

## SUPPORTING STATEMENT

### A. Justification:

1. 47 CFR 76.911(a) states that a cable operator, or other interested party, may challenge a franchising authority's certification by filing a petition for reconsideration. The petition may allege either of the following:

(1) The cable operator is not subject to rate regulation because effective competition exists as defined in 47 CFR 76.905.

(2) The franchising authority does not meet the certification standards set forth in 47 U.S.C. 543(a)(3).

47 CFR 76.911(b)(2) states a petitioner filing pursuant to 47 CFR 76.911(a)(2) may request a stay of rate regulation. A filing pursuant to 47 CFR 76.911(a)(1) will automatically stay rate regulation.

On June 3, 2015, the Commission released a Report and Order (Order), MB Docket No. 15-53, FCC 15-62; *In the Matter of Amendment to the Commission's Rules Concerning Effective Competition; Implementation of Section 111 of the STELA Reauthorization Act*. The Order adopted a rebuttable presumption that cable operators are subject to competing provider effective competition. Although Appendix A of the Order did not make any revisions to 47 CFR 76.911, reversing the previous rebuttable presumption of no effective competition and adopting the procedures discussed in the Order resulted in changes to the information collection burdens, as reflected in this supporting statement.

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 4(i) and 623 of the Communications Act of 1934, as amended.

2. **Agency Use of Information:** Commission staff use the information derived from petitions for reconsideration of certification to resolve disputes concerning the presence or absence of effective competition in franchise areas and to determine whether there are grounds for denying franchising authority certifications to regulate rates.

3. **Consideration Given to Information Technology:** We do not believe that the use of information technology is feasible in this situation.

**Title: Section 76.911, Petition for Reconsideration of Certification**

4. **Effort to Identify Duplication and Similar Information:** The agency does not impose similar information collection requirements on the respondents. There are no similar data available.
5. **Effort to Reduce Small Business Burden:** This collection of information does not have a significant impact on a substantial number of small businesses/small entities.
6. **Less Frequent Data Collections:** If the information was not collected, it may not be possible in many instances for a cable operator to demonstrate that its cable system is not subject to effective competition. This could possibly result in rates being regulated in franchise areas subject to effective competition, in contravention of the 1992 Cable Act.
7. **Information Collection Circumstances:** There are no special circumstances associated with this information collection.
8. **Public Comment Period:** The Commission published a 60-day notice in the *Federal Register* (88 FR 45213) on July 14, 2023, seeking comments on the information collection requirements contained in this supporting statement. No comments were received from the public.
9. **Payment of Gift:** There are no gifts or payments given to respondents for complying with this information collection requirement.
10. **Confidentiality of Information:** There is no need for confidentiality with this collection of information.
11. **Justification for Sensitive Questions:** This collection of information does not address any private matters of a sensitive nature.
12. **Estimate of Burden and Burden In-House Cost:** We estimate that cable operators and other entities will annually initiate no more than 5 petitions for reconsideration of certification.<sup>1</sup> We estimate that the average burden to complete all aspects of each petition process is 10 hours for each petitioning party and opposing party, and we estimate that it will take each petitioner an additional 2 hours to complete a reply to each opposition.

We estimate that no more than 5 cable operators may, if evidence establishing effective competition is not otherwise available, need to request from a competitor information regarding the competitor's reach and number of subscribers. The burden associated with supplying this

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<sup>1</sup> While we believe the estimates contained in this supporting statement are over-inclusive, we are retaining them out of an abundance of caution.

information is estimated to be 2 hours per request.

<b>Total Number of Annual Respondents:</b>	5 petitioners 5 responding parties <u>5 competitor operators</u> <b>15 respondents</b>
<b>Total Number of Annual Responses:</b>	5 petitions 5 oppositions to petitions 5 replies to oppositions 5 competitor requests from cable operators <u>5 responses to requests from competitors</u>  <b>25 responses</b>

**Total annual burden hours:**

5 petitions x 2 parties each <sup>2</sup> x 10 hours/party	= 100 hours
5 replies x 2 hours/reply	= 10 hours
5 occurrences x 2 parties each <sup>3</sup> x 2 hours/party	= <u>20 hours</u>
	<b>130 hours</b>

**Total “In-house” Cost:** We estimate that in-house attorneys paid at an average hourly wage of \$100.00 per hour will implement this information collection.

5 petitions x 2 parties each <sup>4</sup> x 10 hours/party x \$100/hour	= \$10,000
5 replies x 2 hours/reply x \$100/hour	= \$ 1,000
5 occurrences x 2 parties each <sup>5</sup> x 2 hours/party x \$100/hour	= <u>\$ 2,000</u>
	<b>\$13,000</b>

These estimates are based on Commission staff’s knowledge and familiarity with the data required.

**13. Annual Cost Burden:**

<sup>2</sup> There is a petitioning party and a responding party.  
<sup>3</sup> There is a party requesting information and a party responding to the request.  
<sup>4</sup> There is a petitioning party and a responding party.  
<sup>5</sup> There is a party requesting information and a party responding to the request.

- (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.** Petitions for reconsideration of certification estimated to be filed under 47 CFR section 76.911: 5 per year. The Commission will use professional staff at the GS-13, step 5 level (\$60.83/hour), management staff at the GS-15, step 5 level (\$84.55/hour) and clerical staff at GS-7, step 5 (\$28.84/hour) to process these certifications.

	Hours	Cost	Cost	Cases	Total
	p/Case	p/Hour	p/Case		Cost
Professional	38 hours	\$60.83	\$2,311.54	5	\$11,557.70
Managerial	1 hour	\$84.55	\$ 84.55	5	\$ 422.75
Clerical	1 hour	\$28.84	\$ 28.84	5	\$ 144.20
<b>Total Cost to the Federal Government:</b>					<b>\$12,124.65</b>

**15. Changes in Burden or Cost:** There are no program changes or adjustments to this information collection.

**16. Plans for Publication:** The data will not be published for statistical use.

**17. Display of OMB Approval Date:** We do not seek approval to not display the expiration date for OMB approval of the information collection.

**18. Exceptions to the Certification Statement:** There are no exceptions to the Certification Statement.

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

No statistical methods are employed.