

**Title:** Section 76.59, Market Modification of Broadcast Television Stations for Purposes of the Cable and Satellite Mandatory Television Broadcast Signal Carriage Rules

## Supporting Statement

### A. Justification

#### **MODIFICATION TO THIS EXISTING PRE-APPROVED INFORMATION**

**COLLECTION:** On June 17, 2015, the Commission received OMB pre-approval for certain modifications to this collection proposed in the Notice of Proposed Rulemaking, FCC 15-34 (rel. Mar. 26, 2015). In the Report and Order, FCC 15-111 (rel. Sept. 2, 2015), the Commission adopted these modifications, which included establishing a market modification process for satellite television service. However, the Commission also adopted additional modifications to this collection, which include modifying the market modification process to: **(1)** allow county governmental entities to file satellite market modification petitions (in addition to broadcast stations and satellite carriers), **(2)** requiring specific evidence to demonstrate the “in-state” (third) statutory factor – see new 47 C.F.R. § 76.59(b)(7), **(3)** requiring demonstrations or certifications regarding satellite carrier claims of infeasibility, and **(4)** establishing an optional pre-filing coordination process (for satellite market modifications) to allow prospective petitioners (prior to filing a market modification petition) to request and receive a response from a satellite carrier about whether or not it is technically and economically feasible for such carrier to carry a specific broadcast station in a specific community.

1. On September 2, 2015, the Commission released a *Report and Order (Order)*, FCC 15-111, in MB Docket No. 15-71,<sup>1</sup> adopting satellite television market modification rules to implement Section 102 of the Satellite Television Extension and Localism Act (STELA) Reauthorization Act of 2014 (STELAR).<sup>2</sup> The STELAR amended the Communications Act and the Copyright

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<sup>1</sup> See *Amendment to the Commission’s Rules Concerning Market Modification; Implementation of Section 102 of the STELA Reauthorization Act of 2014*, MB Docket No. 15-71, Report and Order, FCC 15-111 (rel. Sept. 2, 2015) (Report and Order).

<sup>2</sup> The STELA Reauthorization Act of 2014 (STELAR), § 102, Pub. L. No. 113-200, 128 Stat. 2059, 2060-62 (2014). The STELAR was enacted on December 4, 2014 (H. R. 5728, 113th Cong.). STELAR Section 102(a) amends Section 338 of the Act by adding a new paragraph (l), titled “Market Determinations.” 47 U.S.C. § 338(l). STELAR Section 102(b) also makes conforming amendments to

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Act to give the Commission authority to modify a commercial television broadcast station's local television market – defined by The Nielsen Company's Designated Market Area (DMA) in which it is located – to include additional communities or exclude communities for purposes of better effectuating satellite carriage rights. The Commission previously had the authority to modify a station's market only in the cable carriage context. With Section 102 of the STELAR, Congress provides regulatory parity in this regard and intends to promote consumer access to in-state and other relevant television programming. Section 102 of the STELAR, and the Commission's actions in the Report and Order, establish a market modification process for the satellite carriage context and, to the extent possible, seek to address satellite subscribers' inability to receive in-state programming in certain areas, sometimes called "orphan counties." In the Report and Order, consistent with Congress' intent that the Commission model the satellite market modification process on the current cable market modification process, the Commission implements Section 102 of the STELAR by revising the current cable market modification rule, Section 76.59, to apply also to satellite carriage, while adding provisions to the rules to address the unique nature of satellite television service. In addition, the Commission makes conforming and other minor changes to the cable market modification rules.

Market modification allows the Commission to modify the local television market of a particular commercial television broadcast station to enable commercial television stations, cable operators and satellite carriers to better serve the interests of local communities. Market modification provides a means to avoid rigid adherence to DMA designations and to promote consumer access to in-state and other relevant television programming. Section 338(l) of the Communications Act (the satellite market modification provision) and Section 614(h)(1)(C) of the Communications Act (the corresponding cable provision) permit the Commission to add communities to or delete communities from a station's local television market following a written request.<sup>3</sup> Furthermore, the Commission may determine that particular communities are part of more than one television market.<sup>4</sup>

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the cable market modification provision at 47 U.S.C. § 534(h)(1)(C).

<sup>3</sup> 47 U.S.C. §§ 338(l)(1), 534(h)(1)(C).

<sup>4</sup> 47 U.S.C. §§ 338(l)(2)(A), 534(h)(1)(C)(i).

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**I. Petitions to Modify Television Markets – 47 C.F.R. § 76.59 and non-rule requirements in FCC 15-111**

**Section 76.59(a)** of the Commission’s Rules authorizes the filing of market modification petitions and governs who may file such a petition:<sup>5</sup>

- Cable market modification petitions: A commercial TV broadcast station and cable system operator may file a market modification petition to modify the local television market of a particular commercial television broadcast station for purposes of cable carriage rights. 47 C.F.R. § 76.59(a).
- Satellite market modification petitions: A commercial TV broadcast stations, satellite carrier and county governmental entity (such as a county board, council, commission or other equivalent subdivision) may file a market modification petition to modify the local television market of a particular commercial television broadcast station for purposes of satellite carriage rights. 47 C.F.R. § 76.59(a).

**Section 76.59(b)** of the Commission’s Rules<sup>6</sup> requires that market modification petitions and responsive pleadings (*e.g.*, oppositions, comments, reply comments) must be submitted in accordance with the procedures for filing Special Relief petitions in Section 76.7 of the rules.<sup>7</sup>

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<sup>5</sup> 47 C.F.R. § 76.59(a) (“The Commission, following a written request from a broadcast station, cable system, satellite carrier or county government (only with respect to satellite modifications), may deem that the television market, as defined either by §76.55(e) or §76.66(e), of a particular commercial television broadcast station should include additional communities within its television market or exclude communities from such station’s television market. In this respect, communities may be considered part of more than one television market.”)

<sup>6</sup> 47 C.F.R. § 76.59(b) (“Such requests for modification of a television market shall be submitted in accordance with [47 C.F.R.] § 76.7, petitions for special relief...”).

<sup>7</sup> 47 C.F.R. § 76.7. *See also* OMB Control No. 3060-0888, which generally covers Special Relief petitions filed in accordance with 47 C.F.R. § 76.7.

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**Section 76.59(b)(1)-(7)** of the Commission's Rules<sup>8</sup> require petitioners (*e.g.*, commercial TV broadcast stations, cable system operators, satellite carriers and county governments) to include the following evidence in support of market modification petitions:

- (1) A map or maps illustrating the relevant community locations and geographic features, station transmitter sites, cable system headend or satellite carrier local receive facility locations, terrain features that would affect station reception, mileage between the community and the television station transmitter site, transportation routes and any other evidence contributing to the scope of the market.
- (2) Noise-limited service contour maps (for full-power digital stations) or protected contour maps (for Class A and low power television stations) delineating the station's technical service area and showing the location of the cable system headends or satellite carrier local receive facilities and communities in relation to the service areas. [Note to paragraph (b)(2): Service area maps using Longley-Rice (version 1.2.2) propagation curves may also be included to support a technical service exhibit.]
- (3) Available data on shopping and labor patterns in the local market.
- (4) Television station programming information derived from station logs or the local edition of the television guide.
- (5) Cable system or satellite carrier channel line-up cards or other exhibits establishing historic carriage, such as television guide listings.
- (6) Published audience data for the relevant station showing its average all day audience (*i.e.*, the reported audience averaged over Sunday-Saturday, 7 a.m.-1 a.m., or an equivalent time period) for both multichannel video programming distributor (MVPD) and non-MVPD households or other specific audience indicia, such as station advertising and sales data or viewer contribution records.
- (7) If applicable, a statement that the station is licensed to a community within the same state as the relevant community.

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<sup>8</sup> 47 C.F.R. § 76.59(b)(1)-(7).

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**Spot Beam Coverage Infeasibility Detailed Certifications (non-rule requirement in FCC 15-111):** Section 338(1)(3) of the Communications Act provides that “[a] market determination ... shall not create additional carriage obligations for a satellite carrier if it is not technically and economically feasible for such carrier to accomplish such carriage by means of its satellites in operation at the time of the determination.”<sup>9</sup> If a satellite carrier opposes a market modification petition because the resulting carriage would be technically or economically infeasible pursuant to Section 338(1)(3), the carrier must provide specific evidence in its opposition or response to a pre-filing coordination request (see below) to demonstrate its claim of infeasibility.<sup>10</sup> If the satellite carrier is claiming infeasibility based on insufficient spot beam coverage, then the carrier may instead provide a detailed certification submitted under penalty of perjury.<sup>11</sup> A satellite carrier’s detailed certification of infeasibility due to insufficient spot beam coverage must contain the following elements in order to be used and relied upon as evidence to demonstrate carrier claims of technical and economic infeasibility.<sup>12</sup> First, the detailed certification must explain why carriage is not technically and economically feasible, including a detailed explanation of the “process by which a satellite carrier has determined whether or not the spot beam in question covers the geographic area at issue.” Second, to ensure equal treatment to all stations, the detailed certification must state that the satellite carrier “has conducted this analysis in substantially the same manner and using substantially the same parameters used to determine the geographic area in which it currently offers stations carried on the spot beam.” Finally, the satellite carrier must support its detailed certification with an affidavit or declaration under penalty of perjury, as contemplated under Section 1.16 of the Commission’s rules and 28 U.S.C. § 1746,<sup>13</sup> signed and dated by an authorized officer of the satellite carrier with personal knowledge of the representations provided in the certification, verifying the truth and accuracy of the information therein.

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<sup>9</sup> 47 U.S.C. § 338(1)(3). See 47 C.F.R. § 76.59(e).

<sup>10</sup> The burden associated with this showing is contained in the burden for filing a opposition to a petition or response to a pre-filing coordination request.

<sup>11</sup> See Report and Order, FCC 15-111 at ¶¶ 39-41.

<sup>12</sup> See Report and Order, FCC 15-111 at ¶ 41.

<sup>13</sup> 47 C.F.R. § 1.16 (Declarations under penalty of perjury in lieu of affidavits). See 28 U.S.C. § 1746.

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**Supporting Documentation for Detailed Certifications – Record Retention:** Although the Commission will not require satellite carriers to provide supporting documentation as part of their certification, the Commission may decide to look behind any certification and require supporting documentation when it deems it appropriate, such as when there is evidence that the certification may be inaccurate.<sup>14</sup> In the event that the Commission requires supporting documentation, it will require a satellite carrier to provide its “satellite link budget” calculations that were created for the new community.<sup>15</sup> Because the Commission may determine in a given case that supporting documentation should be provided to support a detailed certification, satellite carriers are required to retain such “satellite link budget” information in the event that the Commission determines further review by the Commission is necessary. Satellite carriers must retain such information throughout the pendency of Commission or judicial proceedings involving the certification and any related market modification petition. If satellite carriers have concerns about providing proprietary and confidential information underlying their analysis, they may request confidentiality.<sup>16</sup>

## **II. Pre-filing Coordination Requests/Responses/Petitions – (non-rule requirement in FCC 15-111 at ¶ 47)**

The Report and Order establishes a “pre-filing coordination” process that will allow a prospective petitioner for market modification (*i.e.*, broadcaster or county government), at its

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<sup>14</sup> Report and Order, FCC 15-111 at ¶ 40.

<sup>15</sup> The Report and Order explains that a “satellite link budget is a calculation that accounts for certain factors that affect a radio signal as it travels from an uplink earth station to a space station and back down through the atmosphere to the customer’s earth station receiver.” This technical document “generally takes the form of a table, with entries that include (among other things) transmit power from the uplink earth station and from the satellite, antenna gains, system noise, intersystem interference, and atmospheric attenuation including the effects of ‘rain fade.’” The net result of this satellite link budget calculation “is an estimation of end-to-end satellite link performance.” Report and Order, FCC 15-111 at ¶ 40.

<sup>16</sup> See 47 C.F.R. §§ 0.457, 0.459, 76.9.

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option, to request/obtain a certification from a satellite carrier about whether or not (and to what extent) carriage resulting from a contemplated market modification is technically and economically feasible for such carrier *before* the prospective petitioner undertakes the time and expense of preparing and filing a satellite market modification petition.<sup>17</sup> To initiate this process, a prospective petitioner may make a request in writing to a satellite carrier for the carrier to provide the certification about the feasibility or infeasibility of carriage. A satellite carrier must respond to this request within a reasonable amount of time by providing a feasibility certification to the prospective petitioner.<sup>18</sup> A satellite carrier must also file a copy of the correspondence<sup>19</sup> and feasibility certification it provides to the prospective petitioner in this docket electronically via ECFS<sup>20</sup> so that the Media Bureau can track these certifications and monitor carrier response time. If the carrier is claiming spot beam coverage infeasibility, then the certification provided by the carrier must be the same type of detailed certification that would be required in response to a market modification petition (discussed above). For any other claim of infeasibility, the carrier's feasibility certification must explain in detail the basis of such infeasibility<sup>21</sup> and must be prepared to provide documentation in support of its claim, in the event the prospective petitioner

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<sup>17</sup> See Report and Order, FCC 15-111 at ¶ 47.

<sup>18</sup> For purposes of determining a reasonable amount of time for a carrier to respond to a request for a feasibility certification, the Commission found a carrier should generally respond within 45 days of receipt of a prospective petitioner's written request; however, it would be reasonable for the carrier to respond in 90 days if the carrier has to process several requests at the same time. If the response is after 45 days, the carrier must provide an explanation for the longer time period in its certification (e.g., having to respond to multiple simultaneous requests). With this process, the Commission seeks to balance the need to provide broadcasters' with as fast a response as possible, while recognizing that satellite carriers may have difficulty responding to numerous requests at once.

<sup>19</sup> Correspondence would include, for example, a brief cover letter and the prospective petitioner's initiating request for the feasibility certification provided.

<sup>20</sup> A satellite carrier must file the correspondence and feasibility certification electronically into this docket through the Commission's Electronic Comment Filing System ("ECFS") using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/>. The filing must be clearly designated as a "STELAR feasibility certification" and must clearly reference this proceeding and docket number (MB Docket No. 15-71).

<sup>21</sup> The carrier must state in its certification that the new community is covered by the relevant spot beam, but carriage is nevertheless infeasible and explain why.

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decides to seek a Commission determination about the validity of the carrier's claim. If carriage is feasible, a statement to that effect must be provided in the certification. To obtain a Commission determination about the validity of the carrier's claim of infeasibility, a prospective petitioner must either file a (separate) petition for special relief<sup>22</sup> or its market modification petition.<sup>23</sup>

**History:**

On March 29, 1993, the Commission released a *Report and Order*, FCC 93-144.<sup>24</sup> Among other things, this *Report and Order* implemented procedures that enable the Commission to add communities to or delete communities from a station's television market to better reflect marketplace conditions following a written request. Such written requests to modify a television station's must-carry market may be filed by television stations or cable operators, pursuant to 47 CFR Section 76.59 of the Commission's rules.

On May 24, 1996, the Commission released a *First Report and Order and Further Notice of Proposed Rulemaking*, FCC 96-197.<sup>25</sup> The *First Report and Order* established new television

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<sup>22</sup> See 47 C.F.R. § 76.7.

<sup>23</sup> The Bureau may on its own motion review the adequacy of a certification filed in the docket, but generally a prospective petitioner must request such review by filing a petition for special relief; 47 C.F.R. § 76.7.

<sup>24</sup> *Implementation of the Cable Television Consumer Protection and Competition Act of 1992, Broadcast Signal Carriage Issues*, MM Docket No. 92-259, Report and Order, 8 FCC Rcd 2965 (1993).

<sup>25</sup> *Definition Of Markets For Purposes Of The Cable Television Mandatory Television Broadcast Signal Carriage Rules; Implementation of Section 301(d) of the Telecommunications Act of 1996, Market Determinations*; CS Docket No. 95-178, Report and Order and Further Notice of Proposed Rulemaking 11 FCC Rcd 6201 (1996).



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market definitions for purposes of the cable television signal carriage and retransmission consent rules. The Commission concluded that it was appropriate to change market definitions from Arbitron areas of dominant influence (“ADIs”) to Nielsen Media Research designated market areas (“DMAs”) for must-carry/retransmission consent elections beginning with the must-carry/retransmission consent cycle that is to commence on January 1, 2000. The *Further Notice* provided parties an opportunity to further consider issues relating to the transition to market designations based on DMAs and sought comment on procedures for refining the market modification process.

On May 26, 1999, the Commission released an *Order on Reconsideration and Second Report and Order*, FCC 99-116.<sup>26</sup> Among other things, the Commission established final rules for procedures for refining the cable market modification process by adopting a standardized evidence approach to the market modification process. The Commission sets forth specific information submission requirements for the market modification process, as detailed in the amended 47 CFR Section 76.59. The intent of specific submission requirements was to bring greater uniformity and certainty to the market modification process and to avoid unnecessary reconsideration petitions and appeals. This collection accounts for the paperwork burden imposed on entities when undergoing the market modification request process.

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 Section 102 of the STELA Reauthorization Act of 2014 (STELAR), Pub. L. No. 113-200, 128 Stat. 2059 (2014), and Sections 1, 4(i), 303(r), 338 and 614 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 303(r), 338 and 534.

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<sup>26</sup> *Definition of Markets for Purposes of the Cable Television Broadcast Signal Carriage Rules*, CS Docket No. 95-178, Order on Reconsideration and Second Report and Order, 14 FCC Rcd 8366, 8385-86, ¶ 44 (1999).

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2. TV broadcast stations, cable system operators, satellite carriers and county governments (only with respect to satellite modifications) may file a petition with the Commission seeking to modify the local television market of a particular commercial television broadcast station to better serve the programming needs of local communities. The Commission will use information collected in order to determine whether the grant of such a market modification petition would be in the public interest.

TV broadcast stations and county governments may make a “pre-filing coordination” request in writing to a satellite carrier asking the carrier to evaluate whether carriage of a station from a prospective satellite market modification petition is feasible. In response, the satellite carrier must provide a certification about the feasibility or infeasibility of such carriage. The parties will use this information to decide whether to file a “pre-filing coordination” petition for Special Relief or a satellite market modification petition. If a petition is filed, the Commission will use this information to evaluate compliance with the rules.

3. The Commission requires petitioners filing a market modification petition (*e.g.*, TV broadcast station, cable system operator, satellite carrier or county government) to file such request electronically in accordance with the procedures in 47 C.F.R. § 76.7 for filing Special Relief petitions. Special Relief petitions must be submitted electronically using the Commission’s Electronic Comment Filing System (ECFS), <http://www.fcc.gov/cgb/ecfs/>.<sup>27</sup> Petitions must be initially filed in MB Docket No. 12-1. A fee is generally required for the filing of Special Relief petitions; 47 C.F.R. §§ 1.1104, 1.1117, 76.7.

A “pre-filing coordination” request must be made in writing to a satellite carrier. A satellite carrier must respond to this request by providing a feasibility certification to the prospective

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<sup>27</sup> See *Media Bureau Announces Commencement of Mandatory Electronic Filing for Cable Special Relief Petitions and Cable Show Cause Petitions Via the Electronic Comment Filing System*, Public Notice, 26 FCC Rcd 17150 (MB 2011).

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petitioner about whether or not carriage is feasible. A satellite carrier must also file electronically a copy of the correspondence and feasibility certification it provides to the prospective petitioner in MB Docket 15-71 via ECFS. If the prospective petitioner disputes a carrier's claim of infeasibility, then the prospective petitioner may file a "pre-filing coordination" petition for Special Relief or a satellite market modification petition. A "pre-filing coordination" petition for Special Relief must be submitted electronically using the Commission's Electronic Comment Filing System (ECFS) (described above). A fee is generally required for the filing of Special Relief petitions; 47 C.F.R. §§ 1.1104, 1.1117, 76.7.

4. This agency does not impose a similar information collection requirement on the respondents. There are no similar data available.

5. The requirements accounted for in this information collection do not have a significant impact on a substantial number of small businesses or other small entities.

6. The Commission is required by Sections 338(l) and 614(h)(1)(C) of the Communications Act to permit the filing of market modification requests. If this collection of information were not sponsored by the Commission, then broadcast TV stations, cable system operators and satellite carriers would not have filing procedures available to them to request modifications of a broadcast station's local television market to better reflect marketplace conditions (as required by the statute). Furthermore, if these information collection requirements were not conducted, the Commission would be unable to fulfill its obligation to ensure that a grant of a market modification request is in the public interest. (The frequency for this collection of information is determined by respondents, as necessary.)

7. There are no special circumstances associated with this information collection. This information collection is consistent with the guidelines in 5 CFR 1320.5(d)(2).

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8. The Commission published a Federal Register Notice (80 FR 66001) on October 28, 2015 seeking comments on the information collection requirements contained in this supporting statement. No comments have been received from the public.

9. There are no payments or gifts given to respondents.

10. There is no assurance of confidentiality provided to petitioners or other respondents; however, in accordance with the Commission's rules, 47 C.F.R. § 0.459, a TV broadcast station, cable system operator, or satellite carrier may request confidential treatment for financial, technical, proprietary or other information supplied with its petition, responsive pleading or other submission.

11. This information collection does not address any private matters of a sensitive nature.

12. Market Modification Petitions and Responsive Pleadings. We estimate that 20 market modification requests (petitions) will be filed annually with the Commission by TV broadcast stations, cable system operators and satellite carriers (collectively). In addition, parties may file responsive pleadings, such as comments or oppositions to the petitions, and petitioners may file replies responding to such comments or oppositions. We estimate that 80 responsive pleadings, or about four responsive pleadings for each petition filed ( $20 \times 4^{28} = 80$ ). The resulting total is 100 responses (20 petitions + 80 responsive pleadings). Because we expect that the petitioner

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<sup>28</sup> For example, if a broadcast TV station files a petition for a satellite market modification, the following parties may file a response (opposition or comment): a competing TV station in the local television market being modified, one or both satellite carriers, and/or the relevant county government(s). If a broadcast TV station files a petition for a cable market modification, the following parties may file a response (opposition or comment): a competing TV station in the local television market being modified and/or the cable system operator.

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will reply to comments/oppositions and that this reply will constitute one of the four responsive pleadings per petition/proceeding. Accordingly, we do not double-count the petitioner in our estimate of 80 respondents.

- Burden Estimate. We estimate that all 20 market modification petitions will be filed by parties using outside legal assistance. Therefore, we estimate that each such petitioner/respondent will take about 4 hours to consult with an outside attorney to prepare a market modification petition.<sup>29</sup> We estimate that the respondent would have an average salary of \$100,000/year (\$48.08/hour). In addition, we estimate that 16 responsive pleadings (20% of the 80 responsive pleadings) will be filed using “in-house” legal staff, whereas we estimate that 64 responsive pleadings (80% of the 80 responsive pleadings) will use an outside attorney to prepare such responsive pleadings. For the estimated 16 responsive pleadings prepared in-house, we estimate that each commenting party/respondent will take about 40 hours to prepare a responsive pleading. For the estimated 64 responsive pleadings prepared by an outside attorney, we estimate that each commenting party/respondent will take about 4 hours to consult with an outside attorney to prepare a responsive pleading.<sup>30</sup> We estimate that the respondent would have an average salary of \$100,000/year (\$48.08/hour). All estimates are based on Commission staff's knowledge and familiarity with the availability of the data required.

Pre-filing Coordination Requests/Responses/Petitions. We estimate that prospective market modification petitioners will submit 20 pre-filing coordination requests annually to satellite carriers. In response to each request, the satellite carrier will provide the prospective petitioner with a response/feasibility certification and will file a copy of this response/feasibility certification with the Commission. Finally, we estimate that prospective petitioners will file 10

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<sup>29</sup> The estimated time for outside attorney review of a market modification petition is provided in item 13's cost to respondents.

<sup>30</sup> The estimated time for outside attorney review of a market modification petition is provided in item 13's cost to respondents.

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Special Relief petitions<sup>31</sup> annually with the Commission to challenge a carrier's feasibility certification and that carriers will file oppositions to each of these petitions.

- Burden Estimate. We estimate that all 20 pre-filing coordination requests will be prepared by the respondent (broadcast station or county government) and will take about 1 hour to prepare. In addition, we estimate that all 20 responses/ feasibility certifications will be prepared by the respondent (satellite carrier) and will take about 2 hours to prepare (including filing with the Commission).<sup>32</sup> With respect to pre-filing coordination Special Relief petitions for Commission review of a satellite carrier's certification/claim of infeasibility, we estimate that all 10 pre-filing coordination petitions will be prepared by the respondent (broadcast station or county government) using outside legal assistance. Therefore, we estimate that each such petitioner/respondent will take about 2 hours to consult with an outside attorney to prepare a pre-filing coordination Special Relief petition.<sup>33</sup> In addition, we estimate that all 10 oppositions to pre-filing coordination petitions will be prepared by the respondent (satellite carrier) using an outside attorney and will take about 2 hours to consult with an outside attorney to file. We estimate that each respondent would have an average salary of \$100,000/year (\$48.08/hour). All estimates are based on Commission staff's knowledge and familiarity with the availability of the data required.

Spot Beam Coverage Infeasibility Detailed Certifications. We estimate that satellite carriers will provide annually 20 Spot Beam Coverage Infeasibility Detailed Certifications to petitioners/prospective petitioners and file such detailed certifications with the Commission. These detailed certifications will be provided either (1) as part of a satellite carrier's opposition

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<sup>31</sup> These are petitions seeking a Commission ruling on a satellite carrier's claim of infeasibility and are not market modification petitions.

<sup>32</sup> This estimate does not include the burden for preparing a Spot Beam Coverage Infeasibility Detailed Certification, if necessary.

<sup>33</sup> The estimated time for outside attorney review of a market modification petition is provided in item 13's cost to respondents.

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to a market modification petition or (2) as part of a carrier's response to a pre-filing coordination request. To comply with a recordkeeping requirement, satellite carriers providing each of these detailed certifications must retain the supporting documentation (*i.e.*, "satellite link budget" calculations) underlying these detailed certifications.

- Burden Estimate. We estimate that all 20 Spot Beam Coverage Infeasibility Detailed Certifications will be prepared by the respondent (satellite carrier) and will take about 20 hours to prepare. In addition, we estimate that the recordkeeping requirement associated with each of the 20 detailed certifications will take the respondent (satellite carrier) about 0.5 hours. We estimate that each respondent would have an average salary of \$100,000/year (\$48.08/hour). All estimates are based on Commission staff's knowledge and familiarity with the availability of the data required.

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Information Collection Requirement	Total Number of Respondents	Total Number of Responses	Burden Hours	Total Burden Hours	Annual "In-House" Cost
<b>Market Modification Petitions and Responsive Pleadings</b>  (47 CFR 76.59)	20 petitioners	20 petitions	4 hrs.	80 hrs.	
	60 opposing or commenting parties	16 "in-house" oppositions or comments	40 hrs.	640 hrs.	
		44 oppositions or comments	4 hrs.	176 hrs.	
	<i>20 replying parties [same as petitioners and not additional respondents]</i>	20 reply comments from petitioners	4 hrs.	80 hrs.	
<b>Subtotal</b>	<b>80 respondents</b>	<b>100 responses</b>		<b>976 hours</b>	<b>\$46,926.08</b>
<b>Pre-filing Coordination Requests and Responses (Feasibility Certifications)</b>  (FCC 15-111)	20 requesting parties	20 requests	1 hr.	20 hrs.	
	20 satellite carriers	20 responses (feasibility certifications) sent to requesting party and filed with FCC	2 hrs.	40 hrs.	
<b>Pre-filing Coordination Special Relief Petitions</b>  (FCC 15-111)	10 petitioners	10 petitions	2 hrs.	20 hrs.	
	10 opposing parties (satellite carriers)	10 oppositions	2 hrs.	20 hrs.	
<b>Subtotal</b>	<b>60 respondents</b>	<b>60 responses</b>		<b>100 hours</b>	<b>\$4,808.00</b>
<b>Spot Beam Coverage Infeasibility Detailed Certifications</b>	20 satellite carriers	20 detailed certifications	20 hrs.	400 hrs.	



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<b>(FCC 15-111)</b>					
<b>Detailed Certification Recordkeeping Requirement (FCC 15-111)</b>	20 satellite carriers	20 records of supporting documentation	0.5 hrs.	10 hrs.	
<b>Subtotal</b>	<b>40 respondents</b>	<b>40 responses</b>		<b>410 hours</b>	<b>\$19,712.80</b>
<b>TOTALS:</b>	<b>180 respondents</b>	<b>200 responses</b>		<b>1,486 hours</b>	<b>\$71,446.88</b>

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**13. Cost to Respondents:** As noted in item 12, above, we estimated that all 20 market modification petitions will be prepared using an outside attorney. We also estimated that 64 responsive pleadings will be prepared using an outside attorney. With respect to the 20 market modification petitions prepared using an outside attorney, we estimate that it will take the outside attorney 80 hours to research and prepare a market modification petition. With respect to the 64 responsive pleadings prepared using an outside attorney, we estimate that it will take the outside attorney 40 hours to prepare a responsive pleading. We estimate that an outside attorney will charge an average of \$300 per hour for providing legal services to respondents. In addition, a filing fee of \$1,465.00 is generally required for the filing of Special Relief petitions, such as a market modification petitions.<sup>34</sup>

Also noted in item 12, above, we estimated that all 10 pre-filing coordination Special Relief petitions will be prepared using an outside attorney. We also estimated that 10 oppositions to such petitions will be prepared using an outside attorney. With respect to the 10 pre-filing coordination Special Relief petitions, we estimate that it will take the outside attorney 16 hours to prepare such petition. With respect to the 10 oppositions to such petitions, we estimate that it will take the outside attorney 16 hours to prepare such opposition. We estimate that an outside attorney will charge an average of \$300 per hour for providing legal services to respondents. In addition, a filing fee of \$1,465.00 is generally required for the filing of Special Relief petitions.

Item #13 Table	Cost to Respondents			
<b>Outside Attorney Cost for Market Modification Petitions</b>	20 market modification petitions	x 80 hrs =	1,600 hrs.	
	64 responsive pleadings (e.g., oppositions, comments or replies)	x 40 hrs =	2,560 hrs.	
<b>Subtotal</b>			<b>4,160 hours x \$300/hour =</b>	<b>\$1,248,000.00</b>
<b>Outside Attorney Cost for Pre-filing Coordination Special Relief Petitions</b>	10 pre-filing coordination special relief petitions	x 16 hrs =	160 hrs.	
	10 oppositions	x 16 hrs =	160 hrs.	

<sup>34</sup> See 47 C.F.R. §§ 1.1104, 1.1117.

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<b>Subtotal</b>		<b>320 hours x \$300/hour =</b>	<b>\$96,000.00</b>
<b>Filing Fees for Petitions</b>	20 market modification petitions	x \$1,465 fee/petition =	\$29,300.00 fees
	10 pre-filing coordination special relief petitions	x \$1,465 fee/petition =	\$14,650.00 fees
<b>Subtotal</b>	<b>30 petitions x \$1,465 fee per petition =</b>		<b>\$43,950.00 fees</b>
<b>Total Cost to Respondents</b>			<b>\$1,387,950.00</b>

**14. Cost to the Federal Government:** As noted in item 12 (above), we estimated that 20 market modification requests will be filed annually with the Commission by TV broadcast stations, cable system operators and satellite carriers (collectively). Each petition will initiate a market modification proceeding. We estimate that the Commission will use clerical staff at the GS-9, Step 5 grade level (\$28.60) and attorney or other professional staff at the GS 15, Step 5 level (\$68.56/hour) to review the record of each proceeding, which includes the initiating market modification petition and associated responsive pleadings.<sup>35</sup> We estimate that the average processing time for Commission staff for reviewing the filings in each market modification proceeding will be 85 hours.<sup>36</sup>

In addition, as noted in item 12 (above), we estimated that 10 pre-filing coordination petitions will be filed annually with the Commission by prospective satellite market modification petitioners. Each petition will initiate a proceeding regarding a satellite carrier’s claim of infeasibility. We estimate that the Commission will use clerical staff at the GS-9, Step 5 grade level (\$28.60) and attorney or other professional staff at the GS 15, Step 5 level (\$68.56/hour) to review the record of each proceeding. We estimate that the average processing time for Commission staff for reviewing the filings in each pre-filing coordination proceeding will be 45 hours.

<b>Item #14 Table</b>	<b>Cost to the Federal Government</b>			
	<b>Total Petitions Processed By FCC</b>	<b>Total Hours Processing</b>	<b>Cost Per</b>	<b>Cost Per</b>

<sup>35</sup> Our burden estimate will include time to review and evaluate the market modification petition and any associated responsive pleadings filed in the market modification proceeding.

<sup>36</sup> Our estimate is based on staff experience with receiving cable market modification petitions.

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	Staff	Time Per Filing/Proceeding		Hour	Filing
<b>Government Cost for Market Modification Petitions</b>	20 petitions/proceedings reviewed by FCC Staff Attorneys	x 80 hrs =	1,600 hrs.	x \$68.56	\$109,696.00
	20 petitions/proceedings reviewed by FCC Clerical Staff	x 5 hrs =	100 hrs.	x \$28.60	\$2,860.00
<b>Subtotal</b>					<b>\$112,556.00</b>
<b>Government Cost for Pre-filing Coordination Special Relief Petitions</b>	10 petitions/proceedings reviewed by FCC Staff Attorneys	x 40 hrs =	400 hrs.	x \$68.56	\$27,424.00
	10 petitions/proceedings reviewed by FCC Clerical Staff	x 5 hrs =	50 hrs.	x \$28.60	\$1,430.00
<b>Subtotal</b>					<b>\$28,854.00</b>
<b>Total Cost to the Federal Government</b>					<b>\$141,410.00</b>

15. The Commission has the following program changes/increases to this information collection which are due to the information collection requirements that were adopted in FCC 15-111. They are as follows: 105 to the number of respondents (from 75 to 180), 125 to the annual number of responses (from 75 to 200), 46 to the annual burden hours (from 1,440 to 1,486). Also, there is a decrease in annual cost of \$52,050 (from \$1,440,000.00 to \$1,387,950.00).

16. The data will not be published.

17. OMB approval of the expiration of the information collection will be displayed at 47 C.F.R. §

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0.408.

18. There are no exceptions to the Certification Statement.

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

No statistical methods are employed.