

SUPPORTING STATEMENT

A. Justification:

1. FCC Form 608 is a multi purpose form. It is used to provide notification or request approval for any spectrum leasing arrangement (“Lease”) entered into between an existing licensee in certain Wireless and/or Public Safety Radio Services and a spectrum lessee. This form also is required to notify or request approval for any spectrum subleasing arrangement (“Sublease”). The data collected on the form is used by the FCC to determine whether the public interest would be served by the Lease or Sublease. The form is also used to provide notification for any Private Commons Arrangement entered into between a licensee, lessee, or sublessee and a class of third-party users (as defined in Section 1.9080 of the Commission’s Rules).

On April 28, 2016, the Commission adopted its Second Report and Order, FCC 16-55, in GN Docket No. 12-354, adopting additional rules for the Citizens Broadband Radio Service in the 3.5 GHz band. As part of the Second Report and Order, the Commission adopted a light-touch leasing regime for Priority Access Licensees by amending its existing Part 1 rules to include a streamlined spectrum manager leasing process, based on the current spectrum manager leasing rules, tailored for the Priority Access License (PAL) leasing context. The Commission expects there will be a demand for Priority Access rights for a wide variety of use cases, and that a robust, flexible, and lightly regulated secondary market through these band-specific spectrum manager leasing rules will incentivize efficient spectrum use, promote innovation, and encourage the rapid deployment of broadband networks in the 3.5 GHz Band.

Specifically, in the Second Report and Order, the Commission adopted section 1.9046, which provides special provisions for spectrum manager leases in the Citizens Broadband Radio Service. This rule allows a Priority Access Licensee to engage in spectrum manager leasing for any portion of its spectrum or geographic area, outside of the PAL Protection Area, for any bandwidth or duration period of time with any entity that has provided a certification to the Commission in accordance with section 1.9046 or pursuant to the general notification procedures of section 1.9020(e) of the Commission’s rules. The lessee seeking to engage in spectrum manager leasing pursuant to section 1.9046 must certify with the Commission that it meets the same eligibility and qualification requirements applicable to the licensee before entering into a spectrum manager leasing arrangement with a Priority Access Licensee. The certification will be made via FCC Form 608.

Prior to lessee operation, the licensee seeking to engage in spectrum manager leasing pursuant to section 1.9046 must submit notification of the leasing arrangement to the Spectrum Access System (SAS) Administrator with the following information: (1) Lessee contact information including name, address, telephone number, fax number, email address; (2) Lessee FCC Registration Number (FRN); (3) name of Real Party in Interest and related FCC Registration Number (FRN); (4) the specific spectrum leased (in terms of amount of bandwidth and geographic area involved) including the call sign(s) affected by the lease; and (5) duration of the lease.

A spectrum leasing arrangement may be extended beyond the initial term set forth in the spectrum leasing notification for an additional period not to exceed the term of the Priority Access License, provided that the licensee notifies the SAS Administrator of the extension in advance of operation under the extended term and does so pursuant to the notification procedures in section 1.9046.

If a spectrum leasing arrangement is terminated earlier than the termination date set forth in the notification, either by the licensee or by the parties' mutual agreement, the licensee must file a notification with the SAS Administrator no later than ten (10) days after the early termination, indicating the date of the termination. If the parties fail to put the spectrum leasing arrangement into effect, they must so notify the Spectrum Access System Administrator as promptly as practicable.

Section 1.9046 outlines the special provisions related to spectrum manager leasing in the Citizens Broadband Radio Service. The section permits a Priority Access Licensee, as defined in §96.3 of this chapter, to engage in spectrum manager leasing for any portion of its spectrum or geographic area, outside of the PAL Protection Area, for any bandwidth or duration period of time within the terms of the license with any entity that has provided a certification to the Commission in accordance with this section or pursuant to the general notification procedures of §1.9020(e).

The lessee seeking to engage in spectrum manager leasing pursuant to section 1.9046 must certify with the Commission that it meets the same eligibility and qualification requirements applicable to the licensee before entering into a spectrum manager leasing arrangement with a Priority Access Licensee. Priority Access Licensees, as defined in §96.3 of this chapter, are deemed to meet the certification requirements. Entities may also certify by using the Universal Licensing System or any other electronic filing interface the Commission develops and FCC Form 608.

Section 1.9046 also identifies requirements for notifications regarding spectrum manager leasing arrangements. Prior to lessee operation, the licensee seeking to engage in spectrum manager leasing pursuant to §1.9020(e) must submit notification of the leasing arrangement to the Spectrum Access System Administrator, as defined in §96.3 of this chapter, by electronic filing. The notification shall include the following information: (1) Lessee contact information including name, address, telephone number, fax number, email address; (2) Lessee FCC Registration Number (FRN); (3) Name of Real Party in Interest and related FCC Registration Number (FRN); (4) The specific spectrum leased (in terms of amount of bandwidth and geographic area involved) including the call sign(s) affected by the lease; and (5) The duration of the lease.

Under the Part 96 rules, three types of respondents may be completing FCC Form 608. First, entities seeking to engage in light touch leasing will pre-certify with the FCC that they meet the non-lease-specific eligibility and qualification criteria by completing non-lease-specific data fields pulled from FCC Form 608. Second, the Priority Access Licensees would use the form in three ways. For light touch leasing, Priority Access Licensees would notify the SAS Administrator of leasing arrangements with pre-certified lessees by completing lease-specific data fields pulled from FCC Form 608. Part 96 also permits Priority Access Licensees to enter into lease agreements using the general spectrum manager leasing agreement rules under part 1

of the rules, which would require a FCC Form 608. Section 96.32(b) allows Priority Access Licensees to enter into de facto transfer leasing arrangements for a portion of their licensed spectrum pursuant to part 1 of the Commission's rules and Priority Access Licensees would use FCC Form 608 to do so. Third, on a daily basis, the SAS Administrator will provide the Commission with an electronic report of the leasing notifications completed by the Priority Access Licensees. The SAS Administrators will be providing the report through an Application Programming Interface (API). The Commission has reused the code from the general spectrum manager leasing FCC Form 608 in the Commission's Universal Licensing System (ULS) to program the SAS light touch leasing API.

In this information collection request, the Commission has increased the number of estimated respondents by 100, and accordingly adjusted the estimated total burden in hours and cost.

Statutory authority for this collection of information is contained in 47 U.S.C. sections 154, 155, 158, 161, 301, 303(r), 308, 309, 310 and 332.

Records may include information about individuals or households, e.g., personally identifiable information or PII, and the use(s) and disclosure of this information will be governed by the requirements of a system of records notice or 'SORN', FCC/WTB-1, "Wireless Services Licensing Records." Updating the SORN to include FCC Form 608 is currently underway. There are no additional impacts under the Privacy Act.

2. The required notifications and applications will provide the Commission with useful information about spectrum usage and help to ensure that licensees and lessees are complying with Commission interference and non-interference related policies and rules. Similar information and verification requirements have been used in the past for licensees operating under authorizations, and such requirements will serve to minimize interference, verify that lessees are legally and technically qualified to hold licenses, and ensure compliance with Commission rules.
3. The Commission encourages the use of electronic filing and estimates. With the advent of ULS, 98% of all applications and notifications submitted to the FCC are now being filed electronically. Electronic filing is mandatory for certain categories of respondents specified in section 1.913 of the Commission's rules, 47 C.F.R. §1.913 and others have the choice of filing manually or electronically.

For leasing arrangements in many of the wireless radio services, the Commission requires licensees and spectrum lessees to file the requested information (in the notifications or applications) electronically in ULS, while it encourages the parties to file electronically in all other situations in which the regulations permit such electronic filing. FCC Form 608 is an electronic form that will be filed via ULS. The Commission will provide a file format to allow respondents to complete the form electronically.

For the new light touch leasing procedure for Part 96 PALs, SAS Administrators will be filing an electronic report of the leasing notifications on a daily basis via an API.

4. The Commission does not impose 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 burdens on all respondents, regardless of size. The Commission has limited the information requirements to those absolutely necessary for evaluating licensee compliance with Commission rules and to deter against possible abuses of the Commission's processes. The Commission will continue to examine alternatives in the future with the objective of eliminating unnecessary regulations and minimizing burdens on small businesses.
6. The information that is contained in this collection is intended to aid the Commission in finding ways to remove unnecessary regulatory barriers to the development of more robust secondary markets in radio spectrum usage rights in the wireless radio services. The collection of information and the form 608 are essential to ensuring that the Communications Act and the Commission's rules and policies are obeyed and that the Commission can maintain its responsibility to protect spectrum users from harmful interference. Without these reporting requirements, it would be difficult for the Commission to ensure compliance.
7. The special circumstances in this information collection are in our notification requirements. In those requirements, licensees are required to notify the Commission within 14 days of execution and at least 21 days in advance of operation. This requirement is requiring respondents to report information to the Commission in fewer than 30 days. Due to the precertification of lessees involved in the Part 96 light touch leasing regime, operations can begin immediately after the SAS confirms compliance. Therefore, through the light touch leasing API, the SAS Administrator will be notifying the Commission of a lease that may already have begun and/or be complete prior to the Form 608 API filing.
8. The Commission published a 60-day public notice which appeared in the *Federal Register* on October 4, 2019 (84 FR 53145) on seeking comments from the public on the information collection requirements contained in this collection. No comments were received as a result of this notice.
9. Respondents will not receive any payments.
10. Respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR § 0.459 of the FCC rules. Records may include information about individuals or households, e.g., personally identifiable information or PII, and the use(s) and disclosure of this information will be governed by the requirements of a system of records notice or 'SORN', FCC/WTB-1, "Wireless Services Licensing Records." Updating the SORN to include FCC Form 608 is currently underway. There are no additional impacts under the Privacy Act.
11. This collection does not address private matters of a sensitive nature. The PII will be covered by the system of records notice FCC/WTB-1, "Wireless Services Licensing Records."
12. **Hour burden estimates.** The Commission estimates that of the total number of licensees in most services who may participate in the option to enter into the types of spectrum leasing arrangements 10% will be lessors, and 5% lessees. We estimate that 85% of licensees in most services will be non-participants. In addition, the Commission estimates that approximately 50 non-licensees per year will enter into spectrum leasing arrangements as lessees.

The Commission predicts that all of the entities will use outside staff attorneys to prepare the notifications or applications.

We estimate that it will take an in-house secretary approximately 1 hour @ the GS-8 Step 5 level (equivalent), earning \$29.27/hr. to update and maintain copies of the files associated with the leasing arrangements.

We estimate approximately 10 Cellular Service applicants will incur an additional in-house burden of 30 minutes (0.5 hours) to prepare the required map submissions which are inclusive of the overall 1,091 responses. We estimate these will be prepared by an in-house professional or engineer @ the GS-13 Step 5 level (equivalent), earning \$55.75/hr.

Total Number of Respondents: 1,091.

Total Number of Annual Responses: 1,091.

Total Annual Burden Hours: 1,096

1,091 responses x 1 hr./response (clerical) + 10 responses x 0.5 hr/response (engineer) = **1,096 hours.**¹

Total Annual In-House Cost: 1,091 responses x 1 hour/response x \$29.27/hr.+ 10 x 0.5 hr/response (engineer) x \$55.75/hr = **\$32,212.32**

13. Cost to the Respondent:

- a. Total annualized capital/start-up costs: \$0.00.
- b. Total annualized cost requested to prepare FCC 608 are:

There is no cost to file the application electronically with the FCC other than the cost of a long distance phone call and/or Internet access.

FCC application filing fees:

We estimate that approximately 75% of 1,091 various applications filed require an application fee of \$70 - \$435 each. (The balance of the respondents would be exempt from filing fees due to type of entity, i.e., public safety, governmental entities, non-commercial educational broadcast, or because the purpose for which they are filing does not require a fee.)

¹ The Commission estimates that the overall average time per response remains 1 hour. This is due to only 10 applicants being subjected to the map submission requirement. These 10 respondents and responses are inclusive of the total 1,091 respondents and responses to this collection.

For purposes of this submission, we estimate the total application fees using an average of \$125 per filing:

1,091 total responses @ 75% (feeable) = 818 feeable filings.

818 filings @ \$125 average fee = \$102,250.

Consulting costs (attorney):

The Commission predicts that all of the entities will use outside staff attorneys to prepare the notifications or applications.

1,091 responses x 4 hours/response @ \$300.00 per hour (attorney fees) = \$1,309,200.

Total annual cost burden: \$102,250 + \$1,309,200 = \$1,411,450.

14. Cost to Federal Government:

FCC Form 608 applications estimated to be filed: 1,091.

1,091 applications x 1 hour = \$42,679.92
@ \$39.12 per hour (GS-11, Step 5) for an
Industry Analyst

The total annual estimate of government cost is: \$42,679.92.

15. The Commission has program changes to this collection as a result of the information collection adopted in FCC 16-55 (new radio service will use Form 608 and add the new radio service to the Form 608 requests). These program changes are as follows: 100 to the number of respondents, 100 to the annual number of responses, 100 to the annual burden hours and \$129,375 to the annual cost.

There are no adjustments to this collection.

16. The data will not be published for statistical use.

17. The Commission is requesting a continued waiver from displaying the OMB expiration date on FCC Form 608. Granting this waiver will prevent the Commission from destroying excess forms, having to update computer versions and thus reduce waste. All OMB-approved information collections are published in 47 CFR § 0.408. This section includes the OMB control number, title of the collection, and the OMB expiration date.

18. There are no exceptions to the "Certification Statement."

B. Collections of Information Employing Statistical Methods:

This information collection does not use any statistical methods.