October 2021

Antenna™

An update on broadcasting law & issues from Donald E. Martin

Bill Would Require WWOR-TV To Air Local News and Public Affairs Programming

GAO Would Be Tasked To Study License Renewal Process

Legislation has been introduced in Congress to mandate that WWOR-TV, Secaucus, New Jersey, broadcast a minimum amount of news and public affairs programming about and of "particularized appeal" to its community of license and the state where that community is located. H.R. 4208 is being considered by the Subcommittee on Communications and Technology in the U.S. House of Representatives. The bill was introduced by two New Jersey Democrats on the Subcommittee. Similar legislation has

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Inquiry Opened on Spectrum Needs for the Internet of Things

Congress has enacted legislation requiring the FCC to conduct an inquiry about the current and future spectrum needs of the Internet of Things ("IoT"). Complying with this mandate, the FCC has adopted a *Notice of Inquiry* (FCC 21-103) in Docket 21-353 seeking public comment on factors that will influence the growth and viability of the IoT, including regulatory barriers that might hinder the provision of spectrum needed to support the IoT.

The FCC explains that the IoT refers to a system of Internet-connected devices that are able to collect and transfer data. Advances in hardware, network connectivity, interoperability, and software are accelerating the development of IoT technologies. IoT applications are appearing in many environments including industrial settings, commercial transactions, transportation, and in the home. The Commission cites predictions that by 2030 there will be some 25 billion IoT connected devices in use worldwide. This explosion

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FCC Seeks To Improve Resilience of Communications Infrastructure

Taking note of numerous recent natural disasters that, in addition to being detrimental to humans and property, have damaged and/or silenced the nation's communications services, the FCC has adopted a *Notice of Proposed Rulemaking* (FCC 21-99) in Docket 21-346 to propose steps to improve the reliability and resiliency of communications infrastructure during emergencies. The Commission invites comment on how to improve the existing procedures and protocols for addressing stressed communications networks during a disaster, and on how to expand participation in emergency preparation and response by other stakeholders, including broadcasters.

In the aftermath of Hurricane Katrina in 2007, the FCC established the Disaster Information Reporting System

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ESPN Fined for Transmitting EAS Tone

The Chief of the FCC's Enforcement Bureau has released a *Notice of Apparent Liability for Forfeiture* (DA 21-960) proposing to fine ESPN $20,000 for violating Section 11.45 of the FCC's Rules by transmitting Emergency Alert System ("EAS") tones in the absence of an actual emergency or an EAS test. Section 11.45 prohibits the transmission of the EAS codes or Attention Signal, or a recording or simulation of them, in any circumstance other than an actual emergency or an authorized EAS test.

On October 27, 2020, the FCC received a complaint alleging that ESPN had transmitted EAS tones or a simulation of them on October 20 during the program entitled *30 for 30: Roll Tide/War Eagle*. At the time of this transmission, there was no actual emergency nor had a test been authorized. The Enforcement Bureau sent ESPN a Letter of Inquiry on February 1, 2021, and ESPN responded on March 17.

ESPN admitted that the program in question had included "a portion of the EAS signal tone." ESPN explained that "for storytelling purposes," a segment of the EAS Attention Signal was used in connection with the depiction of a "dramatic recreation of an actual severe weather event." The network claimed, however, that the portion of the tones transmitted could not have activated any of the automated relay equipment used to transmit an emergency signal through the EAS chain of participants because it "did not include audio frequency-shift keying (AFSK) tones." ESPN said that the segment of program audio that included the EAS Tones lasted a mere 1.83 seconds. The program was sent as part of the ESPN program feed to most of the multichannel video programming distributors in the United States. The Enforcement Bureau cited a Walt Disney Company Report (ESPN's parent company) that stated that ESPN has 84 million subscribers.

The Bureau explained that the nature of EAS violations raises serious public safety concerns. Among other things, they undermine the integrity of the EAS by desensitizing the public to the potential importance of warning tones. There is also the risk that a false alert might block the transmission of a legitimate alert signal. In setting the amount of proposed fines, the FCC's bureaus have the discretion to adjust the amount upward or downward from the guidelines for forfeitures in Section 1.80 of the rules as the circumstances may warrant. The Bureau stated that when evaluating the circumstances, extent, and gravity of an EAS violation, it takes into account such factors as: (1) the number of repetitions, (2) the duration of the violation, (3) the audience reach of the transmission, and (4) the extent of the impact on public safety. In this case, the last two factors carried the most weight. The potential audience for the violating program was nationwide.

In determining the appropriate adjustment to the amount of a fine suggested by the forfeiture guidelines, the FCC may also consider the violator's prior history. ESPN has a record of prior violations of Section 11.45 of the rules. In 2015, it paid a $280,000 forfeiture for violations of Section 325(a) of the Communications Act (prohibiting transmission of false distress signals) and Section 11.45.

The forfeiture guidelines suggest $8,000 as the base amount for a fine for an EAS violation. Given the totality of the circumstances in this case, the Enforcement Bureau increased the amount of the proposed fine to $20,000.

ESPN had 30 days in which to request reduction or cancellation of the forfeiture.

Standardized Questions Adopted for Foreign Ownership Petitions

Requirements for petitions to the FCC requesting declaratory rulings that certain transactions involving foreign ownership of an FCC-issued license are not contrary to the public interest have been simplified. In its *Second Report and Order* (FCC 21-104) in Docket 16-155, the FCC has adopted sets of standardized questions to be used to vet petitioners seeking such a declaratory ruling. These questions are in addition to the application/petition itself, and responses to them must be submitted by the time the application is filed. This procedure replaces a lengthier and more cumbersome review in which applicants would be queried later in the process with nonstandard questions.

Section 310(b)(4) of the Communications Act provides that a broadcast license (as well as other categories of licenses) shall not be granted to an entity controlled by another entity more than 25% of which is owned or controlled by aliens or foreign entities if the FCC finds that the public interest would be served by refusing such a grant.

A party proposing a broadcast station ownership arrangement that triggers this review by the FCC must file a petition for a declaratory ruling that the proposed ownership structure would not be contrary to the public interest. The FCC has previously adopted procedures for this review process, which include participation by Executive Branch agencies with expertise in national security, law enforcement, foreign policy and international trade through the body known as the Committee for the Assessment of Foreign Participation in the United States Telecommunications Service Sector (the "Assessment Committee"). The Executive Branch agencies represented on this Committee include the Departments of Justice, Homeland Security, Defense, State, and Commerce, and the United States Trade Representative.

Until now, when the FCC received an application/petition with Section 310(b) implications, it would begin its own review procedures, but also refer the matter to the

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Expiration Date for Short Term License Overlooked

The FCC's Media Bureau has issued a *Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture* (DA 21-1177) proposing to fine Diponti Communications, LLC, $7,000 for failing to timely file a license renewal application for FM translator station W276DF, Westerly, Rhode Island, and for operating the station for approximately three years without an authorization.

Diponti's troubles in this case stemmed from something that happened before it owned the station. This translator was previously held by Brian Dodge d/b/a Harvest Broadcasting Association as W228AU, North Bennington, Vermont. In 2016, the FCC investigated Dodge with respect to a number of qualifications-related issues. That investigation was resolved by way of a consent decree. Dodge had owned a number of stations. Under the terms of the consent decree, Dodge was allowed to keep only some of them, of which W228AU (now W276DF), the station now owned by Diponti was one. The consent decree provided that the licenses for the stations retained by Dodge would receive short-term renewals for a new license term of only one year. The Commission renewed the station's license and gave it a new one-year term beginning November 8, 2016, and expiring on November 8, 2017.

In an effort to revitalize the service of AM stations, the FCC adopted a temporary policy of allowing an AM station licensee to purchase an FM translator and move it up to 250 miles so as to be able to function as a fill-in translator for the AM station. The policy also allowed for the translator to be moved to any available frequency. Diponti took advantage of this policy to purchase the station from Dodge and move it from North Bennington to Westerly to rebroadcast its AM station. That transaction was consummated on March 8, 2017.

A license renewal application for the translator was due by July 1, 2017 – the first day of the fourth calendar month prior to expiration date of the current license. Diponti did not file the license renewal application until September 11, 2020. On September 16, 2020, Diponti also requested a Special Temporary Authority ("STA") to continue to operate the station while the renewal application was pending.

The current licenses for most radio stations in Rhode Island are set to expire on April 1, 2022. Diponti apparently assumed that the license for the translator would run until that date. In an exhibit attached to the September 2020 license renewal application, Diponti explained that a "routine database check" had revealed the fact that the license had expired nearly three years earlier. In a later email sent in July 2021, from Diponti's attorney to the FCC staff, it was reported that as of that date, the FCC's Licensing and Management System ("LMS") listed the station's expiration date as April 1, 2022. Apparently Commission staff administering the LMS database had also overlooked the early expiration date for W276DF. In making its finding in this case, the Media Bureau said the incorrect date in the LMS database was irrelevant. LMS did not come online until April 2019, about 21 months after the due date for the renewal application. Diponti could not therefore have been relying on LMS around the time that it should have been filing the application.

The guidelines for base amounts for forfeitures in Section 1.80 of the FCC's Rules sets the base amount for failing to file a required form at $3,000. The Media Bureau proposed to fine Diponti that amount for failing to timely file the license renewal application.

From November 7, 2017, when the short-term license expired, until October 2, 2020, when the STA requested was granted, Diponti operated the station without any authorization. The base amount of the forfeiture for operating a station without an authorization listed in Section 1.80 is $10,000. Using its discretion to adjust the base amount as the circumstances may warrant, the Media Bureau proposed a reduced figure of $4,000 as the fine for operating the station without an authorization. The Bureau noted that Diponti was the legitimate operator of the station prior to license expiration and that this situation was not akin to the unlicensed broadcasting by a pirate.

This brings the total amount of the proposed forfeiture to $7,000. Upon the resolution of this forfeiture proceeding, the Media Bureau said it would grant the pending renewal application because it found that the station had served the public interest, convenience, and necessity during the license term. Diponti has 30 days in which to seek the reduction or cancellation of the proposed forfeiture.

DEADLINE TO FILE
BIENNIAL OWNERSHIP REPORTS

DECEMBER 1, 2021

C-BAND EARTH STATION OPERATORS
THAT HAVE NOT FILED NOTICES
RE OPERATIONAL STATUS
DEADLINE TO FILE

OCTOBER 21, 2021

DEADLINES TO WATCH

License Renewal, FCC Reports & Public Inspection Files

October 1	Deadline to file license renewal applications for radio stations in **Alaska, American Samoa, Guam, Hawaii, Mariana Islands, Oregon,** and **Washington**, and television stations in **Iowa** and **Missouri.**
October 1	Deadline to place EEO Public File Report in Public Inspection File and on station's Internet website for all nonexempt radio and television stations in **Alaska, American Samoa, Florida, Guam, Hawaii, Iowa, Mariana Islands, Missouri, Oregon, Puerto Rico, Virgin Islands,** and **Washington.**
October 1	Deadline for all broadcast licensees and permittees of stations in **Alaska, American Samoa, Florida, Guam, Hawaii, Iowa, Mariana Islands, Missouri, Oregon, Puerto Rico, Virgin Islands,** and **Washington** to file annual report on all adverse findings and final actions taken by any court or governmental administrative agency involving misconduct of the licensee, permittee, or any person or entity having an attributable interest in the station(s).
October	Radio stations in **Alaska, American Samoa, Guam, Hawaii, Mariana Islands, Oregon,** and **Washington**, and television stations in Iowa and Missouri begin broadcasting post-filing announcements within five business days of acceptance of application for filing and continuing for four weeks.
October 10	Deadline to place quarterly Issues/Programs List in Public Inspection File for all full service radio and television stations and Class A TV stations.
October 10	Deadline for noncommercial stations to place quarterly report re third-party fundraising in Public Inspection File.
October 10	Deadline for Class A TV stations to place certification of continuing eligibility for Class A status in Public Inspection File.
December 1	Deadline to file license renewal applications for radio stations in **Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, and television stations in Colorado, Minnesota, Montana, North Dakota,** and **South Dakota**.
December 1	Deadline to place EEO Public File Report in Public Inspection File and on station's Internet website for all nonexempt radio and television stations in **Alabama, Colorado, Connecticut, Georgia, Maine, Massachusetts, Minnesota, Montana, New Hampshire, North Dakota, Rhode Island, South Dakota,** and **Vermont.**
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).
December 1	Deadline for television stations that provided ancillary or supplementary services during the 12-month period ending September 30, 2021, to file annual Ancillary/Supplementary Services Report.
December 1	Deadline for all full power radio, and full power, low power, and Class A television stations to file Biennial Ownership Report with snapshot date of October 1, 2021.
December	Radio stations in **Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island,** and **Vermont,** and television stations in **Colorado, Minnesota, Montana, North Dakota,** and **South Dakota** begin broadcasting post-filing announcements within five business days of acceptance of application for filing and continuing for four weeks.

FILING WINDOW FOR APPLICATIONS FOR NEW AND MAJOR CHANGES TO NONCOMMERCIAL FM STATIONS

NOVEMBER 2 – 9, 2021

PARTIAL FM FILING FREEZE CONTINUES THROUGH CLOSE OF NONCOMMERCIAL FM FILING WINDOW ON

NOVEMBER 9, 2021

DEADLINES TO WATCH

Deadlines for Comments in FCC and Other Proceedings

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

DOCKET	COMMENTS	REPLY COMMENTS
Docket 21-293; NPRM (FCC 21-91) Political programming and recordkeeping		October 18
Docket 15-94; FNPRM (FCC 21-77) Emergency Alert System	October 19	November 18
Docket 21-190; NPRM (FCC 21-98) Regulatory fees	October 21	November 5
Docket 98-204; FNPRM (FCC 21-88) EEO rules and policies		November 1
Docket 21-353; NOI (FCC 21-103) Spectrum for the Internet of Things	November 1	November 16
Docket 18-202; Public Notice (DA 21-1115) Kidvid accessibility		November 8
Docket 21-346; NPRM (FCC 21-99) Network resiliency	FR+30	FR+60

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

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 **November 11, 2021**. Informal objections may be filed anytime prior to grant of the application.

PRESENT COMMUNITY	PROPOSED COMMUNITY	STATION	CHANNEL	FREQUENCY
Overgaard, AZ	Village of Oak Creek, AZ	New	234	94.7
Willcox, AZ	Catalina, AZ	KAZK	209	89.7
Cartago, CA	Wilkerson, CA	New	232	94.7
Essex, CA	Fort Mohave, AZ	New	280	103.9
Lake Isabella, MI	Big Rapids, MI	New	255	98.9
La Crescent, MN	Onalaska, WI	WKBH-FM	274	102.7
Bruce, MS	Taylor, MS	New	234	94.7
Caliente, NV	Santa Clara, UT	New	264	100.7
Portville, NY	Lewis Run, PA	WCOR-FM	244	96.7
Westfield, NY	North East Township, PA	New	265	100.9
Gackle, ND	Emerado, ND	New	256	99.1
Englewood, TN	Delano, TN	New	250	97.9
Richmond, VA	East Highland Park, VA	WVNZ(AM)	N/A	1320
Kahlotus, WA	Mesa, WA	New	283	104.5
Trout Lake, WA	Odell, OR	New	236	95.1
Albin, WY	Dix, NE	New	282	104.3
Rawlins, WY	Atlantic City, WY	New	298	107.5

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 shown.

COMMUNITY	STATION	PRESENT CHANNEL	PROPOSED CHANNEL	COMMENTS	REPLY COMMENTS
Fort Bragg, CA	New	N/A	*4	Nov. 1	Nov. 15
Hazard, KY	WYMT-TV	12	20	Nov. 1	Nov. 15
Monroe, LA	KNOE	8	24	Nov. 1	Nov. 15

** Channel proposed to be reserved for noncommercial broadcasting.*

Bill Would Require WWOR-TV To Air Local News and Public Affairs Programming

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been introduced in the Senate by New Jersey's senators. The focus of the bill is the public service obligations of WWOR-TV to its community. However, the bill also expands on that theme nationally, employing the Government Accounting Office to study how well the FCC polices television stations' compliance with their statutory public service obligations.

The bill does not mention WWOR-TV by name or call sign. However, the implication is unmistakable. This bill is entitled the "Section 331 Obligation Clarification Act." Section 331 of the Communications Act directed the FCC to allocate at least one commercial VHF and one commercial UHF television station to each state, if technically feasible. The FCC was instructed to grant the request of any licensee who volunteered to move its station to a state with no station in the same band, "notwithstanding any other provision of law." New Jersey had no commercial VHF station and the former licensee of WWOR-TV applied to move it from New York to a new community of license at Secaucus, New Jersey. The bill seeks to "clarify" the obligations of a station that received the perceived benefit of being the first VHF station in New Jersey.

H.R. 4208 would establish special requirements for the covered station, specifically including:

(a) the broadcast of at least 14 hours of common local programming per week, not fewer than seven hours of which shall be broadcast between the hours of 6:00 p.m. and midnight;

(b) incorporating as part of that common local programming, a "substantial amount of particularized local content" (defined below);

(c) maintaining a studio in the community of license;

(d) regular filings with the FCC (which the Commission will make publicly available) to report the programming aired pursuant to these requirements, including a "detailed explanation of how that programming satisfies the requirements;"

(e) in the course of developing the programming that results from these requirements, taking steps to determine the programming needs of the community, "which may include consulting with community leaders and members of the general public in that community."

The bill defines "particularized local content" as content that:

(a) has specific, articulable, and particularized appeal for the station's community of license that is "separate and distinct" from the general national or general local television market appeal;

(b) includes news or public affairs information about the state, or the region of the state, in which the station's community of license is located;

(c) is responsive to the unique concerns of the station's community of license as a part of a state that lacks a television market that is centered in that state.

The legislation would direct the FCC to adopt procedures for how a resident of the station's community of license can challenge whether the licensee has satisfied its obligations under this revised Section 331 at license renewal time.

Despite the fact that this legislation, if enacted, would come into force long after WWOR-TV was reallocated to New Jersey, these requirements would nonetheless be imposed on the station in the present, regardless of the fact that it has moved to a UHF channel, and in the future, regardless of whether the station would be sold to a new owner.

Critics of the bill claim that it would violate the First Amendment. Sensitive to this possibility, the authors of this legislation included a severability clause to maintain in full force any portion of the law that would remain if part of it were held to be unconstitutional.

The bill concludes by broadening its scope to encompass the television license renewal process in general. Within one year of enactment of the legislation, the Comptroller General of the United States is to submit to Congress a report that examines the FCC's process for renewing television broadcast licenses. That examination is to review whether the FCC uses its license renewal process adequately to ensure that stations meet their statutory and regulatory "obligations to the serve the needs of the communities in which the stations are located (and the needs of individuals in those communities)." The Comptroller General would be given extensive specific instructions about what to study in the FCC's license renewal procedures:

(a) the extent to which the FCC's renewal process examines the needs of the station's community;

(b) the extent to which the FCC considers and weighs any evidence presented demonstrating that a station has failed to meet its public interest obligations;

(c) whether the FCC has clarified the types of evidence that a concerned local citizen is required to offer in support of a denial of the license renewal application;

(d) whether the FCC has clarified the types of evidence that a broadcast station must present to establish that it is meeting its obligations;

(e) whether the FCC has clarified the circumstances under which it will examine in detail the evidence presented by a licensee to confirm that the station is meeting its obligations;

(f) whether the FCC has made clear the circumstances under which it would revoke the license of a station operating with the special obligations of Section 331;

(g) whether the FCC has undertaken any enforcement actions to ensure that broadcast stations satisfy their public interest requirements;

(h) what impact the elimination of the "main studio rule" could have on the special obligations imposed by Section 331; and

(i) whether the FCC has indicated how it will enforce stations' public interest obligations in view of the fact that licensees have been permitted to eliminate the main studio in the station's community of license.

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Bill Would Require WWOR-TV To Air Local News and Public Affairs Programming *continued from page 6*

If the Subcommittee approves the bill, it would be considered by the full Committee on Energy and Commerce. If approved by the full Committee, the legislation would be in line for a vote by the entire House of Representatives. Enactment would require approval by both the House and the Senate, followed by the President's signature.

FCC Opens Inquiry on Spectrum Needs for the Internet of Things

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in the number of wireless devices is creating a correlated acceleration of the demand for access to spectrum.

In the context of this extraordinary growth in the daily utility of the IoT, Congress instructed the FCC to solicit comments that consider and evaluate:

(a) whether adequate spectrum is available, or is planned for allocation, for commercial wireless service that could support the growing IoT;

(b) if adequate spectrum is not available for the purposes described in item (a) above, how to ensure that adequate spectrum is available for increased demand with respect to the IoT;

(c) what regulatory barriers may exist to providing any needed spectrum that would support uses relating to the IoT; and

(d) what the role of unlicensed and licensed spectrum is and will be in the growth of IoT.

In addition to those questions, the FCC seeks comment on whether it should explore possibilities for IoT outside of spectrum bands being considered for commercial wireless services. The Commission asks whether the nature of IoT would allow for sharing spectrum with other users in situations that would not be feasible for other types of wireless services. The Commission suggests that IoT transmissions may be sufficiently short and intermittent so as to not present a risk of interference to incumbent users.

The FCC also invites comment on what regulatory barriers exist that prevent spectrum needed for IoT deployment from being available for such purposes. For instance, some licensed bands may have use or technical restrictions that could preclude using IoT devices. Another example could be found in bands where unlicensed devices are subject to radiation limits. The permissible power levels may be lower than what is needed for IoT devices to communicate with each other.

The deadline for comments to be submitted on these questions is November 1. Reply comments will be due by November 16.

Standardized Questions Adopted for Foreign Ownership Petitions

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Assessment Committee for its review. The Assessment Committee would then propound questions to the applicant, seeking detailed information about the parties and the proposed transaction. In this *Second Report and Order*, the FCC has adopted a set of standardized questions that every Section 310(b) applicant will be required to answer. The petitioner/applicant will submit its responses to the standard questions directly to the Assessment Committee prior to or at the same time that the application is filed with the FCC. The Commission explains that this should reduce the time required to process the application/petition.

The standard questions as adopted by the FCC are based on the questions that the Assessment Committee has typically asked of applicants in the past. They solicit data in five categories of information needed to properly evaluate foreign ownership applications and petitions: (1) corporate structure and shareholder information, (2) relationships with foreign entities, (3) financial condition and circumstances, (4) compliance with applicable laws and regulations, and (5) business and operational information. The Commission has incorporated these lines of inquiry into sets of service-specific questions for each of five types of authorizations. The set of standard questions designed for applications/petitions involving broadcast stations contains 34 questions, many of which include multiple parts. The complete list of the new standard questions can be viewed on the FCC's website at: https://ecfsapi.fcc.gov/file/1001945519322/FCC-21-104A1.pdf.

The FCC states that the adoption of this *Second Report and Order* will provide regulatory certainty, decrease administrative burdens, and result in a more timely and transparent process for applicants. The Commission believes that this in turn will encourage and facilitate foreign investment and the provision of new services and infrastructure in the United States.

FCC Seeks To Improve Resilience of Communications Infrastructure

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("DIRS"). DIRS is a web-based means for service providers, including wireless, wireline, broadcast, and cable providers to voluntarily report to the Commission their communications infrastructure status, restoration information, and situational awareness information during times of crisis. The system is typically activated for affected counties during major emergencies. DIRS has provided critical situational awareness during communications outages that is useful to government agencies tasked with coordinating disaster response efforts.

Participation in DIRS is voluntary. The FCC asks what it could do to encourage broader participation, including by smaller providers. The Commission requests responses to a suggestion that DIRS participation become obligatory for a broad range of service providers, including broadcasters. This could result in the need for more rigorous attention to submitting periodic mandatory status reports to DIRS in the middle of an ongoing emergency.

In 2016, a number of wireless carriers developed a mutual-aid construct to assist each other and the public during emergencies when normal service may be impaired or completely down. This voluntary arrangement is known as the Wireless Network Resiliency Cooperative Framework ("Framework"). Framework participants commit to five areas of cooperation: (1) providing for reasonable roaming during disasters when feasible; (2) fostering mutual aid; (3) enhancing municipal preparedness and restoration; (4) increasing consumer readiness and preparation; and (5) improving public awareness and stakeholder communication on service and restoration status.

The Framework is activated when the FCC activates DIRS and the Federal Emergency Management Agency activates ESF-2, which is a mechanism for coordinating federal interagency response to an emergency. There are some emergency situations when, by its own terms, the Framework does go into effect.

Although participation in the Framework is not required of any wireless carrier, the FCC has been officially supportive of it. The Commission asks for comment on how the Framework could be improved and whether parts of it should be encoded in the agency's rules, and thereby become mandatory. The Commission also solicits a discussion about extending the operational principles of the Framework to a broader segment of communications industries, including broadcasters.

The FCC observes that aside from damage inflicted directly on communications facilities, a major cause of service outages during emergencies is the widespread lack of electric power. The Commission asks for information about the current extent of backup power preparedness by providers. It wants to know what could be done to encourage deployment of additional backup facilities and capacity so as to reduce disruptions caused by power outages. The Commission seeks comment on the effectiveness of cross-sector coordination during emergencies between communications service providers and electric power providers, and what could be done to encourage more cooperation to mitigate the loss of service due to power outages.

Comments will be due 30 days after notice of this proceeding is published in the Federal Register. The deadline for reply comments will be 60 days after that publication.