

President Issues Executive Order About AI

On October 30, President Biden issued *Executive Order No. 14110* (88 FR 75191) to announce Federal government policies regarding artificial intelligence, or “AI.” He directed various government agencies to study ways to encourage the beneficial development of AI and to minimize the dangers that AI may pose to society. The President acknowledged that “harnessing AI for good and realizing its myriad benefits requires mitigating its substantial risks.” He said that this effort will require participation by all segments of society, including government, the private sector, academia, and civil society. He expressed his belief that “[w]e are more than capable of harnessing AI for justice, security, and opportunity for all.”

The President listed eight guiding principles and priorities that he said would govern the Administration’s policy for the development and use of AI. The various agencies tasked with AI-related responsibilities in this *Executive Order* are to undertake their administrative proceedings with these in mind. These principles are:

- (1) AI must be safe and secure.
- (2) Government actions must promote responsible

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Lapses in EEO Records and Recruiting Lead to \$25K Fine

The FCC’s Enforcement Bureau has proposed in a *Notice of Apparent Liability for Forfeiture* (DA 23-954) to fine a radio station group-owner \$25,000 for failing to post annual EEO Public File Reports and for inadequate recruiting efforts. Rocking M Media, LLC and Melia Communications, Inc. were companies under common ownership with radio stations in two station employment units (“SEUs”) in Kansas. The Dodge City/Ingalls unit includes KAHE(FM), Dodge City; KGNO(AM), Dodge City; KZRD(FM), Dodge City; and KERP(FM), Ingalls. Stations in the Cobly/Goodland SEU include KXXX(AM), Colby; KRDQ(FM), Colby; KKCI(FM), Goodland; KWGB(FM), Colby; and

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FCC Accepting Applications for Next Gen TV Multicasting

The FCC’s Media Bureau has released a *Public Notice* (DA 23-1086) announcing that the rules to govern the licensing of Next Generation Television multicasting adopted earlier this year have become effective. These rules established a process for a Next Gen TV station to request modification of its license to include, on a temporary basis, multicast streams that are aired as “guest” streams on a “host” station(s) as part of the voluntary ATSC 3.0 transition. The rules governing the transition did not previously address how to handle multicast channels.

The FCC is now accepting applications for license modifications for this purpose. Such applications must include at least the following information:

- the call sign and facility ID number of the host station;
- the RF and virtual channel number of the hosted stream;
- the network affiliation of the stream, or type of programming if it is unaffiliated;

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

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Stations Must Be Constructed as Authorized

The FCC's Media Bureau has recently sanctioned several broadcasters for constructing authorized stations with even slightly unauthorized modifications. The cases described in this article each involved a substituted alternate and/or a slightly altered placement of the antenna on the supporting structure. In each case, the broadcaster claimed to believe that the difference between the authorized and the altered facilities was not significant.

The most sanctioned licensee in this group was Crocodile Broadcasting Corporation, licensee of FM translator station W234DH, Baton Rouge, Louisiana. The Media Bureau fined Crocodile \$12,500 and imposed a reporting requirement in an *Order and Notice of Apparent Liability for Forfeiture* (DA 23-646).

Crocodile applied for a construction permit for a new FM translator and proposed to use a directional antenna mounted 150 meters above ground level. The Media Bureau granted the application on May 16, 2018, issuing a construction permit that would expire on May 16, 2021. Crocodile filed a license application on August 30, 2019, certifying that it had constructed the station as authorized and that it was using a properly oriented directional antenna as specified in the permit. The Bureau granted the license application on September 5, 2019.

An in-market competitor, Radio & Investments, Inc., filed a Petition for Reconsideration of the grant of the license application, alleging that Crocodile had installed an omnidirectional antenna instead of the authorized directional antenna, and had mounted it at 145 meters above ground level, five meters lower than authorized. In response to the Petition, Crocodile acknowledged that it had temporarily used an omnidirectional antenna for about two months ending on October 24, 2019. Crocodile explained that its authorized directional antenna had arrived damaged and had to be returned. Crocodile was eager to put the station on the air, so it installed the omnidirectional antenna and operated it with reduced power to avoid interference to other stations. The repaired authorized antenna was eventually mounted on the tower on October 24, 2019, but at a height of 146.6 meters rather than the authorized 150 meters due to problems with the tower.

On December 9, 2019, Crocodile submitted a modification application, proposing to deploy the originally authorized antenna at 143 meters above ground. The application was granted, and those facilities were eventually licensed. However, there remained the issue that the translator had operated with nonconforming facilities for approximately two months.

The Media Bureau dismissed the Petition for Reconsideration for procedural reasons. However, it was compelled to pursue the issue further because of the facts that had been revealed. Section 1.17 of the Commission's Rules requires that the statements and information in filings submitted to the FCC be truthful and accurate. Crocodile had apparently violated this rule when it certified in its license application that the station had been constructed as authorized. Crocodile maintained that it had not intended to deceive the Commission and that it had not recognized the significance of the modification that it had installed.

The Bureau explained that Section 1.17 is directed to whether the applicant had a reasonable basis for believing that a false material factual statement or omission was correct and not misleading. The Bureau opined that Crocodile had no reasonable basis for certifying that the station was constructed as authorized because it knew that it had mounted the wrong antenna at the wrong height. While the Bureau found no intent on Crocodile's part to misrepresent and deceive, Crocodile had nonetheless submitted a false license application.

Under the totality of the circumstances, the Media Bureau determined that a fine of \$12,500 would be appropriate – \$7,500 for failure to file an application to modify the station's facilities and unauthorized operation, and \$5,000 for filing a false certification. In addition to the monetary penalty, the Bureau imposed a reporting requirement on Crocodile and all of its principals. Any of them, and any entity in which any of them has an attributable interest, will be required to include a copy of the *Order* with any application for facilities, assignment or transfer of control filed with the FCC during the next five years.

In a different action, the Media Bureau proposed a fine of \$7,500 for the licensee of an FM translator for substituting an alternate antenna without authorization in a *Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture* (DA 23-552). WIN Radio Broadcasting Corporation, licensee of W232DE, Potomac, Maryland, was found to have installed a directional Jampro model JLLP-2 antenna when the construction permit had called for a Shively model 6810 directional antenna. The originally specified antenna differed from that actually installed in size, weight, and shape. WIN explained that the lighter antenna was substituted so that it could be mounted on the tower without constructing additional bracing. WIN contended that no prior authorization was needed to substitute an antenna capable of achieving the same directional coverage pattern and mounted in accord with the manufacturer's instructions. The Bureau ruled to the contrary and proposed the fine.

In another case, the Media Bureau issued an *Order* (DA 23-1074) adopting a *Consent Decree* with Sunflower Community Action, the licensee of low power FM station KYOM-LP, Wichita, Kansas. In its 2021 application to renew the license for the station, Sunflower disclosed that the station's antenna had been constructed at a height of 13 meters above ground, whereas the original construction permit had specified that it should be at a height of 24 meters above ground.

To address this discrepancy, Sunflower took the station silent (pursuant to a special temporary authorization) and filed an application to modify the facility to operate with the antenna at 13 meters above ground. The Media Bureau granted this construction permit application, but also initiated an investigation of the matter. The *Consent Decree* terminates this short-lived investigation. Sunflower admitted that it had violated Sections 73.845 and 73.875 of the Commission's Rules by operating unauthorized facilities, and agreed to pay a civil penalty of \$2,500.

Sunflower requested and was granted a license for the modified facilities.

Compliance Issues Plague License Renewal Applicant

The FCC's Media Bureau issued a *Memorandum Opinion and Order* (DA 23-1056) granting the 2019 license renewal application for low power FM station WODB-LP, Caguas, Puerto Rico, but also adopted a *Consent Decree* to address rule compliance issues raised in a Petition to Deny the renewal application. The issues to be resolved included allegations of an unauthorized transfer of control, prolonged unauthorized silence, failure to maintain a local studio in fulfillment of a commitment made in the original construction permit application, and failure to have functioning equipment for purposes of the Emergency Alert System ("EAS").

The Petition to Deny the renewal application was filed by Miguel Melendez. He alleged that the station had been silent during the period from April 13, 2016, to July 9, 2016. In the renewal application, the licensee had certified that the station had never been silent for more than 30 days. The Commission's Rules require that a station request a special temporary authority to be silent if the silent period exceeds 30 days. The Commission's investigation revealed that the station had indeed been silent as alleged. However, it had properly requested and received the authority to be temporarily silent. The Media Bureau accordingly found that the certification in the renewal application was inaccurate and a violation of Section 1.17 of the agency's Rules, which requires filings submitted to the Commission to be truthful and accurate.

Melendez also argued that changes on the licensee's board during 2016 and 2017 led to an unauthorized transfer of control. During the period in question, there was a gradual turnover in board membership, eventually involving more than a majority of the board. The Media Bureau rejected the petitioner's argument, citing Section 73.857(d) of the Rules which requires notice only if there is a sudden change of the majority of the board.

The Bureau did, however, find that an unauthorized transfer of control occurred when the station's licensee, Iglesia Refugio, Sanidad y Adoracion, "joined together" with another church and began operating the station jointly with the other church. The merged churches registered with the government of Puerto Rico as a new nonprofit entity, and Iglesia Refugio's corporate existence was terminated.

The Bureau found this transaction violated Section 310(d) of the Communications Act – which requires the FCC's consent for a transfer of control.

In its original construction permit application, Iglesia Refugio committed to maintain and staff a main studio. A low power FM applicant who makes such a commitment earns a comparative point in the post-filing process of evaluating mutually exclusive applicants. The commitment is only binding on the eventual winning applicant if it was decisive in the comparative decision. In this case, there were no applications mutually exclusive with Iglesia Refugio's application. Therefore, the main studio commitment was not a factor and was not binding on Iglesia Refugio.

Melendez claimed that the station had ceased broadcasting live programming in July 2016, and therefore had ceased serving the public interest. The Media Bureau rejected this argument with the observation that programming need not be live to serve the public interest.

In the course of investigating the petitioner's additional claim that the station had never broadcast an EAS announcement, the Media Bureau asked the licensee to produce the station logs, which ordinarily should include records of the station's participation in EAS tests. The applicant did not provide any station logs and only responded that EAS equipment "exists at our station." The Media Bureau concluded that the station was in violation of Section 73.877 of the Rules, which requires LPFM stations to maintain station logs. In the absence of such logs, the Bureau also said it was unable to determine whether the station complied with its obligation to perform the weekly EAS test as required by Section 11.16 of the Rules.

To conclude its investigation and to resolve these rule compliance issues, the Media Bureau and Iglesia Refugio entered into the *Consent Decree*. The licensee admitted for purposes of the *Decree* that (1) there was an unauthorized transfer of control and an unauthorized assignment of the station; (2) the licensee provided inaccurate information in the license renewal application; (3) the licensee failed to maintain station logs; and (4) the licensee failed to perform as required with regard to EAS. In the absence of new material evidence, and provided that the licensee fulfills

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Maximum Fines Proposed for Pirates

The FCC has proposed to fine each of two operators of pirate radio stations \$2,316,034, the maximum permitted by law under the PIRATE Act. The Commission has issued a *Notice of Proposed Liability for Forfeiture* against Johnny Peralta of the Bronx, New York (FCC 23-99), and Dexter Blake of Mount Vernon, New York (FCC 23-97). These actions conclude lengthy investigations conducted by the FCC's Enforcement Bureau.

Peralta had been known to operate an unauthorized FM station in the Bronx he identified as La Mia Radio since 2018. Dexter's illegal FM operations in Mount Vernon had been

detected as long ago as 2008. Dexter's station was known as Linkage Radio. Both operators had experienced numerous encounters with FCC officials and had declined many opportunities to terminate their illegal operations without such serious consequences.

On the same day, the Commission also proposed to fine Matthew Bowen \$1,780,000 for operating a station he called Triple9HD on the FM band in Brooklyn, New York. That station was detected on the air between November 2022 and February 2023.



DEADLINES TO WATCH



License Renewal, FCC Reports & Public Inspection Files

<p>November 29 Deadline to file certifications or modification applications for BAS licenses in the 12.7 GHz band.</p> <p>December 1 Deadline to file Biennial Ownership Reports for all full service radio and television stations, Class A television stations, and low power television stations.</p> <p>December 1 Deadline for television stations that provided ancillary or supplementary services during the 12-month period ending September 30, 2023, to file annual Ancillary/Supplementary Services Report.</p> <p>December 1 Deadline to place EEO Public File Report in Public Inspection File and on station's website for all nonexempt radio and television stations in Alabama, Colorado, Connecticut, Georgia, Maine, Massachusetts, Minnesota, Montana, New Hampshire, North Dakota, Rhode Island, South Dakota, and Vermont.</p>	<p>December 1 Deadline for all broadcast licensees and permittees of stations in Alabama, Colorado, Connecticut, Georgia, Maine, Massachusetts, Minnesota, Montana, New Hampshire, North Dakota, Rhode Island, South Dakota, and Vermont 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).</p> <p>December 1 Mid-Term EEO review begins for certain radio stations in Alabama and Georgia.</p>
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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 **December 19, 2023**. Informal objections may be filed any time prior to grant of the application.

PRESENT COMMUNITY	PROPOSED COMMUNITY	STATION	CHANNEL	FREQUENCY
Catalina Foothills, AZ	South Tucson, AZ	KXKR	267	101.3
Willcox, AZ	Catalina, AZ	KAZK	209	89.7
Minooka, IL	Sheridan, IL	WMNK	203	88.5
Ellicottville, NY	Franklinville, NY	WCOI	220	91.9
Wheatland, WY	Horse Creek, WY	KLLM	244	96.7

Proposed Amendments to the Television Table of Allotments

The FCC is considering petitions to amend the digital television Table of Allotments by changing the channels allotted to the communities identified below. The deadlines for submitting comments and reply comments are as follows.

COMMUNITY	STATION	PRESENT CHANNEL	PROPOSED CHANNEL	COMMENTS	REPLY COMMENTS
Shawano, WI	New	---	31		Dec. 4
Wittenberg, WI	New	31	----		Dec. 4
Missoula, MT	KECI-TV	21	20	Dec. 18	Jan. 2

An asterisk () indicates that the channel is reserved or proposed to be reserved exclusively for noncommercial use.*



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 23-356; Public Notice (DA 23-1001) BAAZ Broadcasting Corporation Petition for Declaratory Ruling re foreign ownership		Dec. 5
Docket 23-320; NPRM (FCC 23-83) Net neutrality	Dec. 14	Jan. 17
Docket 23-362; NOI (FCC 23-101) AI and robocalls	Dec. 18	Jan. 16

Paperwork Reduction Act Proceedings

The FCC is required by 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
Accessibility of emergency information, Sections 79.2, 79.105, 79.106	Nov. 30
AM measurement data	Dec. 12
CALM Act implementation, Section 73.682(e)	Dec. 12
Blanketing interference, Sections 73.88, 73.315, 73.685	Dec. 12
Discontinuance of operations, Section 73.1750	Dec. 12
Request for extension of time to operate without certain monitors, indicating equipment, or EAS equipment, Section 73.3549	Dec. 12
Call sign request, Section 73.3550	Dec. 12
Construction at or near existing AM antenna site, Sections 1.3002, 1.3003, 1.3004	Dec. 12
Special Temporary Authorizations, Section 73.1635	Dec. 12
Suspension of operations notice, Section 73.1740	Dec. 12
Temporary operations during construction, Section 73.1615	Dec. 12
Notice re change of control point, Section 73.1350	Dec. 12
Administrative updates, Section 73.3544	Dec. 12
Program test, Section 73.1620	Dec. 12
Reduced power notification, Section 73.1560	Dec. 12
Station use during emergency, Section 73.1250	Dec. 12
Religious accommodation requests, Form 5652	Dec. 22
Net neutrality information collection	Jan. 2
3.7 GHz band licensee and earth station operator agreements	Jan. 8
Auction bidding rules, Sections 1.21001, 1.21002	Jan. 8
Disruptions to communications, Part 4	Jan. 8
Evaluating effects of radiofrequency exposure, Sections 1.13.07, 1.1311	Jan. 16
Closed captioning of video programming, Section 79.1	Jan. 16
Fee adjustment, relief and exemption	Jan. 19



DEADLINES TO WATCH



Lowest Unit Charge Schedule for 2024 Political Campaign Season

During the 45-day period prior to a primary election or party caucus and the 60-day period prior to the general election, commercial broadcast stations are prohibited from charging any legally qualified candidate for elective office (who does not waive his or her rights) more than the station's Lowest Unit Charge ("LUC") for advertising that promotes the candidate's campaign for office. Lowest-unit-charge restrictions will soon be in effect in the following jurisdictions. Some of these dates may be subject to change.

STATE	ELECTION EVENT	DATE	LUC PERIOD
Iowa	Presidential Caucuses	Jan. 15	Dec. 1 – Jan. 15
New Hampshire	Presidential Primaries	Jan. 23	Dec. 9 – Jan. 23
South Carolina	Dem. Pres. Primary	Feb. 3	Dec. 20 – Feb. 3
Nevada	Dem. Pres. Primary	Feb. 6	Dec. 23 – Feb. 6
Nevada	Rep. Pres. Caucus	Feb. 8	Dec. 25 – Feb. 8
Virgin Islands	Rep. Pres. Caucus	Feb. 8	Dec. 25 – Feb. 8
South Carolina	Rep. Pres. Primary	Feb. 24	Jan. 10 – Feb. 24
Michigan	Presidential Primaries	Feb. 27	Jan. 13 – Feb. 27
Idaho	Rep. Pres. Caucus	Mar. 2	Jan. 17 – Mar. 2
Missouri	Rep. Pres. Caucus	Mar. 2	Jan. 17 – Mar. 2
North Dakota	Rep. Pres. Caucus	Mar. 4	Jan. 19 – Mar. 4
Alabama	Pres. & State Primaries	Mar. 5	Jan. 20 – Mar. 5
Alaska	Rep. Pres. Caucus	Mar. 5	Jan. 20 – Mar. 5
Arkansas	Pres. & State Primaries	Mar. 5	Jan. 20 – Mar. 5
California	Pres. & State Primaries	Mar. 5	Jan. 20 – Mar. 5
Colorado	Presidential Primaries	Mar. 5	Jan. 20 – Mar. 5
Maine	Presidential Primaries	Mar. 5	Jan. 20 – Mar. 5
Massachusetts	Presidential Primaries	Mar. 5	Jan. 20 – Mar. 5
Minnesota	Presidential Primaries	Mar. 5	Jan. 20 – Mar. 5
North Carolina	Pres. & State Primaries	Mar. 5	Jan. 20 – Mar. 5
Oklahoma	Presidential Primaries	Mar. 5	Jan. 20 – Mar. 5
Tennessee	Presidential Primaries	Mar. 5	Jan. 20 – Mar. 5
Texas	Pres. & State Primaries	Mar. 5	Jan. 20 – Mar. 5
Utah	Presidential Primaries	Mar. 5	Jan. 20 – Mar. 5
Vermont	Presidential Primaries	Mar. 5	Jan. 20 – Mar. 5
Virginia	Presidential Primaries	Mar. 5	Jan. 20 – Mar. 5
Georgia	Presidential Primaries	Mar. 12	Jan. 27 – Mar. 12
Hawaii	Rep. Pres. Caucus	Mar. 12	Jan. 27 – Mar. 12
Mississippi	Pres. & State Primaries	Mar. 12	Jan. 27 – Mar. 12
Washington	Presidential Primaries	Mar. 12	Jan. 27 – Mar. 12
Arizona	Presidential Primaries	Mar. 19	Feb. 3 – Mar. 19
Florida	Presidential Primaries	Mar. 19	Feb. 3 – Mar. 19
Illinois	Pres. & State Primaries	Mar. 19	Feb. 3 – Mar. 19
Kansas	Pres. & State Primaries	Mar. 19	Feb. 3 – Mar. 19
Ohio	Pres. & State Primaries	Mar. 19	Feb. 3 – Mar. 19
Louisiana	Pres. & State Primaries	Mar. 23	Feb. 7 – Mar. 23
Missouri	Dem. Pres. Primary	Mar. 23	Feb. 7 – Mar. 23
Connecticut	Presidential Primaries	Apr. 2	Feb. 17 – Apr. 2
Delaware	Presidential Primaries	Apr. 2	Feb. 17 – Apr. 2
New York	Presidential Primaries	Apr. 2	Feb. 17 – Apr. 2
Wisconsin	Presidential Primaries	Apr. 2	Feb. 17 – Apr. 2
Alaska	Dem. Pres. Primary	Apr. 6	Feb. 21 – Apr. 6
Hawaii	Dem. Pres. Primary	Apr. 6	Feb. 21 – Apr. 6
North Dakota	Dem. Pres. Primary	Apr. 6	Feb. 21 – Apr. 6
Wyoming	Dem. Pres. Caucus	Apr. 13	Feb. 28 – Apr. 13
Pennsylvania	Pres. & State Primaries	Apr. 23	Mar. 9 – Apr. 23
Rhode Island	Presidential Primaries	Apr. 23	Mar. 9 – Apr. 23
Indiana	Pres. & State Primaries	May 7	Mar. 23 – May 7
Maryland	Presidential Primaries	May 14	Mar. 30 – May 14
Nebraska	Pres. & State Primaries	May 14	Mar. 30 – May 14
West Virginia	Pres. & State Primaries	May 14	Mar. 30 – May 14
Kentucky	Pres. & State Primaries	May 21	Apr. 6 – May 21
Oregon	Pres. & State Primaries	May 21	Apr. 6 – May 21
Idaho	Dem. Pres. Caucus	May 23	Apr. 16 – May 23
Montana	Pres. & State Primaries	June 4	Apr. 20 – June 4
New Jersey	Pres. & State Primaries	June 4	Apr. 20 – June 4
New Mexico	Pres. & State Primaries	June 4	Apr. 20 – June 4
South Dakota	Pres. & State Primaries	June 4	Apr. 20 – June 4

Source: National Conference of State Legislatures

Lapses in EEO Records and Recruiting Lead to \$25K Fine continued from page 1

KLOE(AM), Goodland. An employment unit includes all stations under common control in a market.

Section 73.2080(c) of the FCC's Rules requires a licensee to recruit for every full-time job vacancy in its employment unit, using its good-faith judgment to widely disseminate information about the vacancy so as to attract a diverse pool of qualified candidates. Each licensee must analyze its EEO recruitment program for each SEU on an ongoing basis to ensure that it is achieving broad outreach to potential applicants, and to address any problems found as a result of its analysis. The licensee is to retain records to document its compliance with these requirements.

The rule also requires the licensee for each SEU with five or more full-time employees annually to compile and post in its Online Public Inspection File and on its website (if it has one) an EEO Public File Report. The Report is to include information concerning (1) full-time vacancies during the prior year; (2) the recruitment sources used to fill full-time vacancies; (3) the recruitment source that referred the hiree for each full-time vacancy filled; (4) data about the total number of applicants interviewed for each vacancy and the total number of interviewees referred by each recruitment source for each vacancy; and (5) a list and description of its recruitment initiatives during the prior year.

The Enforcement Bureau noted that Rocking M and Melia are small, family-run businesses managed by two principals. The Bureau further observed that significant operational challenges had led to a sharp drop in the number of employees at the stations. In late 2021, the Colby/Goodland SEU had only one full-time employee, and the Dodge City/Ingalls SEU had fewer than five full-time employees.

The Bureau's review of the evidence showed that the licensees failed to timely place the EEO Public File Reports in the appropriate Public Inspection Files for the Dodge City/Ingalls SEU for the 12-month periods ending January 31, 2020, and January 31, 2021; and for the Colby/Goodland SEU for the 12-month period ending January 31, 2020. These Reports should have been uploaded by February 1, 2020, and February 1, 2021, respectively. The Reports eventually were uploaded for Dodge City/Ingalls on June 29, 2021 and for Colby/Goodland on January 21, 2021.

Upon inquiry, the licensees explained that these lapses had occurred during an unsettled period of turnover in management resulting in unusual disruptions to their operations. Because of the departure of the CEO and the Covid-19 pandemic, the licensees stated that they suffered a dramatic loss in revenue and financial hardship. While the principals focused on financial viability, the licensees relied on a new, less experienced operations manager to comply with FCC reporting matters. There was confusion about the procedures for posting the EEO Public File Reports. The licensees asserted that they corrected this problem when they were made aware of it. Nevertheless, the Bureau concluded that despite the attempts to correct these

apparent violations, where lapses occur in maintaining the Public File, neither the negligent acts nor omissions of station employees or agents, or the subsequent remedial actions undertaken by the licensees, excuse or nullify a licensee's rule violations.

Upon review of the Reports that were eventually filed, the Enforcement Bureau concluded that the licensees failed to recruit adequately for every full-time vacancy. During the 24-month period ending January 31, 2021 the licensees hired full-time employees in the Colby/Goodland SEU, but failed to recruit properly for two of those positions. For a farm reporter vacancy, the licensees relied solely on an internal recommendation from a departing employee. The Bureau noted that does not constitute recruitment under Section 73.2080(c)(1). For an assistant office manager, the licensees relied solely on on-air announcements broadcast on their stations. The Bureau said that this was inadequate recruitment, and admonished that broadcasters must develop and use for each vacancy a recruitment source or list of sources sufficient to ensure wide dissemination of information about the opening. If a source or list of sources cannot reasonably be expected to reach the entire community, a licensee may still be found to be out of compliance with the Commission's EEO Rule.

During its investigation, the Bureau asked the licensees to produce relevant documents. In response, the licensees did not produce any documents reflecting advertisements of their full-time vacancies during the reporting period and stated that no such documents exist. The FCC Rules required the licensees to maintain records of their recruitment efforts.

Given the absence of records, the Enforcement Bureau concluded that the licensees had also failed to comply with their obligation to analyze their recruitment program on an ongoing basis.

Upon reviewing the evidence in the record, the Bureau found that the licensees were in noncompliance with a number of the FCC's EEO rules, including the failure to recruit, the failure to recruit adequately for all full-time vacancies, the failure to upload annual EEO Public File Program Reports on a timely basis, the failure to retain recruitment records, and the failure to routinely analyze the adequacy to the various elements of their EEO programs.

Although Section 1.80 of the Commission's Rules sets a base forfeiture amount for many categories of violations, the Bureau has discretion to adjust the figures, taking into consideration the nature, circumstances, extent and gravity of each violation. Accordingly, the Bureau proposed the following fines amounts for each of the violations found in this case: \$15,000 for failing to timely upload the EEO Public File Reports; \$4,000 for failing to recruit and recruit adequately for all vacancies; \$4,000 for failing to retain EEO records; and \$2,000 for failing to analyze the EEO program. The total proposed fine comes to \$25,000. The licensees were given 30 days in which to pay the fine or request that it be rescinded or reduced.

Compliance Issues Plague License Renewal Applicant continued from page 3

its obligations under the *Consent Decree*, the Bureau agreed that it would not use the existence of the *Decree* or the rule violations in any future enforcement action.

The *Decree* provides for a three-year compliance plan involving the typical requirements for such plans, including preparing a compliance manual, personnel training, and

annual reporting to the FCC. Iglesia Refugio's successor-in-interest and new licensee of the station, Caguas Community Radio, is also a party to the *Consent Decree* and agrees to be obligated under it. Despite the nature and number of the violations in this case, the *Decree* did not require the licensee to pay a fine.

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innovation, competition, and collaboration.

(3) The development and use of AI must require a commitment to supporting American workers.

(4) Government agencies' AI policies must be consistent with the Administration's policy of advancing equity and civil rights.

(5) The interests of Americans who use, interact with, and/or purchase AI and AI-enabled products must be protected.

(6) Americans' privacy and civil liberties must be protected.

(7) The government must manage the risks from its own use of AI and develop internal capacity to regulate, govern, and support responsible use of AI.

(8) The United States should lead the way to global societal, economic, and technological progress.

The President directed a number of government agencies to undertake rulemaking proceedings or to take other action to consider and adopt appropriate regulation to help achieve the government's overall AI policy objectives. Following are some of these directives of most immediate interest to the media industries.

The Department of Commerce is to develop guidance for content authentication and watermarking to clearly label AI-generated content. Among other uses, Federal government agencies could deploy such tools to make it easier for Americans to be confident that communications they receive are authentically sourced.

The Under Secretary of Commerce for Intellectual Property and the Director of the United States Patent and

Trademark Office are instructed in the *Executive Order* to consult with the Director of the United States Copyright Office and to develop recommendations to the President on potential executive actions related to copyright and AI. These recommendations are to be issued by the later of 270 days after the release of this *Executive Order* or 180 days after the Copyright Office publishes its forthcoming AI study.

The FCC, rather than being explicitly tasked to adopt specific regulations, was "encouraged" to consider actions related to how AI will affect communications networks and consumers. These suggestions included:

(1) Examining the potential for AI to improve spectrum management, increase the efficiency of non-Federal spectrum usage, and expand opportunities for the sharing of non-Federal spectrum;

(2) Coordinating with the National Telecommunications and Information Administration to create opportunities for sharing spectrum between Federal and non-Federal spectrum operations;

(3) Providing support for efforts to improve network security, resiliency, and interoperability using next-generation technologies that incorporate AI, including self-healing networks, 6G, and Open RAN; and

(4) Encouraging, including through rulemaking, efforts to combat unwanted robocalls and robotexts that are facilitated or exacerbated by AI and to deploy AI technologies that block unwanted calls and texts. Promptly following up on this issue, the FCC adopted a Notice of Inquiry (FCC 23-101) in Docket 23-362 to study the problem and gather information.

**FILING WINDOW FOR APPLICATIONS FOR
NEW LOW POWER FM STATIONS**

DECEMBER 6 – 13, 2023

FCC Accepting Applications for Next Gen TV Multicasting continued from page 1

- the resolution of the stream;
- a contour overlay map showing the predicted percentage of population within the noise limited service contour served by the Next Gen TV station's original ATSC 1.0 signal that will be served by the host station, the areas of service loss (if any), and the originating station's community of license;
- whether the stream will be simulcast, and if so, the paired stream in the other service;
- a demonstration that the applicant station is not seeking to license more capacity on the partner host station(s) in the aggregate than the applicant station could use on its own facility;
- for an applicant station providing children's programming on a multicast stream to comply with the children's core programming requirement, a demonstration that multicast is being carried on the same host as the station's

primary stream or on a host that serves at least 95 percent of the predicted population served by the applicant station's former 1.0 signal;

- confirmation that the applicant station has provided the required notifications to viewers and multichannel video programming distributors.

The Commission will no longer accept requests for a new or extended Special Temporary Authority for a Next Gen TV station to treat its 1.0 ATSC stream as if the stream is originating from its facility rather than the host's facility. Next Gen TV stations that presently have an STA to multicast must file a 3.0 license application by the expiration of the current STA. Stations with a pending request to extend a multicast STA may continue to operate under the STA but must file a license application by December 18, 2023, that is compliant with the new rules.

**DEADLINE TO BEGIN AUDIO DESCRIPTION
SERVICES FOR ABC, CBS, FOX, and NBC TV
AFFILIATES IN MARKETS 91-100**

JANUARY 1, 2024

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