

## SUPPORTING STATEMENT

### A. Justification:

1. 47 CFR Section 73.3525 requires applicants for a construction permit for a broadcast station to obtain approval from the FCC to withdraw, dismiss, or amend its application when that application is in conflict with another application pending before the FCC pursuant to a settlement agreement. This request for approval to withdraw, dismiss, or amend an application should contain a copy of the agreement and an affidavit of each party to the agreement.

In the event that the proposed withdrawal of a conflicting application would unduly impede achievement of a fair, efficient and equitable distribution of radio service, the FCC must issue an order providing further opportunity to apply for the facilities specified in the application(s) withdrawn. Upon release of this order, 47 CFR Section 73.3525(b) requires that the party proposing withdrawal of its application give notice in a daily newspaper of general circulation published in the community in which the proposed station would have been located. This notice must be published twice a week for two consecutive weeks within the three-week period immediately following release of the FCC's order. Additionally, within 7 days of the last of publication of the notice, the applicant proposing to withdraw the conflicting application shall file with the FCC a statement giving the dates on which the notice was published, the text of the notice, and the name and location of the newspaper in which the notice was published.

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

The Commission is requesting an extension of this information collection in order to receive approval/clearance from OMB for three years.

Statutory authority for this collection of information is contained in Sections 154(i) and 311 of the Communications Act of 1934, as amended.

2. FCC staff uses the data in the request for approval to assure that the agreement complies with its rules and regulations and Section 311 of the Communications Act of 1934, as amended. The newspaper publication gives interested parties an opportunity to apply for the facilities specified in the withdrawn application(s).

Section 311(c) of the Communications Act of 1934, as amended, provides that it shall be unlawful for any applicants for broadcast facilities to effect by agreement the removal of any mutually exclusive applications without approval of the Commission and that the Commission shall approve such agreement only if it finds it to be consistent with the public interest, convenience and necessity.

3. The request for approval should contain a copy of the agreement and the required affidavits. The notice in 47 CFR Section 73.3525(b)(2) is published in a newspaper publication. The use of information technology is not feasible in these situations.

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4. This agency does not impose a similar information collection on the applicants. There is no similar data available.
5. In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the burden on all respondents. Therefore, this information collection will not have a significant economic impact on a substantial number of small businesses/entities.
6. The frequency for the request for approval is determined by respondents, as necessary. If this collection were not conducted, the Commission would be unable to enforce its rules designed to eliminate abuse of our comparative processes. The notice of withdrawal must be published twice a week for two consecutive weeks within the three-week period immediately following release of the FCC's order.
7. The requirements in this collection of information are consistent with the guidelines in 5 CFR 1320.5(d)(2).
8. The Commission published a Notice (71 FR 61469) in the *Federal Register* on October 18, 2006. No comments were generated as a result of the Notice.
9. No payment or gift was provided to respondent.
10. There is no need for confidentiality with this collection of information.
11. This information collection does not address any private matters of a sensitive nature.
12. The following estimates are provided for public burden:

	<b>Number of <u>Responses</u></b>	<b>Respondent <u>Burden Hours</u></b>	<b>Total <u>Burden Hours</u></b>
Requests for Withdrawal	38	1 hour	38 hours
Newspaper publication	1	0.25 hours	0.25 hours
Statement of publication	<u>1</u>	0.25 hours	<u>0.25 hours</u>
<b>TOTALS:</b>	<b>40 responses</b>		<b>38.50 hours</b>

These estimates are based on FCC staff's knowledge and familiarity with the availability of the data required.

**Total Number of Annual Respondents: 38 Broadcast Stations**

**Total Number of Annual Responses: 40 requests to withdraw/dismiss/amend applications**

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**Total Annual Burden Hours: 38.50 hours (rounded to 39 hours)**

**Annual “In-house cost”:** We assume that the applicant (respondent) would contract out with an attorney for the completion and filing of the request for approval and the preparation of the public notice. These respondents would be the applicants for new broadcast stations. We estimate that these respondents would have an average salary of \$70,000/year (\$33.65/hour).

38 requests x 1.0. hour x \$33.65/hour	=	\$1,278.70
1 local notice x 0.25 hours x \$33.65/hour	=	\$ 8.41
1 statement x 0.25 hours x \$33.65/hour	=	<u>\$ 8.41</u>
<b>Total annual in house cost</b>	=	<b>\$1,295.52</b>

**13. Annual Cost Burden:** We assume that the respondent would contract with an attorney to complete and file requests for approval and the preparation of the public notice and statement. We estimate that this attorney would have an average hourly salary of \$200/hour.

38 requests x 8.0 hours x \$200/hour	=	\$60,800
1 local notice x 0.5 hours x \$200/hour	=	\$ 100
1 statement x 0.5 hours x \$200/hour	=	\$ 100
\$113.25/publication x 2 times/week x 2 weeks x 1	=	<u>\$ 454</u>
<b>Total annual cost burden</b>	=	<b>\$61,454</b>

**14. Cost to the Federal Government:** The Commission will use professionals at the GS-14, step 5 level (\$50.95/hour) to process requests for approval.

38 requests x 3 hours x \$50.95/hour	=	\$5,808.30
30% Overhead:		<u>\$1,742.49</u>
<b>Total Cost to the Federal Government:</b>		<b>\$7,550.79</b>

15. The Commission had an adjustment to the total annual cost burden. This adjustment is due to the Commission miscalculating the annual cost burden in its previous submission to OMB. There are no program changes to this information collection.

16. The data will not be published.

17. OMB approval of the expiration date of the information collection will be displayed at 47 CFR Section 0.408.

18. The Commission reported in its initial 60 day Federal Register Notice the total annual cost burden as “61,353.” We correct that number to read “\$61,453.00.” There are no other exceptions to Item 19 of the Certification Statement.

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

This information collection does not employ any statistical methods.