3060-0779
August 2007

SUPPORTING STATEMENT

A. Justification:

The Commission is seeking a revision of this information collection. We are submitting this collection to the OMB in order to obtain the full three year clearance. The number of respondents/responses, burden hours and annual costs have been significantly reduced because some of the rules in this collection are no longer applicable because some Phase I licenses are no longer issued. In other respects, some areas of this collection are nil pending the potential influx of re-auctioned licensees.

1. On March 12, 1997, the Federal Communications Commission (Commission) released a Third Report and Order (3rd R&O) which adopted rules to govern the future operation and licensing of the 220-222 MHz band (220 MHz service). In establishing this licensing plan, the Commission established a flexible regulatory framework allowing for efficient licensing of the 220 MHz service, eliminating unnecessary regulatory burdens, and enhancing the competitive potential of the 220 MHz service in the mobile service marketplace. In the 3rd R&O, and throughout this supporting statement, licenses granted pursuant to the regulatory framework adopted in 1997 are referred to as Phase II licenses, and licenses granted under the rules that existed prior to the adoption of the 3rd R&O are referred to as Phase I licenses.

   On August 4, 1998, the Commission adopted a Fifth Report and Order (5th R&O) which amended Part 90 of its Rules to adopt geographic partitioning and spectrum disaggregation rules for the 220-222 MHz service (63 FR 49291). These rules are amended to allow the 220 MHz service the competitive benefits achieved by allowing licensees to partition and disaggregate. By amending these rules, the Commission created a more efficient use of spectrum, and increased opportunities for a variety of entities to participate in the provision of 220 MHz service and expedite delivery of service to unserved areas. Although the Commission modified the 220-222 MHz band service rules in the 5th R&O, the modification did not contain any new or modified information collection requirements. Therefore, the information collections referenced in the item are contained in information collections previously approved by the Office of Management and Budget under the Paperwork Reduction Act.

   In October, 1998, the Commission completed auction # 18, and awarded 908 licenses in the 220 MHz service. In June 1999, the Commission completed auction # 24, in which 16 bidders won 222 licenses that had either not been won at auction in # 18 or for which the prior licensee had defaulted. Further, in January, 2002, the Commission re-auctioned 2 EA and 2 REAG 220 MHz licenses. On June 20, 2007, the Commission will commence auction # 72, thereby making available for licensing 93 Economic Areas and 1 Economic Area Grouping. There are currently six entities interested in participating in auction # 72.

In addition to filing a completed FCC Form 601, applicants for the five channels (channels 181-185) in the 220 MHz service restricted to eligible entities for emergency medical use (EMRS), if not the governmental body with jurisdiction over the state's emergency medical service plan, must obtain from the governmental body having jurisdiction over the state emergency plan a statement indicating that the applicant is included in the state's emergency plan or a statement otherwise supporting the application.

The 3rd R&O requires six Regional licensees operating on Assignment J (Channels 186-200) to operate stations on Channels 196-200 at power levels no greater than 2 watts ERP and at antenna heights above average terrain of no greater than 20 feet. However, to provide those six Regional licensees with maximum flexibility, the Commission permits them to operate at levels exceeding these power and height restrictions if they obtain the written concurrence of all Phase I and Phase II licensees operating base stations on Channels 1-40 within 6 km of the base stations of the Regional licensees.

Phase II applicants operating geophysical telemetry systems are allowed to obtain secondary authorizations to operate fixed stations on a non-interference basis to both Phase I and Phase II licensees authorized on a primary basis. Although secondary licensees are required to notify any co-channel primary licensees authorized in their area of their operation of the location of their secondary facilities, there are currently no secondary licensees operating geophysical telemetry systems. Hence, there are no secondary licensees, at this time, that are required to meet this burden.

Phase II licensees implementing nationwide land mobile or paging systems are required to meet construction "benchmarks" or requirements. Licensees must meet these benchmarks within five and ten years of the initial license grant. Licensees implementing fixed systems are required to meet a "substantial service" requirement within five and ten years of the initial license grant. To comply with these construction and substantial service requirements, licensees must submit maps and other supporting documents to demonstrate compliance with their five- and ten-year benchmarks. Phase II Regional and Economic Area (EA) licensees implementing land mobile, fixed or paging systems must comply with similar construction or substantial service requirements, and therefore must also provide maps and other supporting documents to demonstrate compliance with the five- and ten-year benchmarks. Failure by nationwide, EA, or Regional licensees to meet either the five- or ten-year construction requirement will result in automatic cancellation of licensees authorizations.

Phase II licensees will not be allowed to construct their stations less than 120 km from constructed and operating Phase I, co-channel stations, unless such Phase II licensees submit a technical analysis demonstrating that the predicted 28 dBu V/m interfering contour of their base station does not overlap the predicted 38 dBu V/m service contour of the Phase I licensee's station. Phase II licensees may locate their

stations less than 120 km from existing co-channels or provide less than 10 dB protection to an existing co-channel's station's predicted 38 dBu V/m contour if the Phase II licensee obtains the written consent of the affected co-channel licensee.

The 3rd R&O permits Phase II licensees operating in adjacent EAs or Regions to transmit up to a predicted 38 dBu signal at their border. Such licensees may exceed this limit if all affected, co-channel EA and Regional licensees agree to higher field strength.

Finally, the 3rd R&O provides that Phase I and Phase II licensees that seek to renew their authorizations at the end of their license terms will be required to demonstrate in their renewal applications that they have provided substantial service during their license term, and will be required to submit a showing explaining why they should receive a renewal expectancy.

As noted on the Form OMB 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), 303(g), 303(r), and 332(a) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(g), 303(r), 332(a).

2. The various information reporting and verification requirements, and the requirement that licensees coordinate and provide written consent, concurrence or agreement with other licensees, will be used by the Commission to verify licensee compliance with Commission rules and regulations and to ensure that licensees continue to fulfill their statutory responsibilities in accordance with the Communications Act of 1934, as amended. Such information has been used in the past and will continue to be used to minimize interference, verify that applicants are legally, technically, and financially qualified to hold licenses, and to determine compliance with Commission Rules.

3. The Commission's Wireless Telecommunications Bureau conducts an analysis to ensure that improved information technology cannot be used to reduce the burden on the public. This analysis considers the possibility of obtaining and/or computer-generating the required data from existing data bases in the Commission or other Federal agencies.

4. The Commission does not impose a similar information collection on the respondents. 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, regardless of size. For example, the Commission recognized that a number of non-nationwide Phase I licensees have acquired several site-specific licenses that create a contiguous, compatible, interconnected system. Instead of limiting partitioning through regulation, the Commission, in its Fourth Report and Order in this docket, eliminated

the forty-mile restriction rule, thereby letting the marketplace determine whether partitioning is economically or technologically feasible.

6. The respondents will determine whether or not they wish to request a partitioned license or disaggregated spectrum. Thus, the frequency of filing is determined by the respondents' decision to act or not.

7. No special circumstances exist.

8. This is a request to extend this currently approved collection. The Commission has met the notice requirements of 5 C.F.R. § 1320.8. The public has been given the opportunity to comment via publication of the Notice in the Federal Register on June 20, 2007 (72 FR 34012). No comments were filed. A copy of the notice is included in the submission to the OMB.

9. Respondents will not receive any payments.

10. There is no need for confidentiality.

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

12. Cost to the respondent:

a. According to the Commission's Universal Licensing System (ULS) database, there are approximately 5 licensees for Emergency Medical Use/Public Safety channels who, pursuant to Section 90.20(a), are required at the time of initial licensing to provide documentation from governmental bodies with jurisdiction over state emergency plans supporting the appropriateness of their applications. We anticipate receiving approximately 2 applications per year for these channels. Obtaining such documentation will be a one-time burden and should take each of the applicants about 2 hours per license, to meet this requirement. The cost involved with obtaining and submitting documentation for these 2 EMRS applications will be $10 per hour.

2 (applicants) x 2 hrs. = **4 hours**

b. In addition, the Commission anticipates that burden on state governmental bodies in processing these 2 requests and providing the supporting documentation will be about 2 hours per request, for a total of 4 hours.

2 (state governmental bodies) x 2 hrs. = **4 hours**

c. The Commission estimated that approximately 2 nationwide Phase II licensees would operate land mobile or paging systems and therefore, pursuant to Section 90.769, would be required to comport with the five and ten-year construction requirements. Since the last collection, the Commission has received 3 filings from nationwide Phase II licensees in compliance with the five year burden and these

licensees remain subject to the ten year filing requirements. The Commission estimates that these documents, which would be prepared and submitted by a staff engineer at $28/hr., would take approximately 10 hours per submission, for a total of 30 burden hours.

3 (Phase II respondents) x 10 hrs. (engineer) = **30 hours**

d. The Commission estimates that approximately 175 EA licensees (licensed for approximately 800 EA authorizations) and 16 Regional Phase II licensees (licensed for 36 REAG authorizations) will operate "land mobile or paging systems", pursuant to Section 90.767, and are therefore required to comport with the five- and ten-year construction requirements of that rule. The Commission estimates that 25% of both the EA licensees (44), and the Regional licensees (4) totaling 48, will use staff engineers to prepare these documents. Therefore, 131 EA licensees and 12 Regional Phase II licensees (75%) totaling 143 licensees will contract out this burden. This will take approximately 15 hours per submission, for a total of 2,145 burden hours. Further, the act of contract out the workload would require that licensees coordinate with contract engineers, thus entailing approximately 5 hours additional time required, per submission, for a total of 715 burden hours. The total burden hours for these licensees are therefore 5,720 burden hours.

[143 (respondents) x 15 hrs. (contract engineers) = x 2 (5&10 yr benchmarks)] + [143 (respondents) x 5 hrs. (coordination) x 2 (5 & 10 yr benchmark)] = **5,720 hours**

e. The Commission estimates that approximately 175 EA and 16 Regional licensees, pursuant to Section 90.763(b)(1)(i)(a), will choose to locate approximately 5 of their base stations less than 120 km from the base stations of co-channel Phase I licensees, by submitting a technical analysis. The Commission estimates that 25% of both the EA licensees (44), and the Regional licensees (4) totaling 48 licensees, will use staff engineers to prepare this technical analysis. Therefore, 131 EA licenses and 12 Regional licensees (75%) totaling 143 licensees will contract out this burden. This will take approximately 20 hours per base station, for a total of 2,860 burden hours. Further, these 143 licensees will need an additional 5 hours, per submission to coordinate this data with the contract engineers, for a total of 715 burden hours.

[143 (respondents) x 20 hrs. (engineer)] + [143 (respondents) x 5 hrs. (coordination)] = **3,575 hours**

f. The Commission estimates that, pursuant to Section 90.763(b)(1)(i)(B), approximately 190 EA and 10 Regional (Phase II) licensees will seek to locate approximately 5 of their base stations less than 120 km from the base stations of co-channel Phase I licensees, or provide less than 10 dB protection to the base stations of co-channel Phase I licensees, by seeking the consent for such operation by one affected Phase I licensee per base station. There will be a total of 200 respondents filing 1,000 responses associated with this burden. Negotiating this consent places

an additional burden on only the Phase II licensee, resulting in an additional one-time burden of 8 hours per base station, for a total of 8,000 burden hours.

[200 (respondents) x 5 (base stations)] = 1,000 responses x 8 hrs. (negotiating) = **8,000 hours**

g. The Commission anticipates that approximately 190 EA and 10 Regional licensees will seek to exceed the established field strength limitation, pursuant to Section 90.771(b), by coordinating higher field strength limits with one other EA or Regional licensee, each. This burden on the licensees seeking to exceed the established field strength limitations should take an engineer about 10 hours per coordination, for a total of 2,000 hours.

200 (respondents) x 10 hrs. (coordination) = **2,000 hours**

h. Finally, the Commission anticipates that pursuant to Section 90.743, approx. 175 Phase II licensees will seek to renew approximately 820 Phase II licenses at the end of their license terms. These licensees will be required to demonstrate in their renewal applications that they have provided substantial service during their license term, and will be required to submit a showing explaining why they should receive renewal expectancy. We estimate that licenses will use staff engineers to prepare this documentation. This will take approximately 5 hours per license (call sign), for a total of 4,100 burden hours.

820 (respondents) x 5 hrs. (engineer) = **4,100 hours**

Total Burden to the Respondents:

a.	Documentation burden for 2 EMRS applicants	= 4 hrs.
b.	Supporting documentation from governmental entities with EMRS jurisdiction	= 4 hrs.
c.	Construction benchmark documentation for 2 nationwide, Phase II land mobile or paging system licensees (5 and 10 yrs after initial grant)	= 30 hrs.
d.	Construction benchmark documentation for EA and Regional Phase II land mobile or paging system licensees (5 and 10 yrs after initial license grant)	= 5,720 hrs.
e.	Technical analysis burden on EA and Regional licensees	= 3,575 hrs.
f.	Consent obtained by EA and Regional licensees to locate stations less than required distance from Phase I licensees' stations	= 8,000 hrs.
g.	Coordination among EA and Regional licensees to exceed established field strength	= 2,000 hrs.
h.	License renewal documentation	= 4,100 hrs.
		23,433 hours

THE TOTAL NUMBER OF RESPONDENTS IS: 2,313.

TOTAL HOUR BURDEN IS: 23,433 hours.

13. Cost to the Respondents: The Commission estimates the following in-house staff costs to applicants affected by this collection on its knowledge of the respondents providing this information.

    c. 3 respondents x 10 hrs. x $28/hr. (engineer) = $840

    d. 143 respondents x 20 hrs. x $28/hr. (engineer) = $80,080

    f. 200 respondents x 8 hrs. x $28/hr. (engineer) = $44,800

    g. 200 respondents x 10 hrs. x $28/hr. (engineer) = $56,000

    h. 820 respondents x 5 hrs. x $28/hr. (engineer) = $114,800

    The outside contracting cost estimates are as follows:

    a. 2 respondents x 2 hrs. x $200/hr. (attorney) = $800

    b. 2 respondents x 2 hrs. x $200/hr. (attorney) = $800

    e. 143 respondents x 20 hrs. x $150/hr. (engineer) = $429,000

    Total outside contracting costs: $800 + $800 + $429,000 = **$430,600**

TOTAL COST BURDEN IS: $430,600.

14. Cost to the Federal Government is estimated as follows:

    It should take a Legal Instrument Examiner performing at the GS-7/5 level, earning $19/hr., approximately ½ hour per submission, to review the EMRS documentation.

    4 (applications) x .5 mins. x $19/hr. (examiner) = $38.00

    It should take an engineer at the GS-11/5 level earning $28/hr., approximately ½ hour per submission, to review the various construction/substantial service benchmark documents, per response as noted in 12d, above.

    3 (respondents) x .5 mins. x $28/hr. (engineer) = $42.00

    Engineers will no longer be needed to review construction schedule revisions, financial recertifications or revisions (see 12e above) due to the fact that the Commission no longer issue Phase I authorizations.

It should take an engineer at the GS-11/5 level earning $28/hr., approximately ½ hour per submission, to review technically analyzed data. (See 12f, above.).

143 (respondents) x .5 mins. x $28/hr. (engineer) = $2,002.00

It should take an engineer at the GS-11/5 level earning $28/hr., approximately 5 minutes per submission, to review consent statements of Phase II licensees who seek to locate stations less than the required distance from Phase I licensees' stations (see 12g above).

1,000 (respondents) x .085 mins. x $28/hr. (engineer) = $2,380.00

No Commission action required for element 12h pursuant to § 90.771.

It should take an Engineer at the GS-11/5 level earning $28/hr., approximately ½ hour per submission, to review documentation associated with renewal applications (see 12i above).

820 (respondents) x .5 mins. x $28/hr. (engineer) = $11,480.00

TOTAL COST TO THE FEDERAL GOVERNMENT IS: $15,904.00

15. This is a program change of -11,816 burden hours and -567,400 in burden costs, because some rules are no longer applicable because Phase I licenses are no longer issued. In other respects, some areas of this collection are nil pending the potential influx of re-auctioned licensees.

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

17. No expiration date will be displayed because the requirements are contained in FCC rules. The Commission publishes the OMB Control Number, OMB Expiration Date and titles of the OMB-approved information collections in 47 CFR 0.408.

18. There is one exception to Item 19. When the Commission published the 60 day notice, we incorrectly reported the annual cost estimate at $657,500. Upon further review and re-calculation, the cost has been determined to be $430,600.

B. <u>Collections of Information Employing Statistical Methods:</u>

No statistical methods are employed.