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6712-01

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email PRA@fcc.gov <<mailto:PRA@fcc.gov>> and to Cathy.Williams@fcc.gov <<mailto:Cathy.Williams@fcc.gov>>.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-0996.

Title: AM Auction Section 307(b) Submissions.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit entities; State, local or Tribal governments.

Number of Respondents and Responses: 210 respondents; 210 responses.

Estimated Time per Response: 0.5 - 6 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for the information collection requirements is contained in Sections 154(i), 307(b) and 309 of the Communications Act of 1934, as amended.

Total Annual Burden: 1,029 hours.

Total Annual Costs: \$2,126,100.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: On January 28, 2010, the Commission adopted a First Report and Order and Further Notice of Proposed Rulemaking (“First R&O”) in MB Docket No. 09-52, FCC 10-24. The First R&O adopted changes to certain procedures associated with the award of broadcast radio construction permits by competitive bidding, including modifications to the manner in which it awards preferences to applicants under the provisions of Section 307(b). In the First R&O, the Commission added a new Section 307(b) priority that would apply only to Native American and Alaska Native Tribes, Tribal consortia, and majority Tribal-owned entities proposing to serve Tribal lands. As adopted in the First R&O, the priority is only available when all of the following conditions are met: (1) The applicant is either a Federally recognized Tribe or Tribal consortium, or an entity that is 51 percent or more owned or controlled by a Tribe or Tribes; (2) at least 50 percent of the area within the proposed station's daytime principal community contour is over that Tribe's Tribal lands, in addition to meeting all other Commission technical standards; (3) the specified community of license is located on Tribal lands; and (4) in

the commercial AM service, the applicant must propose first or second aural reception service or first local commercial Tribal-owned transmission service to the proposed community of license, which must be located on Tribal lands. Applicants claiming Section 307(b) preferences using these factors will submit information to substantiate their claims.

On March 3, 2011, the Commission adopted a Second Report and Order (“Second R&O”), First Order on Reconsideration, and Second Further Notice of Proposed Rule Making in MB Docket No. 09-52, FCC 11-28. The First Order on Reconsideration modified the initially adopted Tribal Priority coverage requirement, by creating an alternate coverage standard under criterion (2), enabling Tribes to qualify for the Tribal Priority even when their Tribal lands are too small or irregularly shaped to comprise 50 percent of a station's signal. In such circumstances, Tribes may claim the priority (i) if the proposed principal community contour encompasses 50 percent or more of that Tribe's Tribal lands, but does not cover more than 50 percent of the Tribal lands of a non-applicant Tribe; (ii) serves at least 2,000 people living on Tribal lands, and (iii) the total population on Tribal lands residing within the station's service contour constitutes at least 50 percent of the total covered population, with provision for waivers as necessary to effectuate the goals of the Tribal Priority. This modification will now enable Tribes with small or irregularly shaped lands to qualify for the Tribal Priority.

The modifications to the Commission's allotment and assignment policies adopted in the Second R&O included a rebuttable “Urbanized Area service presumption” under Priority (3), whereby an application to locate or relocate a station as the first local transmission service at a community located within an Urbanized Area, that would place a daytime principal community signal over

50 percent or more of an Urbanized Area, or that could be modified to provide such coverage, will be presumed to be a proposal to serve the Urbanized Area rather than the proposed community. In the case of an AM station, the determination of whether a proposed facility “could be modified” to cover 50 percent or more of an Urbanized Area will be made based on the applicant's certification in the Section 307(b) showing that there could be no rule-compliant minor modifications to the proposal, based on the antenna configuration or site, and spectrum availability as of the filing date, that could cause the station to place a principal community contour over 50 percent or more of an Urbanized Area. To the extent the applicant wishes to rebut the Urbanized Area service presumption, the Section 307(b) showing must include a compelling showing (a) that the proposed community is truly independent from the Urbanized Area; (b) of the community's specific need for an outlet of local expression separate from the Urbanized Area; and (c) the ability of the proposed station to provide that outlet.

In the case of applicants for new AM stations making a showing under Priority (4), other public interest matters, an applicant that can demonstrate that its proposed station would provide third, fourth, or fifth reception service to at least 25 percent of the population in the proposed primary service area, where the proposed community of license has two or fewer transmission services, may receive a dispositive Section 307(b) preference under Priority (4). An applicant for a new AM station that cannot demonstrate that it would provide the third, fourth, or fifth reception service to the required population at a community with two or fewer transmission services may also, under Priority (4), calculate a “service value index” as set forth in the case of *Greenup, Kentucky and Athens, Ohio*, Report and Order, 2 FCC Rcd 4319 (MMB 1987). If the applicant can demonstrate a 30 percent or greater difference in service value index between its proposal and the next highest ranking proposal, it can receive a dispositive Section 307(b) preference

under Priority (4). Except under these circumstances, dispositive Section 307(b) preferences will not be granted under Priority (4) to applicants for new AM stations. The Commission specifically stated that these modified allotment and assignment procedures will not apply to pending applications for new AM stations and major modifications to AM facilities filed during the 2004 AM Auction 84 filing window.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison,

Office of the Secretary,

Office of Managing Director.

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