



## Repacking Transition Begins, CP Applications Due July 12

On April 13, the FCC released a Public Notice to officially announce the close of the Incentive Auction and to mark the beginning of the 39-month post-auction television transition. Television stations will use that time to repack themselves into what remains of the television band that is smaller by 84 megahertz.

The forward auction of spectrum in the 600-MHz band for wireless users resulted in net bids totaling a little over \$19.3 billion. Some 50 bidders purchased 2776 wireless service licenses. Payouts to the licensees of 175 television stations with winning bids in the reverse auction to relinquish some or all of their spectrum rights will total about \$10 billion. After reimbursing costs for stations that have to modify their facilities in the repacking process and covering the cost of administering the auction, the Commission expects to realize net proceeds of \$7.3 billion that will be devoted to reducing the federal government's deficit.

Winning reverse auction bidders entitled to receive compensation for giving up their spectrum rights must file a Form 1875 by May 11, 2017. The Form 1875 requests information to identify the bidder, certain certifications, and the bank account information where the disbursement is to be deposited, including a bank account verification letter or a redacted bank statement

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## Petitions About FM Translators Abound

The growth in the number and impact of FM translators has been dramatic in recent years. The use of translators to rebroadcast the signals and enhance the service of AM stations has pushed their perceived value upward. However, while achieving a higher profile, FM translators have also become the tools and targets of conflicts between radio station operators. Three significant petitions recently filed with the FCC illustrate this point. Two of them are petitions for rulemaking that address interference issues between translators and full power FM stations. The third is a petition for reconsideration of the Commission's recent action to allow greater flexibility in the siting of AM fill-in translators.

The National Association of Broadcasters ("NAB") has petitioned the Commission to amend its rules and adopt procedures to improve the process for resolving complaints alleging that translators are interfering with full power stations. NAB's first suggestion is an amendment to Section 74.1233 of

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## Internet Approved as Sole Recruitment Source

The FCC has issued a *Declaratory Ruling* finding that Internet usage has become sufficiently widespread to permit broadcasters to rely on it as a sole recruitment source to comply with the agency's requirement that notices of job openings be widely disseminated. This decision in Docket 16-410 is the Commission's response to a Petition for Rulemaking filed by Sun Valley Radio, Inc. and Canyon Media Corporation – radio station licensees under common control. Although the petitioners had asked the FCC for a rulemaking proceeding to revise its rules, the Commission decided instead merely to provide a new interpretation of its rule and to revise its policy.

In 2002, the Commission adopted its current EEO rules governing the hiring and employment practices of broadcast licensees. The stated purpose was to "ensure equal opportunity and nondiscrimination for all prospective applicants..." The rules require that each broadcast station employment unit must "use recruitment sources for each [full-time] vacancy suffi-

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# Petitions About FM Translators Abound *continued from page 1*

the FCC's rules that would allow a translator seeking to avoid causing interference to move to any other available frequency on the FM band as a minor change. Presently, a translator attempting to use this method to eliminate interference is limited by the technical definition for a minor change, which is a move to an adjacent channel (+/- 3 channels) or to an IF-spaced channel (+/- 53 or 54 channels). Any other channel change is generally considered a major change, and is not permitted outside of a filing window. Under this proposal, the applicant would have to first verify that no channel ordinarily allowed as a minor change is available. Upon that demonstration, the applicant would be free to move to any other available channel as a minor change. NAB proposes to allow this move to "any available channel on the FM band" without clarifying whether or not translators rebroadcasting commercial stations would be allowed to migrate to the non-commercial portion of the FM band. Rather than having to wait for complaints to arise from the full power station and/or its listeners, this process could be triggered voluntarily by the licensee of the translator with an engineering demonstration that the interference exists.

Section 74.1203 of the Commission's rules defines translator interference to a full power station as occurring "when-ever reception of a regularly used signal is impaired by the signals radiated by the FM translator . . ." A complaint about such interference typically is generated by one or more listeners attempting to use, i.e., to listen to, the full power station's signal. NAB asks the Commission to adopt procedures to standardize how such complaints are handled and resolved. Presently, a single complaint from one listener can trigger the process. NAB suggests that an actionable petition against a translator should be supported by complaints from at least six different bona fide listeners (or perhaps more or less, depending on such circumstances as whether the station's service area is rural or urban).

The rule requires the translator licensee to research the complaint and attempt to resolve it with the complainant if possible. There is no requirement as to the minimum information necessary to identify the listener or the location where the interference is alleged to occur. NAB says that translator licensees often waste time searching unsuccessfully for complainants. The Petition proposes to make it easier for the translator licensee to find and work with complainants. NAB wants the Commission to require each complaint to be accompanied by full documentation of the complainant's name, contact information and the address where the interference occurs. A signed declaration would be required in which the complainant would certify to being a "regular" listener who is unaffiliated with the full power station. NAB suggests that to be qualified as a "regular" listener, a complainant should be willing to certify that he or she has attempted to access the desired station on a regular basis, such as at least twice monthly for at least six months.

The present complaint process can be triggered with an allegation of interference at a single location. NAB observes that complaints can sometimes arise from situations where

interference is only intermittent, such with terrain-induced multipath fading or atmospheric ducting. It recommends that actual locations of interference should be of a sufficient number to indicate that a real and consistent problem exists. That number would depend on the circumstances of the case. NAB asserts that the FCC's policy should encourage or require that the research to verify or disprove the existence of interference should include an "on/off" test in which the translator is briefly turned on and off to observe its impact on the full power signal.

NAB observes that the current complaint resolution process has no set procedural schedule, and is often fraught with uncertainty and delay, sometimes leading to the conclusion by broadcasters that the process is entirely ad hoc. It asks the FCC to adopt a regular schedule for the handling of complaints. Upon receipt of an acceptable complaint, the Commission should initiate a letter of inquiry to the offending translator within 15 days. The translator licensee would then have 30 days in which to respond with a plan to resolve the interference or to dispute the claim of interference with a technical demonstration. Failure to respond within 30 days would result in an immediate FCC order to eliminate the interference or cease operating. If the translator licensee's proposed solution involves a modification application, the Commission should act on that application within 15 days.

The Commission has requested public comment on the NAB's Petition in RM-11787. Comments are due by May 30; reply comments, by June 14.

Another Petition for Rulemaking has been filed by Aztec Capital Partners, Inc., the licensee of AM station WHAT, Philadelphia. Aztec's proposed amendment to the FCC's rules is rooted in its experience. It operates an AM fill-in translator rebroadcasting WHAT within the WHAT service area. The translator has been the subject of complaints alleging interference in Philadelphia to the reception of a Class A FM station located 50 miles away in southern New Jersey.

Section 74.1203(a)(3) of the Commission's rules states that an FM translator will not be permitted to continue to operate if it causes any actual interference to reception of a regularly used broadcast signal "regardless of the quality of such reception, [or] the strength of the signal so used, . . ." The effect of this rule is to legitimize interference complaints anywhere the full power station's signal might be found, no matter how faint. Aztec says that this rule has allowed a distant FM station with a marginal, but potentially audible, signal in the WHAT service area to obstruct Aztec's effort to enhance its service to its local community by providing its AM programming on an FM translator. Aztec argues that this arrangement subverts the purpose of allowing AM stations to have fill-in translators. Improving the quality and usefulness of a true local broadcast service is precluded by the efforts of a distant station to intrude upon a community well outside of its service area and its natural market.

Aztec proposes to change the rule so as to protect a fill-in translator operating within its primary station's protected

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# Noncoms Can Air Third-Party Fundraising

The FCC has amended its rules to permit noncommercial radio and television stations to broadcast long-form fundraising efforts for nonprofit third parties that may interrupt regular programming. This *Report and Order* in Docket 12-106 is the culmination of proposals made in a 2012 *Notice of Proposed Rulemaking*. Until now, Sections 73.503(d) and 73.621(c) of the Commission's rules have prohibited noncommercial stations from conducting on-air fundraising activities that substantially alter or suspend regular programming and are designed to benefit any entity other than the station itself. In the course of the rulemaking proceeding, the proposal to relax these rules was generally supported by religious non-commercial broadcasters. Public and secular broadcasters generally opposed it.

This action includes an unusual twist in that stations that receive funding from the Corporation for Public Broadcasting will not be permitted this new flexibility and will continue to be subject to the old restrictions. The Commission's only explanation for this segregation is that "CPB-funded stations generally do not want this added flexibility...."

Under the new rules, noncommercial stations will be allowed to conduct on-air fundraising activities that alter or suspend regular programming, including program-length fundraising content, subject to a maximum annual cap of one percent of the station's airtime. The Commission believes that such third-party fundraising may enhance the educational nature of the station by educating the public about the

social needs and charitable causes supported by nonprofit organizations.

The organization for which fundraising is conducted must be a bona fide nonprofit entity recognized as tax-exempt under Section 501(c)(3) of the Internal Revenue Code. There is no requirement that the nonprofit entity be local to the station's service area, or that it be unaffiliated with the station or its licensee. However, entities with nonprofit status merely under state law, or under some other provision of the Internal Revenue Code are not permitted. The Commission expressly stated that on-air fundraising may be conducted only for entities qualifying under Section 501(c)(3). This is consistent with the Commission's concern that noncommercial stations retain their noncommercial character.

The station's total airtime during the previous calendar year will be the benchmark for calculating the one percent cap on the total amount of airtime that can be devoted to this kind of fundraising programming. Stations that multicast two or more separate program streams may air such programming up to the one percent cap on each discrete stream. However, permissible fundraising time may not be aggregated across multiple streams. Within the one percent cap, there is no limit on the length of a given fundraising program or effort.

The nature of the fundraising program must be disclosed to the audience. At the beginning and end of each program, and at least once per hour during the program, the station must

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## Internet Approved as Sole Recruitment Source *continued from page 1*

cient in its reasonable, good faith judgment to widely disseminate information concerning the vacancy."

The Commission gave stations flexibility to select the number and type of recruitment sources that they used, but those sources must "be reasonably calculated to reach the entire community." In that 2002 order, the Commission said that it was "unable to conclude that Internet usage has become sufficiently widespread to justify allowing it to be used as the sole recruitment source." Since the adoption of that order in 2002, a number of stations have been fined for relying exclusively on the Internet as their only recruitment source.

However, now the Commission has found that circumstances have changed. According to government sources, in September 2001, only half of U.S. households had an Internet connection. Today, 85 percent of American adults have broadband Internet service at home or use smartphones. In June 2015, the number of Internet connections in the United States surpassed the population. Internet traffic in the nation quadrupled between 2010 and 2015.

The Commission also observed research indicating that in 2015, 90 percent of Americans who looked for work in the preceding two years had used online resources for their job searches, and 84 percent of them had submitted applications online. Many employers, including the FCC, currently require job applicants to submit applications online. On the

weight of such evidence, the Commission found online job banks today to be well-established, well-known, and generally available to employers and job-seekers alike. On the other hand, the staple suggested by the Commission in 2002 for broad outreach – newspapers – has declined sharply since then. Many newspapers have largely moved their classified employment listings from print editions to web editions.

Consequently, the Commission concluded that use of the Internet has become so ubiquitous as to justify relying on it to widely disseminate the availability of job openings as a station's sole employment recruitment source. The agency said that it received comments from 18 parties in the proceeding, all of whom concurred with this conclusion.

In closing its *Ruling* however, the Commission endorsed three caveats expressed in the comments of the Multicultural Media, Telecom and Internet Council: (1) the online job posting should be easy to find; (2) job openings should be posted online for an adequate period of time with auditable interview records maintained; and (3) broadcasters should continue to cultivate job referral relationships with resources that are likely to include diverse candidates. While these are not requirements, the Commission believes that they are important factors in evaluating whether the online job posting process meets the "widely disseminated" mandate.



# DEADLINES TO WATCH



## License Renewal, FCC Reports & Public Inspection Files

June 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 <b>Arizona, District of Columbia, Idaho, Maryland, Michigan, Nevada, New Mexico, Ohio, Utah, Virginia, West Virginia and Wyoming.</b>
June 1, 2017	Deadline for all broadcast licensees and permittees of stations in <b>Arizona, District of Columbia, Idaho, Maryland, Michigan, Nevada, New Mexico, Ohio, Utah, Virginia, West Virginia and Wyoming</b> 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).
June 1, 2017	Deadline to file EEO Broadcast Mid-term Report for all radio stations in employment units with more than 10 full-time employees in <b>Arizona, Idaho, Nevada, New Mexico, Utah and Wyoming</b> ; and all television stations in employment units with five or more full-time employees in <b>Michigan and Ohio.</b>
July 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.
July 10, 2017	Deadline to file quarterly Children's Television Programming Reports for all commercial full power and Class A television stations.

**DEADLINE FOR TV STATIONS  
REASSIGNED TO NEW FACILITIES IN  
POST-AUCTION REPACK TO FILE  
CONSTRUCTION PERMIT APPLICATION  
JULY 12, 2017**

## Deadlines for Comments In FCC and Other Proceedings

Docket	Comments	Reply Comments
(All proceedings are before the FCC unless otherwise noted.)		
Docket 16-142; NPRM Next Generation TV	May 9	June 8
RM-11786; Public Notice Petition for Rulemaking re FM fill-in translators	May 18	June 2
Docket 13-249; Petition for Reconsideration: Flexible siting for AM fill-in translators	(Oppositions) May 19	(Replies) May 30
RM-11787; Public Notice Petition for Rulemaking FM translator interference complaint process	May 30	June 14
Docket 17-105; NPRM Modernization of media regulation	TBD	TBD
Docket 17-106; NPRM Elimination of Main Studio Rule	TBD	TBD
Docket 17-108; NPRM Net neutrality	TBD	TBD

## Threshold Qualifications Filing Window for Tribal Allotment

The FCC has received the application and Tribal Qualifications showing of Red Lake Nation for a new FM station as described below. Other qualified tribal entities may file competing applications by the indicated filing deadline.

Community	Channel	MHz	Filing Deadline
Red Lake, MN	287C1	105.3	May 19, 2017

**DEADLINE FOR REVERSE AUCTION  
WINNING BIDDERS TO FILE CLAIM  
FOR PAYMENT ON FORM 1875  
MAY 11, 2017**



# DEADLINES TO WATCH



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

The FCC has accepted for filing the AM and FM applications identified below proposing to change each station's community of license. These applications may also include proposals to modify technical facilities. The deadline for filing comments about any of the applications in the list below is **June 27, 2017**. Informal objections may be filed anytime prior to grant of the application.

Present Community	Proposed Community	Station	Channel	Frequency
Sierra Vista, AZ	Catalina Foothills, AZ	KKYZ	266	101.1
Los Altos, CA	San Jose, CA	KFFG	249	97.7
Castana, IA	Whiting, IA	KILV	298	107.5
London, KY	Winchester, KY	WGWM(AM)	N/A	990
Astoria, OR	Ocean Park, WA	KLOY	204	88.7
North East, PA	Union City, PA	WMCE(AM)	N/A	1530
Union City, PA	Erie, PA	WCTL	292	106.3
Morovis, PR	Aguadilla, PR	WVOZ(AM)	N/A	1580
Naples, UT	Maeser, UT	KCUA	223	92.5
Ocean Park, WA	Vashon, WA	KWAO	201	88.1
Westport, WA	Raymond, WA	KBSG	211	90.1
Eau Claire, WI	Elk Mound, WI	WIAL	231	94.1
Elk Mound, WI	Lake Hallie, WI	WECL	225	92.9

## Cut-Off Dates for Noncommercial FM Applications

The FCC has accepted for filing the applications for new non-commercial FM stations identified below. Petitions to deny must be filed by the deadline shown. Informal objections may be filed anytime prior to grant of the application.

Community	Channel	MHz	Applicant	Deadline
Igiugig, AK	277	103.3	Dillingham City School District	June 5
Newhalen, AK	277	103.3	Dillingham City School District	June 5

## 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 Annual Employment Report, Form 395-B	May 15
Noncommercial broadcast construction permit application, Form 340	May 19
First Amendment to Nationwide Programmatic Agreement for the Collocation of Wireless Antennas	May 22
Wireless radio authorization application, Form 601	Jun 2
Reverse auction incentive payments, Form 1875	Jun 2
Low power TV construction permit application, Form 2100, Schedule C (former Form 346), Sections 73.3700(g)(1)-(3), 74.787, 74.793, 74.799	Jun 12
Low power TV license application, Form 2100, Schedule D (former Form 347)	Jun 12
Commercial broadcast construction permit application, Form 2100, Schedule A, Form 301	Jun 12
Television station license application, Form 2100, Schedule B (former Form 302-DTV), Sections 73.3700(b)(3), 73.3700(h)(2)	Jun 12
Class A TV construction permit application, Form 2100, Schedule E (former Form 301-CA); Sections 73.3700(b)(1)(i)-(v) and (vii), (b)(2)(i) and (ii), 74.793(d)	Jun 12
Class A TV station license application, Form 2100, Schedule F (former Form 302-CA), Section 73.6028	Jun 12
MVPD notice, Section 73.3700	Jun 12
Channel sharing agreements, Section 74.800	Jun 12
FM broadcast license application, Form 302-FM	Jun 16
Broadcast license renewal application; Form 303-S	Jun 16

**DEADLINE TO REQUEST WAIVER  
OF REPACK CONSTRUCTION PERMIT  
APPLICATION FILING DEADLINE  
JUNE 12, 2017**

**DEADLINE FOR TV STATIONS  
TO REQUEST WAIVER OF SERVICE RULES  
IN LIEU OF REPACKING REIMBURSEMENT  
MAY 15, 2017**

# Repacking Transition Begins continued from page 1

confirming ownership of the account. The Form 1875 must be signed, notarized and a hard copy of it filed with the Commission's Travel & Operations Group in Capitol Heights, Maryland. A separate Form 1875 must be filed for each station for which the bidder claims funds.

The timing for these incentive payments is dependent upon the processing and grant of the incoming applications from the applicants who have won bids for wireless licenses in the forward auction. The precise schedule for these payments cannot be determined in advance. When the Commission is prepared to direct the U.S. Treasury to disburse payments to one or more stations, it will release a "Ready to Pay Public Notice" listing the stations to be paid. The Notice will also announce the date on which the winning bidders must relinquish their spectrum usage rights and cease using their old channels.

In the forward auction, the Commission sold the spectrum that has been occupied by television channels 38 through 51. This reallocation of spectrum will require affected television stations to modify their facilities. Construction permit applications for these changes are due to be filed by July 12. This will involve the following types of applications: (1) stations moving from the reallocated channels down to the remaining TV channels; (2) stations already on a lower channel moving to accommodate the movement of one or more other stations; (3) reverse auction bid winners to move to a VHF channel.

Stations in the first and second categories listed above will generally be eligible to receive reimbursement for their reasonable expenses incurred in implementing those modifications. These stations must submit to the FCC their estimates for reimbursable costs by July 12. After reviewing the cost estimates submitted to it, the Media Bureau will make initial allocations from the Reimbursement Fund to each eligible station. The initial allocations will be 80 percent of the estimated cost for commercial stations, and 90 percent of the estimated cost for noncommercial stations. A station will draw down against its allocation as it incurs reimbursable expenses. The Media Bureau will announce one or more additional allocations later. Throughout the transition period, stations are required to update their cost estimates, which may become the basis for updated allocations. The Form 2100, Schedule 399 must be submitted each time a station requests reimbursement. Prior to the end of the transition, each station must submit information regarding actual

and remaining estimated costs. If needed, a final additional allocation will be made to cover the last eligible expenses. Stations will be required to return any overpayments.

Each station that will be required to modify its facilities has been sent a confidential letter informing it about what changes it must implement. Data for all stations' assigned facilities are also available online at [http://data.fcc.gov/download/incentive-auctions/Transition\\_Files/](http://data.fcc.gov/download/incentive-auctions/Transition_Files/). This data bank provides a variety of information, including coverage area and population statistics, phase assignments, linked-station sets and neighbors, dependencies and identification of stations that lost more than 1 percent in population coverage.

Stations that are unable to construct the assigned facilities or that are unable to meet the July 12 deadline for filing a construction permit application may request a waiver. Waiver requests must be filed by June 12.

Sometime shortly after July 12, the Media Bureau will announce the schedules for two additional 30-day filing windows for stations to seek alternate channels and/or expanded facilities. The first of these will be a "priority" window restricted to:

- (1) reassigned stations and band changing stations unable to construct the facilities assigned to them;
- (2) reassigned stations, band changing stations and stations entitled to protection in the repacking process that are predicted to lose more than 1 percent of their population served;
- (3) Class A stations that were unprotected and displaced in the repacking process.

Shortly after the close of the priority filing window, the second 30-day filing window will open for any other reassigned or band changing station to file a modification application.

Each station that is modifying its facilities has been assigned to one of ten "phases," or scheduled time slots within which it can test its newly modified facilities, and within which it must complete construction. Construction can begin as soon as the construction permit application is granted, but testing is prohibited before the phase start date. The system is designed to preclude new construction and testing from disrupting the legacy operations of other stations still on the air. The schedule for the ten phases is as follows:

Phase	Testing Period Start Date	Completion Deadline
1	September 14, 2018	November 30, 2018
2	December 1, 2018	April 12, 2019
3	April 13, 2019	June 21, 2019
4	June 22, 2019	August 2, 2019
5	August 3, 2019	September 6, 2019
6	September 7, 2019	October 18, 2019
7	October 19, 2019	January 17, 2020
8	January 18, 2020	March 13, 2020
9	March 14, 2020	May 1, 2020
10	May 2, 2020	July 3, 2020

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# Noncoms Can Air Third-Party Fundraising continued from page 3

announce that the fundraiser is not for the benefit of the station and identify the entity for which funds are being solicited. More detailed information about the event is optional.

These third-party fundraisers must also be documented in the public inspection file each calendar quarter. This documentation must include the date, time, and duration of the event; the type of fundraising activity; the name of the organization that benefitted from the event; a brief description of the cause or project; a description of the extent to which the station assisted or participated in the event; and the amount of money raised.

A station is not permitted to accept payment or any other consideration for broadcasting the fundraiser except that it can be reimbursed for its expenses incurred in producing and

broadcasting the event. The Commission expressed a concern that to allow noncommercial stations to receive additional consideration for third-party fundraising could create the impression that they are engaging in commercial activity.

Prior to this rule amendment, the Commission had occasionally granted specific time-limited waivers to allow noncommercial stations to broadcast sustained third-party fundraising efforts intended to address special emergency needs following catastrophes such as hurricanes and earthquakes. The Commission says that it will continue to consider such waiver requests from stations that would otherwise exceed the one percent cap for time devoted to third-party fundraising, and from CPB-funded stations continuing to live under the old rule.

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## FM Translators continued from page 2

service contour from interference complaints related to the reception of distant signals from out-of-market stations.

Comments on Aztec's Petition can be filed in RM-11786 until May 18. Reply comments are due by June 2.

Another recent filing with the FCC that bears on FM translators is the Prometheus Radio Project's Petition for Reconsideration of the Commission's *Second Report and Order* in its proceeding on the revitalization of AM radio. In that proceeding, the agency relaxed the restrictions on the placement of a station serving as a fill-in translator for an AM station. Under the new rule, the 60 dbu contour of an AM fill-in translator must be contained within the greater of the AM station's 2 mV/m daytime contour or a radius of 25 miles from the AM antenna site. Previously, the translator's 60 dbu contour could not exceed the lesser of those two markers. For AM stations whose contours range well beyond the 25-mile radius, this rule change opens up new geographic expanses for establishing translators.

As an advocate for low power FM, Prometheus is concerned this ruling will result in more situations where the placement of an FM translator would preclude the development of a low power FM station. Prometheus urges the Commission to rescind this element of the rule and to replace it with an alternate provision that was proposed in the *Notice of Proposed Rulemaking* in the proceeding. That provision would have required the fill-in translator's 60 dbu contour to fall within a radius of 40 miles from the AM antenna site.

This new rule became effective on April 10 and the Commission has been accepting applications relying on it since that date. Prometheus had requested a stay of the rule's effective date and a freeze on processing applications. The Commission has not responded to that request. The deadline for filing oppositions to Prometheus's Petition for Reconsideration in Docket 13-249 is May 19. Replies will be due May 30.

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## Repacking Transition Begins continued from page 6

All stations eligible for reimbursement of their repacking expenses must file online quarterly Transition Progress Reports on Form 2100, Schedule 387. Reports will be due by the 10th day following the end of each quarter, beginning with the third quarter of 2017. Stations must also file progress reports (1) 10 weeks before the construction deadline; (2) 10 days after construction is completed; and (3) 5 days after cessation of operations on the pre-auction channel.

A station that won a reverse auction bid to share a channel with another station must implement the shared channel operations and discontinue operation on the pre-auction channel within 180 days of receiving its auction proceeds. If the sharer station is remaining on its pre-auction channel, the sharee station must file a construction permit application to join it no later than 60 days prior to its deadline to close down the pre-auction channel. The sharee's application must propose the same facilities as those authorized for the sharer sta-

tion, and must include the Channel Sharing Agreement. If the sharer station is moving to a new channel, it must file its construction permit application in accord with the schedule set out above for all other stations.

Low power TV and television translator stations are not being protected in the repacking process because of their secondary status. Nonetheless, the Commission plans to offer such stations that are displaced by the auction or the repacking process an opportunity to move to a new unoccupied channel. This will involve a filing window exclusively for such displaced stations. The Commission states that it will shortly release a Public Notice to announce the details for this process. The filing window will begin not sooner than 60 days after the release of this Public Notice. The Commission notes that, if need be, displaced LPTV stations will be permitted to continue to operate on their displaced channels until the new licensee commences operations.

# FRNs Optional for Noncom Ownership Reports

The FCC has reversed its own 2016 decision to require interest holders in noncommercial broadcast stations (i.e., mostly licensee officers and members of governing boards) to obtain individual FCC Registration Numbers ("FRNs"), necessitating the disclosure of personal data. Responding to Petitions for Reconsideration of that order filed by noncommercial broadcasters, the Commission adopted an *Order on Reconsideration* in Docket 10-234 to make it optional for noncommercial licensees to report individual FRNs for their officers and board members in their biennial ownership reports.

In the 2016 order, the FCC revised its broadcast ownership report forms. One of the changes was to require that every reportable interest holder in a broadcast licensee be identified by a unique identifier – either an FRN or a Restricted Use FRN ("RUFRN"). To obtain an FRN or RUFRN, individuals are compelled to disclose personal information, such as one's Social Security Number and/or date of birth. The Commission said it would take enforcement action against individuals who refused to provide such information.

The petitioners seeking reconsideration contended that this mandate would hinder their efforts to recruit and maintain qualified volunteer members to serve on their governing boards. The Commission has now come to agree with them. It found that the potential chilling effect on participation in noncommercial station governance and the deleterious effect of the loss of leadership for noncommercial licensees outweigh the Commission's need for integrity and usefulness in its ownership data that the unique identifiers are intended to provide.

Individuals who decline to disclose their personal information will be allowed to obtain a Special Use FRN ("SUFRN"). The SUFRN can be generated merely by clicking on an icon in the online ownership report form without the submission of personal information. It is available for use only by individuals, and not by any kind of business entity.

The FRN/RUFRN requirement remains in place for interest holders in commercial stations. Noncommercial stations will continue to file biennial ownership reports and to identify their interest holders with an FRN, RUFRN or SUFRN, as the individual may choose. If a person already has an FRN or RUFRN (because, for instance, he or she is also a commercial station interest holder, or holds some other type of FCC authorization personally), he or she must continue to be identified with that number. Individuals obtaining an SUFRN must continue to be identified with the same SUFRN in subsequent ownership report filings. Individuals should also take note that SUFRNs may only be used in broadcast ownership reports. If the individual has other business before the FCC requiring a registration number, an FRN or RUFRN will be necessary.

Another revision to the noncommercial broadcast ownership report form in the 2016 order was the inclusion for the first time of the collection of data on the race, ethnicity and gender of the interest holders. This part of the form has not been disturbed and this information will be requested for each interest holder in the next round of biennial ownership reports. Those reports will be due later this year by December 1, with data accurate precisely as of October 1.

## UHF Discount Reinstated

In an *Order on Reconsideration* in Docket 13-236, the FCC has reinstated the rule that counts only 50 percent of the households served by a UHF television station (the "UHF discount") toward the national limit on the number of households in the country that can be served in the aggregate by any one owner's television stations. The television multiple ownership rule prohibits a single owner from holding attributable interests in commercial television stations in markets that collectively cover more than 39 percent of U.S. households.

The UHF discount was an artifact of the era of analog broadcasting when UHF television signals produced coverage inferior to that of VHF signals. To compensate for this disadvantage in calculating compliance with multiple ownership restrictions, the reach for UHF stations was figured at half of the actual number of households in the station's market. With the transition to digital transmission systems, the UHF technical disadvantage has disappeared. Consequently, in August of last year, the Commission abolished the discount. Combinations of stations that suddenly fell out of compliance with the rule because their reach exceeded the 39 percent cap were grandfathered as of their status on September 26, 2013.

Station group owners petitioned the Commission to reconsider this decision. They argued that eliminating the UHF discount had a de facto effect on the national cap that the Commission had completely ignored. They said that the Commission's action essentially tightened the national cap without any consideration or deliberation about the public interest impact of that change. Further, the Commission's action disrupted the television industry's reliance on the discount to develop long-term business plans.

Under the Commission's new chairman, Agit Pai, the agency now agrees that the UHF discount should not have been adjusted without due consideration to the impact of that adjustment on the national cap. The Commission acknowledges that UHF signals are no longer inferior and that there remains no technological basis for maintaining the UHF discount. However, the agency concludes that it should have taken current market conditions into account and considered the public interest impact of tightening the ownership cap. The Commission reinstated the UHF discount for now, but committed to consider it later this year in the context of a broader reassessment of the national cap.

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