

SUPPORTING STATEMENT

A. Justification:

1. FCC Form 301-CA¹ is to be used in all cases by a Class A television station licensee² seeking to make changes in the authorized facilities of such station. The FCC Form 301-CA requires applicants to certify compliance with certain statutory and regulatory requirements. Detailed instructions on the FCC Form 301-CA provide additional information regarding Commission rules and policies. The FCC 301-CA application is presented primarily in a "Yes/No" certification format. However, it contains appropriate places for submitting explanations and exhibits where necessary or appropriate. Each certification constitutes a material representation.³ Applicants may only mark the "Yes" certification when they are certain that the response is correct. A "No" response is required if the applicant is requesting a waiver of a pertinent rule and/or policy, or where the applicant is uncertain that the application fully satisfies the pertinent rule and/or policy.

Class A applicants are also subject to third party disclosure requirement of Section 73.3580 which requires local public notice in a newspaper of general circulation of the filing of all applications for major changes in facilities. This notice must be completed within 30 days of the tendering of the application. This notice must be published at least twice a week for two consecutive weeks in a three-week period. A copy of this notice must be placed in the public inspection file along with the application.⁴

47 CFR Section 74.793(d) requires that digital low power and TV translator stations shall be required to submit information as to vertical radiation patterns as part of their applications (FCC Forms 346⁵ and 301-CA) for new or modified construction permits.

¹ With this non-substantive change, FCC Form 301-CA is being renamed and encompassed by FCC Form 2100 and the electronic "Licensing Modernization" system. The former FCC Form 301-CA no longer exists, and its contents are fully contained within FCC Form 2100 and the "Licensing Modernization" system. Herein after former FCC Form 301-CA is renamed as FCC Form 2100, Schedule E.

² Class A television stations are low power television licensees which, during the 90-day period ending November 28, 1999, operated their stations in a manner consistent with the programming and operational standards set forth in the Community Broadcasters Protection Act of 1999, and thus, were accorded primary status as Class A television licensees. See 47 C.F.R. Section 73.6001(a).

³ A "material representation" has been defined as one "relating to matter which is so substantial or important as to influence the party to whom it is made." See In the Matter of Amendment of Section 1.17 of the Commission's Rules Concerning Truthful Statements to the Commission, 18 F.C.C.R. 4016 (2003), citing the Matter of Mark E. Wagner, 744 N.E. 2d 418, 421 (Ind. 2001).

⁴ See OMB control number 3060-0214 for the burden associated with the recordkeeping requirement for the newspaper notices and application pursuant to Section 73.3527.

⁵ See OMB control number 3060-0016 for the associated burden for FCC Form 346 as it relates to Section 74.793(d).

Non-Substantive Change to this Information Collection:

The Commission is submitting this non-substantive change request to the Office of Budget and Management (OMB) for approval of minor non-substantive changes made to former FCC Form 301-CA. The Commission is implementing a new on-line (electronic) licensing system called "Licensing Management System" (LMS) in which all FCC licensing forms, including former FCC Form 301-CA, will be combined into a single common form - FCC Form 2100. Former FCC Form 301-CA is encompassed by the LMS and the new common form - FCC Form 2100. General questions, which were formally asked in all licensing applications, will compose the body of FCC Form 2100. The questions pertinent only to former FCC Form 301-CA applicants will now be contained in Schedule E of FCC Form 2100. The substance of former FCC Form 301-CA remains the same in the new system/ form. The wording of each question applicable to former FCC Form 301-CA applicants in FCC Form 2100 is identical to that of the former FCC Form 301-CA. All that is changing is the name of the form and the order, in some cases, in which questions are asked. The burden hours and costs are not impacted by the minor non-substantive changes to the former FCC Form 301-CA, which will now be a part of the LMS and FCC Form 2100. The minor non-substantive changes are highlighted below:

Former FCC Form 301-CA is now encompassed by FCC Form 2100, Schedule E and the LMS. All submissions are now made on-line (electronically). Questions applicable to all licensing applicants are asked in the body of the common FCC Form 2100, and questions pertinent only to former FCC Form 301-CA applicants are contained in Schedule E of FCC Form 2100. The substance, burden hours, and costs are not impacted.

This non-substantive change request to former FCC Form 301-CA, now contained within FCC Form 2100, Schedule E and the LMS, needs OMB review and approval. There are no new burdens or cost associated with this non-substantive change.

HISTORY:

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"). This document contains rules and policies for low power television stations ("LPTV")⁶ to transition from analog to digital broadcasting.

⁶ 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.

Title: FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule E (Former FCC Form 301-CA); 47 CFR Section 74.793(d)

On September 17, 2010, the Commission adopted the Further Notice of Proposed Rulemaking, *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*, MD Docket No. 03-185, FCC 10-172 (“*LPTV Digital Transition FNPRM*”). This document contained rules and policies for low power television stations (“LPTV”)⁷ to transition from analog to digital broadcasting. The Commission received OMB preapproval for the requirement on November 29, 2010.

On September 9, 2004, the Commission adopted a *Report and Order*, FCC 04-220, MB Docket Number 03-185, *In the Matter of Parts 73 and 74 of the Commission's Rules to Established Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations*. To implement these new rules, the Commission revised FCC Form 301-CA to allow licensees to use the revised FCC Form 301-CA to file for digital broadcast stations or conversion of their analog stations to digital stations.

On November 29, 1999, the Community Broadcasters Protection Act of 1999 (CBPA) was enacted. That legislation provided that a Low Power Television (LPTV) licensee⁸ should be permitted to convert the secondary status of its station to the new Class A status, provided it can satisfy certain statutorily-established criteria. The CBPA directs that Class A licensees be subject to the same license terms standards as full-power television licensees⁹ and that Class A licensees be accorded primary status as television broadcasters as long as they continue to meet the requirements set forth in the statute for a qualifying low-power station. The CBPA sets out certain certification and application procedures for LPTV licensees seeking Class A designation, prescribes the criteria LPTV must meet to be eligible for Class A license, and outlines the interference protection Class A applicants must provide to analog, digital, LPTV, and TV translator stations.

The Commission is requesting a three year extension of this collection from the Office of Management and Budget (OMB).

Statutory authority for this collection of information is contained in Sections 154(i), 307, 308, 309, and 319 of the Communications Act of 1934, as amended and the Community Broadcasters Protection Act of 1999.

This information collection does not affect individuals, thus there are no Privacy Act impacts.

⁷ 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.

⁸ A low power television station is a broadcast station authorized under the provisions of Subpart G of Part 74 of the Commission's Rules that may retransmit the programs and signals of a TV broadcast station and may originate programming in any amount greater than 30 seconds per hour. See 47 C.F.R. Section 74.701(f).

⁹ These stations are authorized as primary services and are protected from interference from LPTV and TV translator stations.

2. The FCC Form 2100, Schedule E is designed to track the standards and criteria, which the Commission applies to determine compliance and to increase the reliability of applicant certifications. They are not intended to be a substitute for familiarity with the Communications Act and the Commission's regulations, policies, and precedent.

3. On May 13, 2002, the Commission released Public Notice DA 02-1087 announcing the mandatory electronic filing of the form. Mandatory electronic filing for this form began on November 21, 2002. A copy of the Public Notice is attached. Paper-filed copies of the form will be accepted only if accompanied by an appropriate request for waiver of the electronic filing requirement. Filers must plead with particularity the facts and circumstances warranting grant of a waiver. Waivers will not be routinely granted.

4. No other agency imposes 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 collection of information will not have a significant economic impact on a substantial number of small entities/businesses.

6. The frequency for filing is determined by respondents, as necessary.

7. This collection of information is consistent with the guidelines in 5 CFR 1320.5(d)(2).

8. The Commission published a Notice (78 FR 37809) in the *Federal Register* on June 24, 2013, seeking public comment on the information collection requirements contained in this supporting statements. No comments were received from the public.

9. No payment or gift was provided to respondents.

10. There is no need for confidentiality for this collection of information.

11. This form does not address any private matter.

12. We estimate that 400 applications for change will be filed and processed. The estimated average burden on each licensee is 8.25 hours to comply with the information collection requirements.

Total Number of Annual Respondents: 400 Station Licensees

Total Number of Annual Responses: 400 FCC Form 2100, Schedule E Forms

Annual Burden Hours:

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We estimate nine and a half hours (8.25 hours) to complete the application process. The respondent will require seven hours to complete the legal portion of the form and the in-house station engineer will require two and a half hours to complete the engineering portion of the form.

400 major change applications x 6 hours/form for the legal portion of the form =	2,400
400 major change applications x 2.25 hours/in-house engineering review =	+ <u>900</u>
Total Annual Burden Hours: 3,300 hours	

Annual “In House” Cost:

The respondent is estimated to have an average salary of \$100,000/year (\$48.08/hour). A station engineer is estimated to have an average salary of \$60,000 (\$30/hour).

400 major applications x 6 hours/form for the legal portion of the form x \$48.08/hour =	
\$115,392	
400 major applications x 2.25 hours/in-house engineering review x \$30.00/hour =	<u>\$ 27,000</u>
Total Annual “In House” Cost: \$142,392	

These estimates are based on FCC staff’s knowledge and familiarity with the availability of the data required.

13. Annual Cost Burden: We assume that the respondent would use an outside communications attorney and a consulting engineer in the preparation and filing of the FCC Form 301-CA. The estimated cost is \$300/hour for the attorney and \$250/hour for the consulting engineer. The estimated time to prepare and file FCC Form 301-CA is 1 hour/application for the attorney and 12 hours/application for the engineer.

In addition, the fee required for submitting an application for a major change in a Class A television station is \$3,245.00. There is a \$725.00 fee required for a minor change however we do not anticipate any filings.

Moreover, a Class A applicant must give local public notice of the filing of its application. This notice is published in a local newspaper of general circulation at least twice a week for two consecutive weeks in a three-week period. The cost is estimated at \$113.25/publication.

400 major change applications x 1 hour x \$300/hour legal consultation =	\$ 120,000
400 major change applications x 16 hours x \$250/hour engineering consultation =	\$1,600,000
400 major change applications x \$3,245/application fee =	\$1,298,000
400 major applications x 4 x \$113.25/publication cost =	<u>\$ 181,200</u>
Total Annual Cost Burden: \$3,199,200	

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14. **Cost to the Federal Government:** The Commission will use legal and engineering staff at the GS-11, step 5 level (\$34.26/hour), clerical staff at the GS-5, step 5 level (\$18.69/hour) and paraprofessional staff at the GS-9, step 5 level (\$28.32/hour) to process these applications.

Attorney	3 hrs. x \$34.26/hour x 400 applications	= \$ 41,112.00
Engineer	11 hrs. x \$34.26/hour x 400 applications	= \$150,744.00
Clerical	5 hrs. x \$18.69/hour x 400 applications	= \$ 37,380.00
Paraprofessional	4 hrs. x \$28.32/hour x 400 applications	= <u>\$ 45,312.00</u>
	Total Cost to Federal Government:	\$274,548.00

15. There are no program changes or adjustments to this collection.

16. The data will not be published.

17. An extension of the waiver not to publish the expiration date on the form is requested. 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:

This information collection does not employ any statistical methods.