

**Title: Section 76.911, Petition for Reconsideration of Certification**

**SUPPORTING STATEMENT**

**A. Justification:**

1. 47 CFR 76.911(a) states a cable operator, or other interested party, may challenge a franchising authority's certification by filing a petition for reconsideration. The petition may allege either of the following:

(1) The cable operator is not subject to rate regulation because effective competition exists as defined in 47 CFR 76.905.

(2) The franchising authority does not meet the certification standards set forth in 47 U.S.C. 543(a)(3).

47 CFR 76.911(b)(2) states a petitioner filing pursuant to 47 CFR 76.911(a)(2) may request a stay of rate regulation. A filing pursuant to 47 CFR 76.911(a)(1) will automatically stay rate regulation.

The Commission is seeking a three year extension from the Office of Management and Budget for this information collection.

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 4(i) and 623 of the Communications Act of 1934, as amended.

2. **Agency Use of Information:** Commission staff use the information derived from petitions for reconsideration of certification to resolve disputes concerning the presence or absence of effective competition in franchise areas and to determine whether there are grounds for denying franchising authority certifications to regulate rates.

3. **Consideration Given to Information Technology:** We do not believe that the use of information technology is feasible in this situation.

4. **Effort to Identify Duplication and Similar Information:** The agency does not impose similar information collection requirements on the respondents. There are no similar data available.

5. **Effort to Reduce Small Business Burden:** This collection of information does not have a

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significant impact on a substantial number of small businesses/small entities.

6. **Less Frequent Data Collections:** If the information was not collected, it may not be possible in many instances to rebut the presumption that a cable system is not subject to effective competition. This could possibly result in rates being regulated in franchise areas subject to effective competition, in contravention of the 1992 Cable Act.

7. **Information Collection Circumstances:** A cable operator, or other interested party, may challenge a franchising authority's certification by filing with the Commission a petition challenging that certification.

8. **Public Comment Period:** The Commission published a Notice (78 FR 2993) in the *Federal Register* on January 15, 2013 seeking comments from the public for the information collection requirements contained in this collection. No comments were received as a result of the Notice.

9. **Payment of Gift:** There are no gifts or payments given to respondents for complying with this information collection requirement.

10. **Confidentiality of Information:** There is no need for confidentiality with this collection of information.

11. **Justification for Sensitive Questions:** This collection of information does not address any private matters of a sensitive nature.

12. **Estimate of Burden and Burden House Cost:** We estimate that cable operators and other entities will annually initiate no more than 10 petitions for reconsideration of certification. We estimate that the average burden to complete all aspects of each petition process is 10 hours for each petitioning party and responding party.

We estimate that no more than 5 cable operators may, if evidence establishing effective competition is not otherwise available, need to request from a competitor information regarding the competitor's reach and number of subscribers. The burden associated with supplying this information is estimated to be 2 hours per request.

<b>Total Number of Annual Respondents:</b>	10 petitioners
	10 responding parties
	<u>5 competitor operators</u>
	<b>25 respondents</b>

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<b>Total Number of Annual Responses:</b>	10 petitions
	10 responses to petitions
	5 competitor requests from cable operators
	<u>5 responses to requests from competitors</u>
	<b>30 responses</b>

**Total annual burden hours:**

$$\begin{aligned} 10 \text{ petitions} \times 2 \text{ parties each}^1 \times 10 \text{ hours/party} &= 200 \text{ hours} \\ 5 \text{ occurrences} \times 2 \text{ parties each}^2 \times 2 \text{ hours/party} &= \underline{20 \text{ hours}} \\ &= \mathbf{220 \text{ hours}} \end{aligned}$$

**Total "In-house" Cost:** We estimate that in-house attorneys paid at an average hourly wage of \$100.00 per hour will implement this information collection.

$$\begin{aligned} 10 \text{ petitions} \times 2 \text{ parties each}^3 \times 10 \text{ hours/party} \times \$100/\text{hour} &= \$20,000 \\ 5 \text{ occurrences} \times 2 \text{ parties each}^4 \times 2 \text{ hours/party} \times \$100/\text{hour} &= \underline{\$ 2,000} \\ &= \mathbf{\$22,000} \end{aligned}$$

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

**13. Annual Cost Burden:**

- (a) Total annualized capital/startup costs: None
- (b) Total annual costs (O&M): None

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1 There is a petitioning party and a responding party.

2 There is a party requesting information and a party responding to the request.

3 There is a petitioning party and a responding party.

4 There is a party requesting information and a party responding to the request.

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(c) Total annualized cost requested: **None**

**14. Cost to the Federal Government.** Petitions for reconsideration of certification estimated to be filed under 47 CFR Section 76.911: 10 per year

	Hours	Cost	Cost	Cases	Total
	p/Case	p/Hour	p/Case <sup>5</sup>		Cost
Professional	38 hours	\$48.35	\$1,837.30	10	\$18,373.00
Managerial	1 hour	\$67.21	\$ 67.21	10	\$ 672.10
Clerical	1 hour	\$22.92	\$ 22.92	10	<u>\$ 229.20</u>
<b>Total Cost to the Federal Government:</b>					
					\$19,274.30

**15. Reason for Changes in Burden or Cost:** There are no program charges or adjustments to this information collection.

**16. Plans for Publication:** The data will not be published for statistical use.

**17. Display of OMB Approval Date:** We do not seek approval to not display the expiration date for OMB approval of the information collection.

**18. Exceptions to the Certification Statement:** There are no exceptions to the Certification Statement.

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

No statistical methods are employed.

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<sup>5</sup> The hourly wages for the Federal employees are as follows: Managerial staff, GS-15 step 5 (\$67.21/hour); Professional staff, GS-13 step 5 (\$48.35/hour) and Clerical staff, GS-7 step 5 (\$22.92).