
Special temporary authority	200	270
Rulemaking petition (full power only)	3,065	3,395
LPTV and TV Translator		
New or major change construction permit	835	775
New license	170	215
License renewal	70	145
Special temporary authority	200	270
Assignment/ transfer of control (all forms)	160	335
Call sign	110	170
AM Radio		
New or major change construction permit	4,415	3,980
Minor change construction permit	1,110	1,625
New license	725	645
License renewal	200	325
Directional antenna	835	1,260
Remote control	70	N/A
Assignment/ transfer of control (long form)	1,110	1,005
Assignment/ transfer of control (short form)	160	425
Special temporary authority	200	290
FM Radio		
New or major change construction permit	3,975	3,295
Minor change construction permit	1,110	1,265
New license	225	235
License renewal	200	325
Directional antenna	695	630
Assignment/ transfer of control (long form)	1,110	1,005
Assignment/ transfer of control (short form)	160	425
Special temporary authority	200	210
Rulemaking petition	3,065	3,180

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Updated Schedule of Filing Fees Proposed continued from page 9

PROPOSED NEW FILING FEES (cont.)

Application Type	Current Fee	Proposed New Fee
FM translator, FM booster		
New or major change construction permit	835	705
Minor modification construction permit	N/A	210
New license	170	180
License renewal	70	175
Special temporary authority	200	170
Assignment/transfer of control (all forms)	160	290
TV, Class A TV, AM and FM		
Call sign	110	170
Ownership report	70	85
Permit to Deliver Programs to a Foreign Broadcast Station		
New license	110	360
License modification	110	185
License renewal	110	155
Special temporary authority	110	155
Transfer of control	110	260
Receive-Only Earth Station		
Initial application or registration (single site)	450	175
Initial application or registration (multiple sites, per system)	N/A	465
<i>(There are other fees for earth station applications not included here.)</i>		
Auction Short-Form	N/A	575
Petition for Declaratory Ruling re Foreign Ownership	N/A	2,485

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