

**Title: Section 76.911, Petition for Reconsideration of Certification**

**SUPPORTING STATEMENT**

**A. Justification:**

1. 47 CFR 76.911(a) states a cable operator, or other interested party, may challenge a franchising authority's certification by filing a petition for reconsideration. The petition may allege either of the following:

(1) The cable operator is not subject to rate regulation because effective competition exists as defined in 47 CFR 76.905.

(2) The franchising authority does not meet the certification standards set forth in 47 U.S.C. 543(a)(3).

47 CFR 76.911(b)(2) states a petitioner filing pursuant to 47 CFR 76.911(a)(2) that the petitioner may request a stay of rate regulation.

As noted on the 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 of information is contained in Sections 4(i) and 623 of the Communications Act of 1934, as amended.

2. Commission staff use the information derived from petitions for reconsideration of certification to resolve disputes concerning the presence or absence of effective competition in franchise areas and to determine whether there are grounds for denying franchising authority certifications to regulate rates.

3. We do not believe that the use of information technology is feasible in this situation.

4. The agency does not impose similar information collection requirements on the respondents. There are no similar data available.

5. This collection of information does not have a significant impact on a substantial number of small businesses/small entities.

6. If the information was not collected, it may not be possible in many instances to rebut the presumption that a cable system is not subject to effective competition. This could possibly result in rates being regulated in franchise areas subject to effective competition, in contravention of the 1992 Cable Act.

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7. Section 76.911(b)(2) states that competing video programming providers are required to respond to cable operators' requests within 15 days. This expedited time frame is needed to help prevent delays to entities that challenge a franchising authority's certification by means of a petition for reconsideration. The 15-day period ensures as expeditiously as possible that cable systems that are subject to effective competition are not improperly subjected to rate regulation.

8. The Commission published a Notice (72 FR 24305) in the *Federal Register* on May 2, 2007. No comments were generated as a result of the Notice.

9. There are no gifts or payments given to respondents for complying with this information collection requirement.

10. There is no need for confidentiality.

11. Section 76.911 does not address any private matters of a sensitive nature.

12. We estimate that cable operators and other entities will annually initiate no more than 10 petitions for reconsideration of certification. We estimate that the average burden to complete all aspects of each petition process is 10 hours for each petitioning party and responding party.

We estimate that no more than 5 cable operators may, if evidence establishing effective competition is not otherwise available, need to request from a competitor, information regarding the competitor's reach and number of subscribers. The burden associated with supplying this information is estimated to be 2 hours per request.

<b>Total Number of Annual Respondents:</b>	10 petitioners
	10 responding parties
	<u>5 competitor operators</u>
	<b>25 respondents</b>

<b>Total Number of Annual Responses:</b>	10 petitions
	10 responses to petitions
	5 competitor requests from cable operators
	<u>5 responses to requests from competitors</u>
	<b>30 responses</b>

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**Total annual burden hours:**

$$\begin{aligned} 10 \text{ petitions} \times 2 \text{ parties each}^1 \times 10 \text{ hours/party} &= 200 \text{ hours} \\ 5 \text{ occurrences} \times 2 \text{ parties each}^2 \times 2 \text{ hours/party} &= \underline{20 \text{ hours}} \\ &= \mathbf{220 \text{ hours}} \end{aligned}$$

**Total "In-house" Cost:** We estimate that in-house attorneys paid at an average hourly wage of \$100.00 per hour will implement this information collection.

$$\begin{aligned} 10 \text{ petitions} \times 2 \text{ parties each}^3 \times 10 \text{ hours/party} \times \$100/\text{hour} &= \$20,000 \\ 5 \text{ occurrences} \times 2 \text{ parties each}^4 \times 2 \text{ hours/party} \times \$100/\text{hour} &= \underline{\$ 2,000} \\ &= \mathbf{\$22,000} \end{aligned}$$

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

**13. Annual Cost Burden:**

- (a) Total annualized capital/startup costs: None
- (b) Total annual costs (O&M): None
- (c) Total annualized cost requested: **None**

14. Cost to the Federal Government. Petitions for reconsideration of certification estimated to be filed under 47 CFR Section 76.911: 20 per year

Hours	Cost	Cost	Cases	Total
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1 There is a petitioning party and a responding party.  
2 There is a party requesting information and a party responding to the request.  
3 There is a petitioning party and a responding party.  
4 There is a party requesting information and a party responding to the request.

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	p/Case	p/Hour	p/Case		Cost
Professional	38 hours	\$43.12	\$1,638.56	20	\$32,771.20
Managerial	1 hour	\$50.95	\$ 50.95	20	\$ 1,019.00
Clerical	1 hour	\$20.44	\$ 20.44	20	<u>\$ 408.80</u>
<b>Total Cost to the Federal Government:</b>					
					\$34,199.00

15. The Commission reevaluated its calculation of the total annual burden hours for this collection and as a result there is an adjustment to the annual burden hours. There are no program changes to this information collection.

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. The Commission omitted from its 60 day Federal Register Notice (72 FR 24305) the following frequency of responses: third party disclosure requirement and annual reporting requirement. Also, the Commission corrects the total annual burden hours to read as “220 hours” instead of “210 hours.” Lastly, the estimated time per response is “2 – 10 hours” instead of “10 – 12 hours.” There are no other exceptions to the Certification Statement in Item 19.

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

No statistical methods are employed.