

FCC Administrative Procedures for AM, FM, TV, and Related Services

GENERAL

Any qualified citizen, firm, or group may apply to the Federal Communications Commission for authority to construct a standard (AM), frequency modulation (FM), or television (TV) broadcast station.

Licensing of these facilities is prescribed by the Communications Act of 1934, as amended, which sets up certain basic requirements. In general, applicants must satisfy the Commission that they are legally, technically, and financially qualified, and that the operation of the proposed station would be in the public interest.

The licensing procedure is detailed in Part 1 of the Commission's rules, "Practice and Procedure." Station operation is covered by Part 73 "Radio Broadcast Services." This includes technical standards for AM, FM, and TV stations, and TV and FM channel (frequency) assignments by states and committees. Copies of these rules are available from the Government Printing Office, Washington, D.C.

Most applicants employ engineering and legal services in preparing their applications. The Commission does not make technical or other special studies for prospective applicants nor does it recommend individual lawyers or engineers. However, names of firms and individuals practicing before the Commission may be found in various trade publications.

The following is a summary of the consecutive steps to be followed in applying for authorization to build and operate a broadcast station. The application procedure is substantially the same whether the facility sought is AM, FM, or TV.

SELECTING A FACILITY

An AM applicant must make his own search for a frequency on which he can operate without causing or receiving interference from existing stations and stations for which applications are pending. AM broadcast stations operate on "local," "regional," or "clear" channels. Stations of 250-watt power for nighttime broadcasting and up to 1-kilowatt daytime broadcasting serve small

communities; stations of 500-watt to 5-kilowatt power cover centers of population and surrounding areas; stations of 10- to 50-kilowatt power are for large area coverage, particularly at night.

An FM station applicant must request an FM channel assigned to the community in which he proposes to operate, or a place within a 10-mile radius (for Class A FM stations) or a 15-mile radius (for Class B or Class C FM stations), which has no FM channel assignment. Power, antenna height, and station separation are governed by the zone in which the station is located.

There are three classes of commercial FM stations and three zones. Class A stations use power from 100 watts to 3 kilowatts to cover a radius of about 15 miles; Class B stations, 5 kilowatts to 50 kilowatts for 40-mile service and Class C, 25 kilowatts to 100 kilowatts for 65-mile range.

Noncommercial educational FM stations are in a separate category and may operate with power as low as 10 watts. Commercial and educational FM stations may apply for a "Subsidiary Communications Authorization" (Form 318) to furnish certain supplemental services. FM stations may engage in stereophonic broadcasting, for which no special application is required.

An applicant for a TV station must request a VHF (Very High Frequency) or a UHF (Ultra High Frequency) channel assignment to the community in which he proposes to operate, or a place having no channel assignment within 15 miles of that community. Power depends upon the kind of channel used (VHF or UHF), and station separation is determined by three zones. TV "translator" stations serve remote communities by picking up and rebroadcasting the programs of outside stations, with the latter's permission. They operate on any VHF channel or on any unassigned UHF channel between 55 and 69, or on any assigned channel. Certain channels are assigned for noncommercial educational TV operation. There is a "Community Antenna Relay Service" for noncommon carrier microwave facilities to relay TV signals to community antenna (CATV) systems.

APPLYING FOR A CONSTRUCTION PERMIT

After a prospective broadcaster has decided upon the type of station he desires and the place where it would be located, he should ascertain the programming needs of the locality he intends to serve and devise plans to meet these needs. The next step is to apply for a construction permit. This is done on FCC Form 301, "Application for Authority to Construct a New Broadcast Station or Make Changes in an Existing Station," which covers AM, FM, or TV broadcast, except educational applications which use FCC Form 340, FM and TV translators (Form 346), and FM booster stations (Form 349P). These forms require information about the citizenship and character of the applicant, as well as his financial, technical, and other qualifications, plus details about the transmitting apparatus to be used, antenna, and studio locations, and the service proposed. Commercial broadcast applicants are required to show their financial ability to operate for one year after construction of the station. Triplicate copies are required. Nonprofit educational institutions apply for new or changed instructional TV fixed stations on Form 330-P.

APPLICANTS MUST GIVE LOCAL NOTICE

Applicants for new broadcast stations, license renewals, station sales, or major changes in existing stations must give local public notice of their plans and also of any subsequent designation of their applications for hearing. This is done over the applicant's local station (if any) and by advertising in the local newspaper. It affords interested persons an opportunity to comment on these applications to the Commission. Applicants and stations must also maintain public reference files in their respective localities.

APPLICATION PROCESSING

All broadcast applications (except translators) are reported twice by the Commission—first when the application is received and, again, when the application is formally accepted for filing. An application is not acted upon until at least 30 days after the Commission gives public notice of its acceptance. During that time objecting petitions may be filed.

Competing AM applications may be filed up to a date in a notice of AM applications ready for processing. It usually is about 30 days following that notice. Competing FM and TV applications may be filed up to the day the initial application is ready for Commission consideration.

Applications are, in general, processed in the order in which accepted. They are reviewed for

engineering, legal, and financial data by the Broadcast Bureau which, under delegated authority from FCC, acts on routine applications and reports to the Commission applications involving policy or other particular considerations. If an application has no engineering or other conflicts and no valid protests have been received, the applicant is found qualified. Assuming all other requirements are met, the application may be granted without hearing and a construction permit issued. All such grants are announced by the Commission. Petitions for reconsideration of grants made without hearing can be filed within 30 days after the grant is made, however, petitioners must give valid reasons why these objections were not raised before the grant was made.

HEARING PROCEDURE

Where it appears that an application does not conform to the Commission's rules and regulations, that serious interference would be caused to another station or if other serious questions of a technical, legal, or financial character develop, a hearing is usually required. The Commission must accord a hearing if two or more competing applicants seek the same frequency or immediately adjacent frequency which could cause interference, before the Commission renders its decision.

In designating an application for hearing, the Commission gives public notice of the issues for the information of the applicant and others concerned. The hearing notice generally allows the applicant 60 days or more in which to prepare. Even after the hearing has been set, an applicant may amend his application to resolve engineering or other problems. (Commission approval is required for all mergers or situations in which a competing applicant withdraws on payment of expenses.)

Hearings on competing applications are normally held at the Commission's Washington offices. Hearings on license revocations and renewals are held in the communities affected.

Hearings are customarily conducted by an examiner. He has authority to administer oaths, examine witnesses, and rule upon the admission of evidence. A prehearing conference is held to reach agreement on procedural matters.

Within 20 days after the close of a record by the hearing examiner, each party and the Chief of the Broadcast Bureau of the Commission can file proposed findings of fact and conclusions to support their contentions. After review of the evidence and statements, the hearing examiner issues an initial decision.

If the applicant wishes to contest the initial decision, he or any other interested party has 30 days from the date on which the initial decision

was issued to file exceptions. In all cases heard by an examiner, the Commission, or its Review Board may hear oral argument on timely request of any party. After oral argument, the Commission or the Review Board may adopt, modify, or reverse the hearing examiner's initial decision. In cases where the Review Board has acted on the exceptions, an appeal of the Board's decision may be taken to the Commission within 30 days. The Commission may, however, deny an appeal for review without stating reasons for such action.

Court appeals can be taken within 30 days following release of the final decision, in which case the Commission's action is stayed pending court determination.

CONSTRUCTION PERMIT

When an application is granted, a construction permit is issued. The new permittee may then request call letters which, if available and conforming to the rules, are issued. A period of 60 days from date of the construction permit is provided in which construction shall begin, and a maximum of six months thereafter as the time for completion (or eight months in all). Application to make changes in an existing station is made on the same form used in seeking initial construction authorization (Form 301). Application to modify a broadcast construction authorization or to modify a license is made on Form 301-A "Request for Modification of Broadcast Station Authorization." If the permittee is unable to build his station within the time specified, he must apply for extension of time on Form 701 ("Application for Additional Time to Construct a Radio Station"), giving reasons. Upon completion of construction the permittee conducts equipment (not program) tests.

LICENSE

Original

The final step in obtaining permission to operate a station is to apply for the actual license on Form 302 ("Application for New Broadcast Station License"), or Form 341 (for Noncommercial Educational FM stations), Form 347 (for TV and FM translators), or Form 349L (for FM boosters). Applicants must show compliance with all terms, conditions, and obligations set forth in the original application and the construction permit. Not until he applies for a license can the holder of a construction permit request authority to conduct program tests. The license application form provides a space for program test requests, or it can be made separately. A station license and program test authority are issued if no new cause or circumstance has come to the attention of the

Commission that would make operation of the station contrary to public interest.

Renewal

Applicants for renewal of station license must show that they have operated according to the terms of their original authorizations and the promises they made in obtaining them. Most renewal applications are made on Form 303 ("Application for Renewal of Broadcast Station License"). Noncommercial educational licensees, however, use Form 342; TV and FM translators Form 348 and FM boosters Form 349R. Pending the disposition of any Commission hearing or other proceeding involving license renewal or revocation considerations, the station continues to operate even though its license term may have expired.

SALES AND TRANSFERS

If the holder of a construction permit or license desires to assign it to someone else, he makes application on Form 314 ("Application for Consent to Assignment of Radio Broadcast Station Construction Permit or License"). Should the permittee or licensee wish to transfer corporate control, he applies on Form 315 ("Application for Consent to Transfer Control of Corporation Holding Radio Broadcast Station Construction Permit or License"). Form 316 ("Application for Assignment or Transfer—Short Form") may be used when the transfer or assignment involves no substantial change in interest. Sales of stations held less than three years are subject to hearing except in cases of death, hardship, or other mitigating circumstances beyond the licensee's control.

CONSTRUCTION CHANGES

Applicants for authority to make construction changes in existing stations apply on the same form used for a construction permit for the type of station involved.

APPLICATION FEES¹

Since March 17, 1964, the Commission has charged fees for most application filings in order to comply with government policy to charge for certain federal services. On July 1, 1970, a new fee schedule was adopted for broadcast stations, which includes three types of charges: (1) a filing fee (the only type of fee previously charged) payable when the application is tendered; (2) a

¹The fee schedule is continually revised. See the Commission's rules for the current schedule.

grant fee, payable when the application is granted; and (3) an annual operating fee, paid by all commercial AM, FM, and TV stations, in lieu of the renewal application fee previously charged. Application filing fees for construction permits, generally considerably higher than those previously charged, vary with the type of station, from \$25 for a daytime-only 250-watt nondirectional AM station permit and \$100 for a Class A FM, to \$5,000 for a VHF TV permit in the top-50 markets (in TV, though not in radio, fees vary with market size; top 50, next 50, and other; and there is also a VHF-UHF difference). An extra filing fee of \$50 is charged for a directional antenna application. Applications for major changes are charged the same fee as those for new stations. The grant fee is charged on the same scale, nine times the amount of the application fee. For assignments of licenses and transfers of control (other than involuntary transfers), the filing fee is \$1,000 (per license) and the grant fee is two percent of the consideration (selling price) for the assignment or transfer, payable on consummation. The annual operating fee is based on a station's highest commercial announcement rate: in AM and FM, the highest one-minute rate multiplied by 24 and in TV the highest 30-second rate multiplied by 12, with a minimum of \$52 in radio and \$144 in television. Most "other" applications, such as for covering licenses and minor changes, entail a filing fee of \$50 and no grant fee; requests for important Special Temporary Authorizations (STAs) or waiver of the rules in the broadcast services require a filing fee of \$50 and a grant fee of \$25; involuntary assignments or transfers of control require a filing fee of \$250 (per station where more than one is involved) and no grant fee; and applications for

subscription television authorizations entail a \$1,000 filing fee but no grant fee.

Translators and noncommercial educational stations are exempt from fees. In adopting the new fee schedule, the Commission recognized that the amount of fee for assignment/transfer grants—two percent of consideration—may be difficult to determine where the consideration includes elements other than cash or property with an ascertainable market value. The Commission stated that a rule of reason would be followed. In difficult cases, parties are invited to consult with Commission personnel with respect to the value to be attributed.

August 1, 1970, was the generally effective date of the new schedule. Grant fees were not charged where the application was on file before July 1, 1970. The annual operating fee for broadcast stations is due each year on the anniversary of the station's license expiration date. For the first year, the fee will be a *pro rata* share of the annual fee from August 1, 1970.

The fee schedule will be subject to continuing review, to determine whether changes in overall or comparative levels are in order.

PRINTED RULES

FCC rules may be obtained only through the Government Printing Office, Washington, D.C. 20402. The rules on FCC practice and procedure are contained in Volume I, which is available for \$8.00 per copy; the broadcast rules are contained in Volume III, for \$18.50. Orders should be sent to the Government Printing Office direct (not through the FCC). The printed rules are sold on a subscription basis, which entitles the purchaser to receive subsequent amendments to the rule part purchased until an overall revised issue is printed.

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Frequencies Used by the Broadcast Service

STANDARD BROADCAST (AM) STATIONS

Classes and Power of Standard Broadcast Stations¹

(a) *Clear channel.* A clear channel is one on which the dominant station or stations render service over wide areas, and which are cleared of objectionable interference within their primary service areas and over all or a substantial portion of their secondary service areas. Stations operating on these channels are classified as follows:

(1) *Class I station.* A Class I station is a dominant station operating on a clear channel and designed to render primary and secondary service over an extended area and at relatively long distances. Its primary service area is free from objectionable interference from other stations on the same and adjacent channels, and its secondary service area free from interference except from stations on adjacent channels, and from stations on the same channel in accordance with the channel designation in Sections 73.25 or 73.182 FCC Rules and Regulations. The operating power shall not be less than 10 kilowatts nor more than 50 kilowatts.

(2) *Class II station.* A Class II station is a secondary station which operates on a clear channel (see Section 73.25) and is designed to render service over a primary service area which is limited by and subject to such interference as may be received from Class I stations. Whenever necessary a Class II station shall use a directional antenna or other means to avoid interference with Class I stations and with other Class II stations, in accordance with Section 73.182 (and Section 73.22 in the case of Class II-A stations). Class II stations are divided into three groups:

(i) *Class II-A station.* A Class II-A station is an unlimited time Class II station operating on one of the clear channels listed in Section 73.22 and assigned to a community within a state specified in the Table contained in that section. A Class II-A station shall operate with power of not less

than 10 kilowatts nighttime nor more than 50 kilowatts at any time.

(ii) *Class II-B station.* A Class II-B station is an unlimited time Class II station other than those included in Class II-A. A Class II-B station shall operate with power not less than 0.25 kilowatts nor more than 50 kilowatts.

(iii) *Class II-D station.* A Class II-D station is a Class II station operating daytime or limited time. A Class II-D station shall operate with power not less than 0.25 kilowatts nor more than 50 kilowatts.

(b) *Regional channel.* A regional channel is one on which several stations may operate with powers not in excess of 5 kilowatts. The primary service area of a station operating on any such channel may be limited to a given field intensity contour as a consequence of interference.

(1) *Class III station.* A Class III station is a station which operates on a regional channel and is designed to render service primarily to a principal center of population and the rural area contiguous thereto. Class III stations are subdivided into two classes.

(i) *Class III-A station.* A Class III-A station is a Class III station which operates with power not less than 1 kilowatt nor more than 5 kilowatts and the service area of which is subject to interference in accordance with Section 73.182.

(ii) *Class III-B station.* A Class III-B station is a Class III station which operates with power not less than 0.5 kilowatt nor more than 1 kilowatt night and 5 kilowatts daytime, and the service area of which is subject to interference in accordance with Section 73.182.

(c) *Local channel.* A local channel is one on which several stations operate with powers no greater than provided in this paragraph. The primary service area of a station operating on any such channel may be limited to a given field intensity contour as a consequence of interference. Such stations operate with power no greater than 250 watts nighttime, and no greater than 1 kilowatt daytime (except that for stations in an area in the State of Florida south of the parallel 28° north latitude, and between the

¹All section numbers refer to the FCC Rules and Regulations used by the Broadcast Services.