

Application for Construction Permit for Commercial Broadcast Station, FCC Form 301; FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule A**SUPPORTING STATEMENT****A. Justification:**

1. 1. FCC Form 301 is used to apply for authority to construct a new commercial AM, FM, or TV broadcast station and to make changes to existing facilities of such a station. It may be used to request a change of a station's community of license by AM and non-reserved band FM permittees and licensees. In addition, FM licensees or permittees may request, by filing through an application on FCC Form 301, upgrades on adjacent and co-channels, modifications to adjacent channels of the same class, and downgrades to adjacent channels. All applicants using this one-step process must demonstrate that a suitable site exists that would comply with allotment standards with respect to minimum distance separation and principal community coverage and that would be suitable for tower construction. For applicants to seek a community of license change through this one-step process, the proposed facility must be mutually exclusive with the applicant's existing facility, and the new facility must comply with the Commission's standards with respect to minimum distance separation and principal community coverage. Applicants availing themselves of this procedure must also attach an exhibit demonstrating that the proposed community of license change comports with the fair, efficient, and equitable distribution of radio service, pursuant to Section 307(b) of the Communications Act of 1934, as amended (the "Act").

Similarly, to receive authorization for commencement of Digital Television ("DTV") operations, commercial broadcast licensees must file FCC Form 2100, Schedule A for a construction permit. The application may be filed anytime after receiving the initial DTV allotment and before mid-point in the applicant's construction period. The Commission will consider the application as a minor change in facilities. Applicants will not have to provide full legal or financial qualification information.

For now, in the initial phase of the "Licensing and Management System"¹ roll-out, the new Form 2100 is replacing the Form 301 only for the filing of full-service digital television construction permits. The Form 301 is still being used, under the name Form 301, to apply for authority to construct a new commercial AM or FM radio station and to make changes to the existing facilities of such an AM or FM station.

Similarly, to receive authorization for commencement of Digital Television ("DTV") operations, commercial broadcast licensees must file FCC Form 2100, Schedule A for a construction permit. The application may be filed anytime after receiving the initial DTV allotment and before mid-point in the applicant's construction period. The Commission will consider the application as a minor change in facilities. Applicants will not have to provide full legal or financial qualification information.

¹ The Commission implemented a new on-line (electronic) licensing system called "Licensing and Management System" in which all FCC broadcast licensing forms, including FCC Form 301, will be combined into a single common form - FCC Form 2100. FCC Form 301 will be encompassed by the "Licensing and Management System" 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 FCC Form 301 applicants will now be contained in Schedule A of FCC Form 2100. The substance of FCC Form 301 remained the same in the new system/form. The wording of each question applicable to FCC Form 301 applicants in FCC Form 2100 is identical to that of the FCC Form 301, with one exception - "Alien Ownership," but as stated, the substance remained the same.

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This collection also includes the third party disclosure requirement of 47 CFR § 73.3580. This rule requires applicants to provide local public notice, in a newspaper of general circulation published in a community in which a station is located, of requests for new or major changes in facilities and for changes of a station's community of license by AM and non-reserved band FM permittees and licensees. The notice must be completed within 30 days of tendering the application and must be published at least twice a week for two consecutive weeks in a three-week period. A copy of the notice and the application must be placed in the station's public inspection file, pursuant to Section 73.3527.²

Proposed Information Collection Requirements Which Require Review and Approval from the Office of Management and Budget (OMB):

On June 12, 2015, the Commission released a *First Order on Reconsideration and Notice of Proposed Rulemaking, In the Matter of Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268 and MB Docket No. 15-137, FCC 15-67. This document contains proposed rules for channel sharing by and between full power and Class A television stations outside the context of the incentive auction.³ The proposed rules would allow full power stations to share a single channel with other full power or Class A stations. Full power stations will use FCC Form 2100, Schedule A to apply for a construction permit for the technical facilities it proposes to share with another station.

The application for a construction permit to channel share must include a copy of the channel sharing agreement ("CSA") between the stations. Each CSA must include provisions governing certain key aspects of the stations' operations including: access to facilities; allocation of bandwidth within the shared channel; operation maintenance, repair, and modification of facilities; and termination or transfer/assignment of rights to the shared license. We propose to treat applications to channel share outside the auction context as minor change applications – that is, they would not be subject to local public notice requirements or a 30-day petition to deny filing window.

The Commission's proposed rules would also require stations participating in CSAs to provide notice to MVPDs that: (1) no longer will be required to carry the station because of the relocation of the station; (2) currently carry and will continue to be obligated to carry a station that will change channels; or (3) will become obligated to carry the station due to a channel sharing relocation. We propose that the notice contain the following information: (1) date and time of any channel changes; (2) the channel occupied by the station before and after implementation of the CSA; (3) modification, if any, to antenna position, location, or power levels; (4) stream identification information; and (5) engineering staff contact information. We propose that stations be able to

² The recordkeeping information collection requirement is contained in OMB Control Number 3060-0214, which covers Section 73.3527.

³ Proposed new rule 47 CFR 73.3800 would require that a full power TV channel sharing station relinquishing its channel file an application for the initial channel sharing construction permit (using FCC Form 2100, Schedule A – formerly FCC Form 301), include a copy of the channel sharing agreement as an exhibit, and cross reference the other sharing station(s). Any engineering changes necessitated by the channel sharing arrangement may be included in the station's application. Upon initiation of shared operations, the station relinquishing its channel must notify the Commission that it has terminated operation and each sharing station must file an application for license. Full power stations would file a license application on FCC Form 2100, Schedule B – formerly FCC Form 302-DTV (OMB Control No. 3060-0837). Class A stations would file a license application on FCC Form 2100, Schedule F – formerly FCC Form 302-CA (OMB Control No. 3060-0928). Burdens associated with notification re termination of operations and filing of the license application are reflected in the collections for these license application forms.

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elect whether to provide notice via a letter notification or provide notice electronically, if pre-arranged with the relevant MVPD. We also propose to require that sharee stations provide notice at least 30 days prior to terminating operations on the sharee's channel and that both sharer and sharee stations provide notice at least 30 days prior to initiation of operations on the sharer channel. Should the anticipated date to either cease operations or commence channel sharing operations change, we propose to require that the station(s) send a further notice to affected MVPDs informing them of the new anticipated date(s).

No changes to FCC Form 2100, Schedule A are required for it to be used to file applications for channel sharing outside the auction context; this collection is being changed to reflect the proposed use of the form for a new purpose – to propose channel sharing outside the context of the incentive auction. This collection is also being changed to reflect the burden associated with preparing a CSA in connection with channel sharing as well as the burden associated with providing the required notification to MVPDs.

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 154(i), 303 and 308 of the Communications Act of 1934, as amended and the Middle Class Tax Relief and Job Creation Act of 2012 (“Spectrum Act”).

2. **Agency Use of Information:** FCC staff members use the data to determine whether commercial broadcast station construction permit applicants meet basic statutory requirements to become a Commission licensee/permittee, or to share a channel, and to assure that the public interest would be served by grant of the application.

3. **Consideration Given to Information Technology:** The Commission requires commercial television broadcast station construction permits applicants to file FCC Form 2100, Schedule A electronically through the “Licensing and Management System” and FCC Form 301 electronically.

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

5. **Effort to Reduce Small Business Burden:** In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the burden on all respondents. The Commission has limited the information requirements to those that are absolutely necessary for evaluating and processing the applications filed in a TQ Window and to deter possible abuses of the processes. Therefore, this information collection will not have a significant economic impact on small entities/businesses.

6. **Less Frequent Data Collection:** The frequency for filing the DTV station construction permit application will vary depending on the market. For all other uses of FCC Form 2100 and FCC Form 301, the frequency of filing is determined by the respondents. However, no new or modified TV or DTV facilities can be obtained or modified without using FCC Form 2100, Schedule A.

7. **Information Collection Circumstances:** This collection of information is consistent with the guidelines in 5 CFR § 1320.5(d)(2).

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8. **Public Comment Period:** Opportunity for public comment on this information collection requirement has been published in the *Federal Register* (80 FR 40957) on July 14, 2015. To date, no comments have been received from the public.

9. **Payment or Gift:** No payment or gift was provided to respondents.

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

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

12. **Estimate of Burden and Burden Hour Cost:** The following estimates are provided for public burden for this information collection:

<u>Services</u>	<u>Number of Applicants</u>
AM New & Major	50
AM Minor Change	250
With AM Multiple	
Ownership Showings	125
AM Community of License Minor Change	
Applications	15
FM New & Major	150
FM New with P4RM to Amend FM Table	
Using Tribal Priority ⁴	10
FM New filed in TQ Window	15
FM Minor Change	1,000
With FM Multiple	
Ownership Showings	550
FM Community of License Minor Change	
Applications	60
TV Minor Change	250
DTV	1,220
With TV Multiple	
Ownership Showings	30
DTS	<u>100</u>
Total Number of Respondents:	3,825 Licensees/Permittees

Number of Respondent's Annual

⁴ A petitioner seeking to add a Tribal Allotment to the FM Table of Allotments must file FCC Form 301 when submitting its Petition for Rule Making ("P4RM").

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<u>Services</u>	<u>Applications</u>	<u>Hrly. Burden</u>	<u>Burden Hours</u>
AM New & Major	50	4.25 hours	212.5 hours
AM Minor Change	250	3.25 hours	812.5 hours
With AM Multiple			
Ownership Showings	125	6.25 hours	781.25 hours
AM Community of License			
Minor Change Applications	15	6 hours	90 hours
FM New & Major	150	4 hours	600 hours
FM New with P4RM to Amend			
FM Table Using Tribal Priority	10	4 hours	40 hours
FM New filed in TQ Window	15	4 hours	60 hours
FM Minor Change	1,000	3 hours	3,000 hours
With FM Multiple			
Ownership Showings	550	6 hours	3,300 hours
FM Community of License			
Minor Change Applications	60	5.50 hours	330 hours
TV Minor Change	250	3 hours	750 hours
DTV	1,220	3 hours	3,660 hours
With TV Multiple Ownership			
Showings	30	5 hours	150 hours
DTS ⁵	100	3 hours	300 hours
TV CSA	50	8	400 hours
MVPD Notification of			
Channel Share	50	2	100 hours
Newspaper Requirements	<u>3,436</u>	1 hour	<u>3,436 hours</u>
Totals:	7,361		18,022
	(responses)		hours

Total Number of Responses: 7,361 Commercial Broadcast Station Construction Permit Applications - FCC Form 2100, Schedule A Filings, FCC Form 301 and Newspaper Notices

Total Annual Burden Hours: 18,022 hours

We assume that commercial broadcast station construction permit applicants will consult with an outside attorney and a consulting engineer to complete an FCC Form 2100, Schedule A and FCC Form 301. The

⁵ DTS technologies are covered under 47 CFR § 73.626, which authorizes the use of distributed transmission system (“DTS”) technologies in the digital television (“DTV”) service and also authorized changes to FCC Form 2100, Schedule A that are necessary to accommodate applications for a DTS facility.

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time spent in consultation with these attorneys and consulting engineer will vary depending upon the application type.

The Commission estimates that it will take the respondent one hour to fulfill the newspaper notice requirement.

We estimate that commercial broadcast station construction permit applicants would have an average salary of \$100,000/year (\$48.08/hour).

<u>Services</u>	<u>Number of Applications</u>	<u>Respondent's Hrly. Burden</u>	<u>Hrly. Wage of Respondent⁶</u>	<u>Annual In-House Cost</u>
AM New & Major	50	4.25 hours	\$48.08	\$10,217.00
AM Minor Change	250	3.25 hours	\$48.08	\$39,065.00
AM Ownership Showings	125	6.25 hours	\$48.08	\$37,562.50
AM Community of License Change	15	6 hours	\$48.08	\$4,327.20
FM New & Major	150	4 hours	\$48.08	\$28,848.00
FM New with P4RM to Amend				
FM Table Using Tribal Priority	10	4 hours	\$48.08	\$1,923.20
FM New filed in TQ Window	15	4 hours	\$48.08	\$2,884.80
FM Minor Change	1,000	3 hours	\$48.08	\$144,240.00
FM Ownership Showings	550	6 hours	\$48.08	\$158,664.00
FM Community of License Change	60	5.50 hours	\$48.08	\$15,866.40
TV Minor Change	250	3 hours	\$48.08	\$36,060.00
DTV	1,220	3 hours	\$48.08	\$175,972.80
TV Multiple Ownership Showings	30	5 hours	\$48.08	\$7,212.00
DTS	100	3 hours	\$48.08	\$14,424.00
Newspaper Notices	3,436	1 hour	\$48.08	\$165,202.88
TV CSA	50	8 hours	\$48.08	\$19,232.00
MVPD Notification of Channel Share	50	2	\$48.08	\$4,808
Total Annual "In House" Cost:				\$879,491.38

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

13. Cost to Respondents: We assume that commercial broadcast station construction permit applicants would use an attorney (\$300/hour) and a consulting engineer (\$250/hour) to complete the FCC Form 2100, Schedule A.

⁶ Respondent is a commercial broadcast station construction permit applicant.

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An AM, FM, or TV applicant must give local public notice of the filing of its application for a new station or for a major change in facilities. This notice must be published in a local newspaper of general circulation at least twice a week for two consecutive weeks in a three-week period. The cost of this publication is estimated to be \$113.25.

<u>Services</u>	<u>Hrly. Wage of Consultant</u>	<u>Consultant's Hrly. Burden</u>	<u>Number of Applications</u>	<u>Annual Cost Burden</u>
<u>AM:</u>				
New & Major	\$300	7 hours	50	\$ 105,000
	\$250	89.25 hours	50	\$1,115,625
Minor Change	\$300	2 hours	250	\$ 150,000
	\$250	88.25 hours	250	\$5,515,625
Multiple Ownership Showings	\$300	18 hours	125	\$ 675,000
	\$250	92.25 hours	125	\$2,882,813
Community of License Change	\$300	12 hours	15	\$ 54,000
	\$250	100 hours	15	\$ 375,000
<u>FM:</u>				
New & Major	\$300	7 hours	150	\$ 315,000
	\$250	71 hours	150	\$2,662,500
FM New with P4RM to Amend FM Table Using Tribal Priority	\$300	7 hours	10	\$ 21,000
	\$250	71 hours	10	\$ 177,500
FM New filed in TQ Window	\$300	7 hours	15	\$ 31,500
	\$250	71 hours	15	\$ 266,250
Minor Change	\$300	2 hours	1,000	\$ 600,000
	\$250		69 hours	1,000
\$17,250,000				
Multiple Ownership Showings	\$300	28 hours	550	\$ 4,620,000
	\$250	73 hours	550	\$10,037,500
Community of License Change	\$300	6 hours	60	\$ 108,000
	\$250	94 hours	60	\$ 1,410,000
<u>TV:</u>				
Minor Change	\$300	2.5 hours	250	\$ 187,500
	\$250	45.5 hours	250	\$2,843,750
<u>DTV:</u>				
	\$300	2 hours	1,220	\$ 732,000
	\$250	34 hours	1,220	\$10,370,000

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Multiple Ownership	\$300	13 hours	30	\$ 117,000
Showings	\$250	48 hours	30	\$ 360,000
<u>DTS:</u>	\$300	1 hour	100	\$ 30,000
	\$250	45 hours	100	\$1,125,000
<u>TV CSA</u>	\$300	2 hours	50	\$30,000
Total AM/FM TV and DTV:				\$64,167,563

<u>Fees:</u>	<u>Number of Applications</u>	<u>Fee Cost</u>	<u>Total Fee Cost</u>
AM New & Major	50	\$3,310	\$ 165,500
AM Minor Change	250	\$ 830	\$ 207,500
AM Multiple Ownership Showings	125	\$3,310	\$ 413,750
AM Community of License Change	15	\$ 830	\$ 12,450
FM New & Major	150	\$3,485	\$ 522,750
FM New with P4RM to Amend FM Table Using Tribal Priority	10	\$3,485	\$ 34,850
FM New filed in TQ Window	15	\$3,485	\$ 52,275
FM Minor Change	1,000	\$ 830	\$ 830,000
FM Multiple Ownership Showings	550	\$2,980	\$ 1,639,000
FM Community of License Change	60	\$ 830	\$ 49,800
TV Minor Change	250	\$ 830	\$ 207,500

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DTV	1,220	\$ 830	\$ 1,012,600
TV Multiple Ownership Showings	30	\$3,720	\$ 111,600
DTS	100	\$ 830	<u>\$ 83,000</u>
Fee Total:			\$5,342,575

275⁷ new/major/community of license change applications x 4 x \$113.25 = **\$124,575** in publication costs

Annual Cost Burden: \$64,167,563 + \$5,342,575 + \$124,575 = **\$69,634,713**

14. Cost to Federal Government: The Commission will use engineering staff at the GS-14/Step 5 level (\$58,28/hour), GS 14/Step 5 grade level (58.28) legal staff, paraprofessional staff at the GS-11/Step 5 level (\$34.60/hour), and clerical staff at the GS-5 level/Step 5 level (\$18.88/hour) to process these applications.

New & Major Change AM/FM/TV Applications = 225⁸

225 applications x \$58.28/hour x 41 hours =	\$537,633.00
225 applications x \$58.28/hour x 20 hours =	\$262,260.00
225 applications x \$34.60/hour x 1 hour =	\$ 7,785.00
225 applications x \$18.88/hour x 2 hours =	<u>\$ 8,496.00</u>
	\$816,174.00

Minor AM Applications = 250

AM Multiple Ownership Showings = 125

AM Community of License Change Minor Applications = 15

390 applications x \$58.28/hour x 1 hour =	\$ 22,729.20
390 applications x \$58.28/hour x 30 hours =	\$681,876.00
(No GS-11 Step-5 paraprofessional review required)	
390 applications x \$18.88/hour x 2 hours =	<u>\$ 14,726.40</u>
	\$719,331.60

Minor FM Applications = 1,000

FM Multiple Ownership Showings = 550

⁷ This number was calculated as follows: 50 AM New & Major Applications + 150 FM New & Major Applications + 15 AM Community of License Change Applications + 60 FM Community of License Change Applications = 275 Applications.

⁸ This number was calculated as follows: 50 AM New & Major Applications + 150 FM New & Major Applications + 25 FM New Tribal-related applications = 225 Applications.

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FM Community of License Change Minor Applications = 60

1,610 applications x \$58.28/hour x 1 hour =	\$ 93,830.80
1,610 applications x \$58.28/hour x 20 hours =	\$1,876,616.00
(No GS-11 Step 5 paraprofessional review required)	
1,610 applications x \$18.88/hour x 2 hours =	<u>\$ 60,793.60</u>
	\$2,031,240.40

Minor TV Applications = 250

DTV Applications = 1,220

TV Multiple Ownership Showings = 30

1,500 applications x \$58.28/hour x 1 hour =	\$ 87,420.00
1,500 applications x \$58.28/hour x 20 hours =	\$1,748,400.00
1,500 applications x \$34.60/hour x 6 hours =	\$ 311,400.00
1,500 applications x \$18.88/hour x 2 hours =	<u>\$ 56,640.00</u>
	\$2,203,860.00

DTS Applications = 100

(No GS-14 Step 5 legal review required)

100 applications x \$58.28/hour x 20 hours =	\$116,560.00
100 applications x \$34.60/hour x 6 hours =	\$ 20,760.00
100 applications x \$18.88/hour x 2 hours =	<u>\$ 3,776.00</u>
	\$141,096.00

Total Cost to the Federal Government: \$5,911,702.00

15. If the proposed requirements in FCC 15-67 are adopted in a final rulemaking by the Commission the following program changes/increases will be added to the OMB inventory: 50 to the number of respondents, 150 to the number of responses, 650 to the annual burden hours and \$732,750 to the annual cost burden.

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

17. **Display of OMB Approval Date:** We request extension of the waiver not to publish the expiration date on the form. 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 § 0.408.

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

B. Collections of Information Employing Statistical Methods

This information collection does not employ any statistical methods.