



Virginia Association of Broadcasters Legal Review



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Legal Memorandum

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 [July 18: Deadline to Register C-Band Receive-Only Earth Station Dishes](#)

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10-Day Countdown to Special Displacement Window Filing Deadline for Certain Low Power Television Stations and TV Translators!

This is a reminder that the Special Displacement Window during which certain low power television and TV translator stations (collectively, “LPTV stations”) can file displacement applications closes in ten days—on **Friday, June 1, 2018, at 11:59 pm Eastern Time**.

As we have previously advised, the FCC in February released a [Public Notice](#) announcing the opening of the Special Displacement Window, during which LPTV stations and analog-to-digital replacement translators that (1) were displaced due to the Incentive Auction or subsequent repacking and (2) were “operating” as of April 13, 2017, are able to file for a new channel in the post-Auction, repacked TV spectrum. (In order for a station to be deemed “operating,” the station’s construction permit facilities had to be licensed or the station must have had a license-to-cover application on file with the FCC by April 13, 2017.) Initially, the Window was set to close in mid-May, but the FCC [extended](#) to the deadline to June 1.

Stations will recall that the FCC released data that identifies locations and channels where LPTV stations likely cannot propose displacement facilities because of the presence of full power and Class A television stations, land mobile operations, and other (non-displaced) LPTV

stations. The channel data is intended to help displaced LPTV stations identify potential channels to specify in their Special Displacement Window applications, and the data are available on the FCC's website at <http://data.fcc.gov/download/incentive-auctions/LPTV-Data/>. The FCC also conducted an informational webcast relating to the Special Displacement Window, and both the archived video and copies of the slide presentation are available [on the FCC's website](#).

If you have a displaced LPTV station and you intend to file a displacement application and you have not started the application process, you need to reach out to your consulting engineer ASAP.

Less Than Two Months Left to Register Existing C-Band Downlink Earth Station Dishes!

And here's another reminder: Stations have until **July 18, 2018**, to register their "existing" C-band earth stations. Many broadcast stations use C-band downlink earth stations to receive network and syndicated programming, but since the FCC's rules do not require receive-only earth stations to be licensed or registered, many broadcasters who use such dishes have never registered them with the FCC.

As we have reported previously, last month the FCC issued a [Public Notice](#) announcing a temporary freeze on C-band receive-only earth station registrations, with the following important exception to the freeze: Receive-only C-band dishes that were already in existence at stations—that is, downlink dishes that were constructed and operational as of April 19, 2018—can be registered if the registration application is filed **by July 18, 2018**.

The FCC filing fee for registering a downlink C-band earth station is \$435, and the registration must be filed through the FCC's IBFS (International Bureau Filing System) filing platform (a broadcaster's FRN and password are necessary to login to the IBFS). Similarly, if you have a current registration for your receive-only dish(es), you can make data corrections and similar modifications during this by July 18, 2018, as well. The FCC has waived certain registration requirements (most significantly, the frequency coordination requirement) during this limited window to make the process faster, cheaper, and easier.

According to NAB, the FCC encourages broadcasters (and other C-band users) to register ALL of their downlink C-band antennas at a given site. (Multiple co-located dishes can be identified on a single registration.) Registration of all dishes provides a greater degree of interference protection against certain terrestrial microwave operations, and it is also likely to allow for reimbursement of costs associated with service restoration for each dish at such a site if the FCC at some point in the future reallocates the 3.7 – 4.2 GHz spectrum band (which earth stations use) to other users and implements a reimbursement process.

To reiterate, the registration filing window will close on July 18, 2018. If you have an existing, unregistered, receive-only C-band earth station (or if you have a registration that needs to be modified), we encourage you to move quickly to prepare a filing in IBFS—or to get the data to a consulting engineer to prepare the registration application—so that a timely filing can be made.

Fiscal Year 2018 Regulatory Fees Proposed

The FCC has released its proposed regulatory fees for fiscal year (“FY”) 2018. In a [Report and Order and Notice of Proposed Rulemaking](#) released May 22, 2018 (“Notice”), the FCC proposes to collect \$322,035,000 from all regulatees, which represents a 9 percent **decrease** in regulatory fees from fiscal year 2017. The allocation to the Media Bureau (including radio, television, cable, and DBS) is about \$113 million, which is a little more than 35% of the total amount. Among other things, the Notice seeks comment on whether the FCC should change its methodology for calculating full service television stations’ regulatory fees in fiscal year 2019.

Proposed Amounts for Broadcasters. Attached to this memorandum is a series of “schedules” setting forth the proposed regulatory fees of greatest interest to broadcasters:

- [Schedule A](#) contains a table of the proposed FY 2018 regulatory fees for radio stations (and, for the sake of comparison, also includes a table of the final FY 2017 fees that radio stations paid last year);
- [Schedule B](#) contains table of the proposed FY 2018 regulatory fees for television stations (and, for the sake of comparison, also includes a table of the final FY 2017 fees that television stations paid last year); and
- [Schedule C](#) contains a table of other proposed FY 2018 regulatory fees that affect broadcasters.

Post-Incentive Auction Reminder. Licensees who held a broadcast television station license on October 1, 2017, are still responsible for regulatory fees for that license for FY 2018. Licensees who relinquished their licenses by September 30, 2017, are not responsible for regulatory fees for the cancelled license. (According to the FCC, only 17 full power and Class A television stations had surrendered their licenses by September 20, 2017. A list of those stations is included in the Notice.)

Payments By Check Will Not Be Accepted. Consistent with the last three years, the Commission will not accept checks (including cashier’s checks and money orders) and the accompanying hardcopy “remittance advice” forms (e.g., FCC Forms 159, 159-B, 159-E, 159-W) for the payment of regulatory fees. Instead, all payments must be made by wire transfer or online via ACH (Automated Clearing House) payment, or credit card. Other forms of payment will be rejected. Further payment procedure details will be provided when the FCC issues a public notice announcing the regulatory fees payment window.

Maximum Credit Card Transaction Level. Since June 1, 2015, the maximum amount that can be charged on a credit card for transactions with federal agencies—including the FCC—is \$24,999.99. Attempted transactions for amounts greater than \$24,999.99 will be rejected. This limit applies to single payments, divided payments, and to combined payments of more than one bill. In other words, the FCC will aggregate multiple transactions attempted on one credit card on one day and treat them as a single transaction subject to the \$24,999.99 limit, and the FCC will not permit a broadcast licensee to divide a transaction over multiple days in order to create smaller

payments that would fall below the \$24,999.99 limit each day. Thus, broadcasters who need to pay an amount greater than \$24,999.99 will need to use debit cards (Visa or MasterCard) or make payment by ACH or wire transfer.

Limited Exemption for De Minimis Regulatory Fees. The FCC exempts regulated entities from paying regulatory fees when their total fee obligation is considered “*de minimis*.” The *de minimis* threshold is currently \$1,000. This means that broadcasters (and other regulated entities) whose total FY 2018 annual regulatory fee liability is \$1,000 or less are exempt from payment of FY 2018 regulatory fees. The *de minimis* threshold applies only to filers of annual regulatory fees, and it is not a permanent exemption. So, each licensee must reevaluate their total fee liability each fiscal year to determine whether they meet the *de minimis* exemption in any particular year.

Regulatory Fee Payment Window and Deadline. As in past years, after the FCC finalizes and adopts the regulatory fees, it will announce, in a public notice, a window during which regulatory fees may be timely paid, along with a deadline for making timely payment. The deadline traditionally falls in September. We will keep you apprised of developments.

Change in Methodology for Television Broadcast Stations? Currently, television broadcast stations pay regulatory fees based on the market they serve, as defined by Nielsen Designated Market Areas (DMAs) (see [Schedule B](#)). In the Notice, the FCC seeks comment on whether it should change the methodology for the assessment of regulatory fees for full power television stations for FY 2019. The FCC has proposed the following two methodologies and seeks comment on which—if either—should govern and whether this would more accurately reflect the actual market served by each station: (i) a full-power television broadcast station’s regulatory fees should be assessed based on the actual population covered by the station’s projected noise limited service contour (as opposed to its DMA) multiplied by some factor (e.g., \$0.0063), or (ii) a full-power television broadcast station’s regulatory fees should be assessed based on the actual population covered by the station’s projected noise limited service contour (as opposed to its DMA) with each station’s population assigned to a particular “tier,” which would be more consistent with the approach used for AM and FM radio stations (see [Schedule A](#)). In any event, the regulatory fees for FY 2018 for all television broadcast stations will still be assessed using the same methodology as used in FY 2017 (see [Schedule B](#)).

Broadcasters who wish to weigh in on the proposed regulatory fee amounts, and/or on the methodology for FY 2019 regulatory fee calculations for broadcast television stations must file comments by June 21, 2018, and reply comments by July 6, 2018.

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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Schedule A

FY 2018 RADIO STATION REGULATORY FEES (proposed)						
Population Served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C0, C1 & C2
<=25,000	\$880	\$635	\$550	\$605	\$965	\$1,100
25,001 – 75,000	\$1,325	\$950	\$825	\$910	\$1,450	\$1,650
75,001 – 150,000	\$1,975	\$1,425	\$1,250	\$1,350	\$2,175	\$2,475
150,001 – 500,000	\$2,975	\$2,150	\$1,850	\$2,050	\$3,250	\$3,725
500,001 – 1,200,000	\$4,450	\$3,225	\$2,775	\$3,050	\$4,875	\$5,575
1,200,001 – 3,000,000	\$6,700	\$4,825	\$4,175	\$4,600	\$7,325	\$8,350
3,000,001 – 6,000,000	\$10,025	\$7,225	\$6,275	\$6,900	\$11,000	\$12,525
> 6,000,000	\$15,050	\$10,850	\$9,400	\$10,325	\$16,500	\$18,800

FY 2017 RADIO STATION REGULATORY FEES						
Population Served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C0, C1 & C2
<=25,000	\$895	\$640	\$555	\$610	\$980	\$1,100
25,001 – 75,000	\$1,350	\$955	\$830	\$915	\$1,475	\$1,650
75,001 – 150,000	\$2,375	\$1,700	\$1,475	\$1,600	\$2,600	\$2,925
150,001 – 500,000	\$3,550	\$2,525	\$2,200	\$2,425	\$3,875	\$4,400
500,001 – 1,200,000	\$5,325	\$3,800	\$3,300	\$3,625	\$5,825	\$6,575
1,200,001 – 3,000,000	\$7,975	\$5,700	\$4,950	\$5,425	\$8,750	\$9,875
3,000,001 – 6,000,000	\$11,950	\$8,550	\$7,400	\$8,150	\$13,100	\$14,800
> 6,000,000	\$17,950	\$12,825	\$11,100	\$12,225	\$19,650	\$22,225

Schedule B

FULL POWER TELEVISION STATION REGULATORY FEES		
Commercial Digital TV (47 CFR part 73) VHF and UHF	FY 2017 Fees	FY 2018 Proposed Fees
Markets 1-10	\$59,750	\$49,750
Markets 11-25	\$45,025	\$37,450
Markets 26-50	\$30,050	\$25,025
Markets 51-100	\$14,975	\$12,475
Remaining Markets	\$4,925	\$4,100
Construction Permits	\$4,925	\$4,100
Satellite Television Stations (All Markets)	\$1,725	\$1,500

Schedule C

OTHER REGULATORY FEES OF INTEREST TO BROADCASTERS		
Fee Category	FY 2017	FY 2018 (proposed)
PLMRS (47 CFR part 90) (per license) (exclusive use)	\$25	\$25
Microwave (47 CFR part 101) (per license)	\$25	\$25
Low Power TV, Class A TV, TV/FM Translators & Boosters	\$430	\$380
Earth Stations	\$360	\$325
Cable Television Systems (per subscriber)	\$0.95	\$0.77
Direct Broadcast Service (DBS) (per subscriber)	\$0.38	\$0.48