

SUPPORTING STATEMENT

A. Justification:

1. On October 2, 2012, the Commission released the Notice of Proposed Rulemaking, *Expanding the Economic and Innovative Opportunities of Spectrum Through Incentive Auctions*, Docket No. 12-268, FCC 12-118 (“IA NPRM”). The IA NPRM contains rules and policies for the incentive auction mandated by Congress in the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 125 Stat. 156 (2012). Following the completion of the incentive auction process, eligible stations (full power and Class A television) that are repacked¹ and multichannel video programming distributors (MPVDs) that incur expenses as a result of repacking will be eligible for reimbursement. All effected entities will be required to file FCC Form 399. It is proposed that stations and MVPDs will have the option of choosing to either be reimbursed with an advance payment based on estimated expenses or reimbursed for their actual, documented expenses. Stations and MVPDs will have to submit a reimbursement request and those requesting advance payments will have to later certify that all funds were properly expended. **This new requirement is provided in 47 C.F.R. § 73.3700.**

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, 154(i), 301, 302, 303, 307, 308, 309, 312, 316, 318, 319, 324, 325, 336, and 337 of the Communications Act of 1934, as amended.

2. FCC staff use the data to determine reimbursements for stations and MVPDs. FCC staff will review for compliance with legal regulations.

3. All certifications and FCC Form 399 will be filed electronically via the Commission’s auction filing system.

4. No other agency imposes a similar information collection on the respondents. There is no similar data available.

5. This information collection will not have a significant economic impact on a substantial number of small entities/businesses.

6. The frequency for this collection of information is one time for stations seeking reimbursement based on actual, documented expenses and twice for stations seeking advance payment based upon estimated expenses.

7. This collection of information is consistent with the guidelines in 5 CFR 1320.5(d)(2).

8. The Commission published a notice in the Federal Register on November 21, 2012 seeking public

¹ Repacking occurs when stations that are assigned a new operation channel following completion of the incentive auction process.

Title: Reimbursement of Repacking Expenses, FCC Form 399, Section 73.3700

comment on the information collection requirements contained in this supporting statement, *see* 77 FR 69934. To date, no comments have been received from the public.

- 9. No payment or gift was provided to the respondents.
- 10. This information does not have to be kept confidential.
- 11. This information collection does not address any private matters of a sensitive nature.
- 12. We make the following estimates for FCC Form 399.

FCC Form 399 - Reimbursement Filings

We estimate that a total of 2,254 full power and Class A television stations and 1,078 MVPDs (total of 3,332 filings) will be requesting reimbursement of their repacking expenses on FCC Form 399. We estimate that 90% of these filings (or 3,000 filings) will be made by the station or MVPD without outside consultation and will require two (2) hours preparation, while 10% of these filings (or 332 filings) will be contracted out to outside attorneys and will require one (1) hour of consultation with these outside parties.

We estimate that a total of 564 full power and Class A television stations and 270 MVPDs (total of 834 filings) seeking reimbursement through an advance payment will be required to subsequently certify on FCC Form 399 that all reimbursement funds were properly expended. We estimate that 90% of these filings (or 750 filings) will be made by the station licensee without outside consultation and will require one (1) hours preparation, while 10% of these filings (or 84 filings) will be contracted out to outside attorneys and will require one-half (1/2) hour of consultation with these outside parties.

Type	# of Respondents	# of Responses	Burden Hours of Respondents	Annual Burden Hours	Hourly Salary of Respondents ²	Annual In-House Cost
FCC Form 399 – initial filing- in-house filed	3,000	3,000	2 hrs	6,000 hrs	\$48.08	\$288,480
FCC Form 399 – initial filing - filed by outside attorney but requiring the respondent to consult with said attorney	332	332	1 hr consultation	332 hrs	\$48.08	\$15,962.56
FCC Form 399 – follow-up filing- in-house filed	750	750	1 hr	750 hrs	\$48.08	\$36,060
FCC Form 399 – follow-up filing - filed by outside						

² This estimate is based on an average salary for a station manager of \$100,000 per year or \$48.08 per hour.

Type	# of Respondents	# of Responses	Burden Hours of Respondents	Annual Burden Hours	Hourly Salary of Respondents	Annual In-House Cost
attorney but requiring the respondent to consult with said attorney	84	84	0.5 hr consultation	42 hrs	\$48.08	\$2,019.36
Total	4,166³	4,166		7,124 hrs		\$342,521.92

13. ANNUAL COST BURDEN:

An attorney would prepare and submit FCC Form 399, estimated above to be a total of 416 filings (332 filings + 84 filings). We estimate that the average salary for the attorney is \$300/hour.

$$416 \text{ FCC Form 399 filed by Attorney} \times 2 \text{ hours/form} \times \$300/\text{hour} = \underline{\$249,600}$$

Annual Cost Burden = \$249,600

14. Cost to the Federal Government:

We estimate the government will use legal staff at the GS-14, step 5 level (\$57.13/hour) to review and process FCC Form 399. We expect the processing for FCC Form 399 to take roughly 2 hours to process.

$$4,166 \text{ FCC Form 399} \times \$57.13 \times 2 \text{ hours} = \underline{\$476,007.16}$$

Cost to the Federal Government: \$476,007.16

15. This is a new information collection. If the proposed requirements contained in FCC 12-118 are adopted in a final rulemaking 4,166 respondents, 4,166 responses, 7,124 burden hours and \$249,600 in annual cost will be added to OMB's inventory.

16. The data will be publically available on FCC database.

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

18. There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods

No statistical methods are employed.

³ This estimate is based on the entire universe of respondents for this collection.