



PUBLIC NOTICE

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MEDIA BUREAU ANNOUNCES THAT ALL FM6 LPTV RULES AND FILING REQUIREMENTS ARE NOW IN EFFECT

FM6 LPTV Stations Must State Their Intent to Continue FM6 Service and Confirm Their FM6 Operational Parameters by January 29, 2024

MB Docket No. 03-185

By this Public Notice, the Media Bureau (Bureau) announces that the Office of Management and Budget (OMB) has approved the rules adopted in the *FM6 Report and Order* that were subject to its review.¹ The Bureau has published a notice in the Federal Register announcing this approval and setting today, **December 28, 2023**, as the effective date of all related rules and filing requirements.² We also establish **January 29, 2024**,³ as the deadline for all FM6 LPTV stations⁴ to notify the Bureau of their intent to continue to provide FM radio service (FM6 service) and confirm their FM6 operational parameters.

The rules adopted in the *FM6 Report and Order* took effect on September 28, 2023,⁵ except for those that required review by OMB, including new sections 74.790(o)(9) and 74.790(o)(10) of the Commission's rules (Rules);⁶ the requirement for FM6 LPTV stations to maintain an online public

¹ See Notice of Office of Management and Budget Action for OMB Control Nos. 060-0214, 3060-0110, and 3060-0386 (approved Dec. 5, 2023); *Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television and Television Translator Stations*, MB Docket 03-185, Report and Order, FCC 23-58 (July 20, 2023) (*FM6 Report and Order*).

² See 88 FR 89610 (Dec. 28, 2023).

³ *Id.*

⁴ The *FM6 Report and Order* permitted a limited number of digital channel 6 low power television stations (FM6 LPTV stations) to continue to offer analog FM radio service on an ancillary or supplementary service, subject to specific operational rules and requirements. Those stations included: KBKF-LD, San Jose, California; WMTO-LD, Norfolk, Virginia; KXDP-LD, Denver, Colorado; WTBS-LD, Atlanta, Georgia; WRME-LD, Chicago, Illinois; KZNO-LD, Big Bear Lake, California; KEFM-LD, Sacramento, California; WEYS-LD, Miami, Florida; WDCN-LD, Fairfax, Virginia; KRPE-LD, San Diego, California; KGHD-LD, Las Vegas, Nevada; WPGF-LD, Memphis, Tennessee; and WNYZ-LD, New York, New York. *FM6 Report and Order* at paras. 24-26. In addition, the Commission permitted WVOA-LD, Westvale, New York, to provide FM6 service, subject to certain requirements. *Id.* at paras. 27-28.

⁵ *Media Bureau Announces September 28, 2023 Effective Date For Certain FM6 LPTV Rules*, MB Docket No. 03-185, Public Notice, DA 23-775 (Aug. 29, 2023).

⁶ 47 CFR §§ 74.790(o)(9) and (10). See *FM6 Report and Order* at para. 52.

inspection file (OPIF);⁷ and the requirement that FM6 LPTV stations notify the Commission of their intent to continue FM6 operations, provide their FM6 operational parameters, and notify the Commission of any changes to their operational parameters.⁸ All FM6 rules and filing requirements adopted in the *FM6 Report and Order* are now effective and below we provide guidance relating to certain FM6 rules and filing requirements.

FM6 Operational Notification and STAs. In the *FM6 Report and Order* the Commission instructed the Bureau to establish a deadline for each FM6 LPTV station to notify the Bureau whether it will continue to provide FM6 service and to confirm its precise FM6 operational parameters (FM6 Operational Notification).⁹ We establish **January 29, 2024**, as the deadline for filing the FM6 Operational Notification with the Bureau. This will ensure that FM6 LPTV stations have sufficient time to file the required notification with the Bureau and make sure all information being provided is accurate. The notification must be made by written letter and mailed to the FCC Office of the Secretary, Attention: Chief, Video Division, Media Bureau. An electronic copy of the FM6 Operational Notification must also be sent via electronic mail to Barbara Kreisman, the Chief of the Video Division, Media Bureau at Barbara.Kreisman@fcc.gov.¹⁰

The Bureau will consider all FM6 LPTV stations with an unexpired STA or pending STA extension to be in compliance with the Commission's rules as long as all operations comply with the rules adopted in the *FM6 Report and Order*. Once the FM6 Operational Notification is received, the Bureau will add a notation to each FM6 LPTV station's license to reflect that it is permitted to provide FM6 operations, pursuant to the operational parameters disclosed to the Bureau, as an ancillary or supplementary service pursuant to the *FM6 Report and Order*.¹¹ Any pending STA extension request will be dismissed as moot by the Bureau following the addition of the notation to a station's license.

Effective immediately, the Bureau will not process STA extension requests filed by any FM6 LPTV stations, with the exception of the STA extension request that is required by the *FM6 Report and Order* to be filed by WVOA-LD, Westvale, New York.¹² The Bureau also will promptly dismiss any STA requests for new FM6 operations.¹³

⁷ See *id.* at para. 56; 47 CFR § 74.790(o)(11).

⁸ See *FM6 Report and Order* at para. 52 and n.214.

⁹ *Id.* at para. 52. Such information must include: maximum effective radiated power (ERP); radiation center above ground level (RCAGL); radiation center above mean sea level (RCAMSL); antenna height above average terrain (HAAT); antenna type (directional or non-directional); directional antenna pattern (if applicable); antenna make and model; transmitter power output (TPO); and a description of the transmission system, including any transmission lines, connectors, combiners, etc., and their associated losses. *Id.* at n.214.

¹⁰ *Id.* at n.218.

¹¹ *Id.* at n.212 and n.213.

¹² WVOA-LD is required to provide FM6 service as an ancillary or supplementary service under STA for a period of one year prior to being permanently included in the limited group of FM6 LPTV stations. *Id.* at para. 28. WVOA-LD has converted to ATSC 3.0 and commenced FM6 service pursuant to an STA. See LMS File Nos. 0000227652 and 0000231253; Letter from David Oxenford, Counsel for Metro TV, Inc. to Barbara A. Kreisman, Chief, Video Division, Media Bureau (Dec. 21, 2023) on file at LMS File No. 0000231253 (notification that WVOA-LD commenced ATSC 3.0 operations on December 15, 2023 and FM6 service on December 18, 2023). WVOA-LD's STA is scheduled to expire on June 18, 2024 and an extension request must be filed prior to that date.

¹³ *FM6 Report and Order* at paras. 29-34 (denying requests to permit new FM6 entrants or legacy analog FM6 LPTV stations that ceased or never previously provided FM6 service).

Online Public Inspection File Access. Pursuant to section 74.790(o)(11) of the Rules and the *FM6 Report and Order*, FM6 LPTV stations are required to maintain an OPIF for their FM6 service.¹⁴ The Bureau has established an OPIF for each of the FM6 LPTV stations. FM6 LPTV station's may access their OPIF by visiting the OPIF sign-in page at <https://publicfiles.fcc.gov/opifadmin/login> and following the sign-in instructions. Stations are responsible for filing all documents that would need to be placed in a FM6 LPTV station's OPIF as of today, December 28, 2023, and moving forward. Documents that were due prior to the effective date do not need to be filed.¹⁵

Ancillary or Supplementary Service Fees. All television stations that offer feeable ancillary or supplementary services are required to submit an Annual DTV Ancillary/Supplementary Services Report (A&S Report)¹⁶ by December 1st each year and remit a 5% fee on the gross revenues (for noncommercial stations 2.5% of the gross revenues from ancillary or supplementary services which are nonprofit, noncommercial, and educational) of such feeable services provided during the preceding twelve month period ending on September 30th of that year (i.e. October 1 through September 30).¹⁷ FM6 LPTV stations that offer feeable ancillary or supplementary services are subject to this fee.¹⁸ FM6 LPTV stations should disclose in an attachment to their A&S Report when feeable services were provided, the amount of all feeable revenues, and the fees owed. To the extent that FM6 LPTV stations provided feeable services, either during the current or prior reporting periods, but did not pay the fee pending the outcome of the instant proceeding, the Media Bureau in consultation with the Office of Managing Director will provide further guidance at a future date.¹⁹ FM6 LPTV stations should amend or file any missing A&S Report for the current or prior reporting periods based on this guidance.

For additional information, contact Shaun Maher, Video Division, Media Bureau at Shaun.Maher@fcc.gov or (202) 418-2324 (legal); Kevin Harding, Video Division, Media Bureau at Kevin.Harding@fcc.gov or (202) 418-7077 (OPIF); or Mark Colombo, Video Division, Media Bureau at Mark.Colombo@fcc.gov or (202) 418-7611 (technical).

This action is taken by the Chief, Media Bureau, pursuant to authority delegated by sections 0.61 and 0.283 of the Commission's rules.²⁰

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¹⁴ *Id.* at para. 56; 47 CFR § 74.790(o)(11).

¹⁵ For example, an FM6 LPTV station does not need file issues/programs lists for prior quarters (e.g. third quarter 2023). A station's fourth quarter issues/programs list would need to cover the period of December 28, 2023, through December 31, 2023.

¹⁶ FCC Form 2100, Schedule G (A&S Report).

¹⁷ 47 CFR § 73.624(g)

¹⁸ *FM6 Report and Order* at paras. 59-60.

¹⁹ *See id.* at n.247 (instructing the Media Bureau and Office of Managing Director to issue any guidance, as necessary, to facilitate payment of the required five percent ancillary or supplementary service fee).

²⁰ 47 CFR §§ 0.61 and 0.283.