

Requests for Waivers of Regulatory and Application Fees Predicated on Allegations of Financial Hardship**SUPPORTING STATEMENT****A. Justification**

1. The FCC (or Commission) has implemented provisions contained in Section 6003(a) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66 and 103-121), approved August 10, 1993, which added Sections 8 and 9 to the Communications Act of 1934.
 - (a) Section 9 authorizes the FCC to assess and to collect annual regulatory fees to recover costs incurred in carrying out its enforcement, policy, and rulemaking activities and its user information services.
 - (b) Licensees and permittees may request a waiver of those fees.
 - (1) Submission of information in support of requests for waiver of regulatory and application fees collected under 47 U.S.C. 159 is predicated on allegations of financial hardship.
 - (2) The Commission receives a number of requests for waiver based on grounds of financial hardship, but often these requests have lacked sufficient documentation to support a finding that a waiver should be granted.
 - (3) As a result and in order to give guidance to parties requesting waivers, the FCC, in its ruling on *Petitions for Reconsideration* in the FY 1994 fee proceeding, MD Docket No. 94-19, set forth in 47 CFR § 1.1166 the types of documentation the Commission will rely on to determine if waivers should be granted because of financial hardship,
 - (4) Where parties have filed insufficient information with their waiver requests the Commission will afford them an opportunity to perfect their waiver requests by making the showing set forth in the attached order.
 - (c) The Commission modified this information collection to include Section 8 waiver requests.
 - (1) Section 8 authorizes the FCC to assess and collect annual application fees. This amendment is required under 47 CFR § 1.1117.
 - (2) The Commission also adopted and released a *Report and Order*, MD Docket No. 01-76, on July 2, 2001, which modified sections 47 CFR § 1.1117 and § 1.1166, which outlined the procedure for a respondent to request a waiver, reduction, or deferral of such fees:
 - (a) All such filings within the scope of the fee rules shall be filed as a separate pleading and clearly marked to the attention of the Managing Director.
 - (b) Any such request that is not filed as a separate pleading will not be considered by the Commission.

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- (c) Petitions for waiver of a regulatory fee must be accompanied by the required fee and FCC Form 159. Submitted fees will be returned if a waiver is granted.
- (d) Petitions for reduction of a fee must be accompanied by the full fee payment and FCC Form 159. Payment may be omitted if the submission includes a petition to defer payment due to financial hardship and accompanied by supporting documentation demonstrating such hardship.

This information collection does not address any private matters of a sensitive nature, nor are “individuals” included as one of the respondent groups, which is limited to “businesses and other for-profit” entities. There is, therefore, no need for a Privacy Impact Assessment.

Statutory authority for this collection of information is contained in 47 U.S.C. § 159.

2. The Commission will use the information to determine if a respondent is entitled to waiver of its obligation to pay the annual regulatory fee. The request will be filed but only by those parties who request waivers of their obligations to pay the fee because of financial hardship.
3. The use of information technology is not feasible in this instance.
4. The information that respondents must submit is not available elsewhere in the FCC's records, nor is it submitted to other agencies. There are 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, regardless of size.
 - (a) The collection will have minimal impact on all respondents.
 - (b) There will be approximately 160 requests for Section 9 waivers per year and 80 requests for Section 8 waivers.
 - (c) The information submitted will consist of records ordinarily maintained by the petitioners for business purposes.
6. If the collection were not conducted, the FCC would not have a reliable method for determining if a respondent's annual regulatory or application fees should be waived because of financial hardship.
7. The collection does not contain special circumstances. This collection of information is consistent with the guidelines of 5 CFR § 1320.6.
8. The Commission published a notice in the *Federal Register* on to begin the 60-day comment was initiated on March 7, 2007 (72 FR 10214). No public comments were received in response to the notice.
9. Respondents will not receive any payments.
10. Parties filing information may request that the information be withheld from disclosure. Requests for confidentiality are processed in accordance with FCC rules under 47 CFR § 0.459. Act of 1974, as amended.

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11. This information collection does not, generally, address any private matters of a sensitive nature nor are “individuals” included in the respondent groups.

12. The Commission receives approximately 240 waivers annually for waivers of regulatory fees.

The Commission estimates that respondents will take approximately 1 hour to assemble, duplicate and mail the information to the Commission.

The Commission believes that respondents filing these waiver requests have this information readily available so that this process is relatively easy for them.

This estimate is based on our prior experience with comparable submissions.

Total number of respondents annually: 240 respondents

Total number of responses annually: 240 responses

240 respondents x 1 response/annum = 240 responses

240 waivers x 1 hour/response = **240 total annual burden hours**

The Commission estimates that respondents will use their “in house” administrative assistant staff to assemble, duplicate, and mail the request for the fee waiver.

(a) Cost for an administrative clerical employee for 1 hour to prepare the submission is equivalent to the per hour salary of a GS-9, Step 5 (\$25.09) employee in the Federal Government.

(c) Total “In House” Cost is:

240 respondents x 1 response/annum x 1 hour/response x \$25.09 = **\$6,020.77**.

13. Annual reporting and recordkeeping cost burden:

(a) Total annualized capital/startup costs: **\$0.00**

(b) Total annual costs (O&M): **\$0.00**

(c) Total annualized cost requested: **\$0.00**

14. Cost to the Federal Government:

(a) Each submission will be opened, time stamped, and distributed to the appropriate office by a GS-2, Step 5 (\$11.69/hour) mail clerk, which requires 0.5 hours per submission:

240 submissions x 0.5 hours/submission x \$11.69/hour = \$1,403.37

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- (b) A GS-5, Step 5 (\$16.56/hour) secretary logs each submission, distributes it to the working attorney or accountant, obtains the appropriate signatures, duplicates and mails the response, and files and distributes copies of the response, which requires 1.0 hours:

$$240 \text{ submissions} \times 1.0 \text{ hours/submission} \times \$16.56/\text{hour} = \$3,973.50$$

- (c) Each submission is reviewed and a ruling is drafted by a GS-14, Step 5 (\$51.12) attorney or accountant, which requires 3.0 hours:

$$240 \text{ submissions} \times 3.0 \text{ hours/submission} \times \$51.12/\text{hour} = \$36,806.88$$

- (d) This draft ruling is reviewed by a GS-15, Step 5 (\$60.13/hour) Assistant General Counsel, and it is then sent to the Office of Managing Director, which requires 1.0 hours:

$$240 \text{ submissions} \times 1.0 \text{ hours/submission} \times \$60.13/\text{hour} = \$14,432.08$$

- (e) A GS-15, Step 10 (\$68.98/hour) Deputy Managing Director then reviews the ruling one last time, which requires 1.0 hours:

$$240 \text{ submissions} \times 1.0 \text{ hours/submission} \times \$68.98/\text{hour} = \$16,554.35$$

- (f) The GS-15, Step 10 (\$68.98/hour) Associate Managing Director signs the ruling, which requires 0.25 hours:

$$240 \text{ submissions} \times 0.25 \text{ hours/submission} \times \$68.98/\text{hour} = \$4,138.59$$

Total Cost to the Federal Government to process 240 annual submissions is:

$$\$1,403.37 + \$3,973.50 + \$36,806.88 + \$14,432.08 + \$16,554.35 + 4,138.59 = \mathbf{\$83,329.53}$$

15. The Commission has made several “nonsubstantive changes” as follows:

- (a) Determined that the costs to respondents are solely “in house” costs—we believe that it is not necessary for respondents to contract out this responsibility;
- (b) Updated the estimated per hourly costs to be in line with the current GS salary schedule;
- (c) Determined that the respondents are limited to “businesses and other for-profit” entities, *e.g.*, any “individuals” would be those working in their “entrepreneurial capacity;” and
- (d) Determined that the annual reporting requirements are solely “on occasion,” and there are no recordkeeping requirements.

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

17. The Commission is not seeking approval not to display the expiration date for OMB approval of this information collection.

18. The Commission notes the following changes since publication of the 60 day notice in the *Federal Register*:

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- (a) There is no recordkeeping requirement;
- (b) The respondent groups erroneously included “individuals,” but such respondents are acting in their “entrepreneurial capacity” and should have been included in those respondents classified as “business and other for profit” entities;
- (c) The annual reporting requirement is limited to “on occasion;” and
- (d) The total number of respondents and total number of responses was reported in error—there are 240 respondents and 240 responses.

There are no other exceptions to the Certification Statement in Item 19.

B. Collections of Information Employing Statistical Methods:

This information collection does not employ any statistical methods.