

## SUPPORTING STATEMENT

### A. Justification:

1. 47 C.F.R. § 1.1206 of the Commission's rules require that a public record be made of *ex parte* presentations, *i.e.*, written presentations not served on all parties to the proceeding or oral presentations as to which all parties have not been given notice and an opportunity to be present) to decision-making personnel in "permit-but-disclose" proceedings, such as notice-and-comment rule makings and declaratory ruling proceedings. Persons making such presentations must file two copies of written presentations and two copies of memoranda reflecting new data or arguments in oral presentations no later than the next business day after the presentation.

Statutory authority for this collection of information is contained in sections 4(i) and (j), 303(r), and 409 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and (j), 303(r), and 409.

2. The information is used by parties to permit-but-disclose proceedings, including interested members of the public, to respond to the arguments made and data presented in the presentations. The responses may then be used by the Commission in its decision-making. The availability of the *ex parte* materials ensures that the Commission's decisional processes are fair, impartial, and comport with the concept of due process in that all interested persons can know of and respond to the arguments made to decision-making officials.
3. If *ex parte* presentations are filed electronically, only one copy needs to be filed with the FCC.
4. The rule does not require the filing of presentations if the data and arguments presented are already reflected in the person's written filings.
5. This information collection does not have a significant economic impact on a substantial number of small entities.
6. Unless each *ex parte* presentation is placed in the official record of the proceeding in a timely manner, there is the potential for Commission decisions to be made based on data and arguments that have not been made available for review and comment by parties to the proceeding. At a minimum, this may cause a delay in a proceeding as parties seek to respond to *ex parte* presentations after the fact. At worst, the failure to report *ex parte* presentations may undermine the validity of the Commission decision.
7. Respondents must report information whenever they make an *ex parte* presentation, which is determined by them. There are no special circumstances.
8. The attached Notice was published in the *Federal Register* at 73 FR 3252 (January 17, 2008). We received no comments following publication of the Notice.
9. There no payments or gifts were made in connection with this requirement.
10. Consistent with the Commission's rules on confidential treatment of submissions, under 47 C.F.R. §0.459, a presenter may request confidential treatment of *ex parte* presentations.

11. No questions of a sensitive nature are involved with this requirement.
12. The Commission estimates that approximately 10,000 people (presenters) will participate annually in permit-but-disclose proceedings. The participants are required to file duplicates of their *ex parte* presentations or memoranda with the Office of the Secretary. We estimate that each participant will file one response annually.

**Total Number of Respondents: 9,990**

**Total Number of Responses Annually: 9,990** (*ex parte* filings)

The Commission also estimates that respondents will spend approximately thirty minutes (0.5 hours) preparing their response per *ex parte* filing. The Commission bases its analysis on the amount of time required to prepare and copy documents for submission to the Commission and to write memoranda. Thus:

**Total Annual Hourly Burden:** 9,990 respondents x 0.5 hours/response = **4,995 hours**

FCC Rules, 47 CFR § 1.1206, require presenters in permit-but-disclose proceedings to prepare and submit two copies of their *ex parte* presentation, which will cost the presenters approximately \$50 per hour or \$25 per response. We believe that respondents will prepare the two copies of the *ex parte* presentation filing “in house.” Thus:

**Total Annual “In House” Cost:**

9,990 respondents x 0.5 hours/document preparation x \$50/hour = **\$249,750.00**

13. (a) Total Annualized Capital/Startup Costs: None.  
(b) Total Annual Cost (O&M): None.  
(c) Total Annualized Cost Requested: **None**.
14. The Commission estimates that it will use FCC staff at the GS-9/Step 5 level (\$23.63/hour) to process *ex parte* responses as required by FCC Rules. We estimate that the *ex parte* reporting requirement will require 3,250 staff hours annually. Thus:

3,250 hours/annual processing x \$23.63/hour = \$76,789.06

30% Overhead = \$23,036.72

**Total Annual Cost to Federal Government: \$99,825.78**

15. The Commission is not reporting any program changes.

We have made a minor adjustment from 10,000 respondents to 9,990 respondents in the total number of respondents, and the resulting total number of responses annually—from 10,000 responses to 9,990 responses, and the total annual hourly burden—from 5,000 hours to 4,995 hours, due to the requirements for submitting this information collection under “delegated authority” in OMB’s electronic submission template, ROCIS.

The only other change in any burden is to the cost to the Federal Government which has increased

due to the increase in the GS salary schedule.

16. There are no plans to tabulate or publish information collected.
17. The expiration date is displayed as required by 47 C.F.R. § 0.408.
18. The Commission notes that it has made minor adjustments in the total number of respondents, total number of responses annually, and total annual hourly burden to fit the requirements for submitting an information collection under “delegated authority” in ROCIS.

There are no other exceptions to the Certification Statement in Item 19.

**B. Collections of Information Employing Statistical Methods:**

This information collection does not employ any statistical methods.