



Virginia Association of Broadcasters Legal Review



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Legal Memorandum

FCC Releases Instructions for Cross-Service FM Translator Auction Filing Window Open July 26 - August 2, 2017; Freeze on Certain Applications Also Announced

The FCC released a [Public Notice](#) (“Notice”) on June 6th announcing the details and filing instructions for the FM translator auction filing window that it will open from July 26 to August 2, 2017. The window is for Class C and Class D AM stations to apply for cross-service FM translator station construction permits. Below please find important details that broadcasters looking to file during this upcoming window need to know.

Background. Broadcasters will recall that the FCC opened two modification filing windows in 2016 for AM stations seeking to acquire and/or modify *existing* cross-service FM translators. Both of those windows have now closed. The filing window that will open from July 26 to August 2 is the first of two auction filing windows the FCC will open for AM stations seeking to establish *new* FM translator stations in order to retransmit their signals on a full-time basis. The second cross-service FM translator auction filing window will be announced at a later date.

When is the Filing Window Open? The auction filing window will open on July 26, 2017, and will close on August 2, 2017.

Only Certain Stations are Eligible to File. Not all AM stations are eligible to file in the upcoming window. Eligibility for this filing window is limited to any Class C and Class D AM station licensee or permittee wishing to file an application to establish a new cross-service FM translator to re-transmit its station signal full time, provided that it has not already applied for a cross-service FM translator in either of the 2016 modification windows. So, if a station filed during one of the 2016 windows, it cannot file now. However, an applicant may designate any non-reserved FM channel for its proposed cross-service FM translator.

Mutually Exclusive Applications. In the event that FM translator proposals filed during this window are determined to be mutually exclusive and that mutual exclusivity is not resolved through a future opportunity for settlement or technical amendments, the FCC will resolve those proposals through competitive bidding. This auction will be designated as Auction 99.

Freeze on LPFM, FM Translator and FM Booster Applications. In connection with the filing window, the Media Bureau will not accept Low Power FM and FM translator minor change construction permit applications and FM booster construction permit applications between July 19, 2017, and August 2, 2017. Any such applications filed during this freeze will be dismissed.

Forms Required. Each AM station licensee or permittee applicant for a new FM translator station must file electronically for each proposed FM translator three designated sections of FCC Form 349, including the Tech Box of Section III-A. To participate in the auction, each AM station licensee or permittee applicant for a new FM translator station also must file electronically an FCC Form 175. Among other requirements, under the rules governing competitive bidding, each applicant must make certifications on Form 175 regarding whether it is a current or former defaulter or delinquent. The Notice provides detailed filing instructions for FCC Forms 349 and 175, and both of those Forms can be found [here](#).

We strongly recommend that stations interested in participating in this auction consult immediately with legal counsel.

If you have any questions concerning the information discussed in this memorandum, please contact your communications counsel or any of the undersigned.

Stephen Hartzell, Editor

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