

## SUPPORTING STATEMENT

### **A. Justification:**

1. The Commission is submitting this information collection to the Office of Management and Budget as a revision to a currently approved information collection under OMB Control Number 3060-0718.

On August 3, 2012, the FCC adopted and released a *Backhaul Second Report and Order*, FCC 12-87, WT Docket No. 10-153, RM -11602, adopting a *Rural Microwave Flexibility Policy* directing the Wireless Telecommunications Bureau (Bureau) to favorably consider waivers of the payload capacity requirements if Fixed Service (FS) applicants demonstrate compliance with certain criteria, which is adding a new reporting and recordkeeping requirement to this information collection. In order to accommodate the consideration of waivers of the payload capacity of FS applicants pursuant to the *Rural Microwave Flexibility Policy* requirement, there is an increase in the total annual burden hours from 35,242 to 35,442 hours, an increase in the number of responses from 27,292 to 27,342, and an annual costs increase from \$760,000 to \$810,000 because of the new respondents, i.e., Fixed Service operators who choose to file under the Rural Microwave Flexibility Policy. The Policy directs the Bureau to favorably consider waivers of the requirements for payload capacity of equipment if the applicants demonstrate equipment compliance with the following criteria:

- o The interference environment would allow the applicant to use a less stringent Category B antenna (although the applicant could choose to use a higher performance Category A antenna);
- o The applicant specifically acknowledges its duty to upgrade to a Category A antenna and come into compliance with the applicable efficiency standard if necessary to resolve an interference conflict with a current or future microwave link pursuant to § 101.115(c);
- o The applicant uses equipment that is capable of readily being upgraded to comply with the applicable payload capacity requirement, and provide a certification in its application that its equipment complies with this requirement;
- o Each end of the link is located in a rural area (county or equivalent having population density of 100 persons per square mile or less);
- o Each end of the link is in a county with a low density of links in the 4, 6, 11, 18, and 23 GHz bands;
- o Neither end of the link is contained within a recognized antenna farm; and
- o The applicant describes its proposed service and explains how relief from the efficiency standards will facilitate providing that service (*e.g.*, by eliminating the need for an intermediate hop) as well as the steps needed to come into compliance should an interference conflict emerge.

There is no change in the existing third party disclosure requirements.

Specifically, in the *Backhaul Second Report and Order* the Commission specifically adopted the *Rural Microwave Flexibility Policy*, directing the Wireless Telecommunications Bureau (“Bureau”) to favorably consider waivers of the requirements for payload capacity of equipment if the applicants demonstrate equipment compliance with the following criteria:

- o The interference environment would allow the applicant to use a less stringent Category B antenna (although the applicant could choose to use a higher performance Category A antenna);
- o The applicant specifically acknowledges its duty to upgrade to a Category A antenna and come into compliance with the applicable efficiency standard if necessary to resolve an interference conflict with a current or future microwave link pursuant to § 101.115(c);
- o The applicant uses equipment that is capable of readily being upgraded to comply with the applicable payload capacity requirement, and provide a certification in its application that its equipment complies with this requirement;
- o Each end of the link is located in a rural area (county or equivalent having population density of 100 persons per square mile or less);
- o Each end of the link is in a county with a low density of links in the 4, 6, 11, 18, and 23 GHz bands;
- o Neither end of the link is contained within a recognized antenna farm; and
- o The applicant describes its proposed service and explains how relief from the efficiency standards will facilitate providing that service (*e.g.*, by eliminating the need for an intermediate hop) as well as the steps needed to come into compliance should an interference conflict emerge.

Additionally, Part 101 rule sections require various information to be reported to the Commission; coordinated with third parties; posting requirements; notification requirements to the public; and recordkeeping requirements maintained by the respondent to determine the technical, legal and other qualifications of applications to operate a station in the public and private operational fixed services. See the Appendix at the end of this Supporting Statement to see the individual rule sections and their associated requirements and burden calculations.

The information is used to determine whether the public interest, convenience, and necessity are being served as required by 47 U.S.C. § 309. The Commission staff also use this information to ensure that applicants and licensees comply with ownership and transfer restrictions imposed by 47 U.S.C. § 310.

As noted on 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 is contained in 47 U.S.C. §§ 151, 154(i), 301, 303(f), 303(g), 303(r), 307, 308, 309, 310, and 316.

2. Part 101 rule sections require respondents to report or disclose information to the Commission or third parties, respectively, and to maintain records. These requirements are necessary for the Commission staff to carry out its duties to determine technical, legal and other qualifications of applicants to operate and remain licensed to operate a station(s) in the common carrier and/or private fixed microwave services. In addition, the information is used to determine whether the public interest, convenience, and necessity are being served as required by 47 U.S.C. § 309 and to ensure that applicants and licensees comply with ownership and transfer restrictions imposed by 47 U.S.C. § 310. Without this information, the Commission would not be able to carry out its statutory responsibilities.

In addition, the information collection requirements under the *Rural Microwave Flexibility Policy*, is designed to provide a meaningful opportunity for relief for Fixed Service (FS) operators, through a waiver process, listing specific criteria, under which the Commission will consider waivers of the efficiency standards. The efficiency standards will allow the use of microwave in areas where such use would not be economically feasible under our current rules. Also, the Wireless Telecommunications Bureau will favorably consider an applicants' waiver request who have made a requisite showing and have demonstrated compliance with specific criteria.

3. The Commission's rules provide for electronic filing and it is the Commission's goal to eliminate, to the greatest extent possible, the filing of paper applications.
4. No similar data is available elsewhere.
5. In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the burden on all respondents, regardless of size. The Commission has limited the information requirements to that absolutely necessary for evaluating and processing applications and to deter against possible abuses.
6. The information collected is generally required when the applicant seeks Commission approval for new or modified facilities, or for an assignment or transfer of control. Therefore, the frequency of the filing is generally determined by the applicant. Renewal applications must be filed once every ten years.
7. Current data collection is consistent with 5 CFR § 1320.6.
8. Pursuant to 5 CFR 1320.8(d) of OMB's rules, a 60-day notice was published in the Federal Register on August 23, 2012 (77 FR 51024). No PRA comments were received as a result of the notice.
9. There are no payments or gifts to respondents.
10. No questions of a confidential nature are asked.
11. There are no questions of a sensitive nature.

12. See the Appendix at the end of this Supporting Statement for each individual rule section covered under this OMB control number along with their requirements imposed on the public along with a breakdown of their burden calculations:

*Recordkeeping.* The annual recordkeeping requirement burden in Part 101 is approximately 27,953 hours (the sum of record keeping requirements detailed in the Appendix for rule sections 101.135, 101.217 and 101.817 only.)

A total of approximately 9,500 unique licensees hold a total of approximately 89,500 licenses issued under Part 101, which equates to approximately 0.311 hours per license.

*Reporting.* Approximately 324 respondents will file 349 responses per year with a total reporting burden of 334 hours (the sum of the reporting requirements detailed in the Appendix for rule sections 101.31, 101.51, 101.55, 101.209, 101.301, 101.305, 101.309, 101.407, 101.411 and 101.413). We estimate that generally 25% of the respondents will contract out the burden of reporting; the remaining 75% of respondents will employ internal staff to respond. The average burden hours for those respondents contracting out and those using internal staff for the various reporting requirements are detailed in the Appendix.

*Third Party Disclosure.* The annual third party disclosure burden in Part 101 is approximately 6,955 hours (the sum of the third party disclosure requirements detailed in the Appendix for rule sections 101.103, 101.215, and 101.519). We estimate that generally 25% of the respondents will contract out the burden of reporting; the remaining 75% of respondents will employ internal staff to respond. Except for the burden for section 101.103 for which approximately 75% of the respondents will contract the burden of reporting to a commercial coordinator; and the remaining 25% would employ internal staff to respond. The average burden hours for those respondents contracting out and those using internal staff for the various reporting requirements are detailed in the Appendix.

*Rural Microwave Flexibility Policy.* Approximately 50 respondents will file 50 responses per year. We estimate that each response will require four hours, for a total burden of 200 hours. We estimate that 100% of respondents will contract out the burden of reporting.

**TOTAL ANNUAL BURDEN HOURS = 27,953 hours + 334 hours + 6,955 hours + 200 hours = 35,442 hours.**

13. The following represents the Commission's estimate of the annual burden to respondents, record keepers or third party respondents resulting from the collection of information:

(a) Total capital and start-up cost component (annualized over its useful life): \$0.

(b) Total operation and maintenance and purchase of services component: \$760,000. We assume that the respondents using consultants would use an attorney (\$300/hour) or engineer (\$250/hour) to consult and prepare information. We are assuming that attorneys and engineers each represent half of the outside hires, which makes \$275 the average hourly cost. Generally, the estimated costs are calculated by multiplying the estimated number of responses for which the applicant will use an attorney or engineer, times the estimated burden hours for that requirement, times the cost of \$275/hour. The reporting and recordkeeping cost estimate for each reporting, recordkeeping, and/or third party disclosure requirement is detailed in the Appendix.

(c) We assume that there will be 50 filings a year under the *Rural Microwave Flexibility Policy*, and that each filing would take 4 hours. We also assume that everyone would hire an engineer (at \$250/hour) to prepare the showing.

**TOTAL ANNUAL COSTS** = (\$275/hour x 2,765 average hours per response x annual responses) = **\$760,375** + (\$250/hour x 50 responses x 4 hours) = **\$50,000**  
= **\$810,000**

14. The cost to the Federal government processing costs are as follows:

**Based on GS-15/5 Hourly Rate in 2012**

Attorney approximately \$67.21/hour x 1 hour x 349 filings =	\$23,456.29
Engineer approximately \$67.21/hour x 1 hour x 349 filings =	<u>\$23,456.29</u>
Sub-Total:	\$46,912.58

**Based on GS-15/5 Hourly Rate Based in 2009**

Attorney approximately \$65.62/hour x 1 hour x 349 filings =	\$22,901.38
Engineer approximately \$65.62/hour x 1 hour x 349 filings =	<u>\$22,901.38</u>
Sub-Total:	\$45,802.76

**Total Government Costs:** \$46,913 + \$45,803 = \$92,716.

15. This change in burden is being reported as a program change increase due to a revision to this information collection. We are increasing the total annual burden hours by +200 hours (from 35,242 to 35,442 hours); increasing the number of responses by +50 responses (from 27,292 to 27,342); and increasing the annual costs burden by +\$50,000. These burden increases will allow FS operators to comply with the Rural Microwave Flexibility Policy adopted and released on August 3, 2012, in a *Backhaul Second Report and Order*, FCC 12-87, WT Docket No. 10-153, RM -11602.

16. The data will not be published for statistical use.

17. We do not seek approval to not display the expiration date for OMB approval of the information collection. The Commission publishes a list of all-OMB approved information collections in 47 CFR 0.408.

18. There are no exceptions to the Certification Statement.

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

No statistical methods are employed.

## APPENDIX

### Key

- † Burden hours estimate for the approx. 25% of respondents who hire consultants (but still incur some in-house time per response)
- ‡ Cost estimate for the approx. 25% of respondents who hire consultants (annual responses done by consultants @ \$250/hr. (engineer) or \$300/hr. (attorney) taking approx. the same amount of time per response as estimated for respondents completing the responses in-house). We are assuming that attorneys and engineers each represent half of the outside hires and using \$275/hr. (the average of the two hourly rates) to calculate annual cost.
- †† Burden hours estimate for the approx. 75% of respondents who complete the response in-house without hiring consultants = no external cost.
- () Estimates that are in fractions are rounded to the next higher number if over .5. Rounded numbers are shown in parentheses.

Rule	Brief Description	Annual Respondents (#)	Annual Responses (#)	Time per Response (Hours)	Annual Burden (Hours)	Annual Cost (x1000)	Type of Burden & Comments
<b>47 CFR Part 101 Rule Sections TOTALS</b>	<b>Fixed Microwave Services</b>	<b>9,500</b>	<b>27,292</b>	<b>.25-3.0 hours</b>	<b>35,442</b>	<b>\$810</b>	<b>This row is the aggregated estimates for Part 101 rules covered by 3060-0718.</b>
<b>SUBPART B</b>	<b>APPLICATIONS AND LICENSES</b>						
<b>§ 101.31</b>	<b>Temporary and conditional authorizations</b>  § 101.31(a)(2): Sufficient data must be submitted to show the need for the proposed area of operation.	8 <sup>†</sup>  22 <sup>††</sup>  = <b>30</b>	8 <sup>†</sup>  22 <sup>††</sup>  = <b>30</b>	0.25 <sup>†</sup>  0.5 <sup>††</sup>	2 <sup>†</sup>  11 <sup>††</sup>  = <b>13 hrs</b>	1.1 <sup>‡</sup>  = <b>\$ 1.1 (1)</b>	Reporting Requirement

Rule	Brief Description	Annual Respondents (#)	Annual Responses (#)	Time per Response (Hours)	Annual Burden (Hours)	Annual Cost (x1000)	Type of Burden & Comments
§ 101.51	<b>Comparative evaluation of mutually exclusive applications</b>  § 101.51(b)(1), (2): waiver of hearing and request.	1	1	1 hr	1 hr		Reporting Requirement
§ 101.55	<b>Considerations involving transfer or assignment applications</b>  §§ 101.55(c), (d) (anti-trafficking generally and in case of certain mergers).	28 <sup>†</sup> 85 <sup>††</sup> = <b>113</b>	28 <sup>†</sup> 85 <sup>††</sup> = <b>113</b>	0.5 <sup>†</sup> 1.5 <sup>††</sup>	14 <sup>†</sup> 127.5 <sup>††</sup> = <b>141.5 (142) hrs</b>	11.6 <sup>‡</sup>  = <b>\$ 11.6 (12)</b>	Reporting Requirement
<b>SUBPART C</b>	<b>TECHNICAL STANDARDS</b>						
§ 101.103	<b>Frequency coordination procedures</b>  <u>Note:</u> MVDDS frequency coordination, which involves different procedures under 47 C.F.R. § 101.103(f), is approved under OMB Control No. 3060-1022.	375 <sup>**</sup> 125 <sup>**</sup> = <b>500</b>	5288 <sup>**</sup> 1762 <sup>**</sup> = <b>7,050</b>	0.25 <sup>**</sup> 0.5 <sup>**</sup>	1322 <sup>**</sup> 881 <sup>**</sup> = <b>2,203 hrs</b>	727.1 <sup>**</sup>  = <b>\$ 727.1 (727)</b>	Third Party Disclosure  **For this collection requirement the percentage of licensees using commercial coordinators to provide this information is approximately 75% @ \$200/hr; the percentage of licensees providing the information on their own is approximately 25%



Rule	Brief Description	Annual Respondents (#)	Annual Responses (#)	Time per Response (Hours)	Annual Burden (Hours)	Annual Cost (x1000)	Type of Burden & Comments
§ 101.135	<p><b>Shared use of radio stations &amp; the offering of private carrier service</b></p> <p>§ 101.135(c): All sharing and private carrier arrangements must be conducted pursuant to a written agreement to be kept as part of the station records</p> <p>§ 101.135(d): The licensee must keep an up-to-date list of system sharers and private carrier subscribers and the basis of their eligibility under this part. Such records must be kept current and must be made available to FCC.</p>	790	790	1 hr	790 hrs		Recordkeeping Requirement
SUBPART D	<b>OPERATIONAL REQUIREMENTS</b>						
§ 101.209	<p><b>Operation of stations at temporary fixed locations for communication between the U.S. and Canada or Mexico</b></p> <p>- Stations authorized to operate at temporary fixed locations for transmissions between U.S.&amp; Canada or U.S. &amp; Mexico must receive specific notification by providing a detailed showing of the operation proposed, nature of communications, parties involved, terms &amp; conditions of operations, &amp; a showing of how the public interest, convenience, &amp; necessity would be served.</p>	1	1	2 hrs	2 hrs		Reporting Requirement

Rule	Brief Description	Annual Respondents (#)	Annual Responses (#)	Time per Response (Hours)	Annual Burden (Hours)	Annual Cost (x1000)	Type of Burden & Comments
§ 101.215	<p><b>Posting of station authorization and transmitter identification cards, plates, or signs</b></p> <p>- Licensee shall post info. of custodian of station license if not maintained at the station.</p>	9,500	9,500	0.5 hrs	4,750 hrs		Third Party Disclosure
§ 101.217	<p><b>Station records</b></p> <p>- Licensee must maintain records &amp; kept in an orderly manner &amp; retained by the licensee for 1 yr.</p>	9,500	9,500	2.85 hrs	27,075 hrs		Recordkeeping Requirement
<b>SUBPART E</b>	<b>MISCELLANEOUS COMMON CARRIER PROVISIONS</b>						
§ 101.301	<p><b>National defense; free service</b></p> <p>- Every common carrier rendering free service to any Gov't agency in connection &amp; preparation for national defense must make &amp; file reports during a 6-mo. period showing the names of the agencies to which free service was rendered, general character of the communications handled, &amp; any tariff charges accrued.</p>	1	1	1 hr	1 hr		Reporting Requirement

Rule	Brief Description	Annual Respondents (#)	Annual Responses (#)	Time per Response (Hours)	Annual Burden (Hours)	Annual Cost (x1000)	Type of Burden & Comments
§ 101.305	Discontinuance, reduction or impairment of service	19 <sup>†</sup> 56 <sup>††</sup> = 75	25 <sup>†</sup> 75 <sup>††</sup> = 100	.25 <sup>†</sup> .5 <sup>††</sup>	6.25 <sup>†</sup> 37.5 <sup>††</sup> = 43.75 (44) hrs	3.4 <sup>‡</sup>  = \$ 3.4 (3)	Reporting Requirement
§ 101.309	Requirement that licensees respond to official communications	25 <sup>†</sup> 75 <sup>††</sup> = 100	25 <sup>†</sup> 75 <sup>††</sup> = 100	.5 <sup>†</sup> 1.5 <sup>††</sup>	12.5 <sup>†</sup> 112.5 <sup>††</sup> = 125 hrs	10.3 <sup>‡</sup>  = \$ 10.3 (10)	Reporting Requirement
SUBPART F	DEVELOPMENTAL AUTHORIZATIONS						
§ 101.407	Special procedure for the development of a new service or for the use of frequencies not in accordance with provisions of the rules in this part  § 101.407(b)- Applications for stations that are intended to be used in the development of a proposed service must be accompanied by a petition to amend the Commission's rules . . . .)	1	1	3 hrs	3 hrs		Reporting Requirement

Rule	Brief Description	Annual Respondents (#)	Annual Responses (#)	Time per Response (Hours)	Annual Burden (Hours)	Annual Cost (x1000)	Type of Burden & Comments
§ 101.411	<p><b>Supplementary showing required</b></p> <p>§ 101.411(a) - authorizations for development of a proposed radio service are issued upon a showing that an app. has provided a definite program of research, development, &amp; the extent of engineering facilities;</p> <p>§ 101.411(b) - expiring developmental authorizations may be renewed if app. is in compliance with applicable rules and app. provides a factual showing of progress.)</p>	1	1	0.75	.75 (1) hrs	0	Reporting Requirement
§ 101.413	<p><b>Developmental report required</b></p> <p>§ 101.413(a) - upon completion of the program of research &amp; development or an evaluation of such a program, the licensee must submit a detailed comprehensive report;</p> <p>§ 101.413(b) - including comprehensive information; and</p> <p>§ 101.413(c) - developmental reports will be made part of the FCC's public records, except for confidentiality.</p>	1	1	2	2 hrs	0	Reporting Requirement

Rule	Brief Description	Annual Respondents (#)	Annual Responses (#)	Time per Response (Hours)	Annual Burden (Hours)	Annual Cost (x1000)	Type of Burden & Comments
<b>SUBPART G</b>	<b>24 GHz SERVICE AND DIGITAL ELECTRONIC MESSAGE SERVICE</b>						
<b>§ 101.519</b>	<p><b>Interconnection</b></p> <p>§ 101.519(a) – DEMS licensees must make available to the public all info. necessary to allow the manufacture of user equipment that will be compatible with the licensee’s network;</p> <p>§ 101.519(b) - DEMS licensees must make available to the public all information necessary to allow interconnection of DEMS networks.</p>	<b>3</b>	<b>3</b>	<b>0.75</b>	<b>2.25 (2) hrs</b>		Third Party Disclosure
<b>SUBPART J</b>	<b>LOCAL TELEVISION TRANSMISSION SERVICE</b>						
<b>§ 101.817</b>	<p><b>Notification of station operation at temporary locations</b></p> <p>§ 101.817(a) - licensees must notify the FCC prior to period of operation including detailed info.;</p> <p>§ 101.817(b) – licensees must keep a copy of the notification in station’s license file</p>	17.5 <sup>†</sup> 52.5 <sup>††</sup> = <b>70</b>	25 <sup>†</sup> 75 <sup>††</sup> = <b>100</b>	0.5 <sup>†</sup> 1.0 <sup>††</sup>	12.5 <sup>†</sup> 75 <sup>††</sup> = <b>87.5 (88) hrs</b>	6.9 <sup>‡</sup> = <b>\$ 6.9 (7)</b>	Recordkeeping Requirement

<b>Rule</b>	<b>Brief Description</b>	<b>Annual Respondents (#)</b>	<b>Annual Responses (#)</b>	<b>Time per Response (Hours)</b>	<b>Annual Burden (Hours)</b>	<b>Annual Cost (x1000)</b>	<b>Type of Burden &amp; Comments</b>
Rural Microwave Flexibility Policy	Payload Capacity of Equipment Efficiency Standards Waivers	50	50	4 hrs	200 hrs	\$50	Voluntary filing
<b>TOTALS</b>		<b>9,500</b>	<b>27,292</b>	<b>.25 – 3 hours</b>	<b>35,442</b>	<b>\$810</b>	