

SUPPORTING STATEMENT

A. Justification:

1. Explain the circumstances that make the collection of information necessary.

The Commission is submitting this information collection as a revision to the Office of Management Budget (OMB) in order to obtain the three-year approval. The information collection requirements contained in OMB Control No. 3060-0655, Requests for Waivers of Regulatory and Application, OMB Control No. 3060-1064, Regulatory Fee Assessment True-Ups are being consolidated into a single information collection under 3060-0812, Exemption from Payment of Regulatory When Claiming Non-Profit Status. This consolidation will make it easier for the public to understand, comment on, and comply with these closely-related requirements, by gathering them into one PRA information collection. Upon OMB Approval, the Commission will discontinue OMB Control Nos. 3060-1064 and 3060-0655 and OMB Control No. 3060-0812 will remain in OMB's Active Inventory.

Section 9 of the Communications Act of 1934, as amended, mandates that the Commission collect annual regulatory fees from its regulatees. To facilitate this effort, the Commission publishes various Public Notices and Fact Sheets each year that

- (1) announces when fees payments are due;
- (2) provides the current schedule of fee amounts for all service categories; and
- (3) provides guidance for making fee payments to the Commission.

Exemption for Non-Profit

FCC requires that when licensees or regulates request exemption from regulatory fees based on their non-profit status, they must file a one-time documentation sufficient to establish their non-profit status. The documentation may take the form of an IRS Determination Letter, a state charter indicating non-profit status, proof of church affiliation indicating tax exempt status, etc.

True-Up Provision

The Commission provides fee assessments to broadcast licensees and commercial mobile radio service (CMRS) licensees on an annual basis¹. With these fee assessment notifications,

¹ Beginning in Fiscal Year (FY) 2004, The Commission mailed fee assessment notifications to cable television operators. The Commission stopped this practice in FY 2007 because the method was ineffective and the data sent out on notifications were unreliable. In OMB 3060-0855, Telecommunications Reporting Worksheet and Related

we also provide regulatees with a “true-up”² opportunity to update or otherwise correct their assessed fee amounts well before the actual due date for payment of regulatory fees. Providing a “true-up” opportunity is necessary because the data sources that are used to generate the fee assessments are subject to change at time of transfer or assignment of the license. The “true-up” is also an opportunity for regulatees to correct inaccuracies.

The Commission offers several ways for regulatees to “true-up” their broadcast assessed fee amount. Regulatees may use a Commission-authorized website at www.fcc.fees.com to key in corrections to their assessment information. Regulatees may also call the Commission’s Financial Operations Help Desk. They may write the Commission or file a formal document with the Commission’s Secretary Office with their corrections.

For corrections to the CMRS assessment notifications, the most direct way is for CMRS regulatees to log onto the Commission’s fee filing and payment system (“Fee Filer”), and follow the prompts to revise their CMRS subscriber counts upon which regulatory fees will be calculated. Upon approval by the Commission, the revised subscriber count is downloaded into Fee Filer so that the regulatee can make the regulatory fee payment based on the revised subscriber counts.

Regulatees can also revise their CMRS subscriber counts by submitting a letter, or sending an email identifying them as the regulatee or the regulatee’s counsel. After receiving the letter or email, the Commission will decide on whether to approve the revised subscriber count based on the supporting information provided. IF the revised subscriber count is approved, a marker in Fee Filer will appear showing that the submission has been approved. If the revised subscriber count is not approved, the Commission will contact the regulatee by telephone or email for more information. The approved subscriber counts are then downloaded into Fee Filer for payment by the regulatee.

Waiver

As set forth in Sections 8 and 9, and procedures at 47 C.F.R. §§ 1.1119 and 1.1166, the FCC may, upon a properly submitted written request, waive or defer collection of an application fee or waive, reduce, or defer payment of a regulatory fee in a specific instance for good cause shown where such action would promote the public interest. In each instance, an applicant or its representative must provide a written request showing on its face or through attached relevant documentation, in a single submission, both good cause and that the requested relief promotes the public interest. An applicant must submit a separate request for each form of relief, *e.g.*, a request to waive the collection of a fee and a request to defer payment of the fee while the request for waiver is being considered requires two separate requests with supporting documentation to establish both elements of the standard. When

Collections, FCC Form 499-A, FCC499-Q, the Commission has required regulatees to provide email address and revenue amount as the fee assessment basis. The Commission plans to use these email addresses collected in OMB 3060-0855 to transmit the fee assessment notifications in the future.

² “True up” is to fit, place or shape accurately. See *Webster’s NewWorld Dictionary*, Second College Edition. New York: Simon & Schuster, 1980.

submitting the request, no specific form is required, and no specific ground must be asserted; however, historically, the majority of the requests submitted under both sections of the law are predicated on an assertion of financial hardship. Thus, in a situation where the applicant asserts that due to financial hardship, payment of the fee should be deferred and separately that payment of the fee should be waived, the applicant must submit sufficient financial documentation to sustain its burden of showing the elements for each request. Accordingly, for each request, an applicant must prepare a request, gather documentation, present a relevant persuasive discussion showing both good cause, *i.e.*, that extraordinary and compelling circumstances warrant the requested relief, and that the requested relief will promote the public interest. Applicants must comply with filing procedures set forth in the FCC's rules, *e.g.*:

- (1) All requests must be filed at the proper location designated in the FCC's rules. A submission directly to a staff member or to a location other than as allowed by the rules is not filed, and it may be dismissed (47 CFR §§ 1.1119 & 1.1166). A request to waive the fee that is submitted in a timely manner attached with the fee must be filed at the designated lockbox or payment address (47 CFR §§ 1.1113 & 1.1159). Separate requests to waive, defer, or reduce the amount of payment without payment must be filed with the Secretary, Federal Communications Commission, Attention: Managing Director, Washington, DC 20554;
- (2) As the Commission explained in *Implementation of Section 9 of the Communications Act*, Memorandum Opinion and Order, 10 FCC Rcd 12759, 12761-62, para. 13 (1995), an applicant asserting fee relief based on financial hardship must fully document its financial position to show that the applicant lacks sufficient funds to pay the fee and, in the case of regulatory fees, maintain its service to the public. Accordingly, an applicant may need to assemble for filing copies of balance sheets and profit and loss statements (audited, if available), a cash flow projection for the next twelve months (with an explanation of how calculated), a list of officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information.

This information collection is from “businesses and other non-profits” entities, not “individuals,” and it does not seek private matters of a sensitive nature; therefore, there is no need for a Privacy Impact Assessment.

Statutory authority for this collection of information is contained in 47 U.S.C. §§ 158 & 159. Sections 4(i), 4(j), 8, 9, and 303 (r) of the Communications Act of 1934, as amended.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

The purpose for the requirements are to:

- a) The Commission uses the “true-up” feedback received from regulatees to adjust the regulatee’s fee obligations accordingly.
- b) The Commission will use the information that is submitted in support of requests for a waiver or deferral of the payment of an application fee and the waiver, deferral, or reduction of an annual regulatory fee to determine if the applicant has met the statutory and regulatory legal standards to warrant relief.
- c) The Commission will use the information that is submitted in support of requests for an exemption of the payment of an application fee to facilitate the statutory provision that non-profit entities be exempt from payment of regulatory fees; and facilitate the FCC’s ability to audit regulatory fee payment compliance.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

The FCC does not specify how licensees and regulatees’ records should be maintained, nor does the Commission restrict how the information is submitted to the FCC. Such records may be kept in electronic form and submitted in whatever medium is most practical. The Commission believes that 50 percent of non-profit licensees and regulatees maintain their recordkeeping documentation and submit this information on paper and the other half of the licensees or regulatees submit it electronically.

Broadcast licensees and Commercial Mobile Radio Service (CMRS) providers may use a Commission-authorized website to submit their “true-up” information.

4. Describe efforts to identify duplication.

The information that applicants must submit is not available elsewhere in the FCC’s records, nor is it submitted to other agencies. There are no similar data available.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

All provisions of this information collection impose minimal burden on small businesses and other small entities, and the benefit to these entities of having available exemptions, waivers, and correct information of obligations will outweigh any minimal burden that is imposed. All provisions of this information collection were crafted largely with the purpose to benefit small businesses or other small entities.

The collection will have minimal impact on all applicants.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

a) Without a “true-up” process, there will be greater inaccuracies in regulatory fee assessment, which will be detrimental to both the Commission and to licensees. Also, not offering regulatees a “true-up” opportunity prior to the due date of regulatory fees could result in licensees paying an inaccurate, and often a higher, regulatory fee. The Commission believes that it is a good business practice to give entities an opportunity to “true-up” their assessed fee amounts. With the “true-up” mechanism in place, the Commission can better estimate the regulatory fee payments so that it can meet its fiscal year fee collection expectations, and the licensee will pay an accurate regulatory fee amount.

b) If the FCC did not collect the information related to waivers, it would be limited to considering a request based on assertions, and it would lack a reliable method for determining the existence of both good cause and that the public interest is served sufficient to permit the waiver, deferral, or reduction of a required fee.

c) If the FCC did not collect the information related to exemptions, it would be limited to considering a request based on assertions, and it would lack a reliable method for determining the existence of both good cause and that the public interest is served sufficient to permit the exemption of a required fee.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

For exemption provisions, it is critical that the FCC continue to obtain the non-profit documentation. This is required for newly licensed or operating non-profit entities who are filing for exempt status within 60 days of receipt of license, authorization, permit, or of commencing operation.

Other than non-profit documentation, there are no special circumstances that would cause this information collection to be conducted in a manner inconsistent with the guidelines in 5 CFR § 1320.6.

8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

The Commission published a notice in the *Federal Register* on August 11, 2017, to initiate the 60-day comment period (82 FR 37588). No public comments were received in response to the notice.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

Applicants will not receive any gifts or payments.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

We are not asking respondents to submit any information that would be considered to be of a confidential nature. However, respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 C.F.R. § 0.459 of the FCC's rules.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Generally, this information collection does not address any private matters of a sensitive nature nor are "individuals" included in the respondent groups.

12. Provide an estimate in hours of the burden of the collection of information.

Request for Waivers of Regulatory and Application

- (1) Number of Respondents: 340. The Commission receives approximately 340 requests for waivers, deferral, or reductions of both application and regulatory fees.
- (2) Frequency of Response: On occasion reporting requirement.
- (3) Number of Responses Annually: 340
- (4) Estimated time per response: 1 hour.
- (5) Total Annual burden: 340 hours.

The Commission estimates that an applicant will require approximately 1 hour to assemble, duplicate, and file each request with the Commission. Also, the Commission believes that an applicant filing a request has this information readily available so that the collection process is relatively easy. This estimate is based on our prior experience with comparable submissions.

340 respondents x 1 response/annum x 1 hour/response = 340 hours

(6) Total Annualized “In-House” Cost to respondents: \$10,149.

The standards and procedures for filing a request for relief have been codified in the Code of Federal Regulation for more than 20 years, and each year the Commission publishes in the Federal Register and public forums the standards and procedures for filing a request for relief. Neither legal counsel nor other professionals are required to submit a request. Consequently, the Commission estimates that an applicant will use their “in-house” staff to assemble, duplicate, and file the request for the fee waiver.

Cost for an administrative clerical employee for 1 hour to prepare the submission is equivalent to the salary per hour of a GS-9, Step 5 (\$29.85) Federal Government employee.

340 respondents x 1 response/annum x 1 hour/response x \$29.85 = **\$10,149**

Regulatory Fee Assessment True-Ups

(1) Number of Respondents: 165

Regulatees will submit assessment “true-ups” at the following estimated rates:

8,000 broadcast license fee assessments.

“True-up” rate: less than 2%, estimate to be 132 “true-ups”.

110 CMRS fee assessments.

“True-up” rate: Approximately 30%, estimated to be 33 “true-ups.”

132 media services + 33 CMRS fee assessed = 165 Respondents.

(2) Frequency of Response: Annual reporting requirement.

(3) Total Number of Responses Annually: 165 responses.

The Commission estimates each respondent will have only one “true-up” response; thus:

132 + 33 = 165 Responses.

(4) Estimated time per response: 0.25 hours (15 minutes).

(5) Total Annual Hourly Burden: 41 hours.

Information necessary to “true-up” the fee assessment is readily available to regulatees. Some “true-ups” sent back to the Commission in writing may take up to an hour to compose; while corrections submitted through the Commission-authorized web site would take only a couple of minutes. Therefore, we estimate that regulatees will undergo an average burden of 0.25 hours per “true-up.”

165 “true-ups” x 0.25 hours = 41 hours.

(6) Total Annualized “In-House” Cost to respondents: \$1,640.

Respondents responsible for submitting “true-ups” to the Commission could range from clerical assistants to senior company managers and outside attorneys. In general, we assume that most “true-ups” will be prepared by regulatees’ junior-level professional staffs that are paid an average salary of \$40 per hour.

41 hours x \$40 per hour = \$1,640

Exemption from Payment of Regulatory When Claiming Non-Profit Status

(1) Number of Respondents: 19,169.

(2) Frequency of Response: Annual, on occasion and one-time reporting requirements and recordkeeping requirement.

(3) Number of Responses Annually: 19,269.

The Commission estimates the number of responses as follows:

19,169 recordkeeping responses + 100 reporting responses = 19,269 responses.

(4) Estimated time per response: 0.50 hours (30 minutes) for recordkeeping and reporting requirements.

(5) Total Annual Burden: 9,635 hours.

This estimate is based on the number of non-profit entities currently listed by the Commission as exempted from regulatory fees due to non-profit status.

The FCC is requiring all “non-profit” licensees and regulatees to maintain for inspection, upon request, such records as they would normally keep in the course of doing business and those used to compute the amount of the regulatory fees payment for a period of two years from the time the fee payment was made. This will allow adequate time for the FCC to conduct any audits deemed appropriate to determine whether fee payments were correct.

The Commission also estimates the following:

- a) 19,169 non-profit licensees and regulatees (respondents) will spend approximately 0.50 hours (30 minutes) annually to maintain these records:

$$19,169 \text{ respondents} \times 0.50 \text{ hours/annum for recordkeeping} = 9,585 \text{ hours.}$$

- b) In any year, the Commission may require approximately 100 of the non-profit licensees and regulatees (respondents) to submit documentation to the FCC, as required, attesting/certifying to their “non-profit” status.

The Commission estimates that respondents will spend approximately 0.50 hours (30 minutes) annually preparing and submitting their documentation to the FCC.

$$100 \text{ respondents} \times 0.50 \text{ hours/annum for document preparation and submission} = 50 \text{ hours.}$$

$$9,585 \text{ recordkeeping hours} + 50 \text{ reporting hours} = 9,635 \text{ hours.}$$

(6) Total Annualized “In-house” cost to respondents: \$289,139.

The Commission estimates that non-profit licensees and/or regulatees will perform the recordkeeping and reporting requirements using “in-house” staff. We estimate the in-house costs to be the following:

- a) Each respondent’s recordkeeping staff will earn an hourly salary equivalent to a GS-9-Step 5 in the Federal government, or \$29.85 per hour for the “Washington-Baltimore-Northern Virginia” locality.

$$19,169 \text{ respondents} \times 0.50 \text{ hours/recordkeeping} \times \$29.85 \text{ /hour} = \$286,097$$

- b) Each respondent’s staff preparing and submitting the documentation attesting/certifying “non-profit” status will earn an hourly salary equivalent to a GS-14/Step 5 in the Federal Government, or \$60.83 per hour for the “Washington-Baltimore-Northern Virginia.” locality.

$$100 \text{ respondents} \times 0.50 \text{ hours/reporting} \times \$60.83 \text{ /hour} = \$3,042.$$

Total “In-House” cost to respondents: \$ 286,097 + \$3,042 = \$289,139

CUMULATIVE TOTAL NUMBER OF RESPONDENTS:

$$340 + 165 + 19,169 = 19,674 \text{ respondents}$$

CUMULATIVE TOTAL ANNUAL RESPONSES:

340 + 165 + 19,269 = 19,774 responses

CUMULATIVE TOTAL ANNUAL BURDEN:

340 + 41 + 9,635 = 10,016 hours

CUMULATIVE TOTAL ANNUALIZED “IN-HOUSE” COSTS to RESPONDENTS:

\$10,149 + \$1,640 + \$289,139 = \$300,928

13. Provide an estimate of the total annual recordkeeping/reporting cost burden to the respondents resulting from the collection (excluding the value of the burden hours in #12 above).

There is no capital/start-up costs or operations and maintenance costs to the respondents.

14. Provide estimates of annualized cost to the Federal government.

The Commission estimates the following:

| Request for Waivers of Regulatory and Application | | | | | | | |
|--|----------------------|---------------------|----------------------|---------------------------|------------------|--------------------|---------------------|
| Grade/Step | Hourly Salary | 30% Overhead | Cost per Hour | Hours per Response | Responses | Total Hours | Total Cost |
| GS-9/Step 5 | \$29.85 | \$8.96 | \$38.81 | 1.5 | 340 | 510 | \$ 19,793.10 |
| GS-14/Step5 | \$60.83 | \$18.25 | \$79.08 | 4 | 340 | 1,360 | \$107,548.90 |
| GS-15/Step 5 | \$71.56 | \$21.47 | \$93.03 | 2.25 | 340 | 765 | \$ 71,167.95 |
| Total | | | | | | | \$198,509.95 |
| Exemption from Payment of Regulatory Fees | | | | | | | |
| Grade/Step | Hourly Salary | 30% Overhead | Cost per Hour | Hours per Response | Responses | Total Hours | Total Cost |
| GS-9/Step 5 | \$29.85 | \$8.96 | \$38.81 | 2 | 100 | 200 | \$ 7,762 |
| Total | | | | | | | \$ 7,762 |
| Regulatory Fee Assessment True-Ups | | | | | | | |
| Grade/Step | Hourly Salary | 30% Overhead | Cost per Hour | Hours per Response | Responses | Total Hours | Total Cost |
| GS-11/Step 5 | \$36.12 | 10.84 | \$46.96 | 0.25 | 165 | 41 | \$ 1,925.36 |
| Total | | | | | | | \$ 1,925.36 |
| Total Cost to Government | | | | | | | \$208,197.31 |

Total Annual cost to Federal Government: \$208,197.31

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14.

The Commission is reporting program changes/increases to this collection. These program changes/increases are due to merging information collections requirements into a single information collection which resulted in increases by 505 respondents, 505 responses and 381 burden hours.

16. For collections whose results will be published, outline the plans for tabulation and publication.

The data will not be published for statistical use.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

We are requesting continued OMB approval to not display the expiration date for OMB approval of the information collection. This will alleviate the Commission from having to update the OMB expiration date when they publish the Public Notice announcing this requirement. The Commission publishes the OMB control number, title and OMB expiration date in 47 CFR 0.408.

18. Explain each exception to the certification statement

There are no exceptions to the Certification Statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This information collection does not employ any statistical methods.