

ALERT

FCC Modernizes Broadcast Public Notice Requirements

May 15, 2020

On May 13, 2020, the Federal Communications Commission (FCC or Commission) issued an order adopting significant changes to its requirements governing the way that broadcasters must provide the public with notice of a variety of applications (Order). Most significantly, the FCC eliminated the requirement that broadcasters provide public notice of covered applications in a newspaper, substituting an online written public notice requirement in place of the decades-old newspaper publication mandate. The FCC also streamlined the content of on-air public notice announcements.

Although the rule changes adopted in the Order will not go into effect until after a notice of their effectiveness is published in the Federal Register, the FCC also waived the requirement that broadcast stations scheduled to file renewal applications for the remainder of the 2019-2023 renewal cycle make pre-filing announcements.

Additional details concerning the FCC's Order are provided below.

Elimination of Newspaper Publication Requirement

The Order eliminates the requirement, adopted more than 50 years ago, that broadcasters provide public notice of covered applications in newspapers. In taking this action to modernize its rules, the FCC recognizes that the newspaper publication requirement was costly to applicants and consumers, and less helpful to the public than an online public notice requirement will be.

Online Written Public Notice Requirement

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In place of the newspaper publication requirement, the Order mandates publication of a notice online.

Websites for Posting. The notice must be published, in order of availability, on (1) the website of the applicant station, (2) the website of the applicant station's licensee, or (3) the website of the applicant station's parent entity. If there is no applicant-affiliated website, then the notice must be published on a locally targeted, publicly accessible website, which the Order defines as a website that (a) members of the public can access without payment, registration, or any other requirement that the user provide information or respond to a survey or questionnaire in exchange for being able to access the online notice, and (b) is locally targeted to the area served and/or to be served by the applicant station (e.g., local government website, local community bulletin board website, local newspaper website, state broadcasters' association website).

Method of Posting. Posting can be accomplished by inserting a tab or link on the homepage conspicuously labeled "FCC Applications" that will link to a separate page containing the text of the notice(s).

Content of Notice. The notice must include the following text specified by the FCC:

- For authorized stations (with a granted construction permit or license) –

On [DATE], [APPLICANT NAME], [PERMITTEE / LICENSEE] of [STATION CALL SIGN], [STATION FREQUENCY], [STATION COMMUNITY OF LICENSE OR, FOR INTERNATIONAL BROADCAST STATIONS, COMMUNITY WHERE THE STATION'S TRANSMISSION FACILITIES ARE LOCATED], filed an application with the Federal Communications Commission for [TYPE OF APPLICATION]. 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 LINK IN APPLICANT'S ONLINE PUBLIC INSPECTION FILE (OPIF) OR, IF THE STATION HAS NO OPIF, TO APPLICATION LOCATION IN THE MEDIA BUREAU'S LICENSING AND MANAGEMENT SYSTEM; IF AN INTERNATIONAL BROADCAST STATION, TO APPLICATION LOCATION IN THE INTERNATIONAL BUREAU'S MYIBFS DATABASE].

- For proposed stations that have not yet been authorized –

On [DATE], [APPLICANT NAME], [APPLICANT FOR] [A NEW (STATION TYPE) STATION ON] [STATION FREQUENCY], [STATION COMMUNITY OF LICENSE OR, FOR INTERNATIONAL BROADCAST STATIONS, COMMUNITY WHERE THE STATION'S TRANSMISSION FACILITIES ARE TO BE LOCATED], filed an application with the Federal Communications Commission for [TYPE OF APPLICATION]. 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; IF AN INTERNATIONAL BROADCAST STATION, TO APPLICATION LOCATION IN THE INTERNATIONAL BUREAU'S MYIBFS DATABASE].

The FCC also intends to provide links on the online public inspection file (OPIF) and licensing and management system (LMS) landing pages to information concerning how members of the public can comment on pending applications.

Duration of Posting for Online Notice. Broadcasters must post notices online continuously for 30 days.

Special Rules for Particular Stations. Non-commercial educational stations may continue to provide public notice of covered applications solely through on-air announcements. Stations that are silent during all or a portion of the period during which on-air announcements are required must comply with the online notice requirements during the period they are not broadcasting, and must resume on-air announcements if they resume broadcasting during the period that on-air announcements are required. Stations supplying programming to foreign broadcast stations under Section 325(c) of the Communications Act must provide online notice on a website locally targeted to the area where viewers or listeners of the foreign station reside. The public notice text for such stations must include a description of the programming to be transmitted over the station and indicate that the public can obtain information regarding how to comment on applications in the International Bureau's MYIBFS database.

Streamlining of On-Air Public Notices

The Order also streamlines the on-air public notice requirements that apply to covered applications.

Elimination of Pre-Filing Announcements. The Order eliminates all pre-filing announcements.

Number of Announcements. Broadcasters must air a total of six on-air announcements. These announcements must air at least once per week, for four consecutive weeks, beginning no later than five business days after release of the Commission public notice announcing acceptance of the relevant application for filing. On-air announcements aired in the same week must not air on the same day.

Timing of Announcements. All on-air announcements must be broadcast between 7:00 a.m. and 11:00 p.m. local time. The announcements must begin airing no later than five days after the release of the Commission public notice announcement of the acceptance of the application for filing.

Contents of Notices. The notices must include the following text specified by the FCC:

- For stations with an OPIF –

On [DATE], [APPLICANT NAME], licensee of [STATION CALL SIGN], [STATION FREQUENCY], [STATION COMMUNITY OF LICENSE], filed an application with the Federal Communications Commission for [TYPE OF APPLICATION]. 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 stations without an OPIF –

On [DATE], [APPLICANT NAME], licensee of [STATION CALL SIGN], [STATION FREQUENCY], [STATION COMMUNITY OF LICENSE], filed an application with the Federal Communications Commission for [TYPE OF APPLICATION]. 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.

Television broadcasters must display on screen the full text of the on-air announcement during the verbal broadcast of the announcement.

Channel Sharing. The Order clarifies that each station in a channel sharing agreement must broadcast appropriate on-air announcements on its own program stream.

Other Aspects of the Public Notice Rules

The Order leaves in place the following aspects of its public notice requirements –

- The categories of applicants, broadcast services, and application types for which local public notice is and is not required.
- The requirement that applicants certify in any application for which public notice is required that they will comply with the applicable requirements of the local public notice rule.
- The requirement that those license renewal applicants that are obliged to provide public notice only through on-air announcements must add to their OPIF the list of dates and times the required on-air announcements were broadcast.

The Order also eliminates the requirement that applicants add the text of the on-air license renewal announcement to their OPIFs, clarifies that low power FM stations continue to have the same local public notice requirements as other noncommercial educational radio stations, and applies updated public notice requirements to public notice of hearing designation orders.

Effective Date

The rule changes adopted in the Order involve modified information collection requirements subject to the Paperwork Reduction Act, and will therefore be submitted to the Office of Management and Budget for review and approval. The new rules will become effective on the date specified in a notice that will be published in the Federal Register following such approval.

Waiver of Pre-Filing Announcements for Broadcast Renewal Applications

In a separate order issued on May 13, the FCC's Media Bureau waived the requirement that broadcast stations scheduled to file license renewal applications for the remainder of the 2019-2023 renewal cycle broadcast pre-filing announcements. The waiver applies to applicants filing radio or television license renewal applications on August 3, 2020, and continuing until the effective date of the new public notice rules. The FCC previously waived the pre-filing announcement requirement for applicants with broadcast renewal applications due on June 1, 2020. The existing post-filing public notice requirements, however, continue to apply until the new rules become effective.