

Supporting Statement

A. Justification

Congress has mandated that after February 17, 2009, full-power television broadcast stations must transmit only in digital signals, and may no longer transmit analog signals.¹ On December 22, 2007, the Commission adopted a Report and Order, In the Matter of the Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, MB Docket No. 07-91, FCC 07-228, to establish the rules, policies and procedures necessary to complete the nation's transition to Digital TV (DTV). With the DTV transition deadline less than one year away, the Commission must ensure that broadcasters meet their statutory responsibilities and complete construction of, and begin operations on, the facility² on their final, post-transition (digital) channel³ that will reach viewers in their authorized service areas by the statutory transition deadline, when they must cease broadcasting in analog. The Commission wants to ensure that no consumers are left behind in the DTV transition.

The Report and Order required all full-power television stations to file a DTV Transition Status Report using FCC Form 387 on or before February 19, 2008.⁴ All full-power television stations⁵ should have now made this initial filing, meaning this filing requirement is now complete. As of April 10, 2008,⁶ a number of stations have reported completion of their transition, meaning that these stations will not need to make additional Form 387 updates/filings.

The Report and Order also requires stations to update their Form 387 as events warrant and, by October 20, 2008, if they have not by that date reported the completion of their transition, i.e., that they have

¹ See Digital Television and Public Safety Act of 2005 ("DTV Act"), which is Title III of the Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4 (2006) ("DRA") (codified at 47 U.S.C. §§ 309(j)(14) and 337(e)). DTV Act § 3002(a) amends Section 309(j)(14) of the Communications Act to establish February 17, 2009 as a new hard deadline for the end of analog transmissions by full-power TV stations. 47 U.S.C. § 309(j)(14)(A). DTV Act § 3002(b) directs the Commission to "take such actions as are necessary (1) to terminate all licenses for full-power television stations in the analog television service, and to require the cessation of broadcasting by full-power stations in the analog television service, by February 18, 2009; and (2) to require by February 18, 2009, ... all broadcasting by full-power stations in the digital television service, occur only on channels between channels 2 and 36, inclusive, or 38 and 51, inclusive (between frequencies 54 and 698 megahertz, inclusive)." 47 U.S.C.A. § 309 Note.

² A station's "post transition facilities" refers to the details of each station's assignment, including technical facilities and predicted service and interference information.

³ A station's "post-transition channel" is the television channel that it will use for digital broadcasting after the transition deadline (i.e., February 17, 2009). The Commission proposed channel assignments and reference facilities for stations' post-transition operations in a 2006 Notice of Proposed Rule Making in MB Docket No. 87-268. See Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, MB Docket No. 87-268, Seventh Further Notice of Proposed Rule Making, 21 FCC Rcd 12100 (2006) ("Seventh FNPRM"). The Seventh FNPRM sets forth a channel for each eligible broadcast TV station in the proposed new DTV Table of Allotments, to be codified at 47 C.F.R. § 73.622(i).

⁴ The FCC received approval under the "emergency processing provisions" of the PRA on January 7, 2008 for this reporting requirement involving FCC Form 387. The form has not changed since we received approval, except to remove the February 19, 2008 filing date and replace it with the October 20, 2008 filing date. The Commission is now seeking the full three year approval/clearance from OMB for FCC Form 387 and the new reporting date. The reporting requirement of February 19, 2008 has been fulfilled.

⁵ Currently there are 1,815 licensees and permittees.

⁶ A total of 1,034 stations have reported completion of their DTV transition.

begun operating their full facility as authorized by the post-transition DTV Table Appendix B. Stations must provide the specific details of their current transition status, any additional steps necessary for digital-only operation upon expiration of the February 17, 2009 transition deadline, and a timeline for making those steps.⁷ **(OMB approval is needed for these information collection requirements).**

History:

On April 25, 2007, the Commission adopted a Notice of Proposed Rulemaking in the matter of the *Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, MB Docket No. 07-91, FCC 07-70, to consider the procedures and rule changes necessary to complete the nation's transition to DTV, including how best to ensure that broadcasters complete construction of their facilities on their final, post-transition (digital) channel by the statutory deadline.

As noted on the OMB Form 83-I, this information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

Statutory authority for this collection of information is contained in Sections 1, 4(i) and (j), 7, 301, 302, 303, 307, 308, 309, 312, 316, 318, 319, 324, 325, 336, and 337 of the Communications Act of 1934, 47 U.S.C 151, 154(i) and (j), 157, 301, 302a, 303, 307, 308, 309, 312, 316, 318, 319, 324, 325, 336, and 337.

2. Again, every full-power television broadcast station must provide (1) the current status of the its digital transition; (2) the additional steps, if any, it needs to take to be prepared for the switch-over deadline; and (3) its plan for how it intends to meet the statutory transition deadline. The information obtained through this form is (and will continue to be) used to assist the Commission, industry, and the public in assessing progress and making plans for the digital transition. These filings are (and will continue to be) made publicly available on the Commission's website.

3. The Commission requires applicants to file FCC Form 387 electronically.

4. This agency does not impose similar information collection requirements on respondents.

5. The filing of FCC Form 387, Digital TV Transition Report, we find no hardship to small entities. Therefore, this collection of information will not have a significant economic impact on small businesses/entities.

6. The collection is necessary to ensure that all full-power television broadcast stations complete construction of their final, post-transition (digital) facilities by the statutory deadline.

⁷ Because 1,034 stations have reported completion of their transition, this means that only 781 stations will still need to make additional Form 387 updates/filings.

7. There are no special circumstances associated with this collection of information.
8. The Commission published a Federal Register Notice (73 FR 7287) on February 7, 2008 seeking public comment for the information collection requirements contained in this information collection. No comments were received from the public.
9. No payment or gift is provided to the respondents.
10. There is no need for confidentiality.
11. This collection of information does not address any private matters of a sensitive nature.
12. All full-power television stations (currently 1,815 licensees and permittees) should have filed a Form 387 on or before the first filing deadline, i.e., February 19, 2008. Accordingly, this initial filing requirement is now complete and, therefore, the burden for this first filing has been removed from the foregoing burden estimates.

As of April 10, 2008, a total of 1,034 stations have reported completion of their transition, meaning that these stations will not need to make additional Form 387 updates/filings. Therefore, only 781 stations will still need to make additional Form 387 updates/filings on or before the second filing deadline, i.e., October 20, 2008. In addition, some of these 781 stations may need to make additional Form 387 “update” filings because they will need to report changes in their transition status that occur before the second filing deadline or will still have not reported completion of final, post-transition facilities by the second filing deadline (i.e., October 20, 2008). We estimate that approximately 75% (or 586) of the 781 stations will need to make such “update” filings and estimate that these stations will need to make an average of two additional “update” filings each.

We estimate that it will take respondents an average of 2 hours to complete and file this form. Our estimate includes the time to read the instructions, look through existing records, gather the required data, and actually complete and review the form, including the time to consult with the attorney and engineer. This estimate is based on FCC staff's knowledge and familiarity with the availability of the data required.

Total Number of Annual Respondents: 781 full-power television broadcast licensees/permittees⁸

⁸ As discussed above, All full-power television stations – currently numbered at 1,815 licensees and permittees, according to the post-transition DTV Table of Allotments; see 47 C.F.R. § 73.622(i) – were required to file a Form 387 on February 19, 2008. As of April 10, 2008, a total of 1,034 stations have reported completion of their transition, meaning that these stations will not need to make additional Form 387 updates/filings. The remaining 781 stations, however, will still need to make additional filings of the Form 387. These stations that have not reported completion of their facilities by the October 20, 2008 deadline must file another form at that time. In addition, these stations continue to have an ongoing obligation to file an updated Form 387 to report changes in their transition status, until such time the station has reported completion of final, post-transition facilities.

Total Annual Responses:

781 stations making FCC Form 387 filings x 1 filing/respondent = 781 responses⁹
586 stations making FCC Form 387 filings x 2 filings/respondent = 1,172 responses¹⁰
1,953 responses

Total Annual Burden Hours:

781 stations making FCC Form 387 filings x 1 filing/respondent x 2 hours/filing = 1,562 hrs
586 stations making FCC Form 387 filings x 2 filings/respondent x 2 hours/filing = 2,344 hrs
3,906 hrs

Total “In-House Cost”: The respondent is estimated to have an average salary of \$100,000/year (\$48.08/hour).¹¹

1,953 FCC Form 387 filings x 2 hours/form x \$48.08 = **\$187,800.48**

13. **Annual Cost Burden:** We assume that the respondent would use a consulting engineer to assist with the engineering analysis necessary to answer certain questions on FCC Form 387 and have a consulting attorney help with reviewing the applicable rules and policies and analyzing the issues presented on the form.

We estimate that the average respondent would use 2 hours of attorney time (\$200/hour) and 2 hours of consulting engineer time (\$150/hour) to complete this form.

\$200/legal consultant x 1,953 FCC Form 387 filings x 2 hours/filing = \$781,200
\$150/engineering consultant x 1,953 FCC Form 387 filings x 2 hours/filing = \$585,900
Total Annual Burden Cost: \$1,367,100

14. The Commission will use legal and engineering staff at the GS-14, step 5 level (\$53.24/hour) to process these forms. We estimate that, on average, each form requiring processing will require 30 minutes (0.5 hours) of attorney time and 1 hour of engineering time to process.

1,953 FCC Form 387 filings x 0.5 hr/attorney review x \$53.24/hour = \$ 51,988.86
1,953 FCC Form 387 filings x 1 hour/engineering review x \$53.24/hour = \$103,977.58

⁹ Because 781 stations have not yet reported completion of their transition, we estimate that this number of stations will need to make at least one more Form 387 filing on or before the October 20, 2008 filing date.

¹⁰ We estimate that approximately 75% or 586 stations will need to make “update” filings in addition to the October 20, 2008 filing because they will need to report changes in their transition status or will still have not reported completion of final, post-transition facilities by the October 20, 2008 deadline. We estimate that these stations will need to make an average of two additional “update” filings each.

¹¹ The Commission’s estimated salary for the respondent since its last submission to OMB has changed from \$70,000/year (\$33.65/hour) to \$100,000 (\$48.08/hour).

Total Cost to the Federal Government: \$155,966.58

15. The Commission had the following changes to this information collection that resulted in program changes in the total annual burden hours and total annual cost burden since the Commission's last submission to OMB: (1) the number of respondents is reduced from 1,812 to 781 because many stations no longer need to make additional Form 387 filings; (2) the total number of responses/filings is increased from 1,812 to 1,953 because the collection is being modified to cover the second filing deadline (i.e., October 20, 2008) that will apply only to 781 stations and to reflect that these stations may need to make more than one "update" filing before reporting completion of their transition; (3) the total annual burden hours is increased from 3,624 hours to 3,906 hours because of the increase in the number of responses/filings; and, for this same reason, (4) the total annual cost burden is increased from \$1,268,400 to \$1,367,100.

16. The data collected by FCC Form 387 is posted on the Commission's website in order to assist the Commission, industry, and the public to assess the progress of each station's transition to digital television.

17. The Commission requests an extension of the waiver not to publish the expiration date on FCC Form 387. This waiver will obviate the need to update electronic files upon the expiration of the clearance. OMB approval of the expiration date of the information collection will be displayed at 47 CFR 0.408.

18. The Commission published a Federal Register Notice seeking public comment on the information collections contained in this supporting statement (73 FR 7287) on February 7, 2008. In the Notice the Commission stated the following information incorrectly: total number of respondents as 1,812; total burden hours as 3,624 hours; total annual costs as \$1,268,400. We correct these numbers to read: total number of respondents – 781; total burden hours – 3,906 hours; total annual costs – \$1,367,100. There are no other exceptions to Item 19 of the Certification Statement.

B. Collections of Information Employing Statistical Methods

This information collection does not employ any statistical methods.