

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 and to make changes to existing facilities of such a station. It 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 that would comply with allotment standards with respect to minimum distance separation and principal community coverage and that 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) of the Communications Act of 1934, as amended.

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

This collection also includes the third party disclosure requirement of 47 CFR § 73.3580. This rule requires applicants to provide local public notice, in a newspaper of general circulation published in a community in which a station is located, of requests for new or major changes in facilities and for changes of a station's community of license by AM and non-reserved band FM permittees and licensees. The notice must be completed within 30 days of tendering the application and must be published at least twice a week for two consecutive weeks in a three-week period. A copy of the notice and the application must be placed in the station's public inspection file.

Revised Information Collections Requirements Which Require OMB Approval:

On December 18, 2007, the Commission adopted a *Report and Order and Third Further Notice of Proposed Rulemaking* (the "Order") in MB Docket Nos. 07-294; 06-121; 02-277; 04-228, MM Docket Nos. 01-235; 01-317; 00-244; FCC 07-217. The Order adopted rule changes designed to expand opportunities for participation in the broadcasting industry by new entrants and small businesses, including minority- and women-owned businesses (new universe of respondents).

Consistent with actions taken by the Commission in the Order, the following changes are made to Form 301: the instructions to Form 301 have been revised to incorporate a definition of "eligible entity," which will apply to the Commission's existing Equity Debt Plus ("EDP") standard, one of the standards used to determine whether interests are attributable. Section II of the form has been revised to include a new question asking applicants to indicate whether the applicant is claiming "eligible entity" status. The instructions have been revised to provide additional information to applicants answering the new question.

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.

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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.

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 has limited the information requirements to those that are absolutely necessary for evaluating and processing the amendments to determine the community having the greater need and to deter possible abuses of the processes. Therefore, this information collection will not have a significant economic impact on small entities/businesses.

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 or modified 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. **Public Comment Period:** Opportunity for public comment on this information collection requirement has been published in the *Federal Register* (73 FR 66044) on November 5, 2008. No comments were 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.

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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	476
AM Minor Change With AM Multiple Ownership Showings	250
AM Community of License Minor Change Applications	285
	70
FM New & Major	298
FM Minor Change With FM Multiple Ownership Showings	1,200
FM Community of License Minor Change Applications	274
	50
TV Minor Change	200
DTV	1,220
With TV Multiple Ownership Showings	30
DTS	<u>100</u>
Total Number of Respondents:	4,453 Licensees/Permittees

<u>Number of Services</u>	<u>Respondent's Applications</u>	<u>Annual Hrly. Burden</u>	<u>Burden Hours</u>
AM New & Major	476	4 hours	1,904 hours
AM Minor Change With AM Multiple Ownership Showings	250	3 hours	750 hours
AM Community of License Minor Change Applications	285	6 hours	1,710 hours
	70	4 hours	280 hours
FM New & Major	298	4 hours	1,192 hours
FM Minor Change With FM Multiple Ownership Showings	1,200	3 hours	3,600 hours
FM Community of License Minor Change Applications	274	6 hours	1,644 hours
	50	4 hours	200 hours
TV Minor Change	200	3 hours	600 hours
DTV	1,220	3 hours	3,660 hours
With TV Multiple Ownership Showings	30	5 hours	15 hours

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DTS ¹	100	3 hours	300 hours
Newspaper Requirements	<u>3,436</u>	1 hour	<u>3,436 hours</u>
Totals:	7,889		19,291 hours

(responses)

Total Number of Responses: 7,889 FCC Form 301 Filings and Newspaper Notices

Total Annual Burden Hours: 19,291 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.

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	476	4 hours	\$48.08	\$91,544.32
AM Minor Change	250	3 hours	\$48.08	\$36,060.00
AM Ownership Showings	285	6 hours	\$48.08	\$82,216.80
AM Community of License Change	70	4 hours	\$48.08	\$13,462.40
FM New & Major	298	4 hours	\$48.08	\$57,311.36
FM Minor Change	1,200	3 hours	\$48.08	\$173,088.00
FM Ownership Showings	274	6 hours	\$48.08	\$79,043.52
FM Community of License Change	50	4 hours	\$48.08	\$9,616.00
TV Minor Change	200	3 hours	\$48.08	\$28,848.00
DTV	1,220	3 hours	\$48.08	\$175,972.80
TV Multiple Ownership Showings	30	5 hours	\$48.08	\$7,212.00
DTS	100	3 hours	\$48.08	\$14,424.00
Newspaper Notices	3,436	1 hour	\$48.08	<u>\$165,202.88</u>
Total Annual "In House" Cost:				\$933,820.08

¹ DTS technologies are covered under 47 CFR § 73.626, which authorizes the use of distributed transmission system ("DTS") technologies in the digital television ("DTV") service and also authorized changes to FCC Form 301 that are necessary to accommodate applications for a DTS facility. OMB approved this requirement on December 29, 2008.

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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.

<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	7 hours	476	\$ 666,400
	\$150	89 hours	476	\$6,354,600
Minor Change	\$200	2 hours	250	\$ 100,000
	\$150	88 hours	250	\$3,300,000
Multiple Ownership Showings	\$200	18 hours	285	\$1,026,000
	\$150	92 hours	285	\$3,933,000
Community of License Change	\$200	8 hours	70	\$ 112,000
	\$150	90 hours	70	\$ 945,000
<u>FM:</u>				
New & Major	\$200	7 hours	298	\$ 417,200
	\$150	71 hours	298	\$3,173,700
Minor Change	\$200	2 hours	1,200	\$ 480,000
	\$150	69 hours	1,200	\$12,420,000
Multiple Ownership Showings	\$200	28 hours	274	\$ 1,534,400
	\$150	73 hours	274	\$ 3,000,300
Community of License Change	\$200	2 hours	50	\$ 20,000
	\$150	70 hours	50	\$ 525,000
<u>TV:</u>				
Minor Change	\$200	2 hours	200	\$ 80,000
	\$150	45 hours	200	\$1,350,000
<u>DTV:</u>				
Multiple Ownership Showings	\$200	2 hours	1,220	\$ 488,000
	\$150	34 hours	1,220	\$6,222,000
Multiple Ownership Showings	\$200	13 hours	30	\$ 78,000
	\$150	48 hours	30	\$ 216,000

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DTS:	\$200	1 hour	100	\$ 20,000
	\$150	45 hours	100	<u>\$ 675,000</u>
		Total AM/FM TV and DTV:		\$47,136,600

Fees:	Number of Applications	Fee Cost	Total Fee Cost
AM New & Major	476	\$3,310	\$1,575,560
AM Minor Change	250	\$ 830	\$ 207,500
AM Multiple Ownership Showings	285	\$3,310	\$ 943,350
AM Community of License Change	70	\$ 830	\$ 58,100
FM New & Major	298	\$2,980	\$ 888,040
FM Minor Change	1,200	\$ 830	\$ 996,000
FM Multiple Ownership Showings	274	\$2,980	\$ 816,520
FM Community of License Change	50	\$ 830	\$ 41,500
TV Minor Change	200	\$ 830	\$ 166,000
DTV	1,220	\$ 830	\$ 1,012,600
TV Multiple Ownership Showings	30	\$3,720	\$ 111,600
DTS	100	\$ 830	<u>\$ 83,000</u>
		Fee Total:	\$6,899,770

894² new/major/community of license change applications x 4 x \$113.25 = **\$404,982** in publication costs

Annual Cost Burden: \$47,136,600 + \$6,899,770 + \$404,982 = **\$54,441,352**

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 = 774³

² This number was calculated as follows: 476 AM New & Major Applications + 298 FM New & Major Applications + 70 AM Community of License Change Applications + 50 FM Community of License Change Applications = 894 Applications.

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774 applications x \$53.24/hour x 41 hours =	\$1,689,518.10
774 applications x \$53.24/hour x 20 hours =	\$ 824,155.20

774 applications x \$31.61/hour x 1 hour =	\$ 24,466.14
774 applications x \$17.24/hour x 2 hours =	<u>\$ 26,687.52</u>
	\$2,564,826.90

Minor AM Applications = 250

AM Multiple Ownership Showings = 285

AM Community of License Change Minor Applications = 70

605 applications x \$53.24/hour x 1 hour =	\$ 32,210.20
605 applications x \$53.24/hour x 30 hours =	\$ 966,306.00
(No GS-11 Step-5 paraprofessional review required)	
605 applications x \$17.24/hour x 2 hours =	<u>\$ 20,860.40</u>
	\$1,019,376.60

Minor FM Applications = 1,200

FM Multiple Ownership Showings = 274

FM Community of License Change Minor Applications = 50

1,524 applications x \$53.24/hour x 1 hour =	\$ 81,137.76
1,524 applications x \$53.24/hour x 20 hours =	\$1,622,755.20
(No GS-11 Step 5 paraprofessional review required)	
1,524 applications x \$17.24/hour x 2 hours =	<u>\$ 52,547.52</u>
	\$1,756,440.40

Minor TV Applications = 200

DTV Applications = 1,220

TV Multiple Ownership Showings = 30

1,450 applications x \$53.24/hour x 1 hour =	\$ 77,198.00
1,450 applications x \$53.24/hour x 20 hours =	\$1,543,960.00
1,450 applications x \$31.61/hour x 6 hours =	\$ 275,007.00
1,450 applications x \$17.24/hour x 2 hours =	<u>\$ 49,996.00</u>
	\$1,946,155.00

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:**\$7,415,692.90**

15. **Reason for Changes in Burden or Cost:** The Commission has program changes to the annual burden hours of +4,483 hours and cost burden of +\$1,861,155 due to the adoption of

³ This number was calculated as follows: 476 AM New & Major Applications + 298 FM New & Major Applications = 774 Applications.

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information collection requirements contained in the Order.⁴ Therefore, the rules which impose information collection requirements are designed to expand opportunities for participation in the broadcasting industry by new entrants and small businesses, including minority- and women-owned businesses (new universe of respondents).

Also, the increases are due to revisions made to FCC 301 to include a new question to determine whether the applicant is claiming “eligible entity” status under the FCC’s new EDP standards adopted in the Order. These changes reflect an increase by one hour per application for applicants and/or their attorneys to evaluate compliance with FCC rules and assess whether they may claim “eligible entity” status. We also made modifications to the instructions for the Legal Section (Instructions, Section II) of Form 301 that do not add burdens because they are editorial in nature.

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 published a notice in the *Federal Register* (73 FR 66044) on November 6, 2008 seeking public comment on the information collection requirements contained in this supporting statement. The following items were published in the notice incorrectly: number of respondents as 4,353; the total annual burden hours as 15,690 hours; annual cost burden as \$53,191,601; number of responses as 4,353 and the estimated time per response as 3 - 6 hours. We correct those numbers to read the number of respondents as 4,453; 19,291 burden hours; \$54,441,352 cost burden; 7,889 responses and the estimated time per response as 1 – 6 hours. There are no other exceptions to the Certification Statement.

There are no exceptions to the Certification Statement in Item 19 of the OMB Form 83-I.

B. Collections of Information Employing Statistical Methods

This information collection does not employ any statistical methods.

⁴ The Order is FCC 07-217 adopted on December 18, 2007.