

Supporting Statement

A. Justification

This submission is necessary in the event that the change in the nationwide DTV Transition date is enacted into law. On February 5, 2009, the United States Congress passed legislation, known as the “DTV Delay Act,” that would extend the date for the completion of the DTV transition from February 17, 2009, to June 12, 2009.¹ This submission will cover information collection requirements through the new transition date (June 12, 2009 or whatever final DTV Transition date is ultimately established by Congress and enacted into law) and, where required by FCC Order, a specified amount of time after such date. This submission applies only if the DTV Delay Act is enacted into law.

Congress has mandated that after June 12, 2009,² full-power television broadcast stations must transmit only in digital signals, and may no longer transmit analog signals.³ On December 22, 2007, the Commission adopted a Report and Order, In the Matter of the Third Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television, MB Docket No. 07-91, FCC 07-228, to establish the rules, policies and procedures necessary to complete the nation’s transition to Digital TV (DTV). With the DTV transition deadline less than one year away, the Commission must ensure that broadcasters meet their statutory responsibilities and complete construction of, and begin operations on, the facility⁴ on their final, post-transition (digital) channel⁵ that will reach viewers in their authorized service areas by the statutory transition deadline, when they must cease broadcasting in analog. The Commission wants to ensure that no consumers are left behind in the DTV transition.

The Report and Order required all full-power television stations to file a DTV Transition Status Report using FCC Form 387 on or before February 19, 2008. All full-power television stations should have now made this initial filing, meaning this filing requirement is now complete.

The Report and Order also required stations to update their Form 387 by October 20, 2008, if they have not by that date reported the completion of their transition, i.e., that they have begun operating their full facility as authorized by the post-transition DTV Table Appendix B. Stations should have now made this filing, meaning this filing requirement is also now complete.

¹ See DTV Delay Act, S. 352, 111th Cong. (January 29, 2009). The DTV Delay Act, passed by the United States Senate on January 29, 2009, was adopted by the United States House of Representatives yesterday and is being sent to the President for his signature to be enacted into law.

² This submission will cover any future date extensions that occur for this collection due to the DTV transition.

³ 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)).

⁴ A station’s “post transition facilities” refers to the details of each station’s assignment, including technical facilities and predicted service and interference information.

⁵ A station’s “post-transition channel” is the television channel that it will use for digital broadcasting after the transition deadline (i.e., June 12, 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).

The Report and Order also requires stations to continue to update their Form 387, as events warrant, until they report the completion of their transition. In the Third DTV Periodic Review Report and Order, the Commission stated that stations are responsible for the continuing accuracy and completeness of the information furnished in their Form 387 and that whenever that information is no longer substantially accurate and complete in all significant respects, the station must file an updated form as promptly as possible and in any event within 30 days to furnish such additional or corrected information as is appropriate.

As of December 2008, we estimate that 637 stations have not yet reported completion of their transition, meaning that these stations will need to make additional Form 387 updates/filings. Stations must provide the specific details of their current transition status, any additional steps necessary for digital-only operation upon expiration of the June 12, 2009 transition deadline, and a timeline for making those steps.

History:

On April 25, 2007, the Commission adopted a Notice of Proposed Rulemaking in the matter of the *Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, MB Docket No. 07-91, FCC 07-70, to consider the procedures and rule changes necessary to complete the nation's transition to DTV, including how best to ensure that broadcasters complete construction of their facilities on their final, post-transition (digital) channel by the statutory deadline.

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 1, 4(i) and (j), 7, 301, 302, 303, 307, 308, 309, 312, 316, 318, 319, 324, 325, 336, and 337 of the Communications Act of 1934, 47 U.S.C 151, 154(i) and (j), 157, 301, 302a, 303, 307, 308, 309, 312, 316, 318, 319, 324, 325, 336, and 337.

2. Again, every full-power television broadcast station must provide (1) the current status of the its digital transition; (2) the additional steps, if any, it needs to take to be prepared for the switch-over deadline; and (3) its plan for how it intends to meet the statutory transition deadline. The information obtained through this form is (and will continue to be) used to assist the Commission, industry, and the public in assessing progress and making plans for the digital transition. These filings are (and will continue to be) made publicly available on the Commission's website.

3. The Commission requires applicants to file FCC Form 387 electronically.

4. This agency does not impose similar information collection requirements on respondents.

5. The filing of FCC Form 387, Digital TV Transition Report, we find no hardship to small entities. Therefore, this collection of information will not have a significant economic impact on small businesses/entities.
6. The collection is necessary to ensure that all full-power television broadcast stations complete construction of their final, post-transition (digital) facilities by the statutory deadline.
7. There are no special circumstances associated with this collection of information.
8. The Commission published a Federal Register Notice (73 FR 7287) on February 7, 2008 seeking public comment for the information collection requirements contained in this information collection. No comments were received from the public.
9. No payment or gift is provided to the respondents.
10. There is no need for confidentiality with this collection of information.
11. This collection of information does not address any private matters of a sensitive nature.
12. All full-power television stations (currently 1,815 licensees and permittees) should have filed a Form 387 on or before the first filing deadline, i.e., February 19, 2008. Accordingly, this initial filing requirement is now complete and, therefore, the burden for this first filing has been removed from the foregoing burden estimates.

As of December 2008, a total of 637 stations have not yet reported completion of their transition, meaning that these stations will need to make additional Form 387 updates/filings. We estimate that approximately these stations will need to make an average of two additional "update" filings each.

We estimate that it will take respondents an average of 2 hours to complete and file this form. Our estimate includes the time to read the instructions, look through existing records, gather the required data, and actually complete and review the form, including the time to consult with the attorney and engineer. This estimate is based on FCC staff's knowledge and familiarity with the availability of the data required.

Total Number of Annual Respondents: 637 full-power television broadcast licensees/permittees

Total Annual Responses:
637 stations making FCC Form 387 filings x 2 filings/respondent = 1,274 responses

Total Annual Burden Hours:

637 stations making FCC Form 387 filings x 2 filings/respondent x 2 hrs/filing = 2,548 hrs.

Total “In-House Cost”: The respondent is estimated to have an average salary of \$100,000/year (\$48.08/hour).

637 stations making FCC Form 387 filings x 2 filings/respondent x 2 hrs/filing x \$48.08/hr = \$122,507.84

13. **Annual Cost Burden:** We assume that the respondent would use a consulting engineer to assist with the engineering analysis necessary to answer certain questions on FCC Form 387 and have a consulting attorney help with reviewing the applicable rules and policies and analyzing the issues presented on the form.

We estimate that the average respondent would use 2 hours of attorney time (\$200/hour) and 2 hours of consulting engineer time (\$150/hour) to complete this form.

\$200/legal consultant x 1,274 FCC Form 387 filings⁶ x 2 hours/filing = \$509,600
\$150/engineering consultant x 1,274 FCC Form 387 filings⁷ x 2 hours/filing = \$382,200
Total Annual Burden Cost: \$891,800

14. The Commission will use legal and engineering staff at the GS-14, step 5 level (\$53.24/hour) to process these forms. We estimate that, on average, each form requiring processing will require 30 minutes (0.5 hours) of attorney time and 1 hour of engineering time to process.

1,274 FCC Form 387 filings x 0.5 hr/attorney review x \$53.24/hour = \$33,913.88
1,274 FCC Form 387 filings x 1 hour/engineering review x \$53.24/hour = \$67,827.76
Total Cost to the Federal Government: \$101,741.64

15. The Commission had adjustments to the annual burden hours and annual cost burden due to the date extension for the conversion from analog to digital TV from February 17, 2009 to June 12, 2009 and the completion of the February and October 2008 filing dates.

16. The data collected by FCC Form 387 is posted on the Commission’s website in order to assist the Commission, industry, and the public to assess the progress of each station’s transition to digital television.

17. The Commission requests an extension of the waiver not to publish the expiration date on FCC Form 387. This waiver will obviate the need to update electronic files upon the expiration of the

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Title: Digital TV Transition Status Report, FCC Form 387

clearance. OMB approval of the expiration date of the information collection will be displayed at 47 CFR 0.408.

18. There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods

This information collection does not employ any statistical methods.