

Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies.

SUPPORTING STATEMENT

This is an extension of a currently approved collection.

A. Justification:

1. On October 17, 2014, the Commission adopted a Wireless Infrastructure Report and Order (Infrastructure Order) in WT Docket No. 13-238, FCC 14-153, which, in part, promulgated rules to implement and enforce Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act). Section 6409(a) provides, in part, that “a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.” 47 U.S.C. § 1455(a)(1). Section 6409(a) includes a number of undefined terms that bear directly on how the provision applies to infrastructure deployments. In the Infrastructure Order, the Commission adopted measures to provide guidance to all stakeholders on the proper interpretation of the provision and to enforce its requirements. Specifically, the Commission adopted definitions of ambiguous terms, procedural requirements for the processing of requests under Section 6409(a), and remedies.

The Commission is requesting an extension of a currently approved information collection consisting of notification requirements that were adopted to enforce the requirements of Section 6409(a) and are codified in Subpart U of Part 1 of the Commission’s rules.¹ The following are the notification requirements relating to Subpart U of Part 1 of the Commission’s rules:

- 47 C.F.R. § 1.6100(c)(3)(i) (previously 1.40001(c)(3)(i)) – To toll the 60-day review timeframe on grounds that an application is incomplete, the reviewing State or local government must provide written notice to the applicant within 30 days of receipt of the application, clearly and specifically delineating all missing documents or information. Such delineated information is limited to documents or information meeting the standard under paragraph (c)(1) of this section. Paragraph (c)(1) provides that a State or local government may require the applicant to provide documentation or information

¹ These rules were previously codified under Subpart CC of Part 1 of the Commission’s rules. On September 27, 2018, the Commission released a Declaratory Ruling and Third Report and Order that redesignated 47 C.F.R. § 1.40001 as 47 C.F.R. § 1.6100 under Subpart U (State and Local Government Regulation of the Placement, Construction, and Modification of Personal Wireless Service Facilities). See Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, FCC 18-133, 33 FCC Rcd. 3102 (2018). This change became effective January 14, 2019 upon publication in the Federal Register. See Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, 83 FR 51867 (2019).

only to the extent reasonably related to determining whether the request meets the requirements of this section, and that a State or local government may not require an applicant to submit any other documentation, including but not limited to documentation intended to illustrate the need for such wireless facilities or to justify the business decision to modify such wireless facilities.

- 47 C.F.R. § 1.6100(c)(3)(iii) (previously 1.140001(c)(3)(iii)) – Following a supplemental submission from the applicant, the State or local government will have 10 days to notify the applicant in writing if the supplemental submission did not provide the information identified in the State or local government’s original notice delineating missing information. The timeframe for review is tolled in the case of second or subsequent notices of incompleteness pursuant to the procedures identified in paragraph (c)(3). Second or subsequent notices of incompleteness are not required to specify missing documents or information that were not delineated in the original notice of incompleteness.

- 47 C.F.R. § 1.6100(c)(4) (previously 1.140001(c)(4)) – In the event the reviewing State or local government fails to approve or deny a request within the 60-day timeframe for review (accounting for any tolling), the request shall be deemed granted; however, the deemed grant does not become effective until the applicant notifies the applicable reviewing authority in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

The information collection continues to be necessary to effectuate the rule changes that implement and enforce the requirements of Section 6409(a). This collection serves the public interest by providing guidance to all stakeholders on their rights and responsibilities under Section 6409(a), reducing delays in the review process for wireless infrastructure modifications, and facilitating the rapid deployment of wireless infrastructure.

This information collection may affect individuals or households. However, the information collection consists of third-party disclosures in which the Commission has no direct involvement. Personally identifiable information (PII) is not being collected by, made available to, or made accessible by the Commission. There are no additional impacts under the Privacy Act.

Statutory authority for this information collection is contained in Sections 1, 2, 4(i), 7, 201, 301, 303, and 309 of the Communications Act of 1934, as amended, and Sections 6003, 6213, and 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, 47 U.S.C. §§ 151, 152, 154(i), 157, 201, 301, 303, 309, 1403, 1433, and 1455(a).

2. The information is used by third parties to comply with the Commission’s rules promulgated in the Infrastructure Order.

3. The use of information technology is feasible for the notification requirements in this situation. Whether, and to what extent, such information technology will be used will be for the applicable reviewing authority to decide.

4. This agency 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 the burden on all respondents, regardless of size. The Commission has limited the information requirements to those absolutely necessary to comply with the Commission's rules promulgated in the Infrastructure Order. The Commission believes whatever burdens small entities may incur in complying with these requirements are warranted by the overall benefit to the public from increased guidance to all stakeholders on the proper interpretation of Section 6409(a), which will reduce delays in the review process for wireless infrastructure modifications and facilitate the rapid deployment of wireless infrastructure.

6. The information is collected only when necessary to implement the Commission's rule – *i.e.*, when a covered application is incomplete as submitted, and when an applicant notifies the applicable reviewing authority that an application has been deemed granted. Less frequent submissions are not possible.

7. There are no special circumstances associated with this collection of information. Current data collection is consistent with 5 C.F.R. § 1320.

8. The 60-day notice soliciting public comments on this collection was published in the *Federal Register* as required under 5 C.F.R. § 1320.8(d) on April 3, 2023 (88 FR 19643) seeking comments from the public on the information collection requirements contained in this collection.

9. Respondents will not receive any payments in connection with this collection of information.

10. There is no need for confidentiality with this information collection.

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

12. There are two parts to this collection: Part A covers the incompleteness notice, and Part B covers the deemed granted notification.

We estimate that facilities-based wireless and infrastructure providers, as well as cable, utility, and public safety entities, will submit approximately 50,000 applications for wireless facilities siting annually.

Part A: 1.6100(c)(3)(i) and 1.6100(c)(3)(iii) - Incompleteness Notice.

Total Number of Annual Respondents: 1,250

We estimate that there are 38,000 jurisdictions across the country, and that approximately 20,000 of these will review wireless siting applications annually.

We estimate that approximately 25% of these jurisdictions will process applications filed pursuant to Section 6409(a). Of those jurisdictions processing applications filed pursuant to Section 6409(a), we further estimate that approximately 25% of the reviewing authorities will request additional information on the grounds that the initial application is incomplete.

$20,000 \text{ jurisdictions} \times .025 \times 0.25 = 1,250 \text{ Annual Respondents.}$

Total Number of Annual Responses: 3,472

As explained above, we estimate that State and local reviewing will receive approximately 50,000 applications for wireless facilities siting annually.

We estimate that approximately 25% of these applications will be filed pursuant to Section 6409(a). We further estimate that the reviewing authority will request additional information on the grounds that the initial application is incomplete for approximately 25% of the applications.

$50,000 \times 0.25 \times 0.25 = 3,125 \text{ first requests for additional information}$

We further estimate that: approximately 10% of these applications requiring a first request for additional information will also require a second request; approximately 10% of the applications requiring a second request for additional information will also require a third request; and approximately 10% of these applications requiring a third request for additional information will also require a fourth request.

$3,125 + (3,125 \times 0.1) + (3,125 \times 0.1 \times 0.1) + (3,125 \times 0.1 \times 0.1 \times 0.1) = 3,125 + 313 + 31 + 3 = 3,472 \text{ Annual Responses.}$

Total Annual Burden Hours: 3,472 hrs.

We estimate that State and local reviewing authorities will spend approximately one hour on each response.

$3,472 \text{ Responses} \times 1 \text{ hr/response} = 3,472 \text{ Annual Burden Hours.}$

Total Annual “In-House” Cost for Part A: \$121,520

We assume that the applicable reviewing authority will prepare the notice(s) of missing documents using an in-house Planning Professional (Urban or Regional Planner) at \$35 an hour.

$3,472 \text{ Responses} \times 1 \text{ hr/response} \times \$35.00/\text{hr.} = \$121,520$

Part B: 1.6100(c)(4) - Deemed Granted Notice.

Total Number of Annual Respondents: 100

We estimate below that there will be a total of 125 “deemed granted” submissions annually. We anticipate that some respondents will submit more than one notice in a year and that, on average, each respondent will submit 1.25 of these submissions. As a consequence, the number of respondents is 100 (125 submissions / 1.25 submissions per respondent = 100).

Total Number of Annual Responses: 125

As explained above, we estimate that State and local reviewing will receive approximately 50,000 applications for wireless facilities siting annually, and we estimate that approximately 25% of these applications will be filed pursuant to Section 6409(a).

We further estimate that approximately 1% of the applications filed pursuant to Section 6409(a) will result in the applicant providing a deemed granted notice to the reviewing authority.

50,000 applications x .25 x .01 = 125 Annual Responses.

Total Annual Burden Hours: 63 hrs.

We estimate that applicants will spend an average of 0.5 hours on each deemed granted notice.

125 Responses x 0.5 hr./response = 63 Annual Burden Hours.

Total Annual “In-House” Cost for Part B: \$1,063

We assume that applicants will prepare and submit the deemed granted notice using an in-house staff secretary at \$17 an hour.

125 Responses x 0.5 hr./response x \$17.00/hr. = \$1,063

Total Number of Annual Respondents for the entire collection: Part A (1,250) + Part B (100) = 1,350

Total Number of Annual Responses for the entire collection: Part A (3,472) + Part B (125) = 3,597

Total Number of Annual Burden Hours for the entire collection: Part A (3,472) + Part B (63) = 3,535

Total Annual “In-House” Cost for the entire collection: Part A (\$121,520) + Part B (\$1,063) = \$122,583

13. There is no annual cost burden to respondents resulting from the collection of information beyond the “in-house” costs addressed in Items 12 and 14.

Part A: 1.6100(c)(3)(i) and 1.6100(c)(3)(iii) - Incompleteness notice.

- (a) Total Annualized Capital/Startup Cost: None
- (b) Total annual costs (O&M): None
- (c) Total annualized cost requested: None

There will be no annualized costs incurred by the respondents from part A of the collection.

Part B: 1.6100(c)(3)(4) - Deemed Granted Notice.

- (a) Total Annualized Capital/Startup Cost: None
- (b) Total annual costs (O&M): None
- (c) Total annualized cost requested: None

There will be no annualized costs incurred by the respondents from part B of the collection.

Total Number of Annualized Capital/Startup Costs Requested for the entire collection: Part A (\$0) + Part B (\$0) = \$0

Total Number of Annual Costs (O&M) Requested for the entire collection: Part A (\$0) + Part B (\$0) = \$0

Total Number of Annualized Cost Requested for the entire collection: Part A (\$0) + Part B (\$0) = \$0.

There will be no annualized costs incurred by the respondents from this collection.

14. There are no costs to the Federal Government because: (1) notices of incompleteness are prepared by the applicable reviewing authority and involve no federal action or cost; (2) deemed granted notices are prepared by the applicant and involve no

federal action or cost. Disclosures will not be actively monitored in the absence of consumer complaints.

15. There are no program changes or adjustments for this information collection.

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

17. OMB approval of the expiration of the information collection will be displayed at 47 C.F.R. § 0.408.

18. There are no exceptions to the “Certification Statement.”

B. Collections of Information Employing Statistical Methods:

No statistical methods are employed.