

*Creation of a Low Power Radio Service and Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations*, Fourth Report and Order and Third Order on Reconsideration (“*Fourth Report and Order*”), MM Docket 99-25, MB Docket No. 07-172, RM-11338; Implementation of Application Caps

## SUPPORTING STATEMENT

### A. Justification:

1. On July 12, 2011, the Commission released a *Third Further Notice of Proposed Rule Making* (“*Third Further Notice*”)<sup>1</sup> in this proceeding, seeking comment on the impact of the enactment of the Local Community Radio Act of 2010 (“LCRA”)<sup>2</sup> on the procedures previously adopted to process the approximately 6,500 applications that remain pending from the 2003 Auction No. 83 FM translator window. There, the Commission tentatively concluded that the previously adopted translator licensing procedures, which would limit each applicant to ten pending applications, would be inconsistent with the LCRA’s goals.<sup>3</sup> It proposed to modify those procedures and instead adopt a market-specific translator application dismissal process, dismissing pending translator applications in identified spectrum-limited markets in order to preserve adequate low power FM (“LPFM”) licensing opportunities. It further proposed a national cap of 50 applications and a market-based cap of one application per applicant per market for the top markets to minimize the potential for speculative licensing conduct.

On March 19, 2012, the Commission adopted a *Fourth Report and Order and Third Order on Reconsideration* (“*Fourth Report and Order*”).<sup>4</sup> In the *Fourth Report and Order*, the Commission adopts the national and market-specific caps proposed in the *Third Further Notice*, and requires parties with more than 50 pending applications and/or more than one pending application in the markets identified in Appendix A of the *Fourth Report and Order* (the top 150 Arbitron markets plus markets with more than 4 pending translator applications) to request the dismissal of applications to comply with these limits. Applicants may request such dismissal by filing a letter with the Commission (“Dismissal Letter”) identifying the applications they wish to be dismissed. In the event that an applicant does not timely comply with these dismissal procedures, the Commission staff will first apply the national cap, retaining on file the first 50 filed applications and dismissing those that were subsequently filed. The staff will then dismiss all but the first filed application in each of the markets identified in Appendix A.

The Commission is requesting approval of this information collection from the Office of Management and Budget (OMB).

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.

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<sup>1</sup> *Creation of a Low Power Radio Service and Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations*, Third Further Notice of Proposed Rulemaking, 26 FCC Rcd 9986 (2011).

<sup>2</sup> Pub. L. No. 111-371, 124 Stat. 4072 (2011).

<sup>3</sup> The ten-application cap was adopted in *Creation of a Low Power Radio Service*, Third Report and Order and Second Further Notice of Proposed Rulemaking, 22 FCC Rcd 21912 (2007) (“*Third Report and Order*”).

<sup>4</sup> *Creation of a Low Power Radio Service and Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations*, Fourth Report and Order and Third Order on Reconsideration, FCC 12-29 (rel. Mar. 19, 2012).

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2. The Commission will dismiss the applications identified in the Dismissal Letters. The dismissal of these applications will facilitate the processing of the remaining applications from Auction No. 83. This is a new and one-time only collection.
3. The Commission will accept Dismissal Letters by mail or email. Permitting applicants to use the method that best suits them will reduce the burdens of this collection. Applicants also have the choice of not submitting a Dismissal Letter. In such cases, the Commission will dismiss applications in accordance with the procedures described above.
4. This agency does not impose a similar information collection on the respondents. 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 entities/businesses.
6. The licensing outcomes of Auction No. 83 will be affected if the information collection is not conducted because translator applicants will not have the benefit of choosing which applications they wish to preserve or dismiss under the national and market caps. While the Commission could choose not to request Dismissal Letters, this would deny applicants the benefit of making dismissal selections based on their own needs and preferences.
7. This collection of information is consistent with the guidelines in 5 CFR 1320.5(d)(2).
8. The Commission published a Notice (77 FR 17476) in the *Federal Register* on March 26, 2012, seeking comments for 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 the respondents.
10. There is no need for confidentiality with this collection of information.
11. This collection of information does not address any private matters of a sensitive nature.

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12. We estimate that 300 respondents will file Dismissal Letters. The average burden on respondents for the preparation and filing of a Dismissal Letter is 2 hours.

**Total number of respondents:** 300 Translator Applicants

**Total number of responses:** 300 Dismissal Letters (responses)

**Total annual hour burden:** 300 Dismissal Letters (responses) x 2 hours/letter = 600 hours

**Annual “In-house cost”:** We assume that the respondents will complete and file the Dismissal Letters themselves. The respondents have an average salary of \$100,000/year (\$48.08/hour).

300 Dismissal Letters x 2/hours/response x \$48.08/hour = \$ 28,848

**Total “In-House” Cost = \$28,848**

**13. Annual Cost Burden:**

(a) Total annualized capital/startup costs: None

(b) Total annual costs (O&M): None

(c) Total annualized cost requested: None

14. **Cost to the Federal Government.** The Commission will use engineering staff at the GS-14 level, step 5 (\$57.14/hour) to process the Dismissal Letters. The average processing time for these documents is 0.33 hours (20 minutes) per document received.

0.33 hours engineer x 300 Dismissal Letters x \$57.14/hour = \$5,656.86

**Total Cost to the Federal Government: \$ 5,656.86**

15. This is a new information collection. Once the collection is approved by OMB, 300 respondents, 300 responses and 600 burden hours will be added to OMB’s inventory.

There are no program changes or adjustments.

16. The data will not be published.

17. OMB approval of the expiration date of the information collection will be displayed on the Public Notice

**OMB Control Number: 3060-xxxx**

**May 2012**

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requesting submission of the Dismissal Letters.

18. There are no exceptions to the Certification Statement.

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

No statistical methods are employed.