

SUPPORTING STATEMENT

A. Justification:

1. FCC Form 854 is to be used to register structures used for wire or radio communication service in any area where radio services are regulated by the Commission; to make changes to existing registered structures or pending applications; or to notify the Commission of the completion of construction or dismantlement of structures, as required by Title 47 of the Code of Federal Regulations, Chapter 1, Part 17 (FCC Rules Part 17).

Section 303(q) of the Communications Act of 1934, as amended, requires the Commission to require the painting and/or illumination of radio towers in cases where there is a reasonable possibility that an antenna structure may cause a hazard to air navigation. In 1992, Congress amended Sections 303(q) and 503(b)(5) of the Communications Act: 1) to make antenna structure owners, as well as Commission licensee's and permittee's responsible for the painting and lighting of antenna structures, and 2) to provide that non-license antenna structure owners may be subject to forfeiture for violations of painting or lighting requirements as specified by the Commission.

Currently, each antenna structure owner proposing to construct or alter an antenna structure that is more than 60.96 meters (200 feet) in height, or that may interfere with the approach or departure space of a nearby airport runway must notify the Federal Aviation Administration (FAA) of proposed construction. The FAA determines whether the antenna structure constitutes a potential hazard, and may recommend appropriate painting and lighting for the structure. The Commission then uses the FAA's recommendation to impose specific painting and/or lighting requirements on subject licensees.

In a Report and Order released on November 30, 1995, WT Docket No. 95-5, the Commission adopted rules to streamline the Commission's antenna structure clearance process and to decrease the number of redundant filings. The previous procedures were replaced with a uniform registration procedure that applied to antenna structure owners. Requiring owners, rather than tenant licensees, to register and notify the Commission concerning changes to the antenna structures (1) reduces certain filings by a factor of 12 to 1, (2) eliminates thousands of duplicative notifications from licensees each year, and (3) reduces administrative burdens for 900,000 licensees nationwide. Registering antenna structures reduces economic and administrative burdens on the public and the Commission. When a structure owner for one reason or another does not register a structure, it then becomes the responsibility of the tenant licensees to ensure that the structure gets registered.

The Wireless Telecommunications Bureau is requesting an extension of the FCC Form 854. However, we are adjusting the annual reporting and recordkeeping cost burden because we estimate that fewer respondents are using outside law firms to perform the reporting, recordkeeping and third party disclosure requirements (see item 15 of this supporting statement).

This information collection contains personally identifiable information on individuals (PII).

- (a) The FCC maintains a system of records notice (SORN), FCC/WTB-1, "Wireless Services Licensing Records," covers the collection, purpose(s), storage, safeguards, and disposal of the

PII that individuals FCC Form 854.

(b) The FCC published this SOR on April 5, 2006 (71 FR 17234, 17253).

Going forward, if the FCC makes substantive changes to the Wireless Services Licensing Records, the Commission will conduct a full Privacy Impact Assessment of FCC/WTB-1 SORN covered by FCC/WTB-1, update this SORN, publish a Notice in the *Federal Register*, and post it on the FCC webpage, as required by OMB Memorandum M-03-22 (September 22, 2003).

2. One of the Commission's primary responsibilities is to ensure that antenna structures do not pose a threat to air safety. The information will be used by the Commission to maintain a current registration database which increases air safety by allowing the FAA and the Commission to identify potential hazards.

For third party disclosure requirements, we estimate that each structure owner will spend approximately one hour complying with the requirement of providing a copy of the FCC 854R (the registration received after FCC Form 854 is filed) to each tenant licensee and permittee. The registration number must be displayed in a conspicuous place so that it is readily visible near the base of the antenna structure. There is no additional time burden placed on the respondent for these third party requirements. Again, information about individuals or households, and the use(s) and disclosure of this information is governed by the requirements of system of records, FCC/WTB-1. All information within the Antenna Structure Registration (ASR) is publicly available except materials which are afforded confidential treatment under 47 CFR 0.459 if provided.

3. The Commission has implemented electronic filing of FCC Form 854. This has allowed the Commission to eliminate the registration backlog since it permits owners to register immediately upon receipt of an FAA "no hazard" determination for the antenna structure. The electronic filing capability also enables the owner to register the structure with the Commission and receive a registration number within minutes. Approximately 99.9% of the antenna structure owners are filing electronically. By providing this electronic filing option, we satisfy the public concerns regarding speed of service, while registering antenna structures in a timely manner.
4. This agency does not impose a similar information collection on the respondents. 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. The Commission has limited the information requirements to those absolutely necessary for evaluating and processing each application and to deter against possible abuses of the processes.
6. The frequency of filing is determined by the structure owners who need only notify the Commission of a new antenna structure, when modifying or dismantling an existing structure, or when changing ownership of antenna structures. No renewal of the registration is required. There is little benefit in mandating a renewal process for tens of thousands of owners, when only a small percentage will need to update registration information in the next 5 or 10 years. For ULS, structure owners may also notify the Commission of an amendment to a pending application for antenna structure registration,

cancel a registered structure, request a duplicate of an antenna structure registration or withdraw a pending application for antenna structure registration, all by filing FCC Form 854.

7. This collection of information is consistent with the guidelines in 5 CFR § 1320.6.
8. The Commission published a notice in the *Federal Register* on June 4, 2008 (FR Vol. 73, Page 31870). One comment was received on August 4th from AT&T Inc., suggesting that the Commission should convert to a process whereby Form 854 filing confirmations and the Official Copy of Form 854R would be provided by the Commission only in electronic form. The Commission will seek public comment on this proposal in the same rulemaking notice in which it intends to address a pending petition for various changes to Part 17 (RM 11349) as well as other matters raised by parties in the 2004 and 2006 Biennial Regulatory Reviews. Public comment is necessary to determine, among other things, what impact this proposal would have on small business entities, Indian Tribes, and local public safety entities that may own towers and thus use Form 854. No other comments were received as a result of the notice. A copy of the *Federal Register* Notice is referenced in this submission to the OMB.
9. Respondents will not receive any payments.
10. Respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR §0.459 of the FCC rules.

Information on the FCC Form 854 is maintained in the Commission's system of records, FCC/WTB-1, "Wireless Services Licensing Records." These licensee records are publicly available and routinely used in accordance with subsection b. of the Privacy Act, 5 U.S.C. 552a(b), as amended. TIN Numbers and material that is afforded confidential treatment pursuant to a request made under 47 CFR §0.459 will not be available for public inspection.

The Commission has in place the following policy and procedures for records retention and disposal: Records will be actively maintained as long as the individual remains a tower owner. Paper records will be archived after being keyed or scanned into the system. Electronic records will be backed up on tape. Electronic and paper records will be maintained for at least twelve years.

11. There are no requests of a sensitive nature considered or those considered a private matter being sought from the applicants on this collection.
12. The Commission estimates that respondents (antenna structure owners) will file 4,500 FCC Form 854 applications annually and that the *average* burden per respondent is 30 minutes (0.5 hours). This estimate is based on FCC staff's knowledge and familiarity with the availability of the data required. The Commission also suspects that the number of responses will reduce from 9,000 to 4,500 annually as it is rare that a respondent will amend the antenna structure registration within a year after registration is received.

4,500 applications x 30 minutes (0.5 hours) = **2,250 hours**

In addition to filing the required forms, FCC Rule 47 CFR 17.4(f) requires that the structure owner immediately provide a copy of the Antenna Structure Registration to each tenant licensee and

permittee, once received by the FCC. The registration number must be displayed in a conspicuous place so that it is readily visible near the base of the antenna structure pursuant to FCC Rule 47 CFR Section 17.4(g).

We estimate that each antenna structure owner will spend approximately one hour complying with this third party disclosure requirement.

$$4,500 \times 1 \text{ hour} = 4,500 \text{ hours}$$

Total Annual Burden: ~~Hours:~~ $2,250 + 4,500 = \mathbf{6,750 \text{ hours}}$.

We estimate that 90% of the respondents will complete the form themselves with no additional assistance and that 10% will contract out completing the form to a law firm. Assuming that 90% of the respondents use personnel comparable in pay to a mid to senior level federal employee to prepare the collection, we estimate the cost to be about \$35 per hour per filing or approximately \$17 per filing.

$$450 \text{ applications} \times 30 \text{ minutes (0.5 hours)} = 225 \text{ hours}$$
$$225 \text{ hours @ } \$35 \text{ hour} = \$7,875.$$

10% will contract out completing the form to a law firm and will spend approximately 30 minutes coordinating this information.

We anticipate structure owners will utilize clerical staff to comply with the third party disclosure requirement. The burden of photocopying and mailing the information is approximately 1 hour per respondent at \$7 per hour.

$$450 \times \$7 = \$3,150.$$

Total in-house cost to the respondents = \$11,025

13. Cost to the Respondent:

We estimate the start up costs for the third party disclosure requirements are as follows:

There are, on average, 12 tenant licensee's/permittee's on each antenna structure.
Photocopying costs for 12 copies @ \$.15 each = \$1.80
Frame for posting registration number on structure = \$10.00

Cost for the Third Party Disclosure: $11.80 \times 4,500 = \mathbf{\$53,100}$

We estimate that 10% of the respondents will contract out the completion of the form to a law firm at the approximate cost of \$200 per hour.

$$450 \text{ respondents} \times 30 \text{ minutes (0.5 hours)} \times \$200 \text{ per hour} = \$45,000$$

Total Respondent Costs: $\$53,100 + \$45,000 = \$98,100$ (Rounded to \$98,000)

14. Cost to the Federal Government:

FCC Form 854 applications estimated to be filed: 5 (99.9% of 4,500 respondents file electronically)

The applications filed manually will be data entered by a contractor @ \$34.08 per hour.
5 applications x 5 minutes (.084) each @ \$34.08 per hour = \$14.31.

Sub-Total	\$14.31
Overhead Costs (25%)	\$3.58

TOTAL Cost to the Federal Government: \$51.23

15. There are no program changes, only adjustments reported in this collection. Since the last submission, we estimate that the number of respondents utilizing law firms has reduced from 25% to 10%, lowering the annual reporting and recordkeeping cost burden. Also, the number of annual responses is reduced from 9,000 to 4,500 assuming the antenna structure registration is not amended within one year of issuance.

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

17. The Commission is requesting a continued waiver from displaying the OMB expiration date on the FCC Form 854. Granting this waiver will prevent the Commission from having to update computer versions and thus reduce waste. All OMB-approved information collections are published in 47 CFR 0.408. This section includes the OMB control number, title of the collection and the OMB expiration date.

18. There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods:

This information collection does not use any statistical methods.