

SUPPORTING STATEMENT

A. Justification:

1. 47 CFR Section 73.3588 states whenever a petition to deny or an informal objection has been filed against any applications for renewal, new construction permits, modifications, and transfers/assignments, and the filing party seeks to dismiss or withdraw the petition to deny or the informal objection, either unilaterally or in exchange for financial consideration, that party must file with the Commission a request for approval of the dismissal or withdrawal. This request must include the following documents: (1) a copy of any written agreement related to the dismissal or withdrawal, (2) an affidavit stating that the petitioner has not received any consideration in excess of legitimate and prudent expenses in exchange for dismissing/withdrawing its petition, (3) an itemization of the expenses for which it is seeking reimbursement, and (4) the terms of any oral agreements related to the dismissal or withdrawal of the petitions to deny. Each remaining party to any written or oral agreement must submit an affidavit within 5 days of petitioner's request for approval stating that it has paid no consideration to the petitioner in excess of the petitioner's legitimate and prudent expenses. The affidavit must also include the terms of any oral agreements relating to the dismissal or withdrawal of the petition to deny.

The Commission is seeking an extension of this information collection in order to receive the full three year OMB approval/clearance.

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 Section 154(i) of the Communications Act of 1934, as amended.

2. The data is used by FCC staff to ensure that a petition to deny or informal objection was filed under appropriate circumstances and not to extract payments in excess of legitimate and prudent expenses. If this collection of information were not conducted, the potential and incentive for abuse of the Commission's processes would remain unchecked and abuses would continue.

3. The Commission is investigating the use of electronic filing for its applications and filings. However, we do not believe the use of information technology is feasible in this situation.

4. This agency does not impose a similar information collection on the petitioners. 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

Section 73.3588, Dismissal of Petitions to Deny or Withdrawal of Informal Objections

significant economic impact on a substantial number of small entities/businesses.

6. The frequency for this collection of information is determined by respondents, as necessary.
7. This collection of information requires each remaining party to any written or oral agreement to submit an affidavit within 5 days of the request for approval to dismiss or withdraw the petition to deny or informal objection. It is necessary for the remaining parties to submit their affidavits within 5 days in order for the Commission to act on a request to dismiss or withdraw expeditiously and thereby prevent unnecessary delays in the processing of the subject application. This affidavit ensures that a petition was withdrawn under appropriate circumstances.
8. The Commission published a Notice (73 FR 33821) on June 13, 2008 seeking public comments for the information collection requirements contained in this supporting statement. No comments were received at the Commission as a result of the Notice.
9. No payment or gift was provided to the respondents.
10. There is no need for confidentiality.
11. This information collection does not address any private matters of a sensitive nature.
12. We estimate that 25 parties annually will file requests which include supporting documentation (e.g., written agreement, affidavit, itemization of expenses, terms of any oral agreements) with the Commission to dismiss their petitions to deny or withdraw their informal objections. The 25 remaining applicants to any written or oral agreements will also file with the Commission affidavits stating that they have paid no consideration to the requestor in excess of its legitimate and prudent expenses and supporting documents (i.e., terms of the oral agreements). We estimate that the respondents will consult with an attorney to discuss the filing of the documents. The average burden on the respondents will be 20 minutes (0.33). These estimates are based on FCC staff's knowledge and familiarity with the availability of the data required.

Total Number of Annual Respondents: 50 Parties

Total Number of Annual Responses: 25 Requests Filed to Withdraw Petitions to Deny or Informal Objections (these request include the filing of required supporting documentation)

25 Affidavits/Agreements (filed by remaining parties)

50 (responses)

Total Annual Burden Hours: 50 parties x 0.33 hours/attorney consultation = 17 hours

Annual “In-House” Cost: We assume that the respondents would use an attorney for the completion and filing of their dismissal petitions to deny or withdrawal of their informal objections and supporting documents. The remaining parties would also use an attorney for the completion and filing of their affidavits and agreements. We estimate that these respondents would spend approximately 20 minutes in consultation with the attorney. We expect that these respondents would be the licensees of broadcast stations. We estimate that the respondents would have an average salary of \$69,700/year (\$33.52/hour).

$$50 \text{ parties} \times 0.33 \text{ hours/attorney consultation} \times \$33.52/\text{hour} = \$553.08$$

TOTAL ANNUAL “IN-HOUSE” COST = \$553.08

13. **Annual Cost Burden:** We assume that the respondents would contract with an attorney to complete and file their affidavits, dismissal of petitions to deny, withdrawal of their informal objections, and other supporting documents. We estimate that the average burden for the attorney will be 8 hours for the parties filing the petitions and supporting documents. The attorney will spend 0.5 hours to file the remaining parties’ affidavits/agreements. We estimate that this attorney would have an average salary of \$200/hour.

$$25 \text{ filings} \times 8 \text{ hours/withdrawal/dismissal/affidavit} \times \$200/\text{hour} = \$40,000$$
$$25 \text{ filings} \times 0.5 \text{ hours/affidavit/agreement} \times \$200/\text{hours} = \underline{\$ 2,500}$$

Total Annual Cost Burden = \$42,500

14. **Cost to the Federal Government:** The Commission will use professional staff at the GS-12, step 5 (\$37.89/hour) to process the filings. It will take the staff 8 hours to process each filing.

$$50 \text{ filings} \times 8 \text{ hours/withdrawal/dismissal/affidavit} \times \$37.89 = \$15,156$$

Total Cost to the Federal Government = \$15,156

15. There are no program changes to this information collection. However, there was an adjustment to the annual cost burden of -\$500.00 due to rounding issues in ROCIS.

16. The data will not be published.

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

18. The Commission published a Notice in the Federal Register (73 FR 33821) on June 13, 2008 seeking public comment on the information collection requirements contained in this supporting statement. Third party disclosure requirement was included in the Federal Register Notice as a requirement; however, that was done in error. Third party disclosure requirement is not included as

OMB Control Number: 3060-0423

August 2008

Section 73.3588, Dismissal of Petitions to Deny or Withdrawal of Informal Objections

apart of this information collection. There are no other exceptions to Item 19 of the Certification Statement.

B. Collections of Information Employing Statistical Methods

No statistical methods are employed.