

## Second Priority TV Filing Window Set for October 3 – November 2

The FCC's Incentive Auction Task Force and Media Bureau have scheduled the second priority filing window for full service and Class A television stations to file applications to modify their post-incentive auction assignments. The filing window is open now and will close on November 2 at 11:59 p.m. Eastern Time.

Stations eligible to file modification applications during this filing window include all those that were reassigned to a new channel in the post-auction table of assignments. A station can file an application to modify its new construction permit or to amend its still-pending application filed during the post-auction repack filing window that closed on July 12. Stations may propose to expand their facilities and/or to change channels. Applications for expanded facilities are limited to those that qualify as a minor change. Applications for alternate channels will be considered major change applications. As such, they will be subject to the rules about giving local public notice and the 30-day period for petitions to deny. Stations may not request new channels outside of their post-auction band.

Applicants in this filing window must protect all applications (and resulting construction permits) filed during the first priority filing window, during the post-auction repack filing

*continued on page 2*

## FM Translator Settlement Window Ends November 29

The FCC's Media Bureau and Wireless Telecommunications Bureau have announced a filing window for settlements among mutually exclusive applicants in Auction 99. An element of the Commission's efforts to revitalize AM radio, Auction 99 is the proceeding for AM broadcasters to pursue construction permits for cross-service FM translators to rebroadcast their AM stations. The filing window for these applications closed on August 2.

Of the approximately 1,100 applications that were filed, the Commission has determined that there are 88 groups of mutually exclusive applications involving a total of 189 proposals. These mutually exclusive groups are identified in an appendix to the Public Notice announcing the settlement window.

The prohibition on auction-relevant communications between competing applicants is temporarily waived during

*continued on page 7*

## AM Engineering Rules Relaxed

In the *Third Report and Order* in Docket 13-249, the FCC's ongoing proceeding to revitalize AM broadcasting, the agency has amended its rules to relax a number of the engineering requirements for AM radio stations. The Commission's purpose in adopting these rule amendments and clarifications is to reduce the regulatory and financial burdens on AM broadcasters without sacrificing the quality or integrity of the AM broadcast service.

Section 73.154 of the Commission's rules outlines the procedures that AM stations with directional antennas must follow to take partial proof of performance measurements. AM stations are supposed to take these measurements when changes to the facility's operating parameters may result from minor system repairs or when they otherwise have reason to suspect that the broadcast signal is exceeding its authorized parameters. Under the old rule, field strength measurements were required on all radials with a monitoring point, and on radials from the latest complete field strength proof of performance that are adjacent to the monitored radials.

Previously in this proceeding, the Commission proposed to limit the number of radials required to be

*continued on page 6*

### IN THIS ISSUE

Main Studio Rule.....	2
The Pirate & His Landlord.....	3
Deadlines to Watch.....	4-5
Eliminate the Rule Book.....	7
Emergency Information Access.....	8

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# Action on Main Studio Rule Scheduled for FCC's October Meeting

The FCC has released the tentative text of a Report and Order in which it would abolish the main studio rule. This item is on the agenda for action at the agency's open meeting on October 24. This follows the proposal earlier this year to do away with the rule in a *Notice of Proposed Rulemaking* in Docket 17-106.

Currently, Section 73.1125(a) of the Commission's rules requires each AM, FM, full service television and Class A television station to maintain a facility identified as its "main studio." The main studio must be located (1) within the station's community of license, (2) within the principal community contour of any AM, FM or TV broadcast station licensed to the station's community of license, or (3) within 25 miles of the reference coordinates of the center of the station's community of license. The station must maintain meaningful management and staff presence at the main studio, which has been defined as at least two staff members working at the studio on a full-time basis, at least one of whom must be management-level. The main studio must also be equipped with program production and transmission capabilities. To the extent that the station is still maintaining any portion of its public file apart from the FCC's online public file repository, the file is to be available for the public to review at the main studio.

In the Report and Order, the Commission would adopt its tentative conclusion that the main studio rule is no longer necessary for its intended purpose of fostering an interaction between a station and members of its community and the development of local programming to address community needs and interests. Furthermore, the record in this proceeding indicates that significant

licensee resources are spent on complying with the main studio rule – resources that could better be devoted to producing programming, newsgathering and/or upgrading equipment to better serve local communities.

If it votes to adopt this order, the Commission would eliminate the main studio rule, including the requirements for minimum staffing and the capability to originate local programming.

Requirements that would be retained include the maintenance of a local or toll-free telephone number so that community members can communicate easily with station staff, and the requirement to maintain at a locally available public site any portion of the public inspection file that is not yet available on the FCC's website for public files. This includes political files that a station may be maintaining offline and, prior to March 1, 2018, the files for radio stations that have not yet uploaded their materials to the FCC's website.

The elimination of the main studio requirement does not affect the obligation to maintain a public inspection file. An important element of the public file is the quarterly compilation of the issues and programs list – which stations will continue to be required to produce.

It is important to note that the Commission merely released a draft text of the Report and Order. The draft is subject to further deliberation, revision and/or withdrawal until the Commissioners vote on it. Even after adoption, the item may be subject to minor edits before the official version is released. A full report on this proceeding will appear in this publication after the Commission's action.

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## Second Priority TV Filing Window Set continued from page 1

window, and prior to the April 2013 filing freeze. Class A television applicants must also protect applications and authorizations for low power television and television translator stations.

All applications filed during the second priority filing window will be processed as if filed on the last day of the window. Mutually exclusive applicants will be given a 90-day period for resolving their conflicts by way of technical

amendments or settlements.

Stations are reminded that the expenses incurred in pursuing modifications of facilities in this filing window are not reimbursable from the TV Broadcaster Relocation Fund, the fund established to assist stations with the cost of modifications required by the post-auction repacking of the television spectrum. These later modifications are viewed as voluntary and not required by the repacking process.

# Pirate's Landlord Fined Too

The FCC has fined the operator of an unlicensed pirate FM radio station in North Miami, Florida and the station's landlords the statutory maximum of \$144,344. The station's operator, Fabrice Polynice, and the married-couple landlords, Harold and Veronise Sido, were made jointly and severally liable for the entire amount of the forfeiture. In recent months, the Commission has heightened the attention it is paying to pirate radio, imposing numerous fines. In her Statement accompanying the *Notice of Apparent Liability for Forfeiture*, Commissioner Mignon Clyburn observed that during the past 14 years, the FCC has taken enforcement action nearly 2,000 times against pirate radio operators. This is the first case in which enforcement action was also pursued against an operator's accomplice, such as a landlord.

Mr. Polynice, his on-air persona, "Paz," and his operation's brand name, "Radio Touche Douce," have been known to agents of the FCC's Enforcement Bureau for several years. On March 14, 2012, agents from the Bureau's Miami office used mobile direction-finding equipment to determine that FM radio transmissions on 90.1 MHz were originating from the Sidos' residence. Unlicensed operations were again observed at the Sido residence on May 9, June 13 and July 3, 2012. U.S. Marshals executed a warrant in a shed in the backyard at that address on July 5, 2012 and seized FM transmission equipment. FCC agents who accompanied the Marshals on that raid observed a laptop computer in the shed with an audio playlist with "Radio Touche Douce" in the name. Those proceedings eventually resulted in a *Forfeiture Order* in 2013 against Mr. Polynice for \$25,000 – which has never been paid.

The loss of the transmitter to the U.S. Marshals did not deter Mr. Polynice. On several occasions in 2015 and 2016, FCC agents again detected an unlicensed signal on 90.1 MHz emanating from the Sidos' residential property. During a visit to the Sidos' home in August 2016, the agents interviewed both Mr. and Mrs. Sido and found evidence of a radio station in the same backyard where the equipment had been seized in 2012. The agents observed a broadcast antenna with coaxial cable running into the shed. There was also an electric line connected to the shed originating from the Sidos' house. The Sidos eventually admitted that there was radio equipment in their backyard, but that it belonged to someone named "Paz," whom they hardly ever saw. The agents warned the Sidos that operating an unlicensed station was illegal.

In December 2016, the agents again visited the Sidos upon again detecting the illicit signal coming from their property. The Sidos at first denied that there was any radio equipment in their backyard. However, the agents again observed an antenna on a mast, with coaxial cable leading into the shed. The shed was locked and the Sidos said that no one else aside from them had a key. They

opened the shed for the agents, but it was dark inside and the agents were unable to observe what the shed contained. Mr. Sido explained that the shed was dark because there was a problem with the breaker for that electrical circuit. The breaker was located in the Sidos' house. The Sidos disclosed that they had one account for electricity that furnished power to their house and to the shed. There was also one Internet account that provided service to both the house and the shed. The Sidos said that the radio equipment belonged to Mr. Polynice, whom they said they had not seen for two years.

A review of the social media accounts of Mr. Polynice and Mr. Sido provided the Commission's agents with further evidence of their collusion to operate an unlicensed radio station. A Facebook page devoted to Radio Touche Douce identified Mr. Polynice as the owner. Another Facebook page included Mr. Polynice's picture and encouraged listeners to tune in to "Radio Touche Douce 90.1 FM" in Miami. In September 2014, Mr. Sido posted a video on his Facebook page showing him with Mr. Polynice at the station's studio at a remote location as Mr. Polynice was speaking into a microphone in the background. Mr. Sido reposted this video on his Facebook page in December 2016. These postings demonstrate that Mr. Sido knew Mr. Polynice and witnessed his radio programming activities.

The evidence gathered by the FCC agents showed that Mr. Polynice continued to operate the station known as Radio Touche Douce on 90.1 MHz long after he had been repeatedly warned to cease broadcasting, and indeed had been fined \$25,000 for his illegal activities.

Based on the totality of the circumstances in this case, the Commission decided to sanction Mr. and Mrs. Sido as well, although they were apparently not directly associated with the station's programming. The Commission took pains to document the Sidos' direct involvement in the radio operation so as to ensure bringing them under the jurisdiction of the Communications Act, rather than merely denoting them as more or less passive landlords. Field strength measurements consistently showed over the course of several years that the unlicensed 90.1 signal was originating at their property. Mr. and Mrs. Sido exclusively controlled access to the antenna site and the transmitter. The station was abruptly taken off the air during field agent visits to the site, apparently in reaction to their presence. This demonstrated the Sidos' ability to control the transmitter. The Sidos provided electricity and an Internet connection (for transmitting the programming from the remote studio site to the transmitter) to the shed at their expense and under their control. The Sidos admitted that they did not charge Mr. Polynice for rent or the utilities that the broadcast operation used. The Commission found the Sidos to be Mr. Polynice's accomplices despite being warned 12 times by FCC personnel to

*continued on page 6*



# DEADLINES TO WATCH



## License Renewal, FCC Reports & Public Inspection Files

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|---------------|--|-------------------------------|---|
| Oct. 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>Alaska, American Samoa, Florida, Guam, Hawaii, Iowa, Mariana Islands, Missouri, Oregon, and Washington.</b>   | Dec. 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>Alabama, Colorado, Connecticut, Georgia, Maine, Massachusetts, Minnesota, Montana, New Hampshire, North Dakota, Rhode Island, South Dakota and Vermont.</b>  |
| Oct. 2, 2017  | Deadline for all broadcast licensees and permittees of stations in <b>Alaska, American Samoa, Florida, Guam, Hawaii, Iowa, Mariana Islands, Missouri, Oregon, Puerto Rico, Virgin Islands</b> and <b>Washington</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). | Dec. 1, 2017                  | Deadline for all broadcast licensees and permittees of stations in <b>Alabama, Colorado, Connecticut, Georgia, Maine, Massachusetts, Minnesota, Montana, New Hampshire, North Dakota, Rhode Island, South Dakota and Vermont</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). |
| Oct. 2, 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>Alaska, American Samoa, Guam, Hawaii, Mariana Islands, Oregon</b> and <b>Washington</b> ; and all television stations in employment units with five or more full-time employees in <b>Iowa</b> and <b>Missouri.</b>  | Dec. 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>Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont</b> ; and all television stations in employment units with five or more full-time employees in <b>Colorado, Minnesota, Montana, North Dakota and South Dakota.</b>   |
| Oct. 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 (except for stations in <b>Puerto Rico</b> and <b>Virgin Islands.</b>   | Dec. 1, 2017                  | Deadline for all digital television stations to file annual Ancillary/Supplementary Services Report for 12-month period ending September 30.  |
| Oct. 10, 2017 | Deadline to file quarterly Children's Television Programming Reports for all commercial full power and Class A television stations.  | Dec. 1, 2017 to March 2, 2018 | Filing window for 2017 Biennial Ownership Reports for all AM, full service FM, full service TV, Class A TV and Low Power TV stations.   |
| Oct. 10, 2017 | Deadline to file quarterly Transition Progress Report for all television stations subject to modifications in the repack.  |                               |   |
| Nov. 13, 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>Puerto Rico</b> and <b>Virgin Islands.</b>  |                               |   |
| Nov. 13, 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 in <b>Puerto Rico</b> and <b>Virgin Islands.</b>  |                               |   |

**NATIONWIDE EAS TEST**

**FORM ONE AND FORM TWO**  
**FILING DEADLINE EXTENDED TO**  
**NOVEMBER 13, 2017 FOR PARTICIPANTS**  
**AFFECTED BY HURRICANES HARVEY,**  
**IRMA AND MARIA**

**FORM THREE FILING DEADLINE:**  
**NOVEMBER 13, 2017**



# 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 14-166; FNPRM Wireless microphones in television band		Oct. 16
Docket 17-214; Public Notice Competition in the market for video programming		Nov. 9
Dockets 17-231, 17-105; NPRM Maintenance of copies of FCC rules	Nov. 13	Nov. 27

## Due Date for Multilingual EAS Reports Is November 6

In a long-term effort to learn about existing services provided to and the needs of non-English speakers in the context of the dissemination of emergency information, the FCC is requiring all participants in the Emergency Alert System – including all broadcasters – to disclose and describe their voluntary activities to provide emergency information in languages other than English. There is presently no requirement to provide EAS alerts in any other language.

By November 6, each EAS participant is to submit a report to its State Emergency Communications Committee that includes the following information:

- A description of actions taken, if any, by the EAS participant (acting individually, in conjunction with other EAS participants in its area, and/or in consultation with state and local emergency authorities) to make EAS alert content available in languages other than English.
- A description of any future actions planned by the EAS participant, in consultation with state and local emergency authorities, to provide EAS alert content in languages other than English, along with an explanation as to why or why not such services are planned.

**U.S. COPYRIGHT OFFICE DEADLINE TO REGISTER AGENT FOR TAKE DOWN NOTICES REGARDING INFRINGING WEBSITE CONTENT UNDER NEW ELECTRONIC REGISTRATION SYSTEM  
DECEMBER 31, 2017**

## 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
Chief operators, Section 73.1870	Oct. 16
AM directional antenna field strength measurements, Section 73.61	Oct. 26
Hearing proceedings, Sections 1.221, 1.229, 1,248	Oct. 27
MVPD carriage proceedings, Sections 76.7, 76.9, 76.61	Oct. 27
MVPD unfair practices, Section 76.1001, 76.1002	Oct. 27
Program access proceedings, Section 76.1302	Oct. 27
Carriage agreement proceedings, Section 76.1302	Oct. 27
Open video disputes, Section 76.1513	Oct. 27
AM measurement data, Sections 73.54, 73.61, 73.62, 73.68, 73.69, 73.151, 73.154, 73.155, 73.158, 73.3538, 73.3549	Nov. 13
Station records for LPTV and TV and FM translators, Sections 74.781, 74.1281	Nov. 13

**SECOND PRIORITY FILING WINDOW FOR ELIGIBLE REPACKED TV STATIONS TO FILE MINOR MODIFICATION APPLICATIONS CLOSES  
NOVEMBER 2, 2017**

**DEADLINE FOR EAS PARTICIPANTS TO SUBMIT REPORT TO STATE EMERGENCY COMMUNICATION COMMITTEES RE MULTILINGUAL EAS:  
NOVEMBER 6, 2017**

**SETTLEMENT WINDOW FOR MUTUALLY EXCLUSIVE APPLICATIONS FOR FM TRANSLATOR STATIONS IN AUCTION 99  
CLOSES NOVEMBER 29, 2017**

# AM Engineering Rules Relaxed

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measured to those that actually include a monitoring point. Most commenters generally supported this proposal, asserting that the integrity of a directional array can be maintained adequately by measuring fewer radials, while saving on the cost of the procedure. The Commission adopted this proposal.

In 2008, the FCC adopted rules to permit directional AM stations to calculate the performance of their directional arrays with Method of Moments (“MoM”) proofs of performance. The Commission has found this computerized analysis technique to be a reliable means of verifying directional antenna system performance at a much lower cost to AM broadcasters. Until now, Section 73.155 of the agency’s rules has required that a station licensed with a directional antenna pattern pursuant to a MoM proof of performance be recertified at least once every 24 months, including disconnection and calibration of base sampling devices. The Commission found that its experience with MoM proofs demonstrates that the periodic recertification is not necessary. The Commission therefore has eliminated this requirement except in cases involving the repair or replacement of affected system components.

The Commission dropped its former requirement to include new reference field strength measurements for subsequent AM licenses submitted for directional antenna systems using MoM proofs. The field strength measurements submitted with the initial proof are deemed to provide a real-world verification of the MoM model, and can serve as the basis for comparison of future measurements.

The rules require that a station applying for a directional antenna array using MoM modeling must obtain a post-construction certificate from a licensed surveyor to verify that the towers in the array have the proposed spacing and orientation. The Commission has previously clarified that a licensed station applying to be relicensed under the MoM rules is exempt from this requirement (provided there is no change in the pattern). The Commission now has extended this exemption to any directional pattern on any frequency using towers that are part of an authorized AM array, as long as the tower geometry has not been altered. This change addresses the problem of the critical shortage of land in metropolitan areas for complex antenna arrays. It helps facilitate the colocation of multiple stations on a common antenna system.

The Commission decided against adopting its proposal to allow MoM modeling for skirt-fed antenna towers. Upon consideration of the comments submitted in this proceeding, the agency concluded that it does not yet have sufficient experience with skirt-fed directional antenna systems to be able to specify standards for MoM modeling of them.

Other rulings in this action included: (1) a clarification that any installation of above-the-base components (not just antennas) added to a tower can be addressed with a MoM analysis; and (2) elimination of a condition on AM construction permits that requires distribution measurements for top-loaded antennas and allowing MoM analysis instead.

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# Pirate’s Landlord Fined Too

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quit this participation in his endeavors.

The Commission concluded that all three parties had demonstrated long-term disregard for its authority and requirements. Given the duration of the violation and the total disregard of multiple express warnings, the Commission saw fit to propose a base forfeiture of \$10,000 per day for the period between the most recent agency contacts with the operation – from September 27, 2016 to December 6, 2016. This would result in a total proposed base forfeiture of \$710,000. However, the Communications Act limits the maximum penalty for continuing violations arising from a single act or failure to act to \$144,344. Accordingly, that is the amount proposed for a liability to be jointly and severally imposed on all three individuals. The parties have 30 days to dispute the findings and/or argue for the cancellation or reduction of the forfeiture.

Commissioner Clyburn made clear her emphatic support for this enforcement action in her accompanying Statement. However, she observed that many pirate

radio stations broadcast programming targeted to minority communities that are otherwise underrepresented in the media. There appears to be demand for certain kinds of service that the licensed broadcast community does not provide. The case at hand featured content for the Haitian audience. The Commissioner cited census data showing that there are 213,000 Haitians living in the Miami/Ft. Lauderdale area. This represents about 4% of the metro population. Yet, this group is served by only one licensed radio station. Commissioner Clyburn reiterated her support for policies that would foster a greater participation in media by minority groups.

On the other hand, Commissioner Michael O’Rielly asserted in his separate Statement that the level of fines available for the FCC to impose in cases such as this is inadequate. He hopes that Congress will amend the statute to permit larger forfeitures so as to deter the formation and operation of pirate radio stations. He also expressed the need to expand the scope of the Commission’s authority to pursue additional parties who are facilitating the pirates’ illegal practices.

# Proposal Would Eliminate Rule Book Requirement

The FCC has proposed to delete from its rules the requirement that the licensees of low power TV, TV and FM translator and TV and FM booster stations maintain paper copies of Volume I and Volume III of the Commission's rules, Title 47 of the Code of Federal Regulations. This action was adopted in a *Notice of Proposed Rulemaking* in Docket 17-231. These requirements are codified in Sections 74.769 and 74.1269 of the Commission's rules. This proposal was originally floated by commenters responding to the Public Notice in the Commission's Modernization of Media Regulation Initiative.

These requirements were originally adopted more than 40 years ago when the translator services were new. Parties in

the Modernization proceeding said that the requirement to keep paper copies of rules on hand is outdated and unnecessary because the complete and most up-to-date version of the agency's rules is readily available on the Internet.

The Commission agrees with this assessment and has tentatively concluded that this proposal should be adopted. The agency also proposes to eliminate similar requirements for cable television relay station licensees and cable television system operators.

Public comments on this proposal are solicited. Comments will be due November 13. Reply comments will be due November 27.

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## FM Translator Settlement Window Ends November 29

*continued from page 1*

the settlement window for applicants in each mutually exclusive group. Applicants can resolve their conflicts with technical amendments or settlements. Technical amendments must be considered minor changes within the definition specified in Section 74.1233(a) of the Commission's rules. Channel changes are limited to three adjacent channels and the IF channels, and cannot involve a move between the reserved and non-reserved bands. The new 60 dbu contour must intersect with the original 60 dbu contour. Further, the amendment cannot create any new mutually exclusive relationship with any other application or authorization.

Applicants proposing to resolve their conflicts by settlements must commit the agreement to writing and submit

it to the FCC for approval, including the affidavits about consideration required by Section 73.3525 of the rules.

All such amendments and settlement agreements must be filed by November 29. Groups of mutually exclusive applications that remain unresolved after that date will proceed to competitive bidding.

The vast majority of applications filed in the Auction 99 filing window are singletons – that is, not mutually exclusive with any other application – and therefore not subject to competitive bidding. The Media Bureau will be processing these applications in due course, directing applicants with acceptable proposals to file complete long-form construction permit applications.

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## Modernization Proposals Would Simplify Paperwork

In the course of preparing for its October 24 open meeting, the FCC has released the tentative text of a Notice of Proposed Rulemaking in Docket 17-264 in which it would propose to eliminate two paperwork obligations for broadcast applicants and licensees that it suggests are no longer necessary.

Digital television stations are permitted to offer certain non-broadcast services using the excess capacity of their channels. These are called ancillary and supplementary services, for which stations can charge their customers. The FCC collects a fee of 5% of the gross receipts that a station receives from such activities. All digital television stations are required to file an annual report to disclose to the FCC these activities and the revenues generated by them. Section 73.624(g) of the Commission's rules requires every station to submit this report regardless of whether it had any revenues from such sources. In this action, the

Commission would propose to abolish this filing requirement for stations that have nothing to report.

Section 73.3580 of the agency's rules requires certain broadcast applicants to publish written notices about their applications in local newspapers. The FCC would propose to permit applicants to publish these notices on the Internet instead of in a print publication, or in the alternative, to eliminate the requirement entirely.

This draft Notice of Proposed Rulemaking has not yet been adopted. It was made public in the interest of promoting the transparency of the agency's processes. The draft is subject to further deliberation, revision and/or withdrawal until the Commissioners vote on it. Even after adoption, the item may be subject to minor edits before the official version is released. If and when the Commission acts on this item, that action will be reported in this publication.

# FCC Issues Reminder about Access to Emergency Information

In the wake of a variety of recent disasters, including several hurricanes, the FCC has issued a Public Notice to remind video programming distributors – including television broadcasters – of their obligations under Section 79.2 of the Commission’s rules to make televised emergency information accessible to people with disabilities.

Emergency information is defined as information about a current emergency that is intended to further the protection of life, health, safety and property. This would include the details critical for understanding the emergency and how to respond to it. Examples of qualifying emergencies include tornadoes, hurricanes, floods, tidal waves, earthquakes, icing conditions, heavy snows, widespread fires, discharge of toxic gases, widespread power failures, industrial explosions, civil disorders, school closings and changes in school bus schedules resulting from such conditions, and warnings and watches of impending weather changes.

Critical details would include, but not be limited to, details regarding the areas that will be affected by the emergency, evacuation orders, detailed descriptions of areas to be evacuated, specific evacuation routes, approved shelters or the way to take shelter at home, instructions on how to secure personal property, road closures, and how to obtain relief assistance.

For access by blind or visually impaired individuals, the

rules require that emergency information that is provided in the video portion of a regularly scheduled newscast or a newscast that interrupts regular programming be made accessible by aurally describing the emergency information in the main audio portion of the program. When information is conveyed visually during non-news programming, such as through crawling or scrolling text over regular programming, the information must be accompanied by an aural tone and then conveyed twice aurally on a secondary audio stream.

Service to the deaf and hard of hearing is to be provided by closed captioning or by open captioning crawls or scrolls that appear on the screen. These types of presentation must not block each other. Stations that are permitted to use captions created using the electronic newsroom technique (“ENT”) to comply with the general captioning rules are reminded that they must fill in the gaps to provide emergency information if the ENT method does not automatically caption non-scripted news.

Unlike under the closed captioning rules of Section 79.1, there are no exemptions from the requirement to make emergency information accessible.

The Public Notice included instructions for the general public on how to submit complaints to the FCC for noncompliance with these rules.

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## Noncommercial Stations Can Begin Third-Party Fundraising November 13

Earlier this year, the FCC amended its rules to permit noncommercial broadcast stations to air format-breaking programming to raise funds for unrelated nonprofit third parties. This change in the rules becomes effective November 13.

Airtime devoted to this kind of programming is limited to not more than one percent of the station’s annual on-air schedule. The station’s total time on the air during the previous calendar year is the benchmark for calculating the one percent. 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.

The organization to benefit from such fundraising 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.

At the beginning and end of each program, and at least once per hour during the program, the station must announce that the fundraiser is not for the benefit of the station and identify the entity for which funds are being solicited. These fundraisers must also be documented in the public inspection file each calendar quarter. Information in the file 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.

This rule change does not apply to stations funded by the Corporation for Public Broadcasting.

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