

[Fines of \\$9000 for Public File Violations Upheld, But FCC Asks if the Paperwork Burden of the Public File is Justified](#)

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Last week, in a frenzy of cleaning up issues left from old license renewal applications, the FCC upheld several \$9000 fines for public file violations - most in connection with the failure of licensees to have a complete set of **Quarterly Programs Issues lists ("QPIs")** in those files. The broadcasters who were fined came up with a variety of arguments as to why those fines should be reduced or eliminated - which were uniformly rejected by the Commission. What we find interesting is that, while these large fines were levied against a number of broadcasters, the FCC is at the same time [asking whether retention of the public file can be justified under the provisions of the Paperwork Reduction Act](#). So which is it - an important tool to keep the public informed about the ways that stations serve their public, or an unreasonable burden on those who are regulated by the FCC?

While this request for comments on the **paperwork burden imposed by the public file** may be nothing more than a routine review of Commission rules to justify their continuing existence under the provisions of the **Paperwork Reduction Act**, it is interesting that this rule - long the source of wrath from broadcasters who complain that the file is never visited except by the occasional college broadcasting student who has to do so as a class project, or by the competitor in the market looking for something to complain about (and even those visits are extremely rare for most stations) - is now up for review and comment. Why was this rule selected for review? Will there be other rules about which the FCC asks for comment? Is there any justification for the burden imposed on broadcasters (which the FCC estimates at a cumulative **1,831,706 hours of work annually**, but to which it curiously assigns no associated cost burden with the required tasks) when it is routine for the file to be never visited? You have your chance to voice your comments - with the filing deadline for such comments being **June 17, 2011**.

The cases issued last week all contained arguments from the licensees as to why the fines issued by the FCC should be reduced. [One applicant, who was fined \\$9000, contended that its violations were not "willful and repeated violations" worthy of the high fine](#). The licensee submitted that they were instead isolated and inadvertent. The Commission rejected that contention - essentially holding that any failure to follow a rule

is willful, and the fact that the failure went on for years made it repeated. That applicant also contended that the fines were higher than levied on other applicants (as the FCC's fines for public file violations did seem to rise from \$3000 to \$9000 during the course of the last renewal term), but the FCC rejected that argument, contending that there were factual differences in the cases that merited the lower fines - one station getting the lower fine did not have QPIs, but did keep letters from the public commending certain station programs, and another got the lower fine because the violations in that other case "were for an indiscernible period of time" (if the period was not discerned by the FCC, shouldn't the fine have been higher?). Even an argument that legal provisions protecting small businesses should protect the station was rejected - the Commission finding that it can protect small businesses by reducing the fines if necessary (which it did not do in this case). Similar arguments were rejected in connection with [another \\$9000 fine](#), and in connection with yet another station that only received a \$3000 fine ([the decision](#) does not explain why this fine was lower than the others). Another [fine was reduced from \\$9000 to \\$7200](#) because of a prior record of compliance by the applicant. A **noncommercial station** [received a similar "reduced" fine of \\$7200](#). Another **University** received an \$8000 fine, the FCC [rejecting arguments of financial hardship](#) even though the University showed that it operated at a loss of over \$200 million (as the fine constituted a small portion of the \$250 million operating budget of the school).

Given this raft of fines, it is clear that the FCC will continue to take enforcement of the rules regarding the public file to be very important - perhaps right up to the time that they abolish the rule for not justifying the paperwork burden that it places on licensees. For more information about the requirements, see our **most recent advisory** on the requirements of the **Quarterly Programs Issues lists**, [here](#).

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