

Nationwide EAS Test Set for October 4

The FCC's Public Safety and Homeland Security Bureau has released a *Public Notice* (DA 23-653) to announce that the Federal Emergency Management Agency ("FEMA"), in coordination with the FCC, will conduct a nationwide test of the Emergency Alert System ("EAS") on October 4, 2023, at 2:20 p.m. Eastern Time. If conditions on that date require rescheduling, the test will be postponed to October 11.

FEMA will initiate the test using the Integrated Public Alert and Warning System ("IPAWS"). The test message will be transmitted in English and Spanish as a Common Alerting Protocol ("CAP") message using the code for the Nationwide Test of the Emergency Alert System – NPT. The content of the message will be similar to regular monthly EAS test messages with which the public should be familiar. The test message audio and text (which are intended to be identical) will be as follows:

This is a nationwide test of the Emergency Alert System, issued by the Federal Emergency Management Agency, covering the United States from 14:20 to 14:50 hours Eastern Time. This is only a test. No action is required by the public.

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Power Increase Proposed for Digital FM

The FCC has proposed changes to its technical rules governing digital audio broadcasting in an *Order and Notice of Proposed Rulemaking* in Docket 22-405 (FCC 23-61). If adopted, these rule amendments would increase the maximum effective radiated power ("ERP") routinely permitted for FM hybrid digital transmissions, and would allow the operation of asymmetric power levels on digital sidebands.

The Commission observes that digital receiver penetration has exceeded 40% in some markets and that almost 60% of new automobiles sold in the United States are equipped with digital FM receivers. Despite those figures, many stations appear reluctant to initiate digital in-band/on-channel ("IBOC") transmissions because the digital power level is insufficient to duplicate the analog coverage

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Regulatory Fees Due September 20

The FCC has set the regulatory fees to be collected from the entities that it regulates for the fiscal year ending September 30, 2023, in a *Report and Order* (FCC 23-66) in Docket 23-159. Congress has directed the Commission to collect \$390,192,000 this year. These fees are intended to cover the cost of operating the Commission. Fees must be paid by 11:59 p.m. Eastern Time on September 20.

Historically, the FCC has used a formula for determining each regulatee's share of the total amount to be collected that is based on an estimate of the fraction of the agency's resources deployed to serve each regulated entity. The Commission's resources are measured in terms of staff full-time equivalents, or "FTEs." Most of the FTEs of each of the Commission's four core bureaus are labeled as "direct FTEs" because the staff in those bureaus work most closely with their respective regulatees. The four core bureaus are Media, Wireless Telecommunications, International, and Wireline Competition. Personnel FTEs in other bureaus and

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

Donald E. Martin, P.C.

P.O. Box 8433

Falls Church, Virginia 22041

Tel: (703) 642-2344

Fax: (703) 940-0473

E-mail: dempc@prodigy.net

Computer-Generated Work Not Eligible for Copyright

The United States District Court in Washington, D.C., has ruled that a work of visual art generated by what was claimed to be an autonomous computer cannot be registered for a copyright. The decision relied heavily on statutory language in the Copyright Act and on prior court decisions holding that human authorship is required for copyright.

Plaintiff Stephen Thaler owned a computer system that he called the “Creativity Machine.” He claimed that the machine had “artificial intelligence” and was capable of generating works of art. According to Thaler, the machine autonomously created a picture entitled, “A Recent Entrance to Paradise.” The image featured rusty railroad tracks disappearing into the distance through a flowery wooded scene. Thaler applied to register the work for a copyright listing the Creativity Machine as the author and explaining that copyright should transfer to him as the owner of the machine. The Copyright Office denied the application because the work was not authored by a human. After two unsuccessful attempts to get the Copyright Office to reconsider its decision, Thaler launched a lawsuit against Shira Perlmutter in her capacity as the Register of Copyrights and Director of the Copyright Office.

There was no disagreement about the facts and the case turned on the legal arguments about whether a work created by AI without human input is entitled to copyright registration. Both sides filed motions for summary judgment. The Copyright Act provides protection for “original works of authorship fixed in any medium of expression, . . .” Looking to the dictionary, the court found that “author” means one that is the source of some form of intellectual or creative work. The court concluded that the statute by its plain text requires a copyrightable work to have an originator with the capacity for intellectual, creative or artistic labor. Only a human can fulfill that role.

Thaler argued that copyright law has been malleable through the years as technology has advanced from simple pen-and-paper writing to advanced forms of reproduction and photography, and autonomous computers merely comprise the next logical step. The court pointed out

however that all such technologies require human input before a work is created. The court agreed that the law has been adaptable. “Underlying that adaptability, however, has been a consistent understanding that human creativity is the sine qua non at the core of copyrightability, even as human creativity is channeled through new tools or into new media.” The Copyright Act acknowledges that there may be advances in technology by providing copyright protection to “original works of authorship fixed in any tangible medium of expression, now known or later developed, . . .”

The court cited prior precedent in cases where works allegedly created by “celestial beings” or by a crested macaque were refused copyright protection for lack of human input.

Thaler attempted to transform the issue by declaring that he had maintained some element of human creative influence over the Creativity Machine. He explained that he provided instructions and directed the computer to create the work. He asserted that the computer only operated at his direction and is entirely controlled by him. That might have opened the door to copyrightability if he had disclosed it to the Copyright Office in the beginning. The court could not take notice of these claims because Thaler had not presented them in his application and arguments to the Copyright Office. There he explicitly stated that the Creativity Machine was autonomous. The court may only evaluate the claims and arguments actually made to the agency when the case is under judicial review.

The court concluded that the Copyright Office had acted properly in denying registration for “A Recent Entrance to Paradise,” and granted the defendant Copyright Office’s motion for summary judgment. However, the court acknowledged that new frontiers in copyright law are at hand as artists use AI to generate new works. The court observed that increased attenuation of human creativity from the actual generation of the final work will prompt challenging questions regarding how much human input is necessary to qualify the user of AI as the “author” for the purposes of copyright.

The decision is *Thaler v. Perlmutter*, 2023 U.S. Dist. LEXIS 145823; 2023 WL 5333236.

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All EAS participants (including low power FM and Class D noncommercial stations) are required to participate in the test and to submit reports in the FCC’s EAS Test Reporting System (“ETRS”). The first report, on Form One, describing the participant’s EAS facilities, was due on or before February 28. Any necessary updates to Form One must be filed by September 15. Form Two, soliciting day-of-the-test data, will be due by October 5. Post-test data must be submitted on Form Three by November 20. ETRS can be accessed on the FCC’s website at <https://www.fcc.gov/general/eas-test-reporting-system>.

Stations that are silent on the day of the test pursuant to a Special Temporary Authority must nonetheless register and file in ETRS.

The following EAS participants are exempt from the obligation to file reports in ETRS:

- low power TV stations that operate as television translator stations;
- FM booster and translator stations which rebroadcast entirely the programming of other local broadcast stations; and
- broadcast stations that operate as satellite stations or repeaters of a hub station (or common studio or control point if there is no hub station) and rebroadcast 100 percent of the programming of the hub station.

At 2:18 p.m. on the same date, FEMA will initiate a nationwide test of the Wireless Emergency Alert (“WEA”). The test will be sent to the entire United States and its territories via participating Commercial Mobile Service providers. Members of the public will experience this event by receiving the test message on their mobile devices.

Must-Carry/Retransmission Consent Election Deadline Is October 1

The next three-year carriage cycle for the carriage of broadcast television signals by multichannel video programming distributors (“MVPDs”) begins January 1, 2024. The deadline for stations to provide notice of their election for either must-carry or retransmission consent is October 1, 2023.

On or before the October 1 election deadline each eligible station must post a copy of its must-carry/retransmission consent election statement on its online Public Inspection File. If an election has changed with respect to any MVPD for the upcoming carriage cycle, a statement of the change is to be posted as well. No further notice is required to be sent to the MVPD if there is no change in the elected carriage status from the previous carriage cycle (unless either the station or the MVPD is new to the market). If there is a change, a statement of the change is to be sent via email to the email address identified for carriage election notice submissions on the MVPD’s website. A copy is also to be sent to ElectionNotices@FCC.gov.

A notice of a change of election must include the following information:

- call sign,
- community of license,
- Designated Market Area and location of the station,
- specific change in status that is being made,
- email address for carriage-related questions,
- telephone number for carriage-related questions,
- name of appropriate contact person, and
- specific system(s) of the MVPD for which change is elected.

MVPDs must respond via email as soon as is reasonably possible to acknowledge receipt of a television station’s election notice. That email response is to be sent to the email address designated on the station’s online Public Inspection File for carriage-related correspondence.

Television stations that are not required to have Public Inspection Files (such as low power television stations) and are qualified for must-carry status must send their election notices via email to the email address on the MVPD’s website designated for carriage related correspondence. A copy is also to be sent to ElectionNotices@FCC.gov.

Regulatory Fees Due September 20 continued from page 1

offices of the Commission are, subject to minor adjustments, generally considered “indirect FTEs.” The indirect FTEs are allocated among the core bureaus pro rata to each bureau’s direct FTEs. Each core bureau’s share of direct FTEs equals its share of responsibility for indirect FTEs and its share of responsibility for the total sum of regulatory fees. Each core bureau then allocates its share among the categories of entities within its area of responsibility. Auction-related FTEs

are not included in these calculations because they are not funded by regulatory fees.

The Commission has determined that for fiscal year 2023 there are 400.25 non-auction direct FTEs. The table below indicates the percentage of total non-auction FTEs allocated to each core bureau and the corresponding amount of regulatory fees allocated to each core bureau.

Bureau	% of FTEs	Fees To Be Assessed
Media	31.76%	\$123,920,000
Wireless Telecommunications	24.56%	95,830,000
International	7.77%	30,320,000
Wireline Competition	35.91%	140,120,000

Adjustments in Media Bureau FTEs from previous years have resulted in slightly lower fees for Media Bureau regulatees from a year ago. With one exception, the fees proposed earlier in this proceeding for broadcast entities were adopted without change. The Commission adopted its proposal to create a new fee category for radio stations with very small service area populations. The new category, with the lowest fees is for stations serving fewer than 10,000 people. Previously, the smallest category was for stations serving a population less than 25,000. The next larger category is now for stations serving a population in the range from 10,001 to 25,000.

The table at the end of this article shows fiscal year 2023 regulatory fees for most types of authorizations of interest to broadcasters. These figures are compared to the fees that

were imposed for fiscal year 2022.

The table does not include the fees for full-service television, which are specific for each station and are based on the population in the station’s noise-limited service contour. The fee is calculated by multiplying the population by \$0.007799.

Information about the regulatory fee and exemption status for every broadcast station can be accessed at <http://fccfees.com>. Fees must be paid by 11:59 p.m. Eastern Time on September 20 to avoid a 25 percent late charge and interest. Fees must be remitted through the following website, which can be accessed with an FCC username and password: <https://apps.fcc.gov/cores/userLogin.do>.

Nonprofit entities are exempt from the obligation to pay fees even if they operate commercial stations. An entity is

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also exempt if the total of all the regulatory fees it would owe for fiscal year 2023 is \$1,000 or less. Regulatees experiencing financial difficulty may seek waivers or deferrals of the fee requirement, and/or may request to make installment

payments with nominal interest. Such requests must be sent by email with all supporting documentation to regfeerelief@fcc.gov.

FCC REGULATORY FEES PROPOSED FOR FISCAL YEAR 2023

Type of Authorization	Actual FY 2022	Proposed FY 2023	Actual FY 2023
Full Power TV Construction Permit	\$5,200	\$5,100	\$5,100
Class A TV, LPTV, TV/FM Translator & Booster	330	260	260
AM Radio Construction Permit	655	620	620
FM Radio Construction Permit	1,145	1,085	1,085
Satellite Earth Station	620	570	575

ACTUAL FY 2022 REGULATORY FEES FOR RADIO

Population Served	AM Class A	AM Class B	AM Class C	AM Class D	FM A, B1, C3	FM B,C,C0,C1,C2
0-25,000	\$ 1,050	\$ 755	\$ 655	\$ 720	\$ 1,145	\$ 1,310
25,001-75,000	1,575	1,135	985	1,080	1,720	1,965
75,001-150,000	2,365	1,700	1,475	1,620	2,575	2,950
150,001-500,000	3,550	2,550	2,215	2,435	3,870	4,430
500,001-1,200,000	5,315	3,820	3,315	3,645	5,795	6,630
1,200,001-3,000,000	7,980	5,740	4,980	5,470	8,700	9,955
3,000,001-6,000,000	11,960	8,600	7,460	8,200	13,040	14,920
6,000,000+	17,945	12,905	11,195	12,305	19,570	22,390

PROPOSED AND ACTUAL FY 2023 REGULATORY FEES FOR RADIO

Population Served	AM Class A	AM Class B	AM Class C	AM Class D	FM A, B1, C3	FM B,C,C0,C1,C2
0-10,000	\$ 595	\$ 430	\$ 370	\$ 410	\$ 650	\$ 745
10,001-25,000	990	715	620	680	1,085	1,240
25,001-75,000	1,485	1,075	930	1,020	1,630	1,860
75,001-150,000	2,230	1,610	1,395	1,530	2,440	2,790
150,001-500,000	3,345	2,415	2,095	2,300	3,665	4,190
500,001-1,200,000	5,010	3,620	3,135	3,440	5,490	6,275
1,200,001-3,000,000	7,525	5,435	4,710	5,170	8,245	9,425
3,000,001-6,000,000	11,275	8,145	7,060	7,745	12,360	14,125
6,000,000+	16,920	12,220	10,595	11,620	18,545	21,190



DEADLINES TO WATCH



License Renewal, FCC Reports & Public Inspection Files

October 1	Deadline to place must-carry retransmission-consent election notices in Public Inspection File and to deliver changes in election to MVPDs.	October 2	Mid-Term EEO review begins for certain radio stations in Florida, Puerto Rico, and the Virgin Islands .
October 1	Deadline to place EEO Public File Report in Public Inspection File and on station's website for all nonexempt radio and television stations in Alaska, American Samoa, Florida, Guam, Hawaii, Iowa, Mariana Islands, Missouri, Oregon, Puerto Rico, the Virgin Islands, and Washington .	October 10	Deadline to place quarterly Issues/Programs List in Public Inspection File for all full service radio and televisions stations and Class A TV stations.
October 2	Deadline for all broadcast licensees and permittees of stations in Alaska, American Samoa, Florida, Guam, Hawaii, Iowa, Mariana Islands, Missouri, Oregon, Puerto Rico, the Virgin Islands, and Washington to file annual report on any 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 10	Deadline for all noncommercial stations to place reports about third-party fundraising in Public Inspection File.
		October 10	Deadline for all Class A TV stations to place quarterly statement of Class A qualifications in Public Inspection File.

Paperwork Reduction Act Proceedings

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

TOPIC	COMMENT DEADLINE
ATSC 3.0 local simulcasting rules, Sections 73.3801, 73.6029, 74.782	Sep. 12
Notice of hearing; appearance in hearing, Section 1.221	Sep. 12
Motions to enlarge, change or delete issues, Section 1.229	Sep. 12
Prehearing and hearing conferences, Section 1.248	Sep. 12
MVPD carriage petition procedures, Section 76.7	Sep. 12
MVPD carriage disputes, Section 76.61	Sep. 12
Unfair MVPD practices, Section 76.1001	Sep. 12
Program access proceedings, Section 76.1003	Sep. 12
MVPD carriage agreements, Section 76.1302	Sep. 12
AM directional antenna field strength measurements, Section 73.16	Sep. 14
LPTV, TV and FM translator station records to be maintained, Sections 74.781, 74.1281	Sep. 15
Chief operators, Section 73.1870	Sep. 18
Commercial TV construction permit application, Form 2100, Schedule A	Sep. 25
Commercial FM construction permit application, Form 2100, Schedule 301-FM	Sep. 25
Permit-but-disclose proceedings, Section 1.1206	Oct. 2
Public Inspection Files, Sections 73.3526, 73.3527	Oct. 10
Political files, Sections 73.1212, 73.1943	Oct. 10
Incentive auctions	Oct. 16
Accessibility of emergency information, Section 79.2	Oct. 23
Audio description and emergency information, Section 79.105	Oct. 23



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 16-142; 4thFNPRM (FCC 23-53) Next Gen TV patents	Sep. 15	Oct. 16
Docket 22-405; NPRM (FCC 23-61) Digital FM power increase	Sep. 21	Oct. 6
Docket 23-275; Public Notice (DA 23-687) 97.5 Licensee TX, LLC requests declaratory ruling re foreign ownership		Sep. 26
Federal Trade Commission Docket R311003; NPRM (88 FR 49364) Use of consumer reviews and testimonials	Sep. 29	N/A
Docket 23-232; NOI (FCC 23-63) Understanding non-federal spectrum usage	Oct. 3	Nov. 2
U.S. Copyright Office Docket 2023-6, NOI (88 FR 59942) Artificial intelligence and copyright	Oct. 18	Nov. 15

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
Calusa, CA	New	--	*2	Sep. 21	Oct. 6
Tulare, CA	New	--	*3	Sep. 21	Oct. 6
Alamogordo, NM	New	--	*4	Sep. 25	Oct. 10
Winnemucca, NV	KWNV	7	16	Sep. 29	Oct. 16
Idaho Falls, ID	KIFI-TV	8	18	Oct. 5	Oct. 20
Ames, IA	Vacant	*34	*21	Oct. 5	Oct. 20
Des Moines, IA	DIN-TV	*11	*34	Oct. 5	Oct. 20
Lincoln, NE	KUON-TV	*12	*27	FR+30	FR+45

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

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

Proposed Amendments to the FM Table of Allotments

The FCC is considering requests to amend the FM Table of Allotments by adding and/or substituting the channels described below. The deadlines for submitting comments and reply comments are shown. Counterproposals must be filed by the deadline for comments.

COMMUNITY	PRESENT CHANNEL	PROPOSED CHANNEL	COMMENTS	REPLY COMMENTS
Koloa, HI	---	272A		Sep. 12
Lihue, HI	---	292A		Sep. 12
Puhi, HI	---	284A		Sep. 12
Lac de Flambeau, WI	---	225A	Oct. 30	Nov. 15

Power Increase Proposed for Digital FM continued from page 1

area. The Commission's proposals in this proceeding are intended to address that issue.

The IBOC operation is a hybrid system that transmits both the analog and digital signals in the station's assigned channel. The digital signals are carried in the sidebands, which is what gives rise to the concerns about interference to adjacent-channel stations. The Commission expects that eventually these problems can be resolved with the future adoption of all-digital radio. The FCC reiterates its long-term goal of moving terrestrial broadcasting from an all-analog to an all-digital environment, although there is presently no timetable for the eventual change to all-digital broadcast radio. In the interim, the Commission states that its objective remains to advance the progress of digital radio without causing harmful interference or disruption to existing analog operations. This desire to encourage stations to adopt digital FM technology informs the Commission's tentative conclusions and proposals in this proceeding.

These proposals are the Commission's responses to petitions for rulemaking submitted by stakeholders in FM broadcasting. The first of these was filed jointly in December 2019 by the National Association of Broadcasters ("NAB") and Xperi, Inc. (parent company of iBiquity Digital

Corporation, the developer of the IBOC system for digital audio broadcasting). Under the current rules, an FM station may operate with a digital ERP of -14 dBc (i.e., 14 decibels below the analog main carrier). Stations meeting certain guidelines may operate at a higher power up to -10 dBc. In some cases, a station may have to demonstrate that its higher power digital operation will not cause interference to other stations, using a formula developed in 2009. The petitioners asserted that experience gained since 2009 by broadcasters generally and the evidence of field testing that they conducted demonstrate that most digital FM stations should be able to operate with power levels of up to -10 dBc without special FCC authorization and without causing interference to adjacent-channel stations.

The Commission tentatively concludes that the petitioners' proposals for increased digital power would support the goal of furthering the progress of digital FM broadcasting. The agency therefore proposes to adopt the petitioners' formula for automatically allowing FM stations to operate with digital ERP above -14 dBc. This formula, as shown in the table below, is based on the relative field strengths of the overlapping contours of adjacent-channel stations.

Proposed Maximum FM Digital ERP for Symmetric Sidebands

<u>Proponent's Analog F(50,10) Field Strength at First-Adjacent Station's Analog 60 dBu F(50,50) Contour (Symmetric Sidebands)</u>	<u>Maximum Permissible FM Digital ERP</u>
57.9 dBu and above	-14 dBc
56.5 to 57.8 dBu	-13 dBc
55.6 to 56.4 dBu	-12 dBc
54.1 to 55.5 dBu	-11 dBc
54.0 dBu or less	-10 dBc

Currently, a station commencing or increasing the power of a digital operation must notify the Commission by filing Schedule 335-FM of Form 2100. Symmetric digital operation at power levels between -14 dBc and -10 dBc requires both notification on Schedule 335-FM and documentation that the contours generated do not overlap with the protected contours of adjacent-channel stations. This information is then reviewed by Commission staff, and if found to be correct, is confirmed. Under the proposed rules, stations would be permitted to commence operating at these power levels upon conducting their own technical research to determine that they meet these criteria. It would be necessary to file a schedule 335-FM notification, but no request to, nor authorization from, the FCC would be necessary.

Although the filing of Schedule 335-FM does not generate a separate Public Notice in LMS (the Commission's Licensing Management System), all such forms are searchable and thus are available to the public. The Commission asks whether this is sufficient notice, or whether the digital proponent should provide direct notification to nearby adjacent-channel stations 30 (or some other number) days in advance.

When IBOC operations were first authorized in 2010, the FCC established procedures for identifying and remedying complaints about digital-to-analog FM interference among full-service FM stations. An analog FM station receiving verifiable listener complaints of digital interference within its protected contour was directed to contact the interfering station to seek its cooperation in eliminating the problem by way of voluntary tiered reductions in the digital ERP. If the stations are unable to agree on appropriate remediation measures, the affected analog station may file a complaint with the FCC's Media Bureau. The Media Bureau will review the complaint and order appropriate action within 90 days. If the Bureau has not acted in that 90-day period, the interfering station must reduce its digital power.

During more than a decade of authorized IBOC digital broadcasting, the Commission says that it has noted "few interference complaints" from full-service analog stations. Consequently, the agency has tentatively concluded the interference remediation procedures currently in place will continue to suffice as a method for resolving digital-to-

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analog interference complaints.

LPFM and FM translator stations are secondary services and are not entitled to protection from full-service stations. Therefore they are not entitled to use these remediation procedures if they experience digital-to-analog interference. LPFM and FM translator stations are authorized to broadcast with the IBOC system although such operations are rare. The Commission requests public comment on the question of whether an analog secondary station should be able to use the remediation process to address interference received from the digital transmissions of another secondary station.

At the other end of the power scale are legacy superpowered stations. These are stations that were authorized for high ERP prior to adoption of the current rules for maximum power levels in each class of FM stations. Consequently, they are grandfathered into their class of station with ERP levels above the maximum listed in the rules for their class. As a precaution, the Commission proposes restrictions on these stations for establishing higher powered digital operations. Like all other stations, superpower FM stations are presently permitted to operate digital transmissions up to -14 dBc. The Commission proposes to continue to require superpowered stations to request authorization for higher powered digital operations and to demonstrate the higher power will not cause interference to other stations.

The other Petition for Rulemaking that is being addressed in this proceeding was filed jointly by NAB, Xperi, and National Public Radio in 2019. An FM station can transmit a digital sideband on each side of the main channel. Under the current rules, the two sidebands must be symmetrical,

i.e., equal in ERP. The petitioners proposed that the two sidebands need not be equal, and that asymmetric sidebands should be permitted. They explained that this would give stations more flexibility to operate with at least one sideband with significant power in cases where the other one might be restricted or precluded by the presence of nearby station on the first-adjacent channel.

The petitioners researched the prospects for stations with digital transmissions at -14 dBc to be able to increase their power without affecting first-adjacent channel stations. In their 2017 survey of all full-power FM stations in the United States, they found 10,875 stations with digital transmission capabilities. Of those stations, they determined that 6,120 could raise their digital power to -10 dBc without harming other stations. Under the current rules, these stations would need to raise the power in each sideband to the same level. The petitioners found that some 3,496 additional stations could raise the power on one sideband – but only one – to -10 dBc while still protecting adjacent-channel stations. They also found that another 532 stations could increase the power of one (but not both) sideband to some higher level between -14 dBc and -10 dBc. The petitioners asserted that many more stations could provide higher quality digital service if the power levels in their sidebands could be asymmetric.

The petitioners proposed an adjustment to the current methodology for calculating maximum digital ERP that would subtract 3 dB, due to the 3 dB difference between total digital power and the power in each sideband. The Commission proposes to adopt this method for calculating per-sideband FM digital ERP as is shown in the table below.

Proposed Maximum FM Digital ERP for Asymmetric Sidebands

<u>Proponent's Analog F(50,10) Field Strength at First-Adjacent Station's Analog 60 dBu F(50,50) Contour (Asymmetric Sidebands)</u>	<u>Maximum Permissible FM Digital ERP</u>
54.9 dBu and above	-14 dBc
53.5 to 54.8 dBu	-13 dBc
52.6 to 53.4 dBu	-12 dBc
51.1 to 52.5 dBu	-11 dBc
51.0 dBu or less	-10 dBc

The FCC proposes to permit asymmetric digital sidebands subject to the same procedures set out above for symmetric operations. A station would simply need to file a Schedule 335-FM on Form 2100 and then be authorized to transmit asymmetric digital sidebands without the need for Commission approval. Adjacent-channel stations that

experience interference would have the same remedies currently in place and which are proposed to continue in place with respect to symmetric operations as explained above.

The FCC invites public comment on these proposals. Comments must be submitted by September 21. October 6 is the deadline to file reply comments.



DEADLINES TO WATCH



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

The FCC has accepted for filing the applications identified below proposing to change the community of license for each station. These applications may also include proposals to modify technical facilities. The deadline for filing comments about any of the applications in the list below is **October 10, 2023**. Informal objections may be filed any time prior to grant of the application.

PRESENT COMMUNITY	PROPOSED COMMUNITY	STATION	CHANNEL	FREQUENCY
Salome, AZ	Bluewater, AZ	KZXO	230	93.9
Morgantown, KY	Beaver Dam, KY	WKYY	256	99.1
Bar Harbor, ME	Trenton, ME	WBKA	299	107.7
Zuni Pueblo, NM	Black Rock, NM	New	220	91.9
Glen Allen, VA	Bensley, VA	WTOX(AM)	N/A	1480

**FILING WINDOW FOR APPLICATIONS FOR
NEW LOW POWER FM STATIONS
NOVEMBER 1 – 8, 2023**

**DUE DATE FOR
MUST-CARRY/RETRANSMISSION
CONSENT ELECTIONS
DUE OCTOBER 1, 2023**

NATIONWIDE EAS TEST

Test Date	October 4, 2023
Form One due	September 15, 2023
Form Two due	October 5, 2023
Form Three due	November 20, 2023

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