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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MB Docket No. 15-53; FCC 15-62]

Concerning Effective Competition; Implementation of Section 111 of the STELA

Reauthorization Act

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection requirements associated with the Commission's Report and Order, MB Docket No. 15-53, FCC 15-62. This document is consistent with the Report and Order, which stated that the Commission would publish a document in the Federal Register announcing OMB approval and the effective date of the requirements.

DATES: The rule amendments and FCC Form 328, published at 80 FR 38001, July 2, 2015 are effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Cathy Williams, Cathy.Williams@fcc.gov, (202) 418-2918.

SUPPLEMENTARY INFORMATION: This document announces that, on August 25, 2015, OMB approved the information collection requirements contained in the Commission's Report and Order, FCC 15-62, published at 80 FR 38001, July 2, 2015. The OMB Control Numbers

3060-0550 and 3060-0560. The Commission publishes this document as an announcement of the effective date of the requirements. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1-C823, 445 12th Street SW, Washington, DC 20554. Please include the OMB Control Numbers, 3060-0550 and 3060-0560 in your correspondence. The Commission will also accept your comments via email at PRA@fcc.gov.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on August 25, 2015, 2015, for the information collection requirements contained under OMB control numbers 3060-0550 and 3060-0560, and FCC Form 328.

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Numbers are 3060-0550 and 3060-0560.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104-13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060-0550.

OMB Approval Date: August 25, 2015.

OMB Expiration Date: August 31, 2018.

Title: Local Franchising Authority Certification, FCC Form 328; Section 76.910, Franchising Authority Certification.

Form No.: FCC Form 328.

Respondents: State, local or tribal governments; Businesses or other for-profit entities.

Number of Respondents and Responses: 7 respondents; 13 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: One-time reporting requirement; Third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in section 3 of the Cable Television Consumer Protection and Competition Act of 1992 (47 U.S.C. 543), as well as sections 4(i), 4(j), and 623 of the Communications Act of 1934, as amended, and section 111 of the STELA Reauthorization Act of 2014.

Total Annual Burden: 26 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

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

Needs and Uses: On June 3, 2015, the Commission released a Report and Order, MB Docket No. 15-53; FCC 15-62. The Report and Order adopted a rebuttable presumption that cable operators are subject to competing provider effective competition.

The information collection requirements consist of:

FCC Form 328. Pursuant to section 76.910, a franchising authority must be certified by the Commission to regulate the basic service tier and associated equipment of a cable system within its jurisdiction. To obtain this certification, the franchising authority must prepare and submit FCC Form 328. The Report and Order revises section 76.910 to require a franchising authority filing Form 328 to submit specific evidence demonstrating its rebuttal of the presumption in section 76.906 that the cable system is subject to competing provider effective competition pursuant to section 76.905(b)(2). The franchising authority bears the burden of submitting evidence rebutting the presumption that competing provider effective competition, as defined in section 76.905(b)(2), exists in the franchise area. Unless a franchising authority has actual knowledge to the contrary, it may rely on the presumption in section 76.906 that the cable system is not subject to one of the other three types of effective competition.

Evidence establishing lack of effective competition. If the evidence establishing the lack of effective competition is not otherwise available, section 76.910(b)(4) provides that franchising authorities may request from a multichannel video programming distributor (“MVPD”) information regarding the MVPD's reach and number of subscribers. An MVPD must respond to such request within 15 days. Such responses may be limited to numerical totals.

Franchising authority's obligations if certified. Section 76.910(e) of the Commission's rules currently provides that, unless the Commission notifies the franchising authority otherwise, the certification will become effective 30 days after the date filed, provided, however, that the franchising authority may not regulate the rates of a cable system unless it: (1) Adopts regulations (i) consistent with the Commission's regulations governing the basic tier and (ii) providing a reasonable opportunity for consideration of the views of interested parties, within

120 days of the effective date of the certification; and (2) notifies the cable operator that the franchising authority has been certified and has adopted the required regulations.

OMB Control Number: 3060-0560.

OMB Approval Date: August 25, 2015.

OMB Expiration Date: August 31, 2018.

Title: Section 76.911, Petition for Reconsideration of Certification.

Form No.: N/A.

Respondents: State, local or tribal governments; Businesses or other for-profit entities.

Number of Respondents and Responses: 15 respondents; 25 responses.

Estimated Time per Response: 2 - 10 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in sections 4(i) and 623 of the Communications Act of 1934, as amended.

Total Annual Burden: 130 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

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

Needs and Uses: On June 3, 2015, the Commission released a Report and Order, MB Docket No. 15-53; FCC 15-62. The Report and Order adopted a rebuttable presumption that cable

operators are subject to competing provider effective competition. Reversing the previous rebuttable presumption of no effective competition and adopting the procedures discussed in the Report and Order will result in changes to the information collection burdens.

The information collection requirements consist of: Petitions for reconsideration of certification, oppositions and replies thereto, cable operator requests to competitors for information regarding the competitor's reach and number of subscribers if evidence establishing effective competition is not otherwise available, and the competitors supplying this information.

Federal Communications Commission.

Gloria J. Miles,
Federal Register Liaison Officer.
Office of the Secretary

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