

SUPPORTING STATEMENT

**A. Justification:**

1. This submission seeks OMB approval to extend (no change in reporting or third party disclosure requirements) OMB Control No. 3060-0531 to more accurately reflect the burden of compliance with the reporting requirements and third party disclosure imposed on respondents in the Local Multipoint Distribution Service (LMDS) pursuant to 47 C.F.R. §§ 101.103, 101.1011.

Pursuant to 47 C.F.R. § 101.1011, LMDS licensees must make a showing of substantial service in their license area within ten years of being licensed. A licensee must demonstrate that it provided service which is sound, favorable, and substantially above a level of mediocre service which might minimally warrant renewal.

In order to do so, an LMDS licensee seeking renewal must submit a showing to explain why renewal of the license is warranted. At a minimum, this showing must include: (1) a description of its current service in terms of geographic coverage and population served; (2) an explanation of its record of expansion, including a timetable of new construction to meet changes in demand for service; (3) a description of its investments in its LMDS system; and (4) copies of all Commission orders finding the licensee to have violated the Communications Act or any Commission rule or policy and a list of any pending proceedings that relate to any matter described directly above. Renewal applications must be filed once every ten years.

This submission revises the number of respondents that will need to comply with 47 C.F.R. § 101.1011 to more accurately reflect the number of LMDS licensees that have been authorized to provide service and, accordingly, will therefore need to demonstrate substantial service within the period covered by this submission.

The previously submitted and approved information collection under this OMB Control No. 3060-0531 also included the reporting and third party disclosure burdens associated with the coordination requirements set-forth in 47 C.F.R. § 101.103. The coordination requirements set forth in the Commission's Rules remains unchanged, and this submission does not seek to revise those requirements. However, few LMDS licensees have commenced service to date. Licensees will begin to construct LMDS stations in their authorized areas in order to demonstrate substantial service as discussed above. However, the number of respondents that will need to comply with the coordination requirements of 47 C.F.R. § 101.103 within the period covered by the instant submission is far less than the Commission originally sought and received approval for as part of OMB Control No. 3060-0531. Accordingly, this submission revises the number of respondents, responses, burden hours and annual costs that will be imposed on the public by the approved coordination requirements.

As noted on OMB Form 83-I, this information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

Statutory authority for this collection is contained in 47 U.S.C. §§ 151, 154(i), 301, 303(f), 303(g), 303(r), 307, 308, 309, 310, 316.

2. The information is used by the Commission staff in carrying out its duties to determine the technical, legal and other qualifications of applicants to operate and remain licensed to operate a station in the LMDS. Specifically, the frequency coordination information requested pursuant to 47 C.F.R. § 101.103 is necessary to facilitate the rendition of communication service on an interference-free basis in each service area. The frequency coordination procedures ensure that LMDS applicants and licensees have the information necessary to cooperate in the selection and use of frequencies assigned in order to minimize interference and thereby obtain the most effective use of the spectrum. The information is also necessary for the Commission staff to resolve interference conflicts that cannot be settled between or among the affected applicants and licensees. For LMDS licensees seeking renewal, the information requested pursuant to 47 C.F.R. § 101.1011 is necessary for the Commission staff to determine whether a licensee has provided sufficient evidence of substantial service during its license term and has substantially complied with the Communications Act and with applicable Commission rules and policies.

3. The Commission's rules do not restrict the use of improved information technology and it is the Commission's goal to eliminate, to the greatest extent possible, the filing of paper applications.

4. The Commission does not impose a similar information collection on the respondents. There are no similar data is available.

5. In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the burden on all respondents, regardless of size. The Commission has limited the information requirements to those necessary for the purpose for which the information will be used while deterring against possible abuses of the Commission's processes.

6. The information collected is generally required when the applicant seeks Commission approval for new or modified facilities, or for an assignment or transfer of control. Therefore, the frequency of the filing is generally determined by the applicant. Renewal applications must be filed once every ten years.

7. No special circumstances exist. This collection is consistent with the guidelines in 5 CFR § 1320.6.

8. A 60 day notice was published in the Federal Register on September 13, 2006 (71 FR 54075). No comments were received. A copy of the Federal Register notice

required by 5 CFR § 1320.8 is attached to this submission.

9. There are no payments or gifts to respondents.

10. There is no need for confidentiality. Respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR § 0.459 of the FCC's rules.

11. This does not address any private matters of a sensitive nature.

12. The Commission estimates that there could be 423 respondents and that 323 of these respondents will be required to comply with the Construction Requirements and Criteria for Renewal Expectancy in accordance with 47 C.F.R. §101.1011 of the Commission's Rules. Additionally, 100 respondents will be required to comply with the Frequency Coordination procedures in accordance with 47 C.F.R. §101.103 of the Commission's Rules. (It should be noted here that MVDDS frequency coordination, which involves different procedures under 47 C.F.R. §101.103(f), is approved under OMB Control No. 3060-1023). The average burden hours for the respondents subject to this information collection for contracting outside services and those using internal staff for reporting requirements are detailed in the Appendix.

The Commission estimates that it will take approximately 323 respondents x 15.11 hours (average) per response = 4,881 hours.

The Commission also estimates that it will take approximately 100 respondents x 15.13 hours (average) per response = 1,513 hours.

**TOTAL ANNUAL BURDEN HOURS = 4,881 + 1,513 = 6,394.**

13. The following represents the Commission's estimate of external cost to respondents.

a. Total annualized capital/start-up cost: 0.

b. We assume that the respondents using a consultant would use an attorney or engineer (\$200/hour). The annual cost estimates are detailed in the Appendix.

**TOTAL ANNUAL COST = \$2,600 + \$8,200 = \$10,800.**

14. Cost to Federal government is as follows:

Attorney or engineer to review the substantial service filings at approximately \$50.00/hour x 1 hour x 423 respondents = \$21,150.

15. We are adjusting the annual hours requested by - 24,029. This adjustment reflects revised estimates based on updated licensing data. We are adjusting the

annual cost burden by - \$2,014,000. This adjustment reflects a decrease in the number of estimated respondents and responses.

16. The data will not be published for statistical use.

17. We do not seek approval to not display the expiration date for OMB approval of the information collection.

18. There are exceptions to item 19 on the OMB 83i. When the Commission published the required 60 day notice, we used inaccurate estimates. With this submission we are reporting more accurate estimates. Additionally, we did not address the respondent's obligation to respond or the nature and extent of confidentiality.

**B. Collections of Information Employing Statistical Methods:**

No statistical methods are employed.