

February 17, 2012

FEDERAL COMMUNICATIONS COMMISSION

OMB Control Number: 3060-0798

Request: Non-substantive change/non-material change request.

In accordance with the mandate of the U.S. Court of Appeals for the Third Circuit, the Commission has removed two provisions in its competitive bidding rules for designated entities that it had adopted in 2006. In *Council Tree Communications, Inc. v. FCC*, 619 F.3d 235 (3d Cir. 2010), *cert. denied*, 131 S. Ct. 1784 (2011), the Third Circuit vacated the Commission's impermissible material relationship rule in 47 C.F.R. § 1.2110(b)(3)(iv)(A) and its extension of the unjust enrichment payment period from five years to ten years in 47 C.F.R. § 1.2111(d)(2) on the ground that these provisions had been adopted without adequate notice and opportunity for comment as required by the Administrative Procedure Act. The Commission released an Order on February 1, 2012, amending 47 C.F.R. § 1.2110 to delete subsection (b)(3)(iv)(A) and amending 47 C.F.R. § 1.2111 by deleting subsection (d)(2)(i) as no longer applicable and reinstating the previous version of the payment schedule in 47 C.F.R. § 1.2111(d)(2) (1998). The Order also conforms other Part 1 rules, as necessary, to remove several references to impermissible material relationships.

With this non-substantive/non-material change request, the Commission is providing OMB with an update on the information collected on FCC Form 601, its long-form application for licensing wireless telecommunications services. This collection was most recently approved by the OMB on January 20, 2011, under OMB Control Number 3060-0798. The February 1, 2012, Order is ministerial and was issued at the direction of the United States Court of Appeals for the Third Circuit. Repeal of the impermissible material relationship rule reduces the reporting burden for certain designated entity applicants that no longer are required to disclose such relationships, but elimination of this restriction on eligibility for designated entity status could potentially increase the overall number of designated entity applicants that might be required to provide information.