

SUPPORTING STATEMENT

A. Justification:

1. The Commission is requesting a revision to this information collection and is seeking Office of Management and Budget (OMB) approval of certain information collections and third-party disclosures associated with a *2004 Order*¹ as modified by a *2006 Order*,² the *2008 Order*,³ and a *2010 Order*⁴ in the Commission's "BRS/EBS proceeding." This revision is necessary because the need to provide supplemental cost data concerning the transition to the new 2500-2690 MHz band plan no longer exists because the transition is now complete. Also, we adjusted the numbers for requirements pursuant to Section 27.14(o) substantial service filings because most licensees have complied and there are a small number of licensees/licenses who are still subject to that requirement. By these actions, the Commission continues its efforts to transform rules and policies governing the licensing of the Educational Broadband Service (EBS) and the Broadband Radio Service (BRS) (collectively, the Services) in the 2495-2690 MHz band.⁵

The FCC adopted and released a Fourth Memorandum Opinion and Order (*2008 Order*), FCC 08-83, which adopted Section 27.14(o) of the Commission's rules. That rule requires all BRS and EBS licensees to make a showing of "substantial service." This requirement was modified by the *2010 Order* to require that licensees issued a new BRS licenses on or after November 6, 2009, and that they would have four years from the date of initial license grant to provide substantial service. A licensee must demonstrate that it provided service which is sound, favorable, and substantially above a level of mediocre service which might minimally warrant

¹ Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, *Report and Order and Further Notice of Proposed Rulemaking*, WT Docket No. 03-66, 19 FCC Rcd 14165, 14169 ¶ 6 (*2004 Order*).

² Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, *Third Memorandum Opinion and Order and Second Report and Order*, WT Docket No. 03-66, 21 FCC Rcd. 5606 (2006) (*2006 Order*).

³ Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, *Third Order on Reconsideration and Sixth Memorandum Opinion and Order and Fourth Memorandum Opinion and Order and Second Further Notice of Proposed Rulemaking and Declaratory Ruling*, WT Docket No. 03-66, WT Docket No. 03-67, WT Docket No. 02-68, IB Docket No. 02-364 and ET Docket No. 00-258, 23 FCC Rcd 5992 (2008) (*2008 Order*).

⁴ Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, *Third Report and Order*, WT Docket No. 03-66, WT Docket No. 03-67, 25 FCC Rcd 7743 (2010) (*2010 Order*).

⁵ The two services in the 2500-2690 MHz band, the Instructional Television Fixed Service (ITFS) and the Multichannel Multipoint Distribution Service (MMDS), and the Multipoint Distribution Service (MDS) in the 2150-2162 MHz band were renamed by the Commission in 2004. The ITFS service became the Educational Broadband Service (EBS) and the MMDS and MDS services became the Broadband Radio Service (BRS). See *2004 Order*, 19 FCC Rcd at 14169 ¶ 5.

renewal. The Commission is adjusting the number of licensees subject to the substantial service requirement with this submission because most licensees have already complied with the requirement.

Revised Information Collection Requirement Which Require OMB Approval:

The Commission is removing certain provisions relating to the transition of BRS and EBS to a new band plan that were previously approved by OMB in 2011, since the last time this was submitted for approval. Those portions of the process relating to these information requirements is complete. Since the transition of the new 2500-2690 MHz band plan is now complete and respondents no longer need to provide supplemental cost data, the burden involved with reimbursement of transition costs is eliminated.

Statutory authority for this collection is contained in 47 U.S.C. §§ 151, 154(i), 301, 303(f), 303(g), 303(r), 307, 308, 316.

This information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

2. The information relating to substantial service is used by the Commission staff to satisfy requirements for licensees to demonstrate substantial service at the time of license renewal. Without this information, the Commission would not be able to carry out its statutory responsibilities. The third party disclosure coordination requirements are necessary to ensure that licensees do not cause interference to each other and that licensees who undertake to transition to the new band plan receive reimbursement for eligible costs.

3. The Commission requires electronic filing for the substantial service filings. The remaining information collections are third-party disclosure requirements (see item 12 for descriptions). We estimate that ninety-five percent of the BRS/EBS licensees could possibly submit the filings other than the substantial service filings electronically.

4. The Commission does not impose a similar information collection on respondents and 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. This information collection will not have a significant economic impact on a substantial number of small entities.

6. The requirement to demonstrate substantial service is a one-time filing. The frequency of reporting for the other requirements will be determined by the BRS/EBS licensees.

7. There are no special circumstances that would cause this information collection to be conducted less frequently.

8. The Commission published the 60-day notice in the Federal Register on November 6, 2013 (78 FR 66704) seeking comment from the public on the information collection requirements contained in this collection. No comments were received on the notice.

9. Respondents will not receive any payments or gifts.

10. There is no need for confidentiality. Respondents or applicants may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

11. There are no questions of a sensitive nature.

12. The Commission estimates the burden on respondents as follows:

Since the transition of the new 2500-2690 MHz band plan is now complete and the Commission no longer requires respondents to provide supplemental data, either to the Commission or to third parties, that is not currently collected on the FCC Form 601, the burden involved with reimbursement of transition costs is eliminated. Therefore, there are no reimbursement costs of transitioning.

The following requirement has been previously approved by OMB. No change is made to the burden hours for this requirement since it was last approved by OMB.

Provision of Technical Information:

Number of respondents = 10.

Number of annual responses = 250.

- Requirement is triggered when licensee seeks technical information from adjacent licensee because of potential interference problem.
- Hours per response: .50 hours (engineering).

Annual Burden Hours for Section 27.1221(f):

250 responses x .50 hours/response = **125 hours.**

In-House Cost: An internal engineer will fulfill these requirements. This engineer is paid an hourly rate of \$250/hour. 250 responses x .50 hours/response x \$250/hr. = **\$31,250.**

Section 27.14(o) substantial service filing:

For BRS and EBS, approximately a total of 96 unique licenses will have to demonstrate substantial service pursuant to 47 C.F.R. § 27.14(o). We estimate approximately 96 responses at that time over a 3 year period (annual respondents/responses = 32). Of the 32 responses, the Commission estimates that one-third of the respondents (11 respondents rounded) will perform the work themselves **without outside assistance**. Records must also be kept on the fulfillment of this requirement. We estimate each response (total 11 responses) will take 2 hours on average which includes time that it would take the respondent to meet with outside consultants.

Total Number of Respondents: 32.

Total Number of Annual Responses: 32.

Total Annual Burden Hours: 11 responses (1/3 of the 32 responses that will be completed without outside assistance) x 2 hours/response = **22 hours**.

In-House Cost: The Commission estimates that one-third of the respondents (11 respondents rounded) will perform the work themselves at an hourly rate of \$40/hour. The in-house cost is as follows:

11 responses x 2 hours/response x \$40/hour = **\$880**.

Totals for this Collection:

Annual Number of Respondents: 10 + 32 = 42.

Number of Annual Responses: 250 + 32 = 282.

Total Annual Burden Hours: 125 + 22 hours = 147 hours.

Total Annual In-House Cost: = \$31,250 + 880 = \$32,130.

13. Costs (External) to the respondents:

Substantial service costs:

We estimate two-thirds of respondents (21 rounded) will use outside consultants (attorneys or engineers charging (\$275/hour)⁶ to consult and prepare information. It will take the consultants 2 hours to consult with the respondent and prepare the information.

Total Annual Cost:

21 responses x 2 hours/response x \$275/hour = \$11,550.

TOTAL ANNUAL EXTERNAL COST IS: \$11,550.

14. Costs to the Federal government are as follows:

Processing Costs for Substantial Service Showings

The attorneys and engineers will be reviewing substantial showings to ensure that they contain the information required by the rules and determining that the level of service provided meets the substantial service standard.

Attorney GS-14-5 at approximately \$57.70/ hour x 1 hour x 32 = \$1,846.40

Engineer GS-14-5 at approximately \$57.70/hour x 1 hour x 32 = \$1,846.40

Total government costs: \$3,692.80

15. The Commission is reporting the following program changes/decreases to this collection of 25 respondents, 1,490 responses and 1,118 burden hours. These program changes/decreases are due to the elimination of the reimbursement costs of transitioning because the transition to the new band is complete and this collection of information is no longer necessary.

The Commission is reporting adjustments/decreases to this collection of 2,433 respondents, 3,608 responses, 2,245 burden hours and \$291,117 to the annual cost burden. These adjustments are due to the Commission adjusting the numbers for requirements pursuant to Section 27.14(o) substantial service filings because most licensees have complied and there are a small number of licensees/licenses who are still subject to that requirement.

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.

18. There are no exceptions to the certification statement.

⁶ The Commission arrived at this figure based on the following calculation: \$250/hour for an engineer + \$300/hour for an attorney = 550/2 = \$275/hour (average of the two hourly wages since the Commission is uncertain if a consulting attorney or engineer will fulfill the requirement).

B. Collections of Information Employing Statistical Methods:

This information collection does not use any statistical methods.