

SUPPORTING STATEMENT

With this submission, the Federal Communications Commission (Commission or FCC) seeks Office of Management and Budget (“OMB”) approval for an extension to this information to obtain the full three-year clearance for the requirements described below. Although there are no program changes, we are adjusting estimates of the currently approved information collection, because the Commission is activating sections 30.104 and 30.107.

**A. Justification:**

1. The currently approved information collections under OMB Control Number 3060-1215 relate to “Use of Spectrum Bands Above 24 GHz for Mobile Radio Services” Fifth Report and Order (Fifth R&O).<sup>1</sup>

The Commission is activating sections 30.104 and 30.107, because existing 28 GHz licensees shall be required to make a performance requirement showing pursuant to section 30.104 by June 16, 2024, and after that date, the obligation to report discontinuance pursuant to section 30.107 will apply. The activation of the rules will may increase, the number of respondents, the annual number of responses, annual burden hours and annual cost may increase/decrease this collection. The other rule sections previously approved under OMB Control Number 3060-1215 have not changed.

*§ 30.104, Subpart B – Applications and Licenses – Construction Requirements.*

a) UMFUS (Upper Microwave Flexible Use Service) licensees must make a buildout showing as part of their renewal applications. Licensees relying on mobile or point-to-multipoint service must show that they are providing reliable signal coverage and service to at least 40 percent of the population within the service area of the licensee, and that they are using facilities to provide service in that area either to customers or for internal use. Licensees relying on point-to-point service must demonstrate that they have four links operating and providing service, either to customers or for internal use, if the population within the license area is equal to or less than 268,000. If the population within the license area is greater than 268,000, a licensee relying on point-to-point service must demonstrate it has at least one link in operation and is providing service for each 67,000 population within the license area.

b) Existing 39 GHz licensees shall not be required to make a showing pursuant to this rule and shall be governed by the provisions of § 101.17 of this chapter if the expiration date of their license is prior to March 1, 2021. Showings that rely on a combination of multiple types of service will be evaluated on a case-by-case basis.

c) If a licensee in this service is also a Fixed-Satellite Service (FSS) licensee and uses the

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<sup>1</sup> Amendment of Parts 2, 25, and 30 of the Commission’s Rules to Use of Spectrum Bands Above 24 GHz for Mobile Radio Services, Fifth Report and Order, GN Docket No. 14-177, FCC 19-30; adopted Apr. 15, 2019; 84 FR 47146. (Fifth R&O).

spectrum covered under its UMFUS license in connection with a satellite earth station, it can demonstrate compliance with the requirements of this section by demonstrating that the earth station in question is in service, operational, and using the spectrum associated with the license. This provision can only be used to demonstrate compliance for the county in which the earth station is located.

d) Failure to meet this requirement will result in automatic cancellation of the license. In bands licensed on a Partial Economic Area basis, licensees will have the option of partitioning a license on a county basis in order to reduce the population within the license area to a level where the licensee's buildout would meet one of the applicable performance metrics.

e) Existing 28 GHz and 39 GHz licensees shall be required to make a showing pursuant to this rule by June 1, 2024.

*§ 30.107, Subpart B – Applications and Licenses – Discontinuance of Service.*

An Upper Microwave Flexible Use License authorization will automatically terminate, without specific Commission action, if the licensee permanently discontinues service after the initial license term.

a) For licensees with common carrier regulatory status, permanent discontinuance of service is defined as 180 consecutive days during which a licensee does not provide service to at least one subscriber that is not affiliated with, controlled by, or related to the licensee in the individual license area. For licensees with non-common carrier status, permanent discontinuance of service is defined as 180 consecutive days during which a licensee does not operate.

b) A licensee that permanently discontinues service as defined in this section must notify the Commission of the discontinuance within 10 days by filing FCC Form 601 or 605 requesting license cancellation. An authorization will automatically terminate, without specific Commission action, if service is permanently discontinued as defined in this section, even if a licensee fails to file the required form requesting license cancellation.

Statutory authority for this collection are contained in sections 1, 2, 3, 4, 5, 7, 10, 201, 225, 227, 301, 302, 302a, 303, 304, 307, 309, 310, 316, 319, 332, and 336 of the Communications Act of 1934, 47 U.S.C. §§ 151, 152, 153, 154, 155, 157, 160, 201, 225, 227, 301, 302, 302a, 303, 304, 307, 309, 310, 316, 319, 332, 336, Section 706 of the Telecommunications Act of 1996, as amended, 47 U.S.C. § 1302.

This information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

2. The information collection requirements adopted in the Report and Order will apply to all entities in the same manner. The Commission believes that applying the same rules equally to all entities in this context promotes fairness. The Commission does not believe that the costs and/or administrative burdens associated with the rule change will unduly burden small entities, as discussed below.

3. The Commission’s rules provide for electronic filing, and it is the Commission’s goal to eliminate, to the greatest extent possible, the filing of paper applications.
4. The Commission does not impose a similar information requirement on the respondents.
5. The performance requirements we have adopted are necessary to ensure that licensees are putting their spectrum to use and providing service. They will apply equally to all licensees, including small entities.
6. Information collection is required when an applicant seeks Commission approval for renewal of license, or, in the case of incumbent licenses, once by June 16, 2024. If this collection were not conducted, the Commission could not carry out its statutory responsibilities under Section 308 and 309 of the Communications Act of 1934, as amended.
7. No special circumstances are associated with this collection of information that would make the current data collection inconsistent with 5 C.F.R. § 1320.5.
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 9, 2024 (89 FR 24833). No comments were received from the public on this information collection.
9. Respondents will not receive any payments in connection with collection of information.
10. 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. Annual Burden: For the purpose of this supporting statement, the Commission estimates the number of respondent burden hours for each rule section which contains information collection requirements. The chart below outlines the number of respondents, frequency of responses, total number of responses, time per response, and total annual burden hours for each new collection.

Existing Burden Hours: The following requirements have been previously approved by OMB. The Commission’s activation of sections 30.104 and 30.107 will increase the respondents and responses.

Revised Burden added to this information collection: The in-house cost is reflective in the table below titled “Annual Burden.” We assume that the respondents will use an in-house staff attorney (\$78.74/hour) an in-house engineer (\$53.50/hour) to consult and prepare information.<sup>2</sup>

The Commission calculates the burden from each rule to be as follows:

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<sup>2</sup> U.S. Bureau of Labor Statistics, Economic Releases, Table 1. National employment and wage data from Occupational Employment Statistics survey by occupation - May 2024, Lawyer and Engineer, Mean Wages – Hourly.

### Annual Burden

	Requirement	Estimated Number of Respondents	Estimated Frequency of Responses	Total Number of Responses	Time per Response (Hours)	Total Annual Burden Hours
a	§25.136, Concerning Satellite Stations - Third Party Disclosure	350	On occasion	350	0.5	175
b	§25.136, Concerning Satellite Stations - Filing Requirement	15	On occasion	50	10	500
c.	Reporting – Compliance Eligibility, Foreign ownership reports.	30	Once	30	0.5	15
d	§30.104, <sup>3</sup> Subpart B – Applications and Licenses Construction requirements	21	Once	942	2	1,884
e.	§30.107, Subpart B – Applications and Licenses Discontinuance of Service	0	On occasion	0	0.5	0

<sup>3</sup> See Supporting Statement, Use of Spectrum Bands Above 24 GHz for Mobile Radio Services, 3060-1215, June 2021, §30.105, Subpart B – Applications and Licenses Construction requirements section should have read §30.104.

	<b>Totals:</b>	<b>416 In-House Respondents</b>		<b>1,372 In-House Responses</b>	<b>0.5-10</b>	<b>2,574 Hours</b>
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**12-a. §25.136, Concerning Satellite Stations – Third Party Disclosure.** The Commission requires third-party disclosures during coordination and re-coordination between terrestrial and satellite operators. We estimate that 350 annual respondents (70 are satellite applicants and 280 are UMFUS licensees) to respond once per year. The Commission estimates that the filing will be prepared by a licensee’s existing staff engineer (“in-house”) at approx. \$53.50 per hour, and we estimate that it would take about 0.5 hour to complete this filing.

**Annual Burden:** 350 respondents x 1 response each x 0.5 hours per response = **175 hours.**

**In-House Staff Cost:** (350 respondents x 1 response each x 0.5 hours of engineer time per response) x \$53.50/hour = \$9,263.00 (\$9,262.50).

**12-b. §25.136, Concerning Satellite Stations - Filing Requirement.** The Commission requires a filing requirement when applicants file for earth stations in the 24 GHz, 28 GHz, 37.5-40 GHz, or 47 GHz bands. We estimate 60 respondents to file 200 applications per year at a burden of 10 hours per response, The Commission estimates that 75 percent of applications will be completed by outside engineers (Consultant),<sup>4</sup> and 25 percent (15 respondents and 50 responses) from in-house engineers at \$53.50 per hour.

**Annual Burden:** 50 responses total x 10 hours per response = **500 hours.**

**In-House Staff Cost:** (50 responses total x 10 hours of engineer time per response) x \$53.50/hour = \$26,750.00.

**12-c. Reporting – Compliance with §30.3, Eligibility, Foreign ownership reports.** The Commission estimate 30 respondents to file 200 applications per year at a burden of 0.5 hours per response, The Commission estimates that an in-house attorney paid at an hourly rate of \$78.74/hour will make the filing.

**Annual Burden:** 30 respondents x 1 response each x 0.5 hours per response = **15 hours.**

**In-House Staff Cost:** 30 respondents x 1 response each x 0.5 hour of attorney time per response x \$78.74/hour = \$1,181.00 (1,181.10).

**12-d. Reporting – Compliance with §30.104, Subpart B – Applications and Licenses, Construction requirements.** The Commission requires that UMFUS licensees shall demonstrate compliance with their performance requirements by filing a construction notification with the Commission. The first renewal period should be 10 years after the initial license is granted, or,

<sup>4</sup> See 13. 12-b. §25.136 Annual Cost Burden – Consultant. The Commission estimates that 45 Consultants will process 150 applications per year.

for incumbent licensees, June 16, 2024. We estimate 28 respondents to file 1,256 responses per year burden of 2 hours for each response. The Commission estimates that 25 percent of applications will be completed by outside engineers (Consultant)<sup>5</sup> and 75 percent (21 respondents and 942 responses) from in-house engineers.

**Annual Burden:** 942 responses total x 2 hours per response = 1,884 hours.

**In-House Staff Cost:** (942 responses total x 2 hours of engineer time per response) x \$53.50/hour = \$ 100,794.00

**12-e. Reporting – Compliance with §30.107, Subpart B – Applications and Licenses, Discontinuance of Service.** Upper Microwave Flexible Use Service licensees must notify the Commission within 10 days of discontinuance if they permanently discontinue service by filing FCC Form 601 or 605 to request license cancellation.

= **In-House Staff Cost:**<sup>6</sup> 0 respondents x 0 response each x .5 hour of attorney time per response x \$78.74/hour = \$0

**TOTAL NUMBER OF RESPONDENTS:** 350 + 15 + 30 + 21+ 0 + 45 + 7 +10 = 478.<sup>7</sup>

**TOTAL NUMBER OF ANNUAL RESPONSES:** 350 + 50 + 30 + 942+ 0 + 150 + 314 + 10 = 1,846.<sup>8</sup>

**TOTAL ANNUAL BURDEN:** 175 + 500 + 15 + 1,884 + 0 = 2,574 HOURS.

**TOTAL IN-HOUSE STAFF COST:** \$9,263.00 + \$26,750.00 + \$1,181.00 + \$100,794 + \$0 = \$137,988.00.

13. Annual Cost Burden - Consultant: Applicants should not incur outside capital and start-up costs and/or operation and maintenance of purchase or services in connection with this information collection. However, Section 25.136, we assume that 75 percent of the respondents will contract consultants to handle the burden of reporting and the remaining 25 percent of respondents will employ in-house staff to respond. Section 30.104, we assume that 25 percent of the respondents will contract consultants and 75 percent of respondents will employ in-house staff to respond. See #12, Annual Cost Burden – In-house.

The Commission assumes that the respondents for sections 25.136 and 30.104 will use a consultant engineer (\$250/hour) to consult and prepare information. Section 30.107, we assume that 10 (100 percent ) of the respondents will contract consultants to handle the burden of

<sup>5</sup> See 13. 12-d. §30.104, Subpart B – Applications and Licenses, Annual Cost Burden – Consultant. The Commission estimates that 7 Consultants will process 314 filings per year.

<sup>6</sup> The Commission believes licensees will hire outside attorneys to be the respondents and process the responses. See 13. 12-e. §30.107 Reporting – Compliance with §30.107, Subpart B – Applications and Licenses, Discontinuance of Service Annual Cost Burden – Consultant. The Commission estimates that 28 Consultants will respond once per year.

<sup>7</sup> The totals for the number of respondents account for all respondents to this information collection for both in-house and consultant.

<sup>8</sup> The totals for the number of annual responses account for all the responses for this information collection for both in-house and consultant.

reporting. We assume that the respondents will use an attorney (\$300/hour) to consult and prepare information.

13-a. §25.136, *Concerning Satellite Stations – Third Party Disclosure.*

**Annual Cost Burden - Consultant:** (0 respondents x 0 response each x 0.5 hours of engineer time per response) x \$250/hour = \$0

13-b. §25.136, *Concerning Satellite Stations - Filing Requirement.* We estimate 60 respondents to file 200 applications per year at a burden of 10 hours per response, The Commission estimates that 75 percent (45 respondents and 150 responses) of applications will be completed by outside engineers (Consultant), and 25 percent (15 respondents and 50 responses) from in-house engineers at \$53.50 per hour.

**Annual Cost Burden – Consultant:** (150 responses total x 10 hour of engineer time per response) x \$250/hour = \$375,000.00.

13-c. *Reporting – Compliance with §30.3, Eligibility, Foreign ownership reports.*

Annual Cost Burden: \$0

13-d. §30.104. *Reporting – Compliance with §30.104, Subpart B – Applications and Licenses, Construction requirements.* We estimate 28 respondents to file 1,256 responses per year burden of 2 hours for each response. The Commission estimates that 25 percent (7 respondents and 314 responses) of applications will be completed by outside engineers (Consultant) and 75 percent (21 respondents and 942 responses) from in-house engineers.

**Annual Cost Burden – Consultant:** (314 responses total x 2 hour of engineer time per response) x \$250/hour = \$157,000.00

13-e. §30.107, *Subpart B – Applications and Licenses Discontinuance of Service*

**Annual Cost Burden – Consultant:** 10 respondents x 1 response each x 0.5 hour of attorney time per response) x \$300/hour = \$1,500.00

13-a. §25.136 =	\$0.
13-b. §25.136 =	\$375,000.00.
13-c. §30.3 =	\$0.
13-d. §30.104 =	\$157,000.00.
13-e. §30.107 =	<u>\$ 1,500.00.</u>
Total Annual Cost Burden – Consultant	\$533,500.00.

**TOTAL CAPITAL AND START-UP COSTS and/or OPERATION AND MAINTENANCE (O&M COSTS): \$533,500.00**

14. Government Cost:

**14-a-b.** *Compliance with §25.136, Concerning Satellite Stations.* The licensees are required to file an application, however, the actual approval under the PRA for the application and the filing of it with the Commission is approved under OMB number 3060-0738 (Part 25 of the Federal Communications Commission's Rules Governing the Licensing of, and Spectrum Usage By, Commercial Earth Stations and Space Stations).

**Annual Cost: \$0**

**14-c.** *Compliance with Foreign Ownership Requirements pursuant to §30.3 – Edibility, Foreign ownership reports.* The Commission will use a reviewer at the rate of \$30.37 per hour, and the review process should take about a quarter of an hour. The cost to the Federal government processing costs are as follows (the hourly pay rate for the employee is a GS-7 step 5, \$30.37/hour).

**Annual Cost:** 30 respondents x .25 hours/review x \$30.37/hour = **\$228.00 (\$227.77).**

**14-d.** *Compliance with Performance Requirements pursuant to §30.104, Subpart B – Applications and Licenses, Construction requirements.* The first notification will be filed after June 16, 2024 when the initial license will be granted under §30.104, Subpart B – Applications and Licenses – Construction Requirements. We estimate 28 respondents to file 1,256 responses per year burden of 0,25 hours for each response.

**Annual Cost:** (1,256 responses x 0.25 hours/review) x \$30.37/hour = \$9,536.00 (\$9,536.18).

**14-e.** *Compliance with §30.107, Subpart B – Applications and Licenses, Discontinuance of Service.*

**Annual Cost:** 10 respondents x 1 response X 0.25 hours/review x \$30.37/hour = \$76.00 (\$75.92).

**TOTAL ANNUAL FEDERAL GOVERNMENT COST: \$9,840.00**

15. The Commission activated §§30.104 and 30.107 information requirement, which established information collection requirements which are contained in this collection. Therefore, there are program changes/increases to the collection as follows: +21 to the number of respondents, +942 to the annual number of responses, +\$1,884 to the annual burden hours and + \$158,500 to the annual cost.

There are adjustments to the collection as follows: -1,213 to the number of respondents, -766 to the annual number of responses, -100 to the annual burden hours and -\$206,250 to the annual cost.

16. The data will not be published for statistical use.
17. OMB approval of the expiration of the information collection will be displayed on OMB's website.
18. There are no exceptions to the Certification Statement.

Collections of Information Employing Statistical Methods:

No statistical methods are employed.