pillsbury Antenna™
AN UPDATE ON COMMUNICATIONS LAW & ISSUES
April 2018

$1 Billion Added to TV Relocation Fund; LPTVs and FMs Become Eligible for Reimbursement

The TV Broadcaster Relocation Fund has received an infusion of new funding with enactment of the Consolidated Appropriations Act, 2018. This massive spending bill that appropriated funds for departments and agencies across the federal government was signed by the President on March 23. For fiscal year 2018 (ending September 30, 2018), $600 million was added to the Fund. Another $400 million was appropriated for fiscal year 2019. The Fund was previously capped at $1.75 billion.

The Fund is to be used to reimburse broadcasters for the expenses they incur in implementing the modifications to their stations required as a result of the reallocation of

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Group Owner Agrees to $15K Penalty for Unauthorized Restructuring

Beasley Media Group, LLC, formerly known as Beasley Broadcast Group, Inc., and the FCC's Media Bureau have agreed to settle an investigation concerning unauthorized assignments and a transfer of control of Beasley's radio stations by way of a *Consent Decree*. The Bureau has issued an *Order*, DA 18-247, adopting the *Decree*, in which Beasley admitted to violating Section 310(d) of the Communications Act and Section 73.3540 of the FCC's rules (which prohibit unauthorized assignments and transfers of control of broadcast stations), agreed to pay a civil penalty of $15,000, and submitted to a three-year compliance plan to prevent similar violations in the future.

In January of this year, five limited partnerships that were subsidiaries of Beasley Broadcast Group, Inc., filed

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LPTV Special Displacement Filing Window Is April 10 – May 15

The FCC opened a Special Displacement Filing Window for low power television stations on April 10, 2018, and will close the window at 11:59 Eastern Time on May 15, 2018. This window will provide an opportunity for low power television and television translator stations (collectively "LPTV") that have been displaced by full power or Class A stations as a result of the incentive auction or the post-auction repack to apply for open channels. The freeze on the filing of LPTV modification applications was lifted for this filing window and will be reimposed when the window closes.

To be eligible to file an application in the Special Displacement Filing Window, an LPTV station must be both "operating" and "displaced." "Operating" means that the station had a license or had an application pending for a license as of April 13, 2017. That is the date of release of the post-auction television table of allotments. To qualify

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Streamlining Proposed for Satellite TV Stations

The FCC has proposed to streamline the procedures for obtaining the reauthorization of satellite status for a satellite television station when it is assigned or transferred to a new owner in combination with its previously approved parent station. The proposal is set out in a *Notice of Proposed Rulemaking*, FCC 18-34, in Docket 18-63.

Television satellite stations are full power stations that generally rebroadcast some or all of the programming of another station, known as the parent station. The two stations are typically owned or controlled in common. Satellite stations are usually in sparsely populated areas with insufficient economic bases to support full-service stations. Satellite stations are not included in the calculations for compliance with the multiple ownership rules.

In 1991, the FCC adopted revised standards for evaluating requests for satellite station status. It created a rebuttable presumption that a station would qualify for satellite status if (1) there was no overlap of the city grade contours between the parent and the satellite; (2) the satellite station served an underserved area; and (3) no alternative operator was ready and able to purchase and operate the satellite as a full-service station. Requests could also be considered on an ad hoc basis in cases where the proponent could demonstrate compelling circumstances.

The process was altered somewhat with the advent of digital broadcasting, in which there is no counterpart to a station's analog city grade contour. Since then, the Commission has evaluated satellite station requests on an ad hoc basis, with continuing attention to the second and third criteria of the prior test.

Under current policy, the proposed assignee of a combination including both a parent station and a satellite station must submit a new request for satellite status with its assignment application, even if there has been no change in the conditions which gave rise to and justified the satellite status originally. The Commission has tentatively concluded that the process for reauthorizing satellite status in this context should be streamlined because it places an unnecessary burden on applicants and the Commission. The agency notes that no such application for reauthorization has ever been denied, leading it to surmise that the requirement may no longer be needed. The Commission invites public comment on ways to streamline the reauthorization process while ensuring that it provides the Commission and public with adequate information to determine whether reauthorization serves the public interest.

The FCC proposes to adopt a policy allowing parent/satellite combinations to be assigned or transferred without a written Commission decision granting reauthorization if two conditions are met. First, the assignment or transfer application must include a certification by both parties to the transaction that the underlying circumstances that the Commission relied upon in granting the current satellite authorization have not changed materially since the issuance of the most recent authorization. Second, the application must include a complete copy of the most recent written Commission decision granting the satellite status for the combination in question.

The agency requests comment on all aspects of this proposal. Among other things, what are the costs and benefits of maintaining the current procedures, and of streamlining it?

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Broadcasters Get First-Responder Status

A brief passage buried deep within the Consolidated Appropriations Act, 2018, gives radio and television broadcasters status as "first responders" in situations involving governmentally declared emergencies. Congress had been working on this concept for some time. Last year, the House of Representatives and the Senate had each passed a bill addressing this issue. However, the bills were different and required reconciliation, which Congress never got around to completing. With the President's signature on this year's legislation, this proposal now becomes law.

The purpose of this law is to permit broadcast station staff members to enter the restricted area within emergency perimeters established by police, firefighters and/or other public safety personnel around sites involving disasters and/or dangerous conditions. Broadcast personnel are allowed this access for the purpose of operating, maintaining or repairing transmission facilities so that broadcast services to the public can continue during the emergency. The law is not intended to facilitate broadcast news coverage by allowing reporters within the emergency perimeter.

Settlement Period Open for FM Translator Applicants in Auction 100

The FCC's Media Bureau and Wireless Telecommunications Bureau have released a Public Notice to identify all of the applicants for new cross-service FM translator construction permits whose applications were filed in the Auction 100 filing window at the end of January. The restriction on communicating with adverse parties in an auction has been temporarily lifted for these applicants. They are free to negotiate with each other now to develop settlements to resolve their conflicts. Settlements can include engineering amendments or buyouts. Petitions for acceptance of settlement agreements and related engineering amendments must be submitted to the FCC by the close of the settlement period on June 14. Mutually exclusive conflicts that remain after June 14 will be resolved by competitive bidding.

LPTV SPECIAL DISPLACEMENT FILING WINDOW
APRIL 10 – MAY 15, 2018

Good Faith Does Not Include Negotiating Against Yourself

The FCC's Media Bureau has denied a Good Faith Negotiation Complaint filed against DIRECTV, LLC, by the licensee of television station KFVE, Honolulu, in a *Memorandum Opinion and Order*, DA 18-105, in Docket 17-292. Unsatisfied with the progress of its negotiations for carriage on DIRECTV's satellite service, KFVE alleged to the FCC that DIRECTV was violating provisions of Section 325 of the Communications Act and Sections 76.7 and 76.65 of the Commission's rules that require stations and multichannel video programming distributors ("MVPDs") to bargain in good faith when negotiating for retransmission consent.

DIRECTV had carried KFVE under the terms of a retransmission consent agreement that was set to expire August 31, 2017, but that was extended temporarily during the negotiations for a new carriage contract. Under that agreement, which another licensee in the market had negotiated on behalf of KFVE, DIRECTV had paid KFVE for the right to carry its signal. Due to a change in the rules, separately owned stations in the same market are no longer allowed to negotiate jointly with an MVPD. Faced with a stand-alone negotiating partner – a station without a major network affiliation – DIRECTV declined to offer KFVE compensation in the new carriage term. Instead, DIRECTV said it would carry KFVE if the station elected must-carry. KFVE responded that it would not "go backward" and allow carriage without compensation. DIRECTV refused to alter its position. Eventually, the extension of the previous agreement expired, and DIRECTV took KFVE off the satellite.

KFVE then filed its Complaint with the FCC, claiming that DIRECTV had failed to negotiate in good faith by (1) putting forth a single unilateral proposal; (2) failing to justify its refusal to consider alternative carriage terms; and (3) violating the test for the totality of the circumstances. DIRECTV responded that the Complaint was moot because after KFVE had filed it, the MVPD presented another carriage proposal and explained that monetary compensation was not justified because of a lack of customer demand for KFVE. KFVE rejoindered that DIRECTV's response did not qualify as a new proposal because it was essentially the same as the original position. KFVE asked the Commission to order DIRECTV to negotiate in good faith and to fine or impose other sanctions as the agency might deem appropriate.

Section 325(b)(3)(C)(iii) of the Communications Act directed the Commission to adopt regulations that:

> prohibit a multichannel video programming distributor from failing to negotiate in good faith for retransmission consent under this section, and it shall not be a failure to negotiate in good faith if the distributor enters into retransmission consent agreements containing different terms and conditions, including price terms, with different broadcast stations if such different terms and conditions are based on competitive marketplace considerations.

To implement the statute, the Commission adopted a two-part test for "good faith." The first part consists of an objective list of negotiating standards, violations of which constitute a per se breach of the duty to negotiate in good faith. Two of these standards directly at issue in this case were (1) refusal by a negotiating party to put forth more than a single, unilateral proposal, and (2) failure of a party to respond to a proposal of the other party, including an explanation for rejection of the other party's proposal. The second part of the good-faith test is a consideration of the totality of the circumstances. Under this provision, the complaining party has the burden to present any facts that it believes demonstrate that the other party is not acting in good faith even if not in violation of the objective standards.

Ruling on KFVE's Complaint, the Bureau emphasized that, in the absence of other factors, fundamental disagreement over the rates, terms and conditions of retransmission consent does not indicate a lack of good faith. The Bureau said that DIRECTV's failure to make more than "a single unilateral proposal" did not violate the per se good-faith negotiating rule because KFVE had offered no counterproposal to which DIRECTV could respond. Rather than offer its own proposal, KFVE merely asked DIRECTV to submit another offer. After putting forth its initial proposal, DIRECTV was not obligated to put forward another proposal in the absence of a meaningful response from KFVE. In other words, DIRECTV was "not obligated to negotiate against itself."

The Bureau also explained that DIRECTV did not violate the rule prohibiting a "single, unilateral proposal" merely because it repeatedly refused to offer KFVE monetary compensation. The parties had reached a fundamental negotiating impasse. The fact that KFVE had previously been paid did not render DIRECTV's new decision not to pay the station a good-faith violation. The decision to stop paying KFVE was based on marketplace conditions.

The Bureau noted the Commission's explanation about the totality-of-the-circumstances test set out in the agency's order adopting these policies. In that order, the Commission said it would entertain complaints under the totality-of-the-circumstances test where specific carriage proposals are sufficiently outrageous, or where differences among carriage agreements are not based on competitive marketplace conditions. However, complaints that merely reflect commonplace disagreements encountered by negotiating parties in the everyday business world will be promptly dismissed.

AUCTION NO. 83
FM TRANSLATOR CONSTRUCTION PERMITS

Remedial Filing Window Opens	**April 16, 2018, 12 noon ET**
Remedial Filing Window Closes	**April 26, 2018, 6:00 pm ET**
Upfront Payments Due	**May 31, 2018, 6:00 pm ET**
Mock Auction	**June 19, 2018**
Bidding Begins	**June 21, 2018**

DEADLINES TO WATCH

License Renewal, FCC Reports & Public Inspection Files

April 1, 2018	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 **Delaware, Indiana, Kentucky, Pennsylvania, Tennessee** and **Texas**.
April 2, 2018	Deadline to file EEO Broadcast Mid-term Report for all radio stations in employment units with more than 10 full-time employees in **Delaware** and **Pennsylvania**; and all television stations in employment units with five or more full-time employees in **Texas**.
April 2, 2018	Deadline for all broadcast licensees and permittees of stations in **Delaware, Indiana, Kentucky, Pennsylvania, Tennessee** and **Texas** 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).
April 10, 2018	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.
April 10, 2018	Deadline to file quarterly Children's Television Programming Reports for all commercial full power and Class A television stations.
April 10, 2018	Deadline to file quarterly Transition Progress Report for television stations subject to modifications in the repack.
April 10, 2018	Deadline for noncommercial stations to file quarterly report re third-party fundraising.
June 1, 2018	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 **Arizona, District of Columbia, Idaho, Maryland, Michigan, Nevada, New Mexico, Ohio, Utah, Virginia, West Virginia** and **Wyoming.**
June 1, 2018	Deadline to file EEO Broadcast Mid-term Report for all television stations in employment units with five or more full-time employees in **Arizona, Idaho, Nevada, New Mexico, Utah** and **Wyoming**.
June 1, 2018	Deadline for all broadcast licensees and permittees of stations in **Arizona, District of Columbia, Idaho, Maryland, Michigan, Nevada, New Mexico, Ohio, Utah, Virginia, West Virginia** and **Wyoming** 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).

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

The FCC has accepted for filing the AM and FM applications identified below proposing to change each station's community of license. These applications may also include proposals to modify technical facilities. The deadline for filing comments about any of the applications in the list below is **April 16, 2018**. Informal objections may be filed anytime prior to grant of the application.

PRESENT COMMUNITY	PROPOSED COMMUNITY	STATION	CHANNEL/ FREQUENCY	
Apache Junction, AZ	Sun Lakes, AZ	KVVA-FM	296C3	107.1
Willcox, AZ	Catalina, AZ	KAZK	209C2	89.7
Olney Springs, CO	Rye, CO	KRYE	285C3	104.9
Clermont, FL	The Villages, FL	WMYZ	204C2	88.7
Chincoteague, VA	West Pocomoke, MD	WCTG	243A	96.5

Cut-Off Date for FM Booster Applications

The FCC has accepted for filing the applications for new FM booster stations as described below. The deadline for filing petitions to deny these applications are indicated. Informal objections may be filed any time prior to grant of the application.

COMMUNITY	PARENT STATION	CHANNEL	MHZ	FILING DEADLINE
Trinidad, CO	KNMF	293	106.5	Apr. 11
Astoria, OR	KEUB	227	93.3	Apr. 11

LONG-FORM FILING WINDOW FOR FM TRANSLATOR SINGLETONS IN AUCTION 100

APRIL 18 – MAY 9, 2018

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 12-107; Public Notice Waiver for analog cable systems of requirement to pass through accessible audible emergency information		Apr. 12
Docket 12-107; Public Notice Petition for Extension of waiver of requirement for access to emergency information	Apr. 13	Apr. 20
Docket 17-318; NPRM National limits on television station ownership		Apr. 18
Docket 18-66; Public Notice Petition for Declaratory Ruling re foreign ownership interests of Border Media Licenses, LLC		Apr. 20
Docket 18-23; NPRM Elimination of Mid-Term EEO Report	Apr. 30	May 15
Docket 18-22; NPRM Encouraging new technologies	May 4	May 21
Docket 18-63; NPRM Streamlined reauthorization procedures for assigned or transferred television satellite stations	May 11	May 29
U.S. Copyright Office Docket 2005-6; NPRM Copyright royalty reporting practices of cable systems	June 14	July 6

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

Cut-Off Date for Non-Commercial FM Application

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

COMMUNITY	CHANNEL	MHZ	APPLICANT	FILING DEADLINE
Dillingham, AK	285	104.9	Bay Broadcasting Company	Apr. 11

Rulemaking to Amend FM Table of Allotments

The FCC is considering an amendment proposed to the FM Table of Allotments to add the following channel. The deadlines for filing comments and reply comments are shown. Items marked with a "T" include a proposal for a tribal priority.

COMMUNITY	CHANNEL	MHZ	COMMENTS	REPLY COMMENTS
Desert Hills, AZ	292A	106.3		Apr. 10
Connersville, OK (T)	247A	93.7		Apr. 23

Lowest Unit Charge Schedule for 2018 Political Campaign Season

During the 45-day period prior to a primary election or party caucus and the 60-day period prior to the general election, commercial broadcast stations are prohibited from charging any legally qualified candidate for elective office (who does not waive his or her rights) more than the station's Lowest Unit Charge ("LUC") for advertising that promotes the candidate's campaign for office. Lowest-unit-charge periods are imminent in the following states.

STATE	ELECTION EVENT	DATE	LUC PERIOD
Alabama	State Primary	June 5	Apr. 21 - June 5
Arkansas	State Primary	May 22	Apr. 7 - May 22
California	State Primary	June 5	Apr. 21 - June 5
Colorado	State Primary	June 26	May 12 - June 26
District of Columbia	State Primary	June 19	May 5 - June 19
Georgia	State Primary	May 22	Apr. 7 - May 22
Idaho	State Primary	May 15	Mar. 31 - May 15
Illinois	State Primary	Mar. 20	Feb. 3 - Mar. 20
Indiana	State Primary	May 8	Mar. 24 - May 8
Iowa	State Primary	June 5	Apr. 21 - June 5
Kentucky	State Primary	May 22	Apr. 7 - May 22
Maine	State Primary	June 12	Apr. 28 - June 12
Maryland	State Primary	June 26	May 12 - June 26
Mississippi	State Primary	June 5	Apr. 21 - June 5
Montana	State Primary	June 5	Apr. 21 - June 5
Nebraska	State Primary	May 15	Mar. 31 - May 15
Nevada	State Primary	June 12	Apr. 28 - June 12
New Jersey	State Primary	June 5	Apr. 21 - June 5
New Mexico	State Primary	June 5	Apr. 21 - June 5
New York	State Primary	June 26	May 12 - June 26
North Carolina	State Primary	May 8	Mar. 24 - May 8
North Dakota	State Primary	June 12	Apr. 28 - June 12
Ohio	State Primary	May 8	Mar. 24 - May 8
Oklahoma	State Primary	June 26	May 12 - June 26
Oregon	State Primary	May 15	Mar. 31 - May 15
Pennsylvania	State Primary	May 15	Mar. 31 - May 15
South Carolina	State Primary	June 12	Apr. 28 - June 12
South Dakota	State Primary	June 5	Apr. 21 - June 5
Utah	State Primary	June 26	May 12 - June 26
Virginia	State Primary	June 12	Apr. 28 - June 12
West Virginia	State Primary	May 8	Mar. 24 - May 8

DEADLINES TO WATCH

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
Sponsorship identification, Section 73.1212	Apr. 16
Wireless microphones, Sections 74.803(c) and (d)	Apr. 19
Filing of contracts, Section 73.3613	Apr. 27
Program tests, Section 73.1620	May 1
Next Gen TV/ATSC 3.0 simulcasting rules, Sections 73.3801, 73.6029, 74.782	May 7

DTDRT Filing Window Opens April 10

On April 10, the FCC opens a filing window for full power television stations to file applications for construction permits for digital-to-digital replacement translators, or "DTDRTs."

DTDRTs are intended to provide fill-in service for full power stations that lost more than the permitted one percent of their coverage area or population as a result of the television spectrum repack. Applications for new DTDRTs will be accepted until July 13, 2021, one year after the close of the post-auction transition period.

Streamlining Proposed for Satellite TV Stations *continued from page 2*

What should be required of applicants in the circumstances where the Commission's most recent decision may never have been published or placed in the public record, is unavailable, or does not describe the facts and circumstances surrounding the grant? Upon granting the new request, how should the Commission memorialize it? Should applications involving the change of the satellite station's parent station be eligible for the same streamlining process?

Comments must be submitted to the FCC within 30 days of publication of notice of this proceeding in the Federal Register. The due for reply comments will be 45 days after that publication.

TV Shared Service Agreements To Be in Public File by September 19

In the FCC's *2010/2014 Quadrennial Regulatory Review Second Report and Order*, FCC 16-107, adopted in 2016, the Commission established a comprehensive definition of television shared service agreements ("SSAs"), and adopted the requirement for commercial television stations to maintain them in the public inspection file of each station that is a party to the agreement. That regulation has finally become effective and stations must begin to disclose SSAs by posting them in their online public files.

An SSA is defined as any agreement or series of agreements, whether written or oral, in which (1) a station provides any station-related services, including, but not limited to, administrative, technical, sales, and/or programming support, to a station that is not directly or indirectly under common de jure control permitted under the Commission's rules; or (2) stations that are not directly or indirectly under common de jure control permitted under the Commission's rules collaborate to provide or enable the provision of station-related services, including, but not limited to, administrative, technical, sales, and/or programming support, to one or more of the collaborating stations.

The Commission stated that the rules adopted in the *Second Report and Order* requiring approval by the Office of Management and Budget ("OMB") under the Paperwork Reduction Act would become effective after notice of OMB's approval is published in the Federal Register. OMB approved the SSA disclosure requirement on March 12, and notice of that approval was published in the Federal Register on March 23. Therefore, the obligation of commercial television stations to place SSAs in their public files became effective as of March 23.

The *Second Report and Order* specified that each commercial television station that is a party to an SSA executed prior to the rule's effective date should place a copy of the agreement in its public inspection within 180 days of the effective date. With the Federal Register publication having occurred on March 23, the deadline for this disclosure is now scheduled for September 19, 2018. The Commission said that SSAs executed after the effective date must be uploaded to the public file "in a timely fashion." What constitutes "timely fashion" was not defined.

These agreements are to be uploaded to the folder in the online public file that the Commission has labeled as "Shared Services Agreements."

Group Owner Agrees to $15K Penalty for Unauthorized Restructuring

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applications with the FCC for the pro forma assignment of the licenses for their 86 radio stations to Beasley Media Group Licenses, LLC, another subsidiary of Beasley Broadcast Group, Inc. At the same time, an application was also filed for a pro forma transfer of control involving the conversion the corporation, Beasley Broadcast Group, Inc., into a limited liability company called Beasley Media Group, LLC.

The assignment applications described the process as follows:

> This application is one of six related applications that seeks [sic] the Commission's consent, nunc pro tunc, to an internal restructuring relating to certain subsidiaries of Beasley Broadcast Group, Inc. ("BBGI"). Five of the related applications, including this application, seek Commission consent to the assignment of certain stations previously held by various limited partnership subsidiaries of BBGI to another subsidiary of BBGI. The remaining application seeks consent to the conversion of one of the non-licensee entities in the BBGI ownership chain from a corporation to a limited liability company.

Such applications are considered to be "pro forma" when the ownership and control of a broadcast station is moved from one business entity to another that has the same ultimate owner. Because the ultimate owner of the station is presumed to have been found qualified in some prior application, the application form (Form 316) to request FCC consent for this kind of transaction is shorter and less complicated than the forms generally used for an assignment (Form 314) when a station changes hands from one owner to another, or for a transfer of control (Form 315) when there is a change in control of the business entity that is the broadcast licensee. Although a pro forma transaction is generally subject to less scrutiny by the FCC, the agency's advance approval is still required.

These Beasley applications were filed on January 11, 2018. The Bureau's investigation was triggered by the revelation in the applications that the restructuring had occurred previously, on December 31, 2017. The Beasley applicants said that the delay in filing the applications until after the restructuring had actually been accomplished was inadvertent and they asked the Commission to approve the applications as of December 31. The agency said that, absent the discovery of other rule violations, it would grant the applications upon resolution of the provisions of the *Decree*, but it declined to make the grants retroactive to December 31. The applications have now been granted.

In addition to accepting liability for a $15,000 civil penalty, the Beasley group agreed to implement a three-year compliance plan that includes appointment of a compliance officer, development of a compliance manual, a compliance training programming for relevant staff members, and the filing with the FCC of compliance reports 90 days after the effective date of the *Consent Decree*, and annually for the remainder of the life of the plan.

FM Translator Auctions Set for Bidding

The FCC will conduct two auctions for construction permits for new FM translator stations in the coming months. Per a Public Notice, DA 18-257, Auction 83 will resolve conflicts among applications in the remaining groups of mutually exclusive applications that were filed in the 2003 FM translator filing window. Parties who filed applications in the AM Revitalization cross-service FM translator filing window last July and August and that remain mutually exclusive will participate in Auction 99, as directed by another Public Notice, DA 18-260.

Both auctions will feature the simultaneous multiple round format and will be conducted online. The amount for the upfront payment and the minimum opening bid have been set for each mutually exclusive group of applications. Upfront payments are deposits essentially to guarantee the applicant's serious participation in the auction and compliance with the rules. The upfront deposit will be credited against the purchase price for winning bidders and refunded to unsuccessful bidders.

From the close of their respective filing window until the deadline for winning bidders to submit down payments, all applicants are prohibited from cooperating or collaborating with respect to, communication with or disclosing to each other in any manner the substance of their own, or each other's, or any other applicants' bids or bidding strategies (including post-auction market structure), or discussing or negotiating settlement agreements. This restriction applies not only to applicants who are mutually exclusive with each other, but also to any other applicant in the same auction.

The Auction 83 applications have been pending for approximately 15 years and may need to be updated. Accordingly, a filing window will be open for these applicants to file remedial amendments to their applications from 12 noon Eastern Time on April 16 until 6:00 pm Eastern Time on April 26.

Upfront payments for Auction 83 are due by 6:00 pm Eastern Time on May 31. The bidding begins on June 21.

In Auction 99, upfront payments are due by 6:00 pm Eastern Time on April 19, and bidding commences on May 15.

AUCTION NO. 99
CROSS-SERVICE FM TRANSLATOR
CONSTRUCTION PERMITS

Upfront Payment Due	**April 19, 2018, 6:00 pm ET**
Mock Auction	**May 11, 2018**
Bidding Begins	**May 15, 2018**

LPTV Special Displacement Filing Window Is April 10 – May 15 *continued from page 1*

as being "displaced," the LPTV station must be licensed on television channels 38-51 in the spectrum being repurposed to wireless services, or it must be displaced by a full power or Class A station in the repacked television band on channels 2-36. LPTV stations that do not qualify for this filing window will have an opportunity to file applications after the close of this Special Displacement Window when the Commission will again lift the freeze on the filing of LPTV applications.

To assist LPTV applicants, the Commission has compiled a database that identifies locations and channels where LPTV applications would likely be unsuccessful because of the presence of protected authorizations and applications of full power and Class A television stations, non-displaced LPTV stations, and land-mobile operations. Applicants should avoid these areas. Applicants must employ the Commission's *TVStudy* program to ensure that their proposals will not cause harmful interference. The Commission encourages applicants in the 40 largest markets to select new channels for displaced stations that are adjacent to channels used by other television broadcasters so as "to help provide for flexibility in the future." Such flexibility might aid in the development of white space services. The data offered in this database is based on use of the incentive auction repacking and optimization software nationwide. The database is available online at https://data.fcc.gov/download/incentive-auctions/LPTV-Data.

LPTV stations will be able to apply for any open channel in the repacked band from 2 to 36. In selecting a new antenna site, digital stations are restricted to the area within a radius of 48 kilometers from the reference coordinates of the existing facility's community of license. Analog stations may propose to move the antenna site up to the maximum of 16.1 kilometers from the existing antenna site. With a request for a waiver of the rule against contingent applications, LPTV applicants will be permitted to apply for channels presently occupied but soon to be vacated by full power and Class A stations in the process of relinquishing their spectrum as a result of the auction or the repack.

All applications submitted in the Special Displacement Filing Window will be considered as filed on the last day of the window. Applications filed before April 10 by displaced stations that were forced to cease broadcasting on their original channels by the early start-up of wireless operations will also be considered as filed on the last day of the window. Mutually exclusive applicants will have an opportunity to negotiate technical amendments or buyouts to resolve their conflicts during a post-window settlement period. Conflicts that remain after the settlement period will be resolved by auction.

In a late development, Congress has made money from the TV Broadcaster Relocation Fund available to stations filing applications in this Special Displacement Filing Window. Eligible stations will be able to receive reimbursement for their legitimate expenses in requesting and constructing the necessary modifications. While Congress has appropriated an additional $1 billion for the Fund to help cover these costs, the FCC has yet to establish the process for claiming and receiving reimbursement. It may be similar to that in place for full power stations.

$1 Billion Added to TV Relocation Fund; LPTVs and FMs Become Eligible for Reimbursement *continued from page 1*

spectrum in the Incentive Auction. On the basis of cost estimates received from television licensees preparing to make such modifications, the FCC had advised Congress that $1.75 billion would be inadequate to cover all of the costs for eligible reimbursement. The Fund is financed by proceeds from the auction.

This legislation enlarged the number of stations eligible to receive reimbursement. Low power television and television translator stations will now be able to recoup their expenses for modifications necessitated by the reallocation of spectrum in the auction and the related shuffle of full power stations. They must be eligible to file applications in the LPTV Special Displacement Filing Window (open April 10 to May 15) and, must, in fact, file an application in that Window. The Fund will not reimburse LPTV stations for resolving mutually-exclusive conflicts with other applicants in the Window by way of buyout settlements or auctions. FM stations will also now be eligible for reimbursement of costs they incur because their antenna systems are collocated with affected television stations. The Fund will not disburse money to replace revenues that stations may lose due to periods of silence or reduced power. The FCC will now have the task of creating the process and paperwork for these stations to report their costs and claim their reimbursements.