

Three \$10,000 FCC Broadcast Fines, All Involving the Public File, Show Differences in Enforcement

February 7, 2012 by [David Oxenford](#)

In the last few days, the FCC proposed three fines - all involving violations of the **public inspection file rule**, and all amounting to \$10,000. But the facts of the three cases are radically different, and one wonders about why all ended up with the same fine. But more importantly, the cases again raise the issue of why the penalty for public file violations is so high in relation to other fines for what would seemingly be more important issues - ones involving interference to other stations and, potentially, public safety. We've [raised the question before](#) as to whether public file violations, which have a \$10,000 base fine adopted in the [FCC's Forfeiture Policy Statement](#) (which includes a **schedule of base fines** for various different types of violations), is really appropriate given the lower fines for what would seem to be more crucial issues - like stations operating in some way that is technically different than they are licensed, or where they don't have operating EAS systems that can pass along crucial emergency information - offenses with lower suggested fines. Looking at the facts in each of this week's cases show that, even among public file offenses, the fine may be the same, yet the offenses seem very different.

In [one case](#), an FCC inspection discovered an AM/FM combination operating with a tower with some of its required lights that did not work, an EAS system that wasn't working and which had not been working apparently for years, an FM station that was operating overpower, and a single public file for the two stations, one that was lacking any Quarterly Issues Programs lists. With all of these violations over 2 stations, the FCC could have fined these stations as much as \$42,000, but the FCC reduced the fine to \$10,000 based on the licensee's demonstrated inability to pay the higher fine. But more interesting for this analysis was the comparative cost of each of the violations. Under the FCC's analysis, the public file violation was worth \$10,000, while the base fine for the EAS violation was only \$8000, and the fine for the tower lights was the same as that for the missing documents in the public file. The overpower operation drew only a \$4000 fine. Why is a public file violation, which probably no one ever asked to see, a violation with a penalty as severe as those for matters that could affect public safety - tower lights and EAS? And why is it more than double the fine for overpower operation, which could cause interference - an issue as the heart of the FCC's reason for being?

Two other pure public file violations also drew fines of \$10,000, but the facts and circumstances were quite different. In [one case](#), the violation was discovered by a

station inspection by the FCC, and the FCC found no public file whatsoever. In the [second case](#), the licensee voluntarily disclosed to the FCC, in its license renewal application, that it was missing 2 1/2 years worth of quarterly issues programs lists from an 8 year license renewal period. So it was missing just one element of the public file. So despite voluntarily reporting the violation, and having that violation affecting just one element of the public file, and just a portion of that element, the fine is the same as that for a station that didn't keep a file at all, and got caught by the FCC. Shouldn't the FCC recognize the difference in circumstances, and lessen the penalty for a party that was missing only part of its file, and voluntarily reported that violation?

Perhaps at some time the FCC will offer the public the opportunity to comment on the relative value of FCC fines, and perhaps do something to make the fine schedule more rational. Broadcasters have, from time to time, argued that the public file rule was archaic and should be abolished, though the FCC now seems to be taking the opposite tack - looking to put the file online (see our summary of the FCC proceeding to do so here). In any event, for the foreseeable future, the public file remains a big deal for the FCC, so be sure the yours is in good order. For more information on doing that, see our most recent [Advisory on the Quarterly Issues Programs Lists](#) and our [Advisory on the Basics of the Public Inspection File for Commercial Broadcasters](#).

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