

Title: FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule C (Former FCC Form 346); Sections 74.793(d) and 74.787, LPTV Out-of-Core Digital Displacement Application; Section 73.3700(g)(1)-(3), Post-Incentive Auction Licensing and Operations; Section 74.799, Low Power Television and TV Translator Channel Sharing

SUPPORTING STATEMENT

A. Justification:

1. FCC Form 2100, Schedule C¹ is used by licensees/permittees/applicants when applying for authority to construct or make changes in a Low Power Television, TV Translator or DTW Transition.

Revised Information Collection Requirements:

2020 Public Notice Second Report and Order

On May 12, 2020, the Commission adopted *Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580*, Second Report and Order, MB Docket Nos. 17-254, 17-105, & 05-6, FCC 20-65 (rel. May 13, 2020). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Stations, including stations filing for new construction permits or major modifications to facilities, that were previously required to post public notice in a local newspaper, must now post notice online, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of the application for filing.

This submission is being made to OMB for approval of the modified third-party disclosure requirements for this Information Collection, as adopted in the *2020 Public Notice Second Report and Order*. The changes pertaining to this Information Collection and to 47 CFR § 73.3580 adopted in the *2020 Public Notice Second Report and Order*, which are listed below, do not necessitate changes to the Form 2100, Schedule C, nor do they affect the substance, burden hours, or costs of completing the forms. The rule changes do, however, reduce burdens and costs associated with filing the application, as set forth below.

History:

47 C.F.R. section 74.799 (previously 74.800) permits LPTV and TV translator stations to seek approval to share a single television channel with other LPTV and TV translator stations and with full power and Class A stations. Stations interested in terminating operations and sharing another station's channel must submit FCC Form 2100 Schedule C in order to have the channel sharing arrangement approved. If the sharing station is proposing to make changes to its facility to accommodate the channel sharing, it must also file FCC Form 2100 Schedule C.

¹ FCC Form 2100, Schedule C was formerly FCC Form 346. Former FCC Form 346 no longer exists, and its contents are fully contained within FCC Form 2100 and the "Licensing and Management" system.

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47 C.F.R. section 74.793(d) requires that certain digital low power and TV translator stations submit information as to vertical radiation patterns as part of their applications (FCC Form 2100, Schedule C) for new or modified construction permits.

Applicants are also subject to the third-party disclosure requirement of 47 CFR Section 73.3580. Section 73.3580, as amended in the Commission's *2020 Public Notice Second Report and Order*,² discussed below, requires local public notice of the filing of all applications to construct a new broadcast station, including an LPTV station. Notice is given by an applicant posting notice of the application filing on its station website, its licensee website, its parent entity website, or on a publicly accessible, locally targeted website, for 30 consecutive days beginning within five business days of acceptance of the application for filing. The online notice must link to a copy of the application as filed in the Commission's LMS licensing database.

47 C.F.R. section 73.3700(g)(1)-(3) permits licensees of operating low power TV and TV translator stations that are displaced by a broadcast television station or a wireless service provider or whose channel is reserved as a guard band as a result of the broadcast television spectrum incentive auction conducted under section 6403 of the Spectrum Act to submit an application for displacement relief in a restricted filing window to be announced by the Media Bureau by public notice. Except as otherwise indicated in this section, such applications will be subject to the rules governing displacement applications set forth in §§ 73.3572(a)(4) and 74.787(a)(4) of this chapter. In addition to other interference protection requirements set forth in the rules, when requesting a new channel in a displacement application, licensees of operating low power TV and TV translator stations will be required to demonstrate that the station would not cause interference to the predicted service of broadcast television stations on: (i) Pre-auction channels; (ii) Channels assigned in the Channel Reassignment Public Notice; or (iii) Alternative channels or expanded facilities broadcast television station licensees have applied for pursuant to paragraph (b)(2) of this section. Licensees of low power TV and TV translator stations that file mutually exclusive displacement applications will be permitted to resolve the mutual exclusivity through an engineering solution or settlement agreement. If no resolution of mutually exclusive displacement applications occurs, a selection priority will be granted to the licensee of a displaced digital replacement translator.

47 C.F.R. section 74.787 permits full power television stations to obtain a digital-to-digital replacement translator to replace service areas lost as a result of the incentive auction and repacking processes. Stations submit FCC Form 2100 Schedule C to obtain a construction permit for the new replacement translator.

The Commission submitted a revision to this information collection, which results from the rule provisions adopted in FCC 17-29. On March 23, 2017, the Commission adopted a Report and Order, *Channel Sharing by Full Power and Class A Stations Outside the Broadcast Television*

² *Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580*, Second Report and Order, MB Docket Nos. 17-254, 17-105, & 05-6, FCC 20-65 (rel. May 13, 2020). (*2020 Public Notice Second Report and Order*).

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Spectrum Incentive Auction Context, GN Docket No. 12-268, MB Docket No. 03-185, MB Docket No. 15-137, FCC 17-29 (*Report and Order*). This document approved channel sharing outside of the incentive auction context between full power, Class A, Low Power Television (LPTV) and TV translator stations.

On December 17, 2015, the Commission adopted the Third Report and Order and Fourth Notice of Proposed Rulemaking, “In the Matter of Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Digital Low Power Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations,” MB Docket No. 03-185, 30 FCC Rcd 14927 (2015). This document approved channel sharing between LPTV and TV translator stations as well as created a new digital-to-digital replacement translator.

On June 2, 2014, the Commission released a rulemaking titled “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 (2014) (Incentive Auction R&O) which adopted rules for holding an Incentive Auction, as required by the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act).³ The Spectrum Act directs 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.⁴ The Spectrum Act also requires the Commission to reorganize the broadcast television band, which will be accomplished by repacking stations, or moving broadcast stations to different channels.⁵ The Spectrum Act directs 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.⁶ This UHF spectrum will be auctioned as flexible-use licenses suitable for providing mobile broadband service. The Spectrum Act establishes a TV Broadcaster Relocation Fund (Fund) to reimburse reassigned broadcasters and multichannel video programming distributors (MVPDs) that incur expenses associated with continuing to carry relocated stations, for their reasonable expenses resulting from the post-auction channel reassignment.⁷

On July 15, 2011, the Commission adopted the Second Report and Order, *In the Matter of Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Digital Low Power*

³ 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).

⁴ 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.”).

⁵ 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”).

⁶ 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).

⁷ Spectrum Act §6403(b)(4)(A).

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Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations, MB Docket No. 03-185, FCC 11-110 (*LPTV Digital Second Report and Order*). This document contains rules and policies for low power television stations (LPTV)⁸ to transition from analog to digital broadcasting. Due to the Commission adopting these rules and policies to effectuate the low power digital transition, the *LPTV Second Report and Order* imposes new PRA burdens on licensees.

On September 17, 2010, the Commission adopted the Further Notice of Proposed Rulemaking, *In the Matter of Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations*, MD Docket No. 03-185, FCC 10-172 (*LPTV Digital Transition FNPRM*). The document contained rules and policies for low power television stations "LPTV) to transition from analog to digital broadcasting. The Commission received preapproval for the information collection requirements that were contained in FCC 10-172 on November 26, 2010.

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

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, 307, 308, and 309 of the Communications Act of 1934, as amended.

2. The data are used by FCC staff to determine if the applicant is qualified, meets basic statutory and treaty requirements and will not cause interference to other authorized broadcast services.

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

⁸ The low power television service consists of LPTV, TV translator, and Class A stations. LPTV stations may radiate up to 3 kilowatts of power for stations operating on the VHF band (*i.e.*, channels 2 through 13), and 150 kilowatts of power for stations operating on the UHF band (*i.e.*, channels 14 through 69). By comparison, full-service stations on VHF channels 7 through 13 radiate up to 316 kilowatts of power, and stations on the UHF channels radiate up to 5,000 kilowatts of power. LPTV signals typically extend approximately 15 to 20 miles, while the signals of full-service stations can reach as far as 60 to 80 miles.

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a waiver.

- 4. No other agency imposes a similar information collection on the respondents. There are no similar data available.
- 5. In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the burden on all respondents. Therefore, this information collection will not have a significant economic impact on a substantial number of small entities/businesses.
- 6. The frequency for filing is determined by respondents, as necessary.
- 7. This collection of information is consistent with the guidelines in 5 CFR Section 1320.5(d)(2).
- 8. The Commission published a Notice in the *Federal Register* on June 16, 2020 (85 FR 36403) seeking public comments on the proposed information collection requirements contained in this supporting statement. No comments were received from the public.
- 9. No payment or gift was provided to respondents.
- 10. There is no need for confidentiality with this collection of information.
- 11. This collection of information does not address any private matter.
- 12. We estimate that applicants/licensees/permittees will prepare and file 4,460 applications annually. The estimated average burden on each applicant/licensee is nine and a half (9.5) hours. The respondents will complete the legal portion of the form which requires approximately seven (7) hours and using in-house station engineers to complete a portion of the engineering portion of the form which requires approximately two and a half (2.5) 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).

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

Total Number of Annual Respondents: 4,460 Licensees/Applicants/Permittees

Total Number of Annual Responses: 4,460 FCC Form 2100, Schedule C Applications

Annual Burden Hours:

4,460 applications x 7 hours to complete legal portion of the form = 31,220 hours
 4,460 applications x 2.5 hours to complete in-house engineering review = 11,150 hours

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Total Annual Burden Hours: 42,370 hours

Annual “In-house cost”:

4,460 applications x 7 hours to complete legal portion of the form x \$48.08/hour = \$1,501,058

4,460 applications x 2.5 hours to complete in-house engineering review x \$30.00/hour = \$ 334,500

Total Annual “In House” Cost: \$1,835,558

13. In addition to “in-house” staff work, each applicant/licensee/permittees will use a communications attorney and a consulting engineer to assist in preparing and filing FCC Form 2100, Schedule C. We estimate these attorneys will spend approximately 1 hour reviewing the form and will charge approximately \$300/hour for the legal review. We also assume that a consulting engineer will spend approximately 17 hours to complete certain engineering aspects of FCC Form 2100, Schedule C and will charge the respondent \$250/hour for the engineering services. In addition, each applicant/licensee must submit a \$545 application fee with FCC Form 2100, Schedule C.

As required by the third party disclosure requirements of 47 CFR Section 73.3580, the applicant/licensee must give local public notice of the filing of its application for a new or major change in facilities. This notice will generally be posted on an applicant-owned or affiliated website, or on a free-to-post locally targeted, publicly accessible website. We estimate that 85 percent of applicants will be able to post online notice on an applicant-affiliated website or other free-to-post local website. The remaining 15 percent will have to pay to post on a local website, which in most cases will be the website of a local newspaper that will charge the applicant for a printed notice, with the online posting included in the price. For an applicant forced to pay to post online notice, the notice must be posted on a locally targeted, publicly accessible website for at least a 24-hour period once a week for four consecutive weeks, beginning when the application is accepted for filing. The cost of this posting is estimated to be the same per posting as the cost of publishing for one day in a local newspaper, or \$113.25/publication

4,460 applications x 1 hour/consulting attorney x \$300/hour = \$ 1,338,000

4,460 applications x 17 hours/consulting engineer x \$250/hour = \$18,955,000

4,460 applications x \$545/application = \$ 2,430,700

669⁹ notices x 4 notices/applicant x \$113.25/publication = \$ 303,057

Total Annual Burden Cost: \$23,026,757

14. The Commission will use legal and engineering staff at the GS-14, step 5 level (\$65.88/hour); clerical staff at the GS-5, step 5 level (\$21.34/hour) and paraprofessional staff at the GS-9, step 5 level (\$32.33/hour) to review and process these applications.

Attorney 3 hrs. x \$65.88/hour x 4,460 applications = \$ 881,474.40

⁹ 4,460 applications x 0.15 = 669.

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Engineer	11 hrs. x \$65.88/hour x 4,460 applications =	\$3,232,072.80
Clerical	5 hrs. x \$21.34/hour x 4,460 applications =	\$ 475,882.00
Paraprofessional	4 hrs. x \$32.33/hour x 4,460 applications =	<u>\$ 576,767.20</u>
Total Cost to the Federal Government =		\$5,166,196.40

15. There are program changes/decreases of -\$1,717,323 to the total annual burden cost, which are due to the revised public notice requirements contained in FCC 20-65.

16. The applications are electronically filed and available to the public.

17. An extension of the waiver not to publish the expiration date on the form is requested. This will obviate the need for the Commission to update electronic forms upon the expiration of the clearance. OMB approval of the expiration date of the information collection will be displayed at 47 CFR Section 0.408.

18. There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods

This information collection does not employ any statistical methods.