

SUPPORTING STATEMENT

A. Justification:

1. **FCC Form 302-TV** is used by licensees and permittees¹ of TV broadcast stations to obtain a new or modified station license and/or to notify the Commission of certain changes in the licensed facilities of these stations.

Form 302-DTV is used by licensees and permittees of Digital TV (“DTV”) broadcast stations to obtain a new or modified station license and/or to notify the Commission of certain changes in the licensed facilities of those stations. It may be used: (1) To cover an authorized construction permit (or auxiliary antenna), provided that the facilities have been constructed in compliance with the provisions and conditions specified on the construction permit; or (2) To implement modifications to existing licenses as permitted by 47 C.F.R. Sections 73.1675(c) or 73.1690(c).

FCC Form 340 is used by licensees and permittees to apply for authority to construct a new noncommercial educational (“NCE”)² FM, TV, and DTV broadcast station, or to make changes in the existing facilities of such a station. The FCC Form 340 is only used if the station will operate on a channel that is reserved exclusively for noncommercial educational use, or in the situation where applications for NCE stations on non-reserved channels³ are mutually exclusive⁴ only with one another.

For existing authorized analog stations to receive authorization for commencement of DTV operation, noncommercial educational broadcast licensees operating on a reserved channel must file FCC Form 340 for a construction permit. This application may be filed anytime after receiving the initial DTV channel allotment,⁵ but must be filed before the mid-point in a particular applicant's

¹ A “permittee” is a party that has received a construction permit for a broadcast station. Once the permittee has constructed the station facilities according to the construction permit, it will file an application for a broadcast license. When the license application is granted, the permittee becomes a “licensee.”

² These stations are licensed to nonprofit educational organizations for use in the advancement of educational programs.

³ These channels are not reserved exclusively for noncommercial educational use, and for which commercial entities could be eligible to operate full power stations. Such channels appear without an asterisk designation in the FM Table of Allotments (§73.202) and TV Table of Allotments (§73.606).

⁴ Mutually exclusive applications are those that either cause or receive prohibited contour overlap with other window-filed applications, thus preventing grant of more than one application.

⁵ Digital TV refers to any technology that uses digital techniques to provide advanced television services such as high definition TV (HDTV), multiple standard definition TV (SDTV) and other advanced features and services. The terms “frequency” or “channel” generally refers to the 6 MHz spectrum block currently used to

OMB Control Number: 3060-0029

May 2009

Title: Application for TV Broadcast Station License, Form FCC 302-TV; Application for DTV Broadcast Station License, FCC Form 302-DTV, Application for Construction Permit for Reserved Channel Noncommercial Educational Broadcast Station, FCC Form 340; Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station, FCC Form 349; Section 47 CFR 73.626

required construction period. The Commission will consider these applications as minor changes in facilities. Applicants do not have to supply full legal or financial qualification information. In addition, applicants for a newly allotted DTV channel reserved for noncommercial educational use(s) must also file the FCC Form 340. This form also includes the third party disclosure requirement of 47 CFR Section 73.3580. This section requires local public notice in a newspaper of general circulation of all application filings for new or major change in facilities. 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.

FCC Form 349 is used to apply for authority to construct a new FM translator or FM booster broadcast station, or to make changes in the existing facilities of such stations. This form also includes the third party disclosure requirement of 47 CFR Section 73.3580. Section 73.3580 requires local public notice in a newspaper of general circulation of all application filings for new or major change in facilities. 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 Review and Approval:

This submission is being made as a revision to an existing information collection pursuant to 44 U.S.C. § 3507. This submission contains the changes to FCC Form 340 that are necessary to accommodate the “tribal priority” under 47 U.S.C. § 307(b). This revision adds a new requirement to this collection, but note that this is not a mandatory requirement and only federally recognized Native American and Alaska Native Tribes, tribal members, or corporations owned or controlled by tribes or tribal members will be impacted by the new requirement.

On April 7, 2009, the Commission adopted a Notice of Proposed Rule Making, In the Matter of Policies to Promote Rural Radio Service and to Streamline Allotment, and Assignment Policies, MB Docket No. 09-52, FCC 09-30 (released Apr. 20, 2009). In this Notice of Proposed Rule Making, the Commission proposed a number of changes to its policies and procedures in comparing mutually exclusive applications pursuant to 47 U.S.C. § 307(b) (“Section 307(b)”)⁶. Among those changes was a new priority directed toward federally recognized Native American and Alaska Native tribes and tribal consortia. Under the new priority, a Section 307(b) priority

provide a single National Television System Committee (NTSC) television service or to the equivalent 6 MHz spectrum block to be used for DTV services.

⁶ Section 307(b) requires that the Commission effect a fair, efficient and equitable distribution of radio stations throughout the United States.

OMB Control Number: 3060-0029

May 2009

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will apply to an applicant meeting all of the following criteria: (1) the applicant is either a federally recognized Tribe or tribal consortium, a member of a Tribe, or an entity more than 70 percent owned or controlled by members of a Tribe or Tribes; (2) at least 50 percent of the daytime principal community contour of the proposed facilities covers tribal lands,⁷ in addition to meeting all other Commission technical standards; and (3) the applicant proposes at least first local transmission service to the proposed community of license, which must be located on tribal lands. The proposed tribal priority would apply, if applicable, before the fair distribution analysis currently used by noncommercial educational applicants.

FCC Form 340 is being revised to accommodate those applicants qualifying for the new tribal priority. **(These proposed revisions to FCC Form 340 and the new universe of respondents - federally recognized Native American and Alaska Native Tribes, tribal members, or corporations owned or controlled by tribes or tribal members need OMB review and 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. Specifically, the data collected by FCC Forms 302, 340 and 349 will be used as follows:

FCC Form 302-TV – the data is used by FCC staff to confirm that the station has been built to terms specified in the outstanding construction permit and to update FCC station files. Data is then extracted from FCC 302-TV for inclusion in the subsequent license to operate the station. The Commission reviews these “one-step” applications to ensure that the minor changes made by the station will not have any significant impact on other stations and the public.

FCC Form 302-DTV. The data is used by FCC staff to confirm that the station has been built to terms specified in the outstanding construction permit, and to update FCC station files. Data is then extracted from FCC 302-DTV for inclusion in the subsequent license to operate the station. Modification of license applications filed pursuant to Section 73.1675 or 73.1690 will be reviewed

⁷ The principal community contour is set forth in 47 C.F.R. §§ 73.24(i), 73.315(a), and 73.515.

OMB Control Number: 3060-0029

May 2009

Title: Application for TV Broadcast Station License, Form FCC 302-TV; Application for DTV Broadcast Station License, FCC Form 302-DTV, Application for Construction Permit for Reserved Channel Noncommercial Educational Broadcast Station, FCC Form 340; Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station, FCC Form 349; Section 47 CFR 73.626

to ensure that the minor changes made by the station will not have any significant impact on other stations and the public.

FCC Form 340. The data is used by FCC staff to determine whether the applicant meets basic statutory requirements to become a Commission licensee and to ensure that the public interest would be served by grant of the application. In the case of mutually exclusive qualified applicants, the information will be used to determine which proposal would best serve the public interest.

FCC Form 349. The data is used by FCC staff to ensure that the applicant meets basic statutory requirements and will not cause interference to other licensed broadcast services. In the case of mutually exclusive qualified applicants, the information will be used to determine which proposal would best serve the public interest.

3. Consideration Given to Information Technology: The Commission requires applicants to file these forms 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 applications to determine the community having the greater need and to deter possible abuses of the processes. In addition, 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, the information collection does not have a significant economic impact on a substantial number of small entities/businesses.

6. Less Frequent Data Collection: The frequency for filing is determined by the respondents, as necessary.

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 in the process of publishing a Notice in the Federal Register seeking public comment on the information collection requirements contained in this supporting statement.

9. Payment or Gift: No payment or gift is provided to the respondents.

OMB Control Number: 3060-0029

May 2009

Title: Application for TV Broadcast Station License, Form FCC 302-TV; Application for DTV Broadcast Station License, FCC Form 302-DTV, Application for Construction Permit for Reserved Channel Noncommercial Educational Broadcast Station, FCC Form 340; Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station, FCC Form 349; Section 47 CFR 73.626

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:

House	<u>Applications</u> <u>Cost</u>	<u>Number of</u> <u>Forms</u>	<u>Respondent's</u> <u>Burden</u>	<u>Total Annual</u> <u>Burden Hours</u>	<u>Hourly</u> <u>In-House</u> <u>Cost</u>	<u>Annual</u> <u>In-</u>	
<u>FCC Form 302-TV</u>							
Construction Permits	100 ⁸	2 hour	200 hours	\$48.08	\$	9,616.00	
	100	2 hours ⁹	200 hours	\$48.08	\$	9,616.00	
	100	2 hours ¹⁰	200 hours	\$48.08	\$	9,616.00	
Modifications	100 ¹¹	2 hours	200 hours	\$48.08	\$	9,616.00	
	100	2 hours ¹²	200 hours	\$48.08	\$	9,616.00	
		100	2 hours ¹³	200 hours	\$48.08	\$	9,616.00

FCC Form 302-DTV

License Applications	1,200	2 hours	2,400 hours	\$48.08	\$	115,392.00
Modifications	100	2 hours	200 hours	\$48.08	\$	9,616.00

⁸ These 100 applications represent a total of 100 Construction Permit (CP) applications.

⁹ The respondent will consult with an engineer for 2 hours to review information on FCC Form 302-TV.

¹⁰ The respondent will consult with an attorney for 2 hours to review information on FCC Form 302-TV.

¹¹ These 100 applications represent a total of 100 modifications of license applications.

¹² The respondent will consult with an engineer for 2 hours to review information on FCC Form 302-TV.

¹³ The respondent will consult with an attorney for 2 hours to review information on FCC Form 302-TV.

OMB Control Number: 3060-0029

May 2009

Title: Application for TV Broadcast Station License, Form FCC 302-TV; Application for DTV Broadcast Station License, FCC Form 302-DTV, Application for Construction Permit for Reserved Channel Noncommercial Educational Broadcast Station, FCC Form 340; Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station, FCC Form 349; Section 47 CFR 73.626

FCC Form 340

FM New & Major \$253,622.00	1,055 ¹⁴	5 hours ¹⁵	5,275 hours	\$48.08	
FM Minor Change	300	2 hours	600 hours	\$48.08	\$ 28,848.00
TV Minor Change	25	2 hours	50 hours	\$48.08	\$ 2,404.00
DTV	500	2 hours	1,000 hours	\$48.08	\$ 48,080.00
DTS	100	3 hours	300 hours	\$48.08	\$ 14,424.00

FCC Form 349

Commercial	700 ¹⁶	1.5 hours	1,050 hours	\$30.00 ¹⁷	\$ 31,500.00
	700	1.5 hours	1,050 hours	\$45.00 ¹⁸	\$ 47,250.00
Noncommercial	300 ¹⁹	1.0 hours	300 hours	\$30.00 ²⁰	\$ 9,000.00
	300	1.0 hours	300 hours	\$45.00 ²¹	\$ 13,500.00

Newspaper Requirement

	<u>2,000</u>	1.0 hour	<u>2,000 hours²²</u>	\$48.08	<u>\$ 96,160.00</u>
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¹⁴ The information collection requirements contained in FCC 09-30 adds an additional 55 responses to this information collection.

¹⁵ The information collection requirements contained in FCC 09-30 adds an additional hourly burden of 1 hour to this information collection.

¹⁶ This number represents a total of 700 commercial applications.

¹⁷ This figure represents the hourly salary of the station engineer.

¹⁸ This figure represents the hourly salary of the in-house station attorney.

¹⁹ This number represents a total of 300 noncommercial applications.

²⁰ This figure represents the hourly salary of the station engineer.

²¹ This figure represents the hourly salary of the in-house station attorney.

²² 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.

OMB Control Number: 3060-0029

May 2009

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TOTALS:	6,480 (responses)	15,725 hours²³ (Burden)	\$ 727,492.00 (In-house Cost)
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Total Number of Annual Respondents: 4,480 respondents

Total Number of Annual Responses: 6,480 (responses)

Total Annual Burden Hours: 15,725 hours

Total Annual "In-House" Cost: \$727,492.00

The annual burden was calculated based on the following data:

FCC Form 302-TV:

We assume that the respondents would complete the general and legal portions of the form. Additionally, we assume that each respondent will contract with a consulting engineer to complete the engineering section of the application and also have a consulting attorney review and file FCC Form 302-TV. We estimate that each respondent will spend approximately 2 hours reviewing the application with the engineering and legal consultants. The respondent will have an average salary of \$100,000/year (\$48.08/hour).

FCC Form 302-DTV:

We estimate that 1,200 license applications will be filed and processed. We assume that the respondent and station engineer will complete license applications will take a total of 2 hours to complete. We also estimate that 100 modification applications will be filed and processed. The total average burden will be 2 hours for the respondent to consult with an attorney and engineer regarding the modification of license. The respondent is estimated to have a salary of \$100,000/year (\$48.08/hour) and station engineer is estimated to have an average salary of \$30.00/hour.

FCC Form 340:

Respondents would contract with an attorney and a consulting engineer to complete the FCC Form

²³ The requirement and form revisions for FCC Form 340 adopted in FCC 09-30 by the Commission add an additional burden of 1,275 hours to this information collection.

OMB Control Number: 3060-0029

May 2009

Title: Application for TV Broadcast Station License, Form FCC 302-TV; Application for DTV Broadcast Station License, FCC Form 302-DTV, Application for Construction Permit for Reserved Channel Noncommercial Educational Broadcast Station, FCC Form 340; Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station, FCC Form 349; Section 47 CFR 73.626

340. The time spent in consultation with these attorneys and consulting engineers will vary depending upon the application type. We estimate that the respondent would have an average salary of \$100,000/year (\$48.08/hour).

FCC Form 349:

We estimate that most applicants (respondents) will file FCC Form 349 to make repairs or other miscellaneous changes in the FM translator or FM booster station facility. We assume that the average respondent would use engineers employed at the station (\$30.00/hour), and attorneys employed at the station (\$45.00/hour).

Newspaper Notices

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

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

13. **Cost to Respondents:** The annual cost burden to the respondents was calculated as follows:

<u>Annual Applications</u>	<u>Number of Forms</u>	<u>Consultant's Hourly Burden</u>	<u>Consultant's Total Burden Hours</u>	<u>Consultant's Cost</u>	<u>Total Hourly Cost Burden</u>
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FCC Form 302-TV

Construction Permits	100 ²⁴	2 hours	200 hours	\$150	\$ 30,000
	100	1 hour	100 hours	\$200	\$ 20,000
Modifications	100 ²⁵	6 hours	600 hours	\$150	\$ 90,000

²⁴ These 100 applications represent a total of 100 Construction Permit (CP) applications.

²⁵ These 100 applications represent a total of 100 modifications of license applications.

OMB Control Number: 3060-0029

May 2009

Title: Application for TV Broadcast Station License, Form FCC 302-TV; Application for DTV Broadcast Station License, FCC Form 302-DTV, Application for Construction Permit for Reserved Channel Noncommercial Educational Broadcast Station, FCC Form 340; Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station, FCC Form 349; Section 47 CFR 73.626

100	2 hours	200 hours	\$200	\$ 40,000
100	---	---	\$250/fee	\$ 25,000

FCC Form 302-DTV

Modifications	100	6 hours	600 hours	\$150	\$ 90,000
	100	2 hours	200 hours	\$200	\$ 40,000
License Applications	1200	--	--	\$250/fee	\$
	300,000				

FCC Form 340

FM New & Major	1,055	68 hours	71,740 hours	\$150	\$10,761,000
	1,055	5 hours	5,275 hours	\$200	\$ 1,055,000
	1,055	4 publications	---	\$113.25/fee	\$ 477,915
FM Minor Change	300	67.5 hours	20,250 hours	\$150	\$3,037,500
	300	5 hours	1,500 hours	\$200	\$ 300,000
TV Minor Change	25	67.5 hours	1,687.50 hrs.	\$150	\$ 253,125
	25	0.5 hours	12.5 hours	\$200	\$ 2,500
DTV	500	34 hours	17,000 hours	\$150	\$2,550,000
	500	1 hour	500 hours	\$200	\$ 100,000
DTS	100	1 hour	100 hours	\$200	\$ 20,000
	100	45 hours	4,500 hours	\$150	\$ 675,000
	100	--	--	\$830/fee	\$ 83,000

FCC Form 349

OMB Control Number: 3060-0029

May 2009

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Commercial	700	8 hours	5,600 hours	\$150	\$ 840,000
	700	1 hour	700 hours	\$200	\$ 140,000
	700	---	---	\$625/fee	\$ 437,500
	700	4 publications	---	\$113.25/fee	\$ 317,100
Noncommercial	300	12 hours	3,600 hours	\$150	\$ 540,000
	300	5.0 hours	1,500 hours	\$200	\$ 300,000
	300	4 publications	---	\$113.25/fee	\$ 135,900
Total Cost Burden:					\$22,660,540²⁶

The data used to calculate the cost burden is as follows:

FCC Form 302-TV: We assume that the respondent would use a consulting engineer to prepare the engineer portion of this form and have a consulting attorney to review the form for any legal issues and file it with the FCC. This consulting engineer is estimated to have an average salary of \$150/hour and the consulting attorney would charge approximately \$200/hour. In addition, an applicant must submit a \$250.00 application fee with each application for the TV License to cover construction permits. Applications submitted for modifications to an existing license, which can be made without prior FCC approval, are not subject to the application filing fee(s).

FCC Form 302-DTV: We assume that modification applications will be completed by an attorney (\$200/hour) and a consulting engineer (\$150/hour). It will take the attorney 2 hours to complete each application and the engineer 6 hours to complete each application. In addition, an application fee must be submitted with filing of the license application (\$250/application). Applications submitted for modifications to license, which can be made without prior FCC approval, are not subject to filing fees.

FCC Form 340: We assume that the applicant will contract with an attorney (\$200/hour) and a consulting engineer (\$150/hour) to complete the FCC Form 340. Additionally, a 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/publication. For DTS services, applicants must submit a filing fee of

²⁶ The requirement and form revisions adopted in FCC 09-30 by the Commission add an additional burden cost of \$790,915 to this information collection.

OMB Control Number: 3060-0029

May 2009

Title: Application for TV Broadcast Station License, Form FCC 302-TV; Application for DTV Broadcast Station License, FCC Form 302-DTV, Application for Construction Permit for Reserved Channel Noncommercial Educational Broadcast Station, FCC Form 340; Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station, FCC Form 349; Section 47 CFR 73.626

\$830/application.

FCC Form 349: We assume that the average respondent would contract with consulting engineers (\$150/hour) and attorneys in a law firm (\$200/hour) to complete their applications. A respondent for a commercial station must also submit a fee (\$625/application) with the filing of FCC 349. Additionally, an applicant must give local public notice of the filing of its application for construction permit. 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 Commission estimates the cost of this publication is estimated to be \$113.25 per publication.

14. **Cost to Federal Government:** The total cost to the Federal Government was calculated as follows:

FCC Form 302-TV -

Paraprofessional	3 hours x \$33.12/hour x 200 applications =	\$19,872.00
Clerical	1 hour x \$18.07/hour x 200 applications =	<u>\$ 3,614.00</u>
		\$23,486.00

FCC Form 302-DTV:

Paraprofessional	1.75 hours x \$33.12/hour x 1,300 =	\$ 75,348.00
Professional	5.25 hours x \$55.78/hour x 1,300 =	\$380,698.50
Clerical	0.50 hours x \$18.07/hour x 1,300 =	<u>\$ 11,745.50</u>
		\$467,792.00

FCC Form 340 -

FM New and Major Applications:

Clerical	1.5 hours x \$18.07/hour x 1,055 =	\$ 28,595.78
Paraprofessional	8.0 hours x \$33.12/hour x 1,055 =	\$ 279,532.80
Professional	37 hours x \$55.78/hour x 1,055 =	<u>\$2,177,372.30</u>
		\$2,485,500.90

FM Minor Change:

Clerical	2.0 hours x \$18.07/hour x 300 =	\$ 10,842.00
Paraprofessional	6 hours x \$33.12/hour x 300 =	\$ 59,616.00
Professional	25 hours x \$55.78/hour x 300 =	<u>\$418,350.00</u>
		\$488,808.00

OMB Control Number: 3060-0029

May 2009

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TV Minor Change/DTV Applications:²⁷

Clerical	2 hours x \$18.07/hour x 525 =	\$ 18,973.00
Paraprofessional	6 hours x \$33.12/hour x 525 =	\$104,328.00
Professional	16 hours x \$55.78/hour x 525 =	<u>\$468,552.00</u>
		\$591,853.50
DTS		
Clerical	2 hours x \$18.07/hour x 100 =	\$ 3,614.00
Paraprofessional	6 hours x \$33.12/hour x 100 =	\$ 19,872.00
Professional	20 hours x \$55.78/hour x 525 =	<u>\$585,690.00</u>
		\$609,176.00

FCC Form 349 -

Clerical (commercial)	1 hour x \$18.07 x 700 =	\$ 12,649.00
Professional	4 hours x \$55.78 x 700 =	\$156,184.00
Clerical (noncommercial)	1 hour x \$18.07 x 300 =	\$ 5,421.00
Professional	6 hours x \$55.78 x 300 =	<u>\$100,404.00</u>
		\$274,658.00

Totals: \$23,486.00 + \$467,792.00 + \$2,485,500.90 + \$488,808.00 + \$591,853.50 + \$609,176.00 + \$274,658.00 = **4,941,274.40**

Total Cost to Federal Government = \$4,941,274.40

The following data was used to calculate the total cost to the Federal Government:

***FCC Form 302-TV** - The Commission will use paraprofessional and professional staff at the GS-11, step 5 level (\$33.12/hour), and clerical staff at the GS-5/Step 5 level (\$18.07/hour) to process the FCC 302-TV applications.

***FCC Form 302-DTV** - The Commission will use professional staff at the GS-14, step 5 level (\$55.78/hour), paraprofessional staff at the GS-11, step 5 level (\$33.12/hour), and clerical staff at the GS-5/Step 5 level (\$18.07/hour) to process the FCC 302-DTV applications.

***FCC Form 340** - The Commission will use professional staff at the GS-14, step 5 level (\$55.78/hour), paraprofessional staff at the GS-11, step 5 level (\$33.12/hour) and clerical staff at the GS-5, step 5 level (\$18.07/hour) to process these applications.

***FCC Form 349** - The Commission will use professionals at the GS-14, step 5 level (\$55.78/hour)

²⁷ These applications include 25 TV Minor Change Applications + 260 DTV Applications = 285 Applications.

OMB Control Number: 3060-0029

May 2009

Title: Application for TV Broadcast Station License, Form FCC 302-TV; Application for DTV Broadcast Station License, FCC Form 302-DTV, Application for Construction Permit for Reserved Channel Noncommercial Educational Broadcast Station, FCC Form 340; Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station, FCC Form 349; Section 47 CFR 73.626

and clerical personnel at the GS-5, step 5 level (\$18.07/hour) to process these applications.

15. Reason for Changes in Burden or Cost: On April 7, 2009, the Commission adopted a Notice of Proposed Rule Making in the Matter of Policies to Promote Rural Radio Service and to Streamline Allotment, and Assignment Policies, MB Docket No. 09-52, FCC 09-30 (released Apr. 20, 2009). As a result of this action, we have program changes of +1,275 burden hours and + \$790,915 cost burden for this information collection.

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: There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods

This information collection does not employ any statistical methods.