

SUPPORTING STATEMENT

A. Justification:

1. This submission is being made to the Office of Management (OMB) for the approval of information collection requirements contained in the Commission's *Incentive Auction R&O*,¹ which adopted rules for holding an Incentive Auction, as required by the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act).² The Spectrum Act directed the Commission to hold a "reverse auction" in which broadcasters can voluntarily return some or all of their broadcast spectrum usage rights in exchange for incentive payments.³ The Spectrum Act also required the Commission to reorganize the broadcast television band, which will be accomplished by repacking stations, or moving broadcast stations to different channels.⁴ The Spectrum Act directed the Commission to hold a forward auction of the ultra-high frequency (UHF) spectrum obtained as a result of the reverse auction and channel repacking, to be auctioned as flexible-use licenses suitable for providing mobile broadband service.⁵

On April 13, 2017, the Commission's Incentive Auction Task Force and Media and Wireless Telecommunications Bureaus released the Auction 1,000 *Closing and Channel Reassignment Public Notice* which, among other things, announced the results of the repacking process and identified the channel reassignments of television stations, and established the beginning of the 39-month post-auction transition period (transition period).⁶ By the end of the transition period, all stations reassigned to new channels as a result of a reverse auction winning bid or the repacking process must complete construction of their post-auction channel facilities, commence operation on their post-auction channel, cease operation on their pre-auction channel, and file a license application. All full power and Class A television stations transitioning to a new channel are assigned to one of 10 transition phases and the deadline for each transition phase represents

¹ *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket 12-268, Report and Order, FCC 14-50, 29 FCC Rcd 6567, 6820 (2014) (*Incentive Auction R&O*).

² Pub. L. No. 112-96, §§ 6402 (codified at 47 U.S.C. § 309(j)(8)(G)), 6403 (codified at 47 U.S.C. § 1452), 126 Stat. 156 (2012).

³ Spectrum Act § 6403(a)(1) (mandating "a reverse auction to determine the amount of compensation that each broadcast television licensee would accept in return for voluntarily relinquishing some or all of its broadcast television spectrum usage rights in order to make spectrum available for assignment through a system of competitive bidding under subparagraph (G) of section 309(j)(8) of the Communications Act of 1934, as added by section 6402").

⁴ Spectrum Act § 6403(b)(1) (requiring the FCC to "make such reassignments of television channels as the Commission considers appropriate" and "reallocate such portions of such spectrum as the Commission determines are available").

⁵ Spectrum Act § 6403(c)(1)(A) (requiring the FCC to conduct a "forward auction" to assign licenses for the use of spectrum reallocated from broadcast television as part of the incentive auction).

⁶ *Incentive Auction Closing and Channel Reassignment Public Notice: The Broadcast Television Incentive Auction Closes; Reverse Auction and Forward Auction Results Announced; Final Television Band Channel Assignments Announced; Post-Auction Deadlines Announced*, Public Notice, DA 17-314 (rel. Apr. 13, 2017) (*Closing and Channel Reassignment Public Notice*).

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the time in which stations in the phase must complete their transition.⁷ This schedule accounts for stations with interference relationships which must transition at the same time, minimizes disruption to viewers, and helps manage limited resources as stations complete their transition related tasks. The phase completion dates range from November 30, 2018 through July 3, 2020.⁸

The Spectrum Act also established a TV Broadcaster Relocation Fund (Reimbursement Fund) to reimburse repacked broadcasters that incur expenses (Reimbursable Stations), for their reasonable expenses resulting from the post-auction channel reassignment.⁹ The rules governing these processes are codified at 47 CFR Parts 0, 1, 27, 73 and 74. In the *Incentive Auction R&O*, the Commission determined that Reimbursable Stations would be required, on a regular basis, to provide progress reports to the Commission showing how disbursed funds have been spent and what portion of their construction is complete.¹⁰ The Commission directed the Media Bureau to develop a form for such progress reports,¹¹ and set the filing deadlines for such reports.¹²

By Public Notice released January 10, 2017,¹³ the Incentive Auction Task Force and Media Bureau described the information that must be provided in the adopted FCC Form 2100, Schedule 387 (Transition Progress Report Form) to be filed by Reimbursable Stations and when and how the Transition Progress Reports must be filed. We also proposed to require broadcast television stations that are not eligible to receive reimbursement of associated expenses from the Reimbursement Fund (Non-Reimbursable Stations), but must transition to new channels as part of the Commission's channel reassignment plan, to file progress reports in the same manner and on the same schedule as Reimbursable Stations, and sought comment on that proposal. By Public Notice released May 18, 2017,¹⁴ we concluded that Non-Reimbursable Stations will be

⁷ See *Closing and Channel Reassignment Public Notice* at 20, para. 62.

⁸ *Id.* at 21, para. 64.

⁹ Spectrum Act § 6403(b)(4)(A).

¹⁰ *Incentive Auction R&O*, 29 FCC Rcd at 6825, para. 634.

¹¹ *Incentive Auction R&O*, 29 FCC Rcd at 6825 n.1768.

¹² 47 CFR § 73.3700(e)(5) & (e)(7). **Section 73.3700(e)(5)** requires broadcast television station licensees that receive money from the Reimbursement Fund to submit progress reports at a date and frequency to be determined by the Media Bureau. **Section 73.3700(e)(7)** delegates authority to the Chief, Media Bureau, to set filing deadlines and review information and documentation regarding progress reports.

¹³ *The Incentive Auction Task Force and Media Bureau Release Transition Progress Report Form and Filing Requirements for Stations Eligible for Reimbursement from the TV Broadcast Relocation Fund and Seek Comment on the Filing of the Report by Non-Reimbursable Stations*, MB Docket No. 16-306, Public Notice, 32 FCC Rcd 256 (IATF/Med. Bur. 2017).

¹⁴ *The Incentive Auction Task Force and Media Bureau Adopt Filing Requirements for the Transition Progress Report Form by Stations That Are Not Eligible for Reimbursement from the TV Broadcast Relocation Fund*, MB Docket No. 16-306, Public Notice, DA 17-484 (rel. May 18, 2017) (referred to collectively with *Public Notice* cited in note 13 above as *Transition Progress Report Public Notices*).

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required to file Transition Progress Reports following the filing procedures adopted for Reimbursable Stations.

The Commission is seeking from the Office of Management and Budget (OMB) approval for FCC Form 2100, Schedule 387 (Transition Progress Report).

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

The statutory authority for this collection is contained in Pub. L. No. 112-96, §§ 6402 (codified at 47 U.S.C. § 309(j)(8)(G)), 6403 (codified at 47 U.S.C. § 1452), 126 Stat. 156 (2012) (Spectrum Act).

2. The Media Bureau will use the information provided by broadcast licensees on FCC Form 2100, Schedule 387 (the Transition Progress Report Form) to assess how disbursed funds have been spent and monitor the construction of stations over the 39-month transition period. The information provided by broadcast licensees will also be available to broadcasters, tower companies, equipment providers, engineering consultants, other interested parties, and the public to monitor the progress of the transition.
3. Form 2100, Schedule 387 will be filed electronically in the Media Bureau's Licensing and Management System (LMS). LMS is the successor system to the Commission's CDBS system, which was the system used for submitting all broadcast-related FCC Forms.
4. No other agency imposes similar information collections on the respondents. There is no similar data available from any other source.
5. In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the information collection burden for all respondents, including small businesses. The Form consists of 14 questions to be answered Yes, No, or N/A and requires stations to certify that certain steps toward construction of their post-auction facilities either have been completed or are not required or identify potential problems which may make it difficult for a broadcaster to complete construction. Where possible, Form 2100, Schedule 387 provides multiple options from which the filer need only check the appropriate box; the majority of questions do not require a narrative explanation. Once a broadcaster has filed a Transition Progress Report Form certifying that it has completed all work related to construction of its post-auction facilities and ceased operating on its pre-auction channel, it will no longer be required to file the reports.
6. Form 2100, Schedule 387 will collect key data from stations reassigned to new channels throughout the transition period. This information collection is necessary for the Commission to carry out the goals of and to comply with the Spectrum Act, which requires the reallocation of broadcast spectrum for flexible use by winning bidders who acquired rights to the reallocated spectrum in the forward auction. Without the information collected in Form 2100, Schedule 387, the Commission could not monitor stations' progress in meeting their construction deadlines in order to ensure that reassigned stations construct their post-auction facilities by their construction deadline. The data collected will also allow the Commission to comply with its statutory obligations both to reimburse costs reasonably incurred under section 6403(b)(4)(A) and to provide entities with the funds to implement their relocation changes within the statutory three-year reimbursement period under section 6403(b)(4)(D) of the Spectrum Act (codified at 47 U.S.C. § 1452). In addition, collecting this information will preserve the financial integrity of the Reimbursement Fund by reducing the likelihood of waste,

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fraud, and abuse.

7. The collections are not being conducted in any manner inconsistent with 5 CFR Part 1320.
8. The Commission published a Notice (82 FR 25605) in the *Federal Register* on June 2, 2017, seeking public comment on the information collection requirements contained in this supporting statements. No comments were received from the public.

On January 10, 2017, the Media Bureau released a Public Notice adopting FCC Form 2100, Schedule 387 for Reimbursable Stations and seeking public comment on whether Non-Reimbursable Stations should provide the same progress reports in the same manner and on the same schedule as Reimbursable Stations. (82 FR 9009).¹⁵ The Bureau received four responses. The majority of the comments were suggestions that the Commission make changes to questions in the form and filing requirements as adopted for Reimbursable Stations and require Non-Reimbursable Stations to file Form 387 subject to the same filing requirements. In response, we did not make any changes to the Form 387 or filing requirements, and adopted the same Form and filing requirements for Non-Reimbursable Stations.

9. No payment or gift will be provided to respondents in connection with this collection of information.
10. No assurances of confidentiality are being provided to the respondents. Parties filing Form 2100, Schedule 387 may seek confidential treatment of information they provide pursuant to the Commission's existing confidentiality rules.¹⁶
11. There are no questions of a sensitive nature with respect to the information collected.
12. FCC Form 2100, Schedule 387 will be filed by broadcasters between October 10, 2017 and approximately July 10, 2020. We estimate the total number of broadcaster respondents to be **1,000**.¹⁷ Because a broadcaster no longer has to file FCC Form 2100, Schedule 387 after it has completed all work related to construction of its post-auction facilities and ceased operating on its pre-auction channel, the number of respondent/responses will vary by year.

The Commission estimates that most of the respondents will not require outside assistance to fulfill their reporting requirements. The estimated average burden on each applicant/licensee to file an FCC Form 2100, Schedule 387 is two (2) hours. The respondents will use in-house staff to complete the form, which requires approximately one (1) hour, and will use in-house station engineers to complete the technical questions, which requires approximately one (1) hour.

Number of Annual Respondents: Approximately 1,000 Broadcast Licensees in 2017 and 2018; approximately 900 in 2019; therefore, the Commission rounded up the annual total number of

¹⁵ The Bureau extended the comment period. See *Comment Sought on the Filing of Transition Progress Report Forms and Filing Requirements for Stations that Are Not Eligible for Reimbursement from the TV Broadcast Relocation Fund: Filing Deadlines Extended*, MB Docket No. 16-306, Public Notice, 32 FCC Rcd 1120 (2017).

¹⁶ See 47 CFR § 0.459.

¹⁷ See *Closing and Channel Reassignment Public Notice* at 19, para. 56.

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respondents to **1,000 annually**.

Number of Annual Responses: Approximately 1,000 in 2017; approximately 4,000 in 2018; approximately 5,000 in 2019; therefore, the Commission annualized the total number of responses over the three-year approval period **3,333 annually**.

Annual Burden Hours:

3,333 applications x one hour to complete Schedule 387 = 3,333 hours
3,333 applications x one hour to respond to technical questions = 3,333 hours
Annual Broadcaster Burden Hours: 6,666 hours

The respondents' estimated salary are \$100,000/year (\$48.08/hour). The station engineers' salary are estimated at \$60,000/year (\$30.00/hour).

Annual Cost:

3,333 applications x one hour to complete Schedule 387 x \$48.08/hour = \$160,251.00 (rounded)
3,333 applications x one hour to respond to technical questions x \$30.00/hour = \$ 99,990.00
Annual Broadcaster Cost: \$260,241.00

Cumulative Totals for the Entire Collection:

Total Number of Respondents: 1,000 Broadcasters

Total Number of Annual Responses: = 3,333 responses

Total Annual Burden Hours: = 6,666 hours

Total Annual "In-House" Cost: \$260,241.00

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

13. There are no external/consulting costs for this information collection.

14. Cost to the Federal Government: The Commission will use professionals at the GS-14, step 5 level (\$60.83)

Professionals: 1 hour x \$60.83/hour x 3,333 applications annually = \$202,746.39

Total Cost to Federal Government: \$202,746 (rounded)

15. The Commission will add the following burdens to OMB's inventory once this information collection is

approved: 1,000 to the total number of respondents, 3,333 to the annual number of responses and 6,666 hours to the annual burden hours as a result of the information collection requirements adopted in FCC 14-50 and DA 17-484, MB Docket No. 16-306.

16. The Commission does not intend to publish the results of these collections of information.
17. The Commission is not seeking approval to not display the expiration date for OMB approval of these collections of information.
18. There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods:

The Commission does not anticipate that the collection of information will employ any statistical methods.