

## SUPPORTING STATEMENT

### **A. Justification:**

1. FCC Form 609-T is used by Designated Entities (DEs) to request prior Commission approval pursuant to Section 1.2114 of the Commission's rules for any reportable eligibility event. The data collected on the form is used by the FCC to determine whether the public interest would be served by the approval of the reportable eligibility event.

FCC Form 611-T is used by designated entity licensees to file an annual report, pursuant to Section 1.2110(n) of the Commission's Rules, related to eligibility for designated entity benefits.

The Commission adopted these information collection requirements to ensure that licensees receiving designated entity benefits remain, on an ongoing basis, in compliance with the designated entity rules and policies – that the entity remains eligible for designated entity benefits for a prescribed period of time (which may vary depending upon the particular circumstances of a licensee or service). Specifically, the Commission provides benefits to entities eligible to be designated entities pursuant to Congressional directive, as reflected in Section 309(j) of the Communications Act, 47 U.S.C. § 309(j). Thus, the Commission has indicated that it acted to ensure that designated entities are given the opportunity to participate in the provision of spectrum-based services, while at the same time ensuring that entities ineligible for designated entity incentives cannot circumvent the Commission's Rules by obtaining those benefits indirectly, through their relationships with entities that in fact are eligible for such benefits.

Licensees seeking approval for a "reportable eligibility event" pursuant to § 1.2114 of the Commission's Rules will be required to file FCC Form 609-T and any attachments required by the form. Licensees that are required to file an annual report pursuant to § 1.2110(n) of the Commission's Rules will have to submit FCC Form 611-T and any attachments required by the form.

The Commission is seeking an extension from OMB (no change to the information collection requirements) to obtain the full-three year clearance from them. There is no change to the Commission's burden estimates.

The statutory authority for this collection of this information is contained in Sections 154(i), 308(b), 309(j)(3), and 309(j)(4) of the Communications Act, as amended, *See* 47 U.S.C. §§ 4(i), 308(b), 309(j)(3), and 309(j)(4).

As noted on the Form OMB 83-I, the proposed information collections do not affect individuals or households; thus, there are no impacts under the Privacy Act.

2. The information collected will be used to ensure that only legitimate small businesses reap the benefits of the Commission's designated entity program. Further, this information will assist the Commission in preventing companies from circumventing the objectives of the designated entity eligibility rules by allowing us to review (1) the FCC Form 609-T applications seeking approval for "reportable eligibility events" and (2) the FCC Form 611-T annual reports to ensure that licensees receiving designated entity benefits are in compliance with the Commission's policies and rules,

and to determine whether licensees are maintaining eligibility for the particular type of designated entity status claimed when the licensee originally acquired the license.

3. The Commission mandates that all forms and required attachments will be submitted electronically via the Universal Licensing System (ULS). Additionally, any updates, amendments, or requests for further information will also be able to be filed via ULS. All of the wireless radio services encompassed within the obligations to file FCC Form 609-T and FCC Form 611-T are subject to mandatory electronic filing as specified in Section 1.913 of the Commission's Rules, 47 C.F.R. § 1.913.
4. This agency does not impose a similar information collection on the respondents. There is no similar data available.
5. This information collection pertains to only those licensees that receive designated entity benefits. However, 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 collection to that which is absolutely necessary to ensure that small businesses receiving benefits under the program are qualified to do so.
6. Collection of information for this collection is necessary due to the following reasons:

*Annual Report:* Collecting the data set required by the FCC Form 611-T on a yearly basis will enable the Commission to monitor designated entities and ensure that they are in compliance with the Commission's Rules regarding designated entity eligibility. The yearly requirement will also allow the Commission to take action if the annual report demonstrates that a designated entity is no longer in compliance with the Commission's Rules and policies. Without this information collection, the Commission will be hindered in its ability to ensure that its policies and rules are adhered to and that designated entity benefits are provided to legitimate small businesses.

*Reportable Eligibility Events:* The respondents determine when events that could impact their designated entity status take place and the frequency of such events. Thus, the frequency of filing the FCC Form 609-T is generally determined by the respondents. Without this information collection, the Commission will be unable to ensure that its policies and rules are adhered to and that designated entity benefits are provided to legitimate small businesses.

7. The special circumstances involved in this information collection are as follows:

*Annual reporting:* It is possible, yet unlikely, that respondents may have to file annual reports more than once a year. The newly-adopted rules require that an annual report must be filed within five days of the anniversary date of the initial grant of a license. If a respondent has multiple licenses that were initially granted at different times throughout the year, it is possible that it may have to file more than one FCC Form 611-T during a calendar year. However, if multiple licenses were granted on the same date, we will only require only one FCC Form 611-T to cover all licenses granted on that date, in order to reduce the burden on respondents.

*Reportable Eligibility Events:* It is possible that licensees may seek to enter into more than one arrangement that results in a reportable eligibility event during any calendar year. As a result, such respondents would need to file a FCC Form 609-T each time they would seek enter into a covered agreement and/or arrangement.

All data collected will be consistent with 5 C.F.R. § 1320.6.

8. The Commission initiated a 60-day public comment period which appeared in the Federal Register on September 9, 2010 (75 FR 54876). No comments were received as a result of the notice.
9. Respondents will not receive any payments or gifts.
10. Some respondents may assert that some data and/or agreements that they are filing in response to these information collection requirements include confidential information or trade secrets. The Commission has long-established procedures for accepting confidential and market-sensitive documents and information via ULS. These long-standing procedures will be followed to ensure that no confidential materials or trade secrets are disclosed.

The information collected is made available for public inspection. Applicants may seek confidential treatment pursuant to 47 C.F.R. § 0.459, the Commission's general rule governing requests to withhold from public inspection information submitted to the Commission. ULS allows for information to be filed confidentially. Confidentially filed materials will only be accessible to Commission employees who have been issued passwords.

11. This collection does not address private matters of a sensitive nature.
12. *Respondent Hourly Burden:*

These information collection requirements will apply to all licensees that hold designated entity licenses. We estimate that there are approximately 1,100 licensees (550 licensees for FCC Form 609-T and 550 licensees for FCC Form 611-T) that hold designated entity licenses that will be affected by the rule changes that initiated this information collection.

**Total annual respondents for this collection:**

FCC Form 609-T: 550 licensees  
FCC Form 611-T: 550 licensees  
1,100 licensees

**Total annual responses for this collection:**

FCC Form 609-T: 550 licensees x 3 (responses/annum) = 1,650 responses  
FCC Form 611-T: 550 licensees x 2 (responses/annum) = 1,100 responses  
2,750 responses

**FCC Form 609-T: Reportable Eligibility Event:**

The Commission estimates that it will take each applicant on average up to 4 hours to complete the FCC Form 609-T seeking approval of a reportable eligibility event. The Commission also estimates that designated entities may file for approval of approximately 3 reportable eligibility events per year. Further, we estimate that 50% of the respondents (275) will complete the application themselves with no additional assistance and that 50% (275) will contract out completing the form to a law firm or application preparation service. We estimate that it will take approximately 30 minutes (0.50) additional time to coordinate information with those contractors.

**Annual Burden Hours:**

$$\begin{aligned} 275 \text{ (applicants)} \times 3 \text{ (responses per annum)} \times 4 \text{ hrs per response} &= 3,300 \text{ hours} \\ 275 \text{ (applicants)} \times 3 \text{ (responses per annum)} \times 0.50 \text{ hrs/response}^1 &= \underline{413 \text{ hours}} \\ \text{Total estimated FCC Form 609-T annual burden:} & \quad \quad \quad \mathbf{3,713 \text{ hours}} \end{aligned}$$

**FCC Form 611-T: Annual Report:**

The Commission estimates that it will take each applicant on average up to 6 hours to complete an annual report. The Commission estimates that most designated entities will have to file one annual report a year; however, in an abundance of caution we will assume that two annual reports will be filed per designated entity.

We estimate that 50% of the respondents (275) will complete the application themselves with no additional assistance and that 50% (275) will contract out completing the form to a law firm or application preparation service. Again, we estimate that it will take approximately 30 minutes additional time to coordinate information with those contractors.

$$\begin{aligned} 275 \text{ (applicants)} \times 2 \text{ (responses per annum)} \times 6 \text{ (hrs per response)} &= 3,300 \text{ hours} \\ 275 \text{ (applicants)} \times 2 \text{ (responses per annum)} \times 0.50 \text{ hrs/response}^2 &= \underline{275 \text{ hours}} \\ \text{Total estimated FCC Form 611-T annual hour burden:} & \quad \quad \quad \mathbf{3,575 \text{ hours}} \end{aligned}$$

**TOTAL ESTIMATED ANNUAL HOUR BURDEN: 3,713 + 3,575 = 7,288 HOURS**

13. *Cost Burden to Respondents:* There are no capital and start-up costs to prepare the FCC Form 609-T and FCC Form 611-T. The annual costs (O&M) consist of the cost of Internet access fees.

**a. FCC Form 609-T: Reportable Eligibility Event:**

The Commission will charge filing fees for each application seeking approval of reportable eligibility events. These filing fees vary based on radio service. For purposes of this submission, we estimate an average filing fee of \$45.00 per application.

<sup>1</sup> This time accounts for consulting time with outside attorneys/engineers for the 275 respondents using an outside attorney/engineer to complete their forms.

<sup>2</sup> This time accounts for consulting time with outside attorneys/engineers for the 275 respondents using an outside attorney/engineer to complete their forms.

We estimate that 50% of the respondents will contract out the completion of the application seeking approval of a reportable eligibility event and will use an attorney/engineer or application preparation service at a cost of \$200.00/hour to prepare the application seeking approval of reportable eligibility events.

275 (applicants) x 3 (responses per annum) x \$45.00/filing fee = \$ 37,125.00  
275 (applicants) x 3 (responses/) x \$200.00/hr. (Attorney) x 4.5 hrs./response = \$742,500.00  
**Total estimated "Eligibility Event"/FCC Form 609-T Annual Costs is: \$779,625.00**

***b. FCC Form 611-T: Annual Report:***

There are no filing fees associated with the filing of the annual report (FCC Form 611-T). We estimate that 50% of the respondents will contract out the completion of the annual report and will use an attorney/engineer or application preparation service at a cost of \$200.00/hour to prepare the annual report.

275 (applicants) x 2 (responses per annum) x 6.5 hrs per response x \$200.00/hr. = \$715,000.00

**Total estimated FCC Form 611-T Annual Costs is: \$715,000.00**

**TOTAL ESTIMATED COST BURDEN: \$779,625.00 + \$715,000.00 = \$1,494,625.00**

14. *Reportable Eligibility Event:* The Commission estimates that on average staff review of the information collection, including time spent by application examiners and/or staff attorneys, will take 30 minutes per application. Accordingly, for the approximately 550 licensees that hold designated entity licenses applications filing an estimated 3 responses per year taking approximately 30 minutes (0.5 hrs.) per application at an average cost of \$40.00/hour, including attorney time, the total estimated annual cost to the Federal Government is:

550 (applicants) x 3 (responses/annum) x 0.5 hrs/application x \$40.00/hr = \$33,000.00

**Annual FCC Form 609-T Cost to the Federal Government is: \$33,000.00**

*Annual Report:* The Commission estimates that on average staff review of the annual report, including time spent by staff attorneys, will take 30 minutes (0.5 hrs.) per report. Accordingly, for the approximately 550 licensees that hold designated entity licenses applications filing an estimated 2 responses per year taking approximately 30 minutes per application at an average cost of \$40.00/hour, including attorney time, the total estimated annual cost to the Federal Government is:

550 (applicants) x 2 (responses/annum) x 0.5 hours x \$40.00/hr = \$22,000.00

**Annual FCC Form 611-T Cost to the Federal Government is: \$22,000.00**

**Total Annual Cost to the Federal Government is: \$33,000.00 + \$22,000.00 = \$55,000.00**

15. There is no change to the estimated average burden hours or number of respondents.
16. The collection will not be published for statistical use.
17. The Commission is requesting a continued waiver from displaying the OMB expiration date on FCC Form 609-T and 611-T. Granting this waiver will prevent the Commission from destroying excess forms, 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” in Item 19.

**B. Collections of Information Employing Statistical Methods:**

This information collection does not employ statistical methods.