

**Title: Application for Authority to Construct or Make Changes in a Low Power TV, TV Translator or TV Booster Station, FCC Form 346; 47 CFR Sections 74.787(c) and 74.793(d); LPTV Out-of-Core Digital Displacement Application**

**SUPPORTING STATEMENT**

**A. Justification:**

1. FCC Form 346 is used by licensees/permittees/applicants when applying for authority to construct or make changes in a Low Power Television, TV Translator or TV Booster broadcast station.

**REVISED INFORMATION COLLECTION REQUIREMENTS**

On July 15, 2011, the Commission adopted the Second Report and Order, *In the Matter of Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations*, MB Docket No. 03-185, FCC 11-110 ("*LPTV Digital Second Report and Order*"). This document contains rules and policies for low power television stations ("*LPTV*")<sup>1</sup> to transition from analog to digital broadcasting. Due to the Commission adopting these rules and policies to effectuate the low power digital transition, the *LPTV Second Report and Order* imposes new PRA burdens on licensees. The new rules and policies that contain information collection requirements are as follows:

**47 CFR Section 74.793(d)** require that certain digital low power and TV translator stations submit information as to vertical radiation patterns as part of their applications (FCC Forms 346 and 301-CA<sup>2</sup>) for new or modified construction permits.

**47 CFR Section 74.787(c)** require that all low power station with facilities on out-of-core channels (channels 52-59) submit a digital displacement (FCC Form 346) application proposing an in-core channel (channels 2-51, excluding channel 37) not later than September 1, 2011.

**History:**

On September 17, 2010, the Commission adopted the Further Notice of Proposed Rulemaking, *In the Matter of Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations*, MD Docket No. 03-185, FCC 10-172 ("*LPTV Digital Transition FNPRM*"). The document contained rules and policies for low power television

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<sup>1</sup> The low power television service consists of LPTV, TV translator, and Class A stations. LPTV stations may radiate up to 3 kilowatts of power for stations operating on the VHF band (*i.e.*, channels 2 through 13), and 150 kilowatts of power for stations operating on the UHF band (*i.e.*, channels 14 through 69). By comparison, full-service stations on VHF channels 7 through 13 radiate up to 316 kilowatts of power, and stations on the UHF channels radiate up to 5,000 kilowatts of power. LPTV signals typically extend approximately 15 to 20 miles, while the signals of full-service stations can reach as far as 60 to 80 miles.

<sup>2</sup>See OMB control number 3060-0932 for the associated burden for FCC Form 301-CA as it relates to Section 74.793(d).

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stations (“LPTV”) to transition from analog to digital broadcasting. The Commission received preapproval for the information collection requirements that were contained in FCC 10-172 on November 26, 2010.

On September 9, 2004, the Commission adopted a Report and Order, FCC 04-220, MB Docket Number 03-185, *In the Matter of Parts 73 and 74 of the Commission’s Rules to Established Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations*. To implement the new rules, the Commission revised FCC Form 346 to allow licensees/permittees/applicants to use the revised FCC Form 346 to file for digital stations or for conversion of existing analog stations to digital stations.

Applicants are also subject to the third party disclosure requirement of 47 CFR Section 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. 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 locally maintained along with the application.<sup>3</sup>

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, 307, 308, and 309 of the Communications Act of 1934, as amended.

2. The data are used by FCC staff to determine if the applicant is qualified, meets basic statutory and treaty requirements and will not cause interference to other authorized broadcast services.

3. On May 13, 2002, the Commission released Public Notice DA 02-1087 announcing the mandatory electronic filing of FCC Form 346. Mandatory electronic filing for these forms began on May 21, 2002. A copy of the Public Notice is attached. Paper-filed copies of FCC Form 346 will be accepted only if accompanied by an appropriate request for waiver of the electronic filing requirement. Waivers will not be routinely granted and filers should plead with particularity the facts and circumstances warranting grant of a waiver.

4. No other agency imposes a similar information collection on the respondents. There are no similar data available.

5. In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the burden on all respondents. Therefore, this information collection will not have a significant economic impact on a substantial number of small entities/businesses.

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<sup>3</sup> See OMB control number 3060-0214 for the burden and costs attached to the recordkeeping requirements for these notifications.

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- 6. The frequency for filing is determined by respondents, as necessary.
- 7. This collection of information is consistent with the guidelines in 5 CFR Section 1320.5(d)(2).
- 8. The Commission published a Notice in the *Federal Register* on October 18, 2010 (75 FR 63766) seeking public comments on the proposed information collection requirements contained in this supporting statement. To date, no comments have been received from the public.
- 9. No payment or gift was provided to respondents.
- 10. There is no need for confidentiality with this collection of information.
- 11. This collection of information does not address any private matter.
- 12. We estimate that applicants/licensees/permittees will prepare and file 3,500 applications annually. The estimated average burden on each applicant/licensee is nine and a half (9.5) hours.<sup>4</sup> The respondents will complete the legal portion of the form which requires approximately seven (7) hours and using in-house station engineers to complete a portion of the engineering portion of the form which requires approximately two and a half (2.5) hours.

The respondents' estimated salary are \$100,000/year (\$48.08/hour). The station engineers' salary are estimated at \$60,000/year (\$30.00/hour).

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

**Total Number of Annual Respondents: 3,500 Licensees/Applicants/Permittees**

**Total Number of Annual Responses: 3,500 FCC Form 346 Applications**

**Annual Burden Hours:**

3,500 applications x 2.5 hours to complete in-house engineering review = 8,750 hours  
 3,500 applications x 7 hours to complete legal portion of the form = 24,500 hours

**Total Annual Burden Hours:**

**33,250 hours**

**Annual "In-house cost":**

3,500 applications x 2.5 hours to complete in-house engineering review x \$30.00/hour = \$

<sup>4</sup> These burden hours account for the additional hours respondents will require to complete the requirements of 47 CFR Section 74.793(d) and 74.787(c) and the revised FCC Form 346.

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262,500 3,500 applications x 7 hours to complete legal portion of the form x \$48.08/hour =  
\$1,177,960

**Total Annual “In House” Cost:**

**\$1,440,460**

13. In addition to “in-house” staff work, each applicant/licensee/permittees will require use a communications attorney and a consulting engineer to assist in preparing and filing FCC Form 346. We estimate these attorneys will spend approximately 1 hour reviewing the form and will charge approximately \$300/hour for the legal review. We also assume that a consulting engineer will spend approximately 17 hours to complete certain engineering aspects of FCC Form 346 and will charge the respondent \$250/hour for the engineering services. In addition, each applicant/licensee must submit a \$545 application fee with FCC Form 346.

As required by the third party disclosure requirements of 47 CFR Section 73.3580, the applicant/licensee must give local public notice of the filing of its application for a new or 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—four public notice advertisements in all. We estimate the cost of this publication to be \$113.25/publication.

3,500 applications x 1 hour/consulting attorney x \$300/hour =	\$ 1,050,000
3,500 applications x 17 hours/consulting engineer x \$250/hour =	\$14,875,000
3,500 applications x \$545/application =	\$ 1,907,500
3,500 notices x 4 notices/applicant x \$113.25/publication =	<u>\$ 1,585,500</u>
<b>Total Annual Burden Cost: \$19,418,000</b>	

14. The Commission will use legal and engineering staff at the GS-14, step 5 level (\$57.13/hour); clerical staff at the GS-5, step 5 level (\$18.50/hour) and paraprofessional staff at the GS-9, step 5 level (\$28.04/hour) to review and process these applications.

Attorney	3 hrs. x \$57.13/hour x 3,500 applications =	\$ 599,865
Engineer	11 hrs. x \$57.13/hour x 3,500 applications =	\$2,199,505
Clerical	5 hrs. x \$18.50/hour x 3,500 applications =	\$ 323,750
Paraprofessional	4 hrs. x \$28.04/hour x 3,500 applications =	<u>\$ 392,560</u>
<b>Total Cost to the Federal Government =</b>		<b>\$3,515,680</b>

15. If the Commission adopts the information collection requirements pertaining to the LPTV digital transition notices contained in FCC 11-110, this information collection will have program changes/increases to the annual burden hours of 8,750 hours and \$4,375,000 to the annual cost burden.

16. The data will not be published.

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17. An extension of the waiver not to publish the expiration date on the form is requested. 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 Section 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.