

SUPPORTING STATEMENT

A. Justification:

1. Revised information collection requirement:

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*”). The *LPTV Digital Second Report and Order* contains rules and policies for low power stations (“LPTV”)¹ to transition from analog to digital broadcasting and states that low power television, TV translator, and Class A television stations operating pursuant to Special Temporary Authority (STA) must comply with the requirements for feeable ancillary or supplementary services in Section 73.624(g) (using FCC Form 317).² **This new requirement in 47 C.F.R. § 73.624(g) adds a new group of respondents to this collection (namely, “low power television, TV translator, and Class A television station DTV stations operating pursuant to STA”). The Commission has also revised FCC Form 317 and its instructions to indicate that low power television, TV translator, and Class A television station DTV stations operating pursuant to STA are required to file FCC Form 317 (which includes reporting their ancillary and supplementary services, making the required payment to the Commission, and retaining the appropriate records).**

History

On September 30, 2004, the Commission adopted the 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 04-220 (“*LPTV Digital Transition Report and Order*”). The *LPTV Digital Transition Report and Order* contained rules and policies for low power stations (“LPTV”) to transition from analog to digital broadcasting and stated that low power television, TV translator, and Class A television station DTV licensees must comply with the requirements for feeable ancillary or supplementary services in Section 73.624(g) (using FCC Form 317).

Congress mandated that after February 17, 2009, full-power television broadcast stations must transmit

¹ 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.

² Ancillary or supplementary services are all services provided on that portion of the station's digital spectrum or bitstream not needed to provide the required one free, over-the-air video broadcast signal to viewers, except that any video broadcast signal provided at no direct charge to viewers shall not be considered ancillary or supplementary. Such services include, but are not limited to, computer software, data transmissions, teletext, interactive materials, aural messages, paging services, audio signals, subscription video, and the like.

only in digital signals, and may no longer transmit analog signals. 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 (*"Third DTV Periodic Report and Order"*) to establish the rules, policies and procedures necessary to complete the nation's transition to DTV.

Information collection requirements that were approved by OMB and have not changed since the previous approval:

47 C.F.R. § 73.624(g): The following information collection requirements have not changed since OMB approval was last received:

- Each commercial and noncommercial educational (NCE) digital television (DTV) broadcast station licensees and permittees is required to file FCC Form 317 annually. The licensees and permittees report whether they provided ancillary or supplementary services at any time during the reporting cycle. The report indicates which services were provided, fee related services, gross revenues received from all feeable ancillary and supplementary services, and the amount of bitstream used to provide ancillary or supplementary service.
- Concurrent with the submission of FCC Form 317, each commercial and noncommercial educational DTV licensee and permittee is required to remit to the Commission a payment, FCC Form 159 (3060-0589), in the amount of 5% of the gross revenues derived from the provision of its ancillary or supplementary services.
- Each licensee and permittee is required to retain the records supporting the calculation of the fees due for three years from the date of remittance of fees. Noncommercial DTV licensees and permittees must also retain for eight years documentation sufficient to show that their entire bitstream was used "primarily" for noncommercial education broadcast services on a weekly basis.

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, 336 and 403 of the Communications Act of 1934, as amended.

2. The data is used by FCC staff to ensure that DTV licensees comply with the requirements of Section 336(e) of the Communications Act.
3. Commercial and NCE DTV licensees and permittees, and low power, TV translator and Class A television stations DTV licensees and permittees must file FCC Form 317 electronically. Licensees and permittees can file waiver requests to the Commission seeking approval to file paper copies of the forms if electronic means are not accessible to the licensees.
4. This agency does not impose a similar information collection on the respondents. There is 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.
6. The FCC Form 317 is filed annually. Section 336 of the Communications Act requires the Commission to establish a program to assess and collect an annual fee for ancillary or supplementary services provided by all DTV licensee and permittee, and low power, TV translator and Class A television stations DTV licensees and permittees.
7. NCE DTV licensees and permittees are required to retain certain documentation for eight years, but only for three years to show documentation for calculating fees. The Commission has determined this recordkeeping schedule is necessary to provide sufficient time for these noncommercial DTV licensees and permittees to show compliance with the requirement to use their entire bitstream primarily for nonprofit, noncommercial, and educational broadcast services.
8. The Commission published a Notice (76 FR 46292) in the *Federal Register* on August 2, 2011, 2011 seeking public comment for the information collection requirements contained in this supporting statement. No comments were received from the public.
9. No payment or gift will be 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. The following estimates are provided for public burden:

# of Respondents	# of Filings/FCC Form 317	Total # of Responses/ Form 317 Filings / Records Kept	Respondent Hourly Burden	Annual Burden Hours	Respondent's Hourly Wage	Annual "In-house" Cost
FCC Form 317 Filing						
9,391	1	9,391	2 hours ³	18,782 hours	\$48.08	\$903,038.56
Recordkeeping Requirement						
9,391	1	9,391	4 hours	37,564 hours	\$48.08	\$1,806,077.10
Totals						
9,391 Respondents		18,782 Filings/ Records Kept		56,346 hours		\$2,709,115.60

- **Total Number of Annual Respondents: =**
 - 1,815 Full Power NCE/ Commercial DTV Licensees and Permittees
 - 7,576 Low power television, TV translator, and Class A television station DTV Licensees and Permittees
 - 9391 **(Respondents)**

- **Total Number of Annual Responses: =** 9391 FCC Form 317 Filings
 - 9391 Records Kept
 - 18,782 **(Responses)**

- **Total Annual Burden Hours: 56,346 hours**

- **Total Annual "In-house" Cost: \$2,709,115.60**

13. Annual Cost Burden: We expect the respondents will consult with an attorney for review of the FCC Form 317 before submission to the Commission. We estimate the attorney's average salary is \$300/hour and the time required for review is 30 minutes.

³ The respondent's burden includes 30 minutes of consulting time with an outside attorney to allow the respondent to review completed FCC Form 317 applications and the remaining 1 hour and 30 minutes will be time that the respondent will use to complete FCC Form 317.

1,815 Full power commercial/NCE DTV applications x 0.5 hours x \$300/hour = \$ 272,250
7,576 Low power television, TV translator,
and Class A television DTV applications x 0.5 hours x \$300/hour = \$1,136,400
Total Annual Cost Burden = \$1,408,650

14. Cost to the Federal Government: The Commission will use professionals at the GS-14, step 5 level (\$57.13) and clerical staff at the GS-5, step 5 level (\$18.50) to process the FCC Form 317.

Professionals:	0.25 hours x \$57.13/hour x 9,391 =	\$134,126.95
Clerical:	0.75 hours x \$18.50/hour x 9,391 =	<u>\$130,300.12</u>
TOTAL COST TO THE FEDERAL GOVERNMENT		= \$264,427.07

15. There are program changes/increases of 40 to the number of annual respondents, 80 to the annual number of responses, 240 to the annual burden hours and \$6,000.00 to the annual cost burden which are due to the adoption of the information collection requirements contained in FCC 11-110.

16. The data will not be published.

17. We request an 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 Section 0.408.

18. There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods:

No statistical methods are employed.