

May 2009

Proposed 2009 Regulatory Fees

In spite of the current economic climate (and to the envy of broadcasters who wish they could raise their rates a comparable amount), Congress has ordered the FCC to collect 2009 regulatory fees totaling nearly \$343 million, representing an increase of 10% compared to the amount assessed last year (which, in turn, represented a 7.6% increase over 2007). As a result, the FCC has proposed corresponding increases in the regulatory fees to be paid late this Summer by the holders of FCC authorizations.

We attach tables and a chart comparing the 2008 regulatory fees with the proposed fees for 2009.

The methodology of determining fees is to be the same as in the past – first, the FCC allocates the overall amount among the various categories of authorizations, and then calculates individual fees by dividing that result by the number of payment units within each category. Radio fees again are to be determined by service (AM or FM), class of station and estimated population served, and television fees by band (VHF or UHF) and market size.

This year, fees are being assessed only upon analog TV licenses, so that stations that were broadcasting only in digital format as of October 1, 2008 (the date for determining fees) will owe nothing. Beginning next year, though, fees will be collected from digital TV broadcasters, regardless of their transition date. Curiously, nothing is said in this year's *Notice of Proposed Rulemaking* about the treatment of digital radio authorizations, which was raised for discussion in last year's regulatory fee *Notice* but then deferred.

The Commission proposes to implement a mandatory filing requirement, using its on-line Fee Filer program, so as to create a reliable database, but not a mandatory payment requirement. Thus, although the Commission will encourage on-line payment through Fee Filer, it will continue to permit payment to be made by check or by means of an Automated Clearing House bank account (but in all cases accompanied by a remittance voucher form generated by Fee Filer). Checks will have to be sent to the FCC's St. Louis lockbox bank and wire arrangements will have to be made through the Federal Reserve Bank in New York City.

Payments will have to be received by an as-yet undetermined deadline toward the end of this fiscal year, probably in September 2009. Late payments will trigger an automatic 25% penalty and will subject all related entities to "red light" status, precluding processing of all but emergency FCC applications and requests.

As in past years, the Commission intends to mail post cards to individual broadcast stations to advise of the assessed fee and the attributes that determine that amount. We assume that the postcards this year will continue to address only primary facilities and will omit any information concerning auxiliaries for which licensees will have to add the appropriate fees. The Commission notes that should it make on-line payment mandatory in the future, then it will forego mailed notifications and require all payors to consult Fee Filer to determine their fees.

We will keep you advised of further developments impacting your regulatory fee obligations and will continue to assist our clients with their filings and payments. In the meantime, for planning purposes it seems safe to assume that your 2009 regulatory fees will be comparable to the amounts that the Commission has proposed and that payment will be due in September.

If you have any questions regarding the content of this Client Alert, please contact [Peter Gutmann](#), or any member of the firm's [Communications Law Group](#).

PROPOSED RADIO STATION REGULATORY FEES (2009)						
Population Served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C1 & C2
< = 25,000	675	550	500	575	650	825
25,001 – 75,000	1,350	1,075	750	875	1,325	1,450
75,001 – 150,000	2,025	1,350	1,000	1,450	1,825	2,725
150,001 – 500,000	3,050	2,300	1,500	1,725	2,800	3,550
500,001 – 1,200,000	4,400	3,500	2,500	2,875	4,450	5,225
1,200,001– 3,000,000	6,750	5,400	3,750	4,600	7,250	8,350
>3,000,000	8,100	6,475	4,750	5,750	9,250	10,850

RADIO STATION REGULATORY FEES (2008)						
Population Served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C1 & C2
< = 25,000	650	500	450	525	600	775
25,001 – 75,000	1,325	1,025	650	775	1,225	1,375
75,001 – 150,000	1,975	1,275	875	1,300	1,675	2,550
150,001 – 500,000	2,975	2,175	1,325	1,550	2,600	3,325
500,001 – 1,200,000	4,300	3,325	2,200	2,575	4,125	4,900
1,200,001– 3,000,000	6,600	5,100	3,300	4,125	6,700	7,850
>3,000,000	7,925	6,125	4,175	5,150	8,550	10,200

OTHER REGULATORY FEES

	2008	Proposed 2009
AM Construction Permits	450	480
FM Construction Permits	600	650
TV VHF -- Markets 1-10	69,400	77,575
Markets 11-25	50,850	60,550
Markets 26-50	34,900	37,575
Markets 51-100	21,025	22,950
Remaining Markets	5,600	5,950
Construction Permits	5,600	5,950
TV UHF -- Markets 1-10	21,450	24,250
Markets 11-25	20,475	21,525
Markets 26-50	11,575	13,350
Markets 51-100	6,850	7,600
Remaining Markets	1,875	1,950
Construction Permits	1,875	1,950
Satellite Television Stations (All Markets)	1,175	1,275
Construction Permits	595	650
Low Power TV, TV/FM Translators & Boosters	365	400
Broadcast Auxiliary	10	10
Earth Stations	195	210

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