

SUPPORTING STATEMENT

A. Justification:

1. The Commission is requesting an extension of this information collection in order to receive approval/clearance from the Office of Management and Budget (OMB) for three years. By way of way of background, in 2020 the Commission submitted a revision to OMB for approval to remove the information collection requirements, annual burden hours, and annual cost contained in this collection for 47 CFR 73.3535(b). The Commission had removed paragraph (b) of this rule section when it adopted the Second Report and Order in *Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications*, MB Docket No. 17-264, FCC 20-65, on May 12, 2020 (2020 Application Notice Order).

The following information collection requirements remain in this collection:

47 CFR Section 73.3525(a) states that: Except as provided in §73.3523 regarding dismissal of applications in comparative renewal proceedings, whenever applicants for a construction permit for a broadcast station enter into an agreement to procure the removal of a conflict between applications pending before the FCC by withdrawal or amendment of an application or by its dismissal pursuant to §73.3568, all parties thereto shall, within 5 days after entering into the agreement, file with the FCC a joint request for approval of such agreement. The joint request shall be accompanied by a copy of the agreement, including any ancillary agreements, and an affidavit of each party to the agreement setting forth:

- (1) The reasons why it is considered that such agreement is in the public interest;
- (2) A statement that its application was not filed for the purpose of reaching or carrying out such agreement;
- (3) A certification that neither the applicant nor its principals has received any money or other consideration in excess of the legitimate and prudent expenses of the applicant; *Provided That* this provision shall not apply to *bona fide* merger agreements;
- (4) The exact nature and amount of any consideration paid or promised;
- (5) An itemized accounting of the expenses for which it seeks reimbursement; and
- (6) The terms of any oral agreement relating to the dismissal or withdrawal of its application.

Furthermore, in the 2020 Application Notice Order, former paragraphs (c) - (k) of Section 73.3525 were redesignated as new paragraphs (b) - (j). Newly designated Section 73.3525, paragraphs (b) – (j) also remain in this collection.

This information collection does not affect individuals, thus there are no Privacy Act impacts.

Statutory authority for this collection of information is contained in Sections 154(i) and 311 of the Communications Act of 1934, as amended.

2. FCC staff will use the requested data to ensure that the agreement complies with its rules and regulations and Section 311 of the Communications Act of 1934, as amended.

Title: Section 73.3525, Agreements for Removing Application Conflicts

Section 311(c) of the Communications Act of 1934, as amended, provides that it shall be unlawful for any applicants for broadcast facilities to affect by agreement the removal of any mutually exclusive applications without approval of the Commission and that the Commission shall approve such agreement only if it finds it to be consistent with the public interest, convenience and necessity.

- 3. The request for approval should contain a copy of the agreement and the required affidavits.
- 4. This agency does not impose a similar information collection on the applicants. There is 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 businesses/entities.
- 6. The frequency for the request for approval is determined by respondents, as necessary. If this collection were not conducted, the Commission would be unable to enforce its rules designed to eliminate abuse of our comparative processes.
- 7. The requirements in this collection of information are consistent with the guidelines in 5 CFR 1320.5(d)(2).
- 8. The Commission published a Notice (88 FR31757) in the *Federal Register* on May 18, 2023 seeking comments from the public on the information collection requirements contained in this collection. No comments were received from the public.
- 9. No payment or gift was provided to respondent.
- 10. There is no need for confidentiality with this collection of information.
- 11. This information collection does not address any private matters of a sensitive nature.
- 12. We estimate 38 respondents will request approval to withdraw, dismiss or amend their applications. We expect only one (1) applicant to withdraw from the application process which will require additional documentation.

	Number of Responses	Respondent Burden Hours	Total Burden
Hours			
Requests for Approval	38	1 hour	38 hours
TOTALS:	38 responses		38 hours

Total Number of Annual Respondents: 38 Broadcast Stations

Total Number of Annual Responses: 38 responses

Title: Section 73.3525, Agreements for Removing Application Conflicts

Total Annual Burden Hours: 38 hours

Annual “In-house cost”: The respondents will require consultation time with contract attorneys to complete approval requests and FCC filings. We estimate the respondent’s salary at \$100,000/year (\$48.08/hour).

$$38 \text{ approval requests} \times 1.0 \text{ hour} \times \$48.08/\text{hour} = \$1,827.04$$

Total annual in-house cost = \$1,827.04

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

13. Annual Cost Burden: The respondents will incur costs for contract attorneys. We estimate contract attorney salary at \$300/hour.

$$38 \text{ approval requests} \times 8.0 \text{ hours} \times \$300/\text{hour} = \$91,200$$

Total annual cost burden = \$91,200

14. Cost to the Federal Government: The Commission will use professionals at the GS-14, step 5 level (\$71.88/hour) to process requests for approval.

$$38 \text{ requests} \times 3 \text{ hours} \times \$71.88/\text{hour} = \$8,194.32$$

Total Cost to the Federal Government: \$8,194.32

15. There are no program changes or adjustments to this collection.

16. Applications are electronically filed and are publicly available.

17. OMB approval of the expiration date of the information collection will be displayed at 47 CFR Section 0.408.

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

B. Collections of Information Employing Statistical Methods:

This information collection does not employ any statistical methods.