

Application for Construction Permit for Commercial Broadcast Station, FCC Form 301

SUPPORTING STATEMENT**A. Justification:**

1. FCC Form 301 is used to apply for authority to construct a new commercial AM, FM, or TV broadcast station, to make changes in existing facilities of such a station, and may be used to request a change of a station's community of license by AM and non-reserved band FM permittees and licensees. In addition, FM licensees or permittees may request, by filing an application on FCC Form 301, upgrades on adjacent and co-channels, modifications to adjacent channels of the same class, and downgrades to adjacent channels. All applicants using this one-step process must demonstrate that a suitable site exists which would comply with allotment standards with respect to minimum distance separation and principal community coverage and which would be suitable for tower construction. For applicants to seek a community of license change through this one-step process, the proposed facility must be mutually exclusive with the applicant's existing facility, and the new facility must comply with the Commission's standards with respect to minimum distance separation and principal community coverage. Applicants availing themselves of this procedure must also attach to FCC Form 301 an exhibit demonstrating that the proposed community of license change comports with the fair, efficient, and equitable distribution of radio service, pursuant to Section 307(b).

Similarly, to receive authorization for commencement of Digital Television ("DTV") operation, commercial broadcast licensees must file FCC Form 301 for a construction permit. This application may be filed anytime after receiving the initial DTV allotment but must be filed before mid-point in a particular applicant's required construction period. The Commission will consider these applications as minor changes in facilities. Applications will not have to supply full legal or financial qualification information.

This collection also includes the third party disclosure requirement of 47 CFR § 73.3580. This section requires local public notice in a newspaper of general circulation of the filing of all applications for new or major changes in facilities and AM and non-reserved band FM minor change applications to change a station's community of license. This notice must be completed within 30 days of the tendering of the application. This notice must be published at least twice a week for two consecutive weeks in a three-week period. A copy of this notice must be placed in the public inspection file along with the application.

Revised Information Collection Requirements Which Require OMB Approval:

This submission is being made as a revision to an existing information collection pursuant to 44 U.S.C. § 3507. This submission contains (1) the new rule 47 CFR § 73.626, which authorizes the use of distributed transmission system ("DTS") technologies in the digital television ("DTV") service, and (2) the changes to FCC Form 301 that are necessary to accommodate applications for a DTS facility. This revision adds a new requirement to this collection, but note that that this is not a mandatory requirement and only DTV stations choosing to apply for a DTS facility will be impacted by the new requirement.

On November 3, 2008, the Commission adopted a Report and Order, In the Matter of Digital Television Distributed Transmission System Technologies; MB Docket No. 05-312, FCC 08-256 (released Nov. 7, 2008). In this Report and Order, the Commission adopts rules for the use of distributed transmission system ("DTS") technologies in the digital television ("DTV") service. See 47 CFR § 73.626. DTS technology allows stations to employ multiple synchronized transmitters spread around a station's service area, rather than the current single-transmitter approach. Each transmitter would broadcast the station's DTV signal on the same channel, similar to analog TV booster stations but more efficiently. Due to the synchronization of the transmitted signals, DTV receivers should be able to treat the multiple signals as reflections or "ghosts" and use "adaptive equalizer" circuitry to cancel or combine them to produce a single signal.

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Congress has mandated that after February 17, 2009, full-power television broadcast stations must transmit only in digital signals, and may no longer transmit analog signals.¹ Emergency OMB approval is necessary for this collection to allow full power DTV stations to use DTS technologies to meet their statutory responsibilities and begin operations on their final, post-transition (digital) channels² by their construction deadlines. DTS will provide DTV broadcasters with an important tool for providing optimum signal coverage for their viewers. For some broadcasters that are changing channels or transmitting locations for their digital service, DTS may offer the best option for continuing to provide over-the-air service to current analog viewers, as well as for reaching viewers that have historically been unable to receive a good signal due to terrain or other interference.

FCC Form 301 is being revised to accommodate the filing of DTS applications. **(These proposed revisions to FCC Form 301 need OMB approval).**

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 154(i), 303 and 308 of the Communications Act of 1934, as amended.

2. Agency Use of Information: The data is used by FCC staff to determine whether the applicants meet basic statutory requirements to become a Commission licensee/permittee and to assure that the public interest would be served by grant of the application.

3. Consideration Given to Information Technology: The Commission requires applicants to file FCC Form 301 electronically.³

4. Effort to Identify Duplication and Use Similar Information: This agency does not impose a similar information collection on the respondents. There are no similar data available.

5. Effort to Reduce Small Business Burden: In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the burden on all respondents. The Commission is not imposing any adverse economic impact on small entities by this new requirement because it is not mandatory; only stations choosing to apply for a DTS facility will be impacted. Therefore, this information collection will not have a significant economic impact on small entities/businesses.

¹ See Digital Television and Public Safety Act of 2005 (“DTV Act”), which is Title III of the Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4 (2006) (“DRA”) (codified at 47 U.S.C. §§ 309(j)(14) and 337(e)). DTV Act § 3002(a) amends Section 309(j)(14) of the Communications Act to establish February 17, 2009 as a new hard deadline for the end of analog transmissions by full-power TV stations. 47 U.S.C. § 309(j)(14)(A).

² A station’s “post-transition channel” is the television channel that it will use for digital broadcasting after the transition deadline (i.e., February 17, 2009). The Commission proposed channel assignments and reference facilities for stations’ post-transition operations in a 2006 Notice of Proposed Rule Making in MB Docket No. 87-268. See Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, MB Docket No. 87-268, Seventh Further Notice of Proposed Rule Making, 21 FCC Rcd 12100 (2006) (“Seventh FNPRM”). The Seventh FNPRM sets forth a channel for each eligible broadcast TV station in the proposed new DTV Table of Allotments, to be codified at 47 C.F.R. § 73.622(i).

³ On February 2, 2001, the Commission released Public Notice DA 01-283 announcing the mandatory electronic filing of FCC Form 301. Mandatory electronic filing for this form began on February 15, 2001. Paper-filed copies of FCC Form 301 will be accepted only if accompanied by an appropriate request for waiver of the electronic filing requirement. Filers must plead with particularity the facts and circumstances warranting grant of a waiver. Waivers will not be routinely granted.

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6. **Less Frequent Data Collection:** The frequency for filing the DTV station application will vary depending on the market. For all other uses of FCC Form 301, the frequency of filing is determined by the respondents. However, no new or modified AM, FM, TV or DTV facilities can be obtained without using FCC Form 301.

7. **Information Collection Circumstances:** This collection of information is consistent with the guidelines in 5 CFR § 1320.5(d)(2).

8. **Comments Received from the Public:** The Commission is seeking emergency approval for this information collection from OMB. The Commission published a Notice in the Federal Register Notice on December 1, 2008 (*see* 73 FR 72798) seeking public comment on the information collections contained in this supporting statement. No comments have been received from the public.

9. **Payment or Gift:** No payment or gift was provided to respondents.

10. **Confidentiality of Information:** There is no need for confidentiality with this information collection.

11. **Justification for Sensitive Questions:** This information collection does not address any private matters of a sensitive nature.

12. **Estimate of Burden and Burden Hour Cost:** The following estimates are provided for public burden for this information collection:

<u>Services</u>	<u>Number of Applicants</u>
AM New & Major	451
AM Minor Change	250
With AM Multiple	
Ownership Showings	275
AM Community of License Minor Change	
Applications	70
FM New & Major	288
FM Minor Change	1,200
With FM Multiple	
Ownership Showings	264
FM Community of License Minor Change	
Applications	50
TV Minor Change	200
DTV	1,210
With TV Multiple	
Ownership Showings	20
DTS	<u>100</u>
Total Number of Respondents:	4,378 Licensees/Permittees

Respondent's

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<u>Number of Services</u>	<u>Applications/ Notices</u>	<u>Annual Hrly. Burden⁴</u>	<u>Burden Hours</u>
AM New & Major	451	3 hours	1,353 hours
AM Minor Change With AM Multiple Ownership Showings	250	2 hours	500 hours
AM Community of License Minor Change Applications	275	5 hours	1,375 hours
	70	3 hours	210 hours
FM New & Major	288	3 hours	864 hours
FM Minor Change With FM Multiple Ownership Showings	1,200	2 hours	2,400 hours
FM Community of License Minor Change Applications	264	5 hours	1,320 hours
	50	3 hours	150 hours
TV Minor Change	200	2 hours	400 hours
DTV With TV Multiple Ownership Showings	1,210	2 hours	2,420 hours
	20	4 hours	80 hours
DTS	100	3 hours	300 hours
Newspaper Requirement ⁵	<u>3,436</u>	1 hour	<u>3,436 hours⁶</u>
Totals:	7,814 (responses)		14,808 hours⁷

Total Number of Responses: 7,814 FCC Form 301 Filings and Notices

Total Annual Burden Hours: 14,808 hours

We assume that the respondent would consult with an outside attorney and a consulting engineer to complete an FCC Form 301. The time spent in consultation with these attorneys and consulting engineer will vary depending upon the application type.

We also estimate that the respondent would spend 2 hours in consultation with a consulting engineer in the preparation of a multiple ownership analysis in connection with an application, or a waiver of the multiple ownership rules and cross-ownership rules.

⁴ The burden for the respondent to attach waiver showings/filings to the form/application pursuant to 47 CFR 73.3555(d) is included in the burden estimates.

⁵ See 47 CFR 73.3580.

⁶ The Commission inadvertently omitted the burden that is attached to the newspaper notices from its previous submissions to OMB. We are accounting for the burden with this submission.

⁷ The requirement and form revisions adopted in FCC 08-256 by the Commission add an additional 300 hours to this information collection.

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The Commission estimates that it will take the respondent one hour to fulfill the newspaper notice requirement.

We estimate that the respondent would have an average salary of \$100,000/year (\$48.08/hour)

<u>Services</u>	<u>Number of Applications</u>	<u>Respondent's Hrly. Burden</u>	<u>Hrly. Wage of Respondent</u>	<u>Annual In-House Cost</u>
AM New & Major	451	3 hours	\$48.08	\$65,052.24
AM Minor Change	250	2 hours	\$48.08	\$24,040.00
AM Ownership Showings	275	5 hours	\$48.08	\$66,110.00
AM Community of License Change	70	3 hours	\$48.08	\$10,096.80
FM New & Major	288	3 hours	\$48.08	\$41,541.12
FM Minor Change	1,200	2 hours	\$48.08	\$115,392.00
FM Ownership Showings	264	5 hours	\$48.08	\$63,465.60
FM Community of License Change	50	3 hours	\$48.08	\$7,212.00
TV Minor Change	200	2 hours	\$48.08	\$19,232.00
DTV	1,210	2 hours	\$48.08	\$115,392.00
TV Multiple Ownership Showings	20	4 hours	\$48.08	\$3,846.40
DTS	100	3 hours	\$48.08	\$14,424.00
Newspaper Notices	3,436	1 hour	\$48.08	\$165,202.88
Total Annual "In House" Cost:				\$711,007.04

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

13. **Cost to Respondents:** We assume that the applicant would use an attorney (\$200/hour) and a consulting engineer (\$150/hour) to complete the FCC Form 301.

An AM, FM, or TV applicant must give local public notice of the filing of its application for a new station or for a major change in facilities. This notice must be published in a local newspaper of general circulation at least twice a week for two consecutive weeks in a three-week period. The cost of this publication is estimated to be \$113.25.

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<u>Services</u>	<u>Hrly. Wage of Consultant</u>	<u>Consultant's Hrly. Burden</u>	<u>Number of Applications</u>	<u>Annual Cost Burden</u>
<u>AM:</u>				
New & Major	\$200	6 hours	451	\$ 541,200
	\$150	89 hours	451	\$6,020,850
Minor Change	\$200	1 hour	250	\$ 50,000
	\$150	88 hours	250	\$3,300,000
Multiple Ownership Showings	\$200	17 hours	275	\$ 935,000
	\$150	92 hours	275	\$3,795,000
Community of License Change	\$200	7 hours	70	\$ 98,000
	\$150	90 hours	70	\$ 945,000
<u>FM:</u>				
New & Major	\$200	6 hours	288	\$ 345,600
	\$150	71 hours	308	\$3,280,200
Minor Change	\$200	1 hour	1,200	\$ 240,000
	\$150	69 hours	1,200	\$12,420,000
Multiple Ownership Showings	\$200	27 hours	264	\$ 1,425,600
	\$150	73 hours	264	\$ 2,890,800
Community of License Change	\$200	1 hour	50	\$ 10,000
	\$150	70 hours	50	\$ 525,000
<u>TV:</u>				
Minor Change	\$200	1 hour	200	\$ 40,000
	\$150	45 hours	200	\$1,350,000
<u>DTV:</u>				
	\$200	1 hour	1,210	\$ 242,000
	\$150	34 hours	1,210	\$6,171,000
Multiple Ownership Showings	\$200	12 hours	20	\$ 48,000
	\$150	48 hours	20	\$ 144,000
<u>DTS:</u>				
	\$200	1 hour	100	\$ 20,000
	\$150	45 hours	100	\$ 675,000
Total:				\$45,512,250

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<u>Fees:</u>	<u>Number of Applications</u>	<u>Fee Cost</u>	<u>Total Fee Cost</u>
AM New & Major	451	\$3,310	\$1,492,810
AM Minor Change	250	\$ 830	\$ 207,500
AM Multiple Ownership Showings	275	\$3,310	\$ 910,250
AM Community of License Change	70	\$ 830	\$ 58,100
FM New & Major	288	\$2,980	\$ 858,240
FM Minor Change	1,200	\$ 830	\$ 996,000
FM Multiple Ownership Showings	264	\$2,980	\$ 786,720
FM Community of License Change	50	\$ 830	\$ 41,500
TV Minor Change	200	\$ 830	\$ 166,000
DTV	1,210	\$ 830	\$ 1,004,300
TV Multiple Ownership Showings	20	\$3,720	\$ 74,400
DTS	100	\$ 830	\$ 83,000
Fee Total:			\$6,678,820

859⁸ new/major/community of license change applications x 4 x \$113.25 = **\$389,127** in publication costs

Total Annual Cost Burden: \$45,512,250+ \$6,678,820 + \$389,127 = **\$52,580,197⁹**

14. **Cost to Federal Government:** The Commission will use legal and engineering staff at the GS-14/Step 5 level (\$53.24/hour), paraprofessional staff at the GS-11/Step 5 level (\$31.61/hour), and clerical staff at the GS-5 level/Step 5 level (\$17.24/hour) to process these applications.

New & Major Change AM/FM/TV Applications = 739¹⁰

⁸ This number was calculated as follows: 451 AM New & Major Applications + 288 FM New & Major Applications + 70 AM Community of License Change Applications + 50 FM Community of License Change Applications = 859 Applications.

⁹ The requirement and form revisions adopted in FCC 08-256 by the Commission add an additional burden cost of \$778,000 to this information collection.

¹⁰ This number was calculated as follows: 451 AM New & Major Applications + 288 FM New & Major Applications = 739 Applications.

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739 applications x \$53.24/hour x 40 hours =	\$1,573,774.40
739 applications x \$53.24/hour x 20 hours =	\$ 786,887.20
739 applications x \$31.61/hour x 1 hour =	\$ 23,359.79
739 applications x \$17.24/hour x 2 hours =	<u>\$ 25,480.72</u>
	\$2,409,502.11
Minor AM Applications = 250	
AM Multiple Ownership Showings = 275	
AM Community of License Change Minor Applications = 70	
(No GS-14 Step-5 legal review required)	
595 applications x \$53.24/hour x 30 hours =	\$ 950,334.00
(No GS-11 Step-5 paraprofessional review required)	
595 applications x \$17.24/hour x 2 hours =	<u>\$ 20,515.60</u>
	\$ 970,849.60
Minor FM Applications = 1,200	
FM Multiple Ownership Showings = 264	
FM Community of License Change Minor Applications = 50	
(No GS-14 Step 5 legal review required)	
1,514 applications x \$53.24/hour x 20 hours =	\$1,612,107.20
(No GS-11 Step 5 paraprofessional review required)	
1,514 applications x \$17.24/hour x 2 hours =	<u>\$ 52,202.72</u>
	\$1,664,309.92
Minor TV Applications = 200	
DTV Applications = 1210	
TV Multiple Ownership Showings = 20	
(No GS-14 Step 5 legal review required)	
1,430 applications x \$53.24/hour x 20 hours =	\$1,522,664.00
1,430 applications x \$31.61/hour x 6 hours =	\$ 271,213.80
1,430 applications x \$17.24/hour x 2 hours =	<u>\$ 49,306.40</u>
	\$1,843,184.20
DTS Applications = 100	
(No GS-14 Step 5 legal review required)	
100 applications x \$53.24/hour x 20 hours =	\$106,480.00
100 applications x \$31.61/hour x 6 hours =	\$18,966.00
100 applications x \$17.24/hour x 2 hours =	<u>\$3,448.00</u>
	\$128,894.00
Total Cost to the Federal Government:	\$7,016,748.83

15. **Reason for Changes in Burden or Cost:** On November 3, 2008, the Commission adopted a Report and Order, In the Matter of Digital Television Distributed Transmission System Technologies; MB Docket No. 05-312, FCC 08-256 (released Nov. 7, 2008). In this Report and Order, the Commission

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adopted rules authorizing the use of distributed transmission system (“DTS”) technologies in the digital television (“DTV”) service. See 47 CFR § 73.626. To apply for a DTS facility, a commercial DTV station must file a Form 301. Therefore, the Commission had program changes of +300 burden hours and +\$778,000 cost burden for this information collection. The Commission also had an adjustment of +3,436 hours to the annual burden hours. This adjustment was due to the Commission inadvertently omitting the burden that is attached to the newspaper notices from its previous submissions to OMB. We are accounting for the burden with this submission.

16. **Plans for Publication:** The data will not be published.

17. **Display of OMB Approval Date:** We request extension of the waiver not to publish the expiration date on the form. This will obviate the need for the Commission to update electronic forms upon the expiration of the clearance. OMB approval of the expiration date of the information collection will be displayed at 47 CFR § 0.408.

18. **Exceptions to the Certification Statement:** The Commission has one exception to the Certification Statement. The number of responses is 7,814 instead of 7,804 as published in the Federal Register Notice seeking public comment (*see* 73 FR 72798). There are no other exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods

This information collection does not employ any statistical methods.