

Incumbent 39 GHz Licensee Short-Form Application, FCC Form 175-ASUPPORTING STATEMENT

New Collection Titled: Incumbent 39 GHz Licensee Short-Form Application, FCC Form 175-A. This request is being submitted to obtain Office of Management and Budget (OMB) approval under the Paperwork Reduction Act (PRA) for a new, one-time information collection necessary to implement the incentive auction approach established by the Federal Communications Commission (Commission) for spectrum in the Upper 37 GHz, 39 GHz, and 47 GHz bands, as explained below.

A. Justification:

1. *Circumstances that make this collection necessary.* In its 2016 *Spectrum Frontiers Report and Order* (FCC 16-89), the Commission adopted Upper Microwave Flexible Use Service (UMFUS) rules for the 28 GHz, Upper 37 GHz, and 39 GHz bands, to make available millimeter wave spectrum for 5G. In its 2017 *Spectrum Frontiers Second Report and Order* (FCC 17-152), the Commission expanded the UMFUS rules to cover the 24 GHz and 47 GHz bands. In its December 2018 *Fourth Report and Order* (FCC 18-180), the Commission established an incentive auction that promotes the flexible-use wireless service rules that the Commission has adopted for the Upper 37 GHz, 39 GHz, and 47 GHz bands and, among other things, adopted modified band plans for these bands.

There are currently a number of existing licenses in the 39 GHz band that do not fit geographically into the Commission's new 39 GHz band plan, resulting in "encumbered" licenses that break up blocks of spectrum and fragment frequencies across the 39 GHz band. The Commission will use the incentive auction process to resolve the difficulties presented by these encumbrances and the need for existing 39 GHz licenses to be transitioned efficiently to the new band plan and possibly to new service areas. To that end, pursuant to the reconfiguration process adopted in the *Fourth Report and Order*, prior to the incentive auction, the Commission will offer each incumbent 39 GHz licensee a reconfiguration of its existing 39 GHz licenses that conforms more closely with the Commission's new band plan and service areas. Each incumbent can then choose to commit to (1) have its existing 39 GHz licenses modified based on the Commission's reconfiguration proposal; or (2) have its licenses modified based on an alternative reconfiguration proposed by the incumbent (provided it satisfies certain specified conditions); or (3) relinquish its existing spectrum usage rights in exchange for an incentive payment to be paid from the proceeds of the auction.

An applicant will use FCC Form 175-A to submit information needed to permit the Commission to enable the incumbent licensee to make an initial commitment to either accept modification of its 39 GHz spectrum holdings (either as proposed by the Commission or an acceptable alternative) or to relinquish its existing spectrum usage rights in exchange for an incentive payment, as described above. The information that will be collected in FCC Form 175-A includes identifying information regarding the applicant, its contact person, its initial commitment representative(s), and any other licensees with existing 39 GHz licenses being consolidated in the FCC Form 175-A application, as well as various certifications.

Statutory authority for this information collection is contained in 47 U.S.C. §§ 4(i), 309(j).

There are no impacts under the Privacy Act because individuals are not respondents to this collection of information.

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2. *Use of Information.* The information collected on FCC Form 175-A will be used by the Commission to enable an incumbent 39 GHz licensee to make an initial commitment to either accept modification of its 39 GHz spectrum holdings (either as proposed by the Commission or an acceptable alternative) or relinquish its existing spectrum usage rights in exchange for an incentive payment.
3. *Technological collection techniques.* Incumbent 39 GHz licensees will file FCC Form 175-A electronically. This collection mechanism is being used to reduce the technological burden on the public and the Commission. Instructions and guidance to incumbent 39 GHz licensees about filing FCC Form 175-A, including the filing deadline, will be provided in advance of the start of the FCC Form 175-A filing window.
4. *Efforts to identify duplication.* There will be no duplicative information collected. This a new, one-time information collection, the limited purpose of which is to provide the Commission with the information necessary to permit the Commission to enable an incumbent 39 GHz licensee to make an initial commitment regarding its existing 39 GHz spectrum holdings. Thus, the information being collected under this collection is not already available.
5. *Impact on small entities.* In conformance with the Paperwork Reduction Act of 1995, the Commission has made an effort to minimize the burden on all respondents regardless of size by limiting the information collected under this collection to that which is necessary to permit the Commission to enable an incumbent 39 GHz licensee to make an initial commitment regarding its existing 39 GHz spectrum holdings. Moreover, this collection is limited to only incumbent 39 GHz licensees. In addition, instructions and guidance to incumbent 39 GHz licensees about filing FCC Form 175-A, including the filing deadline, will be provided in advance of the start of the FCC Form 175-A filing window, thereby further minimizing the burden on all respondents, including small entities, related to this new, one-time information collection.
6. *Consequences if information is not collected.* The information that will be collected on FCC Form 175-A is required in order to initiate the incentive auction process. Without this information, the Commission will be unable to enable an incumbent 39 GHz licensee to make an initial commitment to either accept modification of its 39 GHz spectrum holdings or to relinquish its existing spectrum usage rights, which will delay the reconfiguration process for the 39 GHz band and the incentive auction generally and, ultimately, the provision of 5G service to the public. Moreover, if the Commission is unable to collect the information needed to permit it to enable an incumbent 39 GHz licensee to make an initial commitment to either accept modification of its 39 GHz spectrum holdings or to relinquish its existing spectrum usage rights, the Commission will need to implement a default presumption that the incumbent has committed to accept modification of its 39 GHz spectrum holdings in order to proceed with the reconfiguration process for the 39 GHz band and, in turn, the incentive auction.
7. *Special circumstances.* The new information collection does not have any of the characteristics that would require separate justification under 5 C.F.R. § 1320.5(d)(2).
8. *Federal Register notice; efforts to consult with persons outside the Commission.* Pursuant to 5 C.F.R. § 1320.8, the Commission published a 60-day notice in the Federal Register on February 14, 2019 (see 84 FR 4066) regarding above-described information collection requirements. No comments were received in response to this notice.

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9. *Payments or gifts to respondents.* The Commission does not anticipate providing any payment or gifts to respondents.

10. *Assurance of confidentiality.* Information collected on FCC Form 175-A is made available for public inspection, and the Commission is not requesting that respondents submit confidential information to the Commission on FCC Form 175-A. To the extent that a respondent seeks to have certain information collected on FCC Form 175-A withheld from public inspection, the respondent may request confidential treatment pursuant to section 0.459 of the Commission's rules for such information. See 47 C.F.R. § 0.459.

11. *Questions of a sensitive nature.* The information collection requirements do not ask questions of a sensitive nature.

12. *Estimates of the hour burden of the collection to respondents.* The following represents the hour burden for the proposed new collection of information:

a. Number of estimated annual respondents: 16. This information collection applies only to incumbent 39 GHz licensees.

b. Total number of annual responses: 16.

c. Frequency of response: One-time.

d. Total estimated annual burden: 30 minutes per respondent for 16 respondents filing once. Total estimated annual hours burden is calculated as follows:

16 estimated responses x .5 hours per response = 8 total estimated burden hours.

e. Total estimate of annual in-house cost to respondents for the hours burden: \$302.32.

f. Explanation of calculation: The Commission expects that FCC Form 175-A will typically be prepared by the respondent using existing in-house staff (e.g., paralegal or other legal staff member) at a rate equivalent to the hourly rate of a GS-11, Step 5 government staff member (\$37.79/hour). Therefore, the in-house cost is as follows:

16 estimated responses x 0.5 hours per response x \$37.79/hour = \$302.32.

13. *Estimates of the annual cost burden of the collection to respondents.* There is no external cost to respondents. Also, respondents should not incur capital and start-up costs or operation and maintenance of purchase of services in connection with responding to this new, one-time information collection. The information collected should be available and maintained as part of the customary and usual business or private practice of the respondent.

Total Cost: \$0.

TOTAL CAPITAL AND START-UP COSTS OR OPERATION AND MAINTENANCE (O&M): \$0.

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14. *Estimates of the annual cost burden to the Commission.* The Commission estimates that, on average, staff review of the information collected on FCC Form 175-A, including time spent by staff attorneys, will take 30 minutes per application, including time to identify any application deficiencies, review changes made by the respondent, and identify the nature of any issues requiring policy review.

Total Estimated Annual Cost to the Federal Government: 16 applications x 0.50 hours x \$63.64 (Attorney, GS-14, Step 5) = \$509.12.

15. *Program changes or adjustment.* This is a new information collection resulting in a program change increase of 16 respondents, 16 responses, and 8 total estimated burden hours.
16. *Collections of information whose results will be published.* The information collection will not be published for statistical use.
17. *Display of expiration date for OMB approval of information collection.* The Commission seeks an exemption from the requirement to display the OMB expiration date on FCC Form 175-A for this information collection. The Commission will use an edition date on FCC Form 175-A in lieu of the OMB expiration date. Approval to not display the OMB expiration date on FCC Form 175-A will prevent the Commission from having to update the OMB expiration date on the electronic FCC Form 175-A in the event of a revision or extension of this collection. The Commission publishes a list of all OMB-approved information collections and their corresponding expiration dates in 47 C.F.R. 0.408 of the Commission's rules, 47 C.F.R. § 0.408, and will publish the OMB control number and OMB expiration date for this collection in the list contained in section 0.408 of its rules.
18. *Exception to certification statement for Paperwork Reduction Act submissions.* There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods:

The Commission does not anticipate that this new collection of information will employ statistical methods, and the use of such methods would not reduce the burden or improve accuracy of results.