

License Renewal Application Reminder for Television Stations in Delaware and Pennsylvania

Scott R. Flick and Elizabeth E. Craig

March 2023

April 3, 2023 is the license renewal application filing deadline for commercial and noncommercial TV broadcast stations licensed to communities in the following states:

Full Power TV, Class A, LPTV, and TV Translator Stations:

Delaware and Pennsylvania

Overview

The FCC's state-by-state license renewal cycle began in June 2019 for radio stations and in June 2020 for television stations. TV stations licensed to communities in the respective states listed above should be moving forward with their license renewal preparation. This includes becoming familiar with the requirements for the filing itself, as well as being aware of changes the FCC has made to the public notice procedures associated with the filing (discussed below).

The license renewal application (FCC Form 2100, Schedule 303-S) primarily consists of a series of certifications in the form of Yes/No questions. The FCC advises that applicants should only respond "Yes" when they are certain that the response is correct. Thus, if an applicant is seeking a waiver of a particular rule or policy, or is uncertain that it has fully complied with the rule or policy in question, it should respond "No" to that certification. The application provides an opportunity for explanations and exhibits, so the FCC indicates that a "No" response to any of the questions "**will not** cause the immediate dismissal of the application provided that an appropriate exhibit is submitted." An applicant should review any such exhibits or explanations with counsel prior to filing.

When answering questions in the license renewal application, the relevant reporting period is the licensee's entire 8-year license term. If the licensee most recently received a short-term license renewal, the application reporting period would cover only that abbreviated license term. Similarly, if the license was assigned or transferred via FCC Form 314 or 315 during the license term, the relevant reporting period is just the time since consummation of that last assignment or transfer.

Schedule 303-S: Application for Renewal of TV Broadcast Station Licenses

Parties to the Application

Some of the certifications an applicant is asked to make in Schedule 303-S relate solely to the station, and some—such as character certifications—relate to any "party to the application." A party to the application is any individual or entity that has an attributable interest in a station. This includes all parties whose ownership interest, positional interest (i.e., an officer or director), or other relation to the applicant confers on that party a sufficient degree of influence or control over the licensee to merit FCC attention.

For a corporation, this typically includes all officers, directors, and shareholders with a 5% or greater voting interest; for an LLC, its officers and members; and for a partnership, all partners. However, each form of entity comes with its own caveats, limitations, and unique rules for determining attributable interest holders. For example, limited partners are normally attributable interest holders unless they have been “insulated” from partnership decisions pursuant to very specific FCC requirements. Filers should reach out to counsel prior to filing if there are any questions about who the FCC would consider a party in interest to the license renewal application.

Character Issues, Adverse Findings and FCC Violations

Pursuant to the FCC’s statutory obligation to consider any serious rule violations or patterns of abuse, each licensee must certify that neither it nor any party to the application has had “any interest in or connection with an application that was or is the subject of unresolved character issues.” Where the applicant is unable to make this certification, it must include an exhibit identifying the party involved, the call letters and location of the station (or file number of the FCC application or docket), and describe the party’s connection to the matter, including all relevant dates. The applicant must also explain why the unresolved character issue “is not an impediment” to grant of the license renewal application.

Applicants must also certify whether the licensee or any party to the application has been the subject of an adverse finding in any civil or criminal proceeding involving a felony, a mass-media related antitrust or unfair competition charge, a false statement to another governmental entity, or discrimination. The applicant must report adverse findings from the past ten years and include an exhibit explaining the matter in detail and why it should not be an impediment to a grant of the license renewal application. Note, however, that a station does not need to report an adverse finding that was disclosed to the FCC in the context of an earlier station application where it was subsequently found by the FCC to be not disqualifying.

The application form also asks the applicant to certify that “*there have been no violations by the licensee of the Communications Act of 1934, as amended, or the rules or regulations of the Commission during the preceding license term.*” The instructions to the form make clear that this question is only asking the applicant to certify that there have been no formal findings of a violation by the FCC or a court, such as a Notice of Apparent Liability, Notice of Violation, or similar finding of a rule violation. Applicants should not use this section to self-disclose any violations not previously identified by the FCC.

Foreign Ownership and Control

The applicant must also certify that the licensee has complied with Section 310 of the Communications Act regarding foreign influence over the station. Section 310 generally prohibits the FCC from issuing a license to an alien, a representative of an alien, a foreign government or the representative thereof, or a corporation organized under the laws of a foreign government. It also prohibits a license being issued to an entity of which more than 20% of the capital stock is owned or voted by aliens, their representatives, a foreign government or its representative, or an entity organized under the laws of a foreign country, or, absent a special ruling from the FCC, to an entity whose parent company has more than 25% of its capital stock owned or voted by aliens, their representatives, a foreign government or its representative, or an entity organized under the laws of a foreign country.

Station Operations

The license renewal application also requires stations to certify that they are currently operational, as the FCC will not renew the license of a station that is not broadcasting.

In a similar vein, Section 73.1740 of the FCC’s Rules sets forth the minimum operating hours for commercial broadcast stations. In the license renewal application, stations must certify that they were not silent or operated less than the required minimum number of hours for a period of more than 30 days during the license term. If they cannot, they must include an exhibit disclosing the relevant details and explaining why it should not adversely affect the station’s license renewal.

Stations must also certify as to several statements regarding Radiofrequency Electromagnetic (RF) exposure of the public and workers at the transmitter site. Stations that were previously renewed and which have had no changes at their transmitter site since their last renewal application will generally be able to certify compliance with this statement. Stations that have had a material change in the RF environment at their transmitter site must assess the impact of that change before certifying RF compliance and may need to submit an exhibit demonstrating the station's compliance with RF requirements.

Related Filings and Materials

Other Certifications

Successfully navigating the license renewal application also requires stations to certify that the rest of their regulatory house is in order. For example, applicants must certify that they have timely made other regulatory filings, such as the Biennial Ownership Report on FCC Form 323 or 323-E, and confirm that their advertising agreements do not discriminate on the basis of race or gender and contain non-discrimination clauses. Applicants must also certify that they have placed all items required to be in the station's Public Inspection File in the File, and that they have done so on a timely basis. Public File violations have traditionally been a significant cause of fines at license renewal time. As the Public Inspection File is now online, stations should be mindful that third parties are able to easily review and confirm the timeliness of Public File documents. As with all other certifications in the application form, stations must accurately respond and be prepared to provide documentation supporting their certifications if later requested by the FCC.

EEO

Depending on staff size, one of the items stations must certify is that they have timely placed in their Public Inspection File, as well as on their website, the annual Equal Employment Opportunity ("EEO") Public File report.

Generally, a station that is part of a Station Employment Unit that employs fewer than five full-time employees is exempt from these requirements. However, at license renewal time, all stations, regardless of staff size, must file FCC Form 2100, Schedule 396, the Broadcast EEO Program Report. Stations in a Station Employment Unit with fewer than five full-time employees will only need to complete part of the form before filing it. As a practical matter, because of the mechanics of the FCC's filing system, an applicant will generally be unable to file its license renewal application until it can provide in that form the file number generated by the FCC when the station's completed Schedule 396 is filed.

Certifications for Full Power TV and Class A TV Stations Only

While there is significant overlap between the certifications included in both the radio and TV license renewal applications, an important portion of the form specific to full power TV and Class A TV stations concerns certifications regarding the station's children's television programming obligations.

The Children's Television Act of 1990 requires commercial full power TV and Class A TV stations to: (1) limit the amount of commercial matter aired during programming designed for children ages 12 and under, and (2) air programming responsive to the educational and informational needs of children ages 16 and under. While stations have been required to submit Children's Television Programming Reports and commercial limits certifications demonstrating their compliance with these requirements on a quarterly or annual basis,¹ the license renewal application requires applicants to further certify that these obligations have been satisfied and documented as required over the entire license term and to explain any instances of noncompliance. Stations can find additional information on the children's television programming and reporting obligations in our **[most recent Children's Television Programming Advisory](#)**.

¹ Note that in 2019, the FCC changed the obligation to file the Children's Television Programming Report and place the commercial limits certification in the Public Inspection File from a quarterly requirement to an annual obligation.

Although noncommercial TV stations are not subject to commercial limitations or required to file Children's Television Programming Reports, such stations are required to air programming responsive to children's educational and informational needs. In preparation for license renewal, such stations should therefore ensure they have documentation demonstrating compliance with this obligation in the event their license renewal is challenged.

For Class A television stations, in addition to certifications related to children's television programming, the application requires certification of compliance with the Class A eligibility and service requirements under Section 73.6001 of the FCC's Rules. Specifically, such stations must broadcast a minimum of 18 hours a day and average at least three hours per week of locally produced programming each quarter to maintain their Class A status. Applicants must certify that they have and will continue to meet these requirements.

Post-Filing License Renewal Announcements

In prior license renewal cycles, stations were required to give public notice of a license renewal application both before and after the filing of that application. For the current cycle, the FCC eliminated the pre-filing public notices and modified the procedures for post-filing notices. These changes modify the timing and number of on-air announcements required, replace newspaper public notice requirements with an online notice, and revise the text of the announcements themselves.

As a result, full power and Class A TV stations, as well as LPTV stations capable of local origination, must broadcast a total of six post-filing license renewal announcements over four consecutive weeks, with at least one airing each week and no more than two airings in any week (each of which must air on different days). The first such announcement must air within five business days after the FCC has issued a Public Notice announcing its acceptance for filing of the application.

On-air post-filing announcements must be broadcast on a weekday (Monday through Friday) between 7:00 am and 11:00 pm local time based on the applicant station's community of license. The text of the announcement is as follows:

On *[date]*, *[applicant name]*, licensee of *[station call sign]*, *[station frequency]*, *[station community of license]*, filed an application with the Federal Communications Commission for renewal of its license. Members of the public wishing to view this application or obtain information about how to file comments and petitions on the application can visit publicfiles.fcc.gov, and search in *[station call sign's]* public file.

For those types of stations that do not have Public Inspection Files, the on-air post-filing announcement should instead be:

On *[date]*, *[applicant name]*, licensee of *[station call sign]*, *[station frequency]*, *[station community of license]*, filed an application with the Federal Communications Commission for renewal of its license. Members of the public wishing to view this application or obtain information about how to file comments and petitions can visit www.fcc.gov/stationsearch, and search in the list of *[station call sign's]* filed applications.

For television broadcast stations, when these on-air announcements are presented aurally, the public notice text must also be presented visually onscreen.

Special rules apply to noncommercial educational stations that do not normally operate during any month when their announcements would otherwise be due to air, as well as to other silent stations. These stations should contact counsel regarding how to provide the required public notice.

Certification of Compliance

Within seven days of the broadcast of the last required announcement, full power TV station and Class A TV station license renewal applicants should complete the attached Statement of Compliance and place it in the station's Public Inspection File. LPTV license renewal applicants should complete the attached Statement of Compliance and place it in their station records file.

Online Public Notice Required for TV Translator and Certain LPTV Stations

TV translator and LPTV stations not capable of local origination are not required to broadcast post-filing announcements, and have typically been required to publish public notices in a local newspaper instead. The FCC has eliminated the newspaper publication requirement in favor of online notices, requiring such stations to publish written notice on a station-affiliated website upon filing a license renewal application.

A prominently displayed link or tab that reads "FCC Applications" must be posted on the station website homepage, and link to a separate page containing the following notice:

On [date], [applicant name], [permittee / licensee] of [station call sign], [station frequency], [station community of license], filed an application with the Federal Communications Commission for renewal of its license. Members of the public wishing to view this application or obtain information about how to file comments and petitions on the application can visit [insert hyperlink to application location in the Media Bureau's Licensing and Management System].

This separate page must also include the date the page was last revised. The notice and corresponding link to the license renewal application must be posted within five business days after the FCC has issued a Public Notice announcing its acceptance for filing of the application and remain on the station's website for 30 consecutive days. At the end of the 30-day period, the notice can be removed, and if no other applications requiring online notice are pending, the webpage should be updated to include the following text instead:

There are currently no applications pending for which online public notice is required.

The rules contain specific requirements as to where station applicants that do not have websites should post their announcement. These stations should consult with counsel on the proper online notice procedures.

After publishing the notice, the licensee should complete and execute a Statement of Compliance regarding that publication and place the Statement of Compliance in its Public Inspection File. While TV translator and LPTV station licensees are not required to keep a Public Inspection File, they are required to maintain and make available to FCC representatives a station records file that contains their current authorization and copies of all FCC filings and correspondence with the Commission. For them, the completed Statement of Compliance should be included in their station records file.

STATEMENT OF COMPLIANCE - BROADCAST PUBLIC NOTICE

The undersigned states that station [call sign] broadcast the “Post-Filing Announcement,” attached hereto, over the station on the dates and times indicated below:

DATES

TIMES

Signature: _____

Dated: _____



STATEMENT OF COMPLIANCE - ONLINE PUBLIC NOTICE

The undersigned states that station [call sign] posted the notice attached hereto at [url] during the time period indicated below:

POSTING COMMENCEMENT

POSTING TERMINATION

Signature: _____

Dated: _____