

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Amendment of Parts 1, 22, 24, 27, 74, 80, 90,)	WT Docket No. 10-112
95, and 101 to Establish Uniform License)	
Renewal, Discontinuance of Operation, and)	
Geographic Partitioning and Spectrum)	
Disaggregation Rules and Policies for Certain)	
Wireless Radio Services)	

Attn: Cathy Williams

**COMMENTS REGARDING PROPOSED INFORMATION COLLECTION:
PROPOSED REVISIONS TO FCC FORM 601**

American Messaging Services, LLC (“American Messaging”) hereby responds to the Commission’s request for comments regarding proposed changes to FCC Form 601 pursuant to the Paperwork Reduction Act of 1995.¹ Specifically, the Commission seeks comments on proposed revisions to the Form needed to implement rule changes adopted in the Commission’s 2017 Wireless Radio Services (“WRS”) Reform Second Report and Order.² As set forth below, the proposed information collection grossly understates the burden of preparing a Form 601 license renewal application. Moreover, a less burdensome alternative certification requirement would satisfy the Commission’s needs. American Messaging raised these same issues in its

¹ Information Collections Being Reviewed by the Federal Communications Commission, 85 Fed. Reg. 6948 (Feb. 6, 2020) (“FR Notice”). OMB Control No. 3060-0798.

² See *Amendment of Parts 1, 22, 24, 27, 74, 80, 90, 95, and 101 To Establish Uniform License Renewal, Discontinuance of Operation, and Geographic Partitioning and Spectrum Disaggregation Rules and Policies for Certain Wireless Radio Services*, Second Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 8874 (2017) (“*WRS Second Report & Order*”).

October 2, 2017 Petition for Reconsideration or Clarification, but that pleading remains pending.³

American Messaging therefore respectfully submits that the Commission should withhold further action on the proposed information collection until such time as it is able to provide a more accurate estimate of the burden associated with the revised form, or until it takes action on the pending petitions for reconsideration in this proceeding and adopts simpler safe harbor certification requirements. Until these issues are addressed, the proposed information collection is defective and premature.

I. THE NOTICE GROSSLY UNDERSTATES THE BURDEN OF THE PROPOSED INFORMATION COLLECTION ON LICENSE RENEWAL APPLICANTS

The Commission concludes that the proposed information collection requirement will not increase the overall burden on license renewal applicants.⁴ This conclusion simply does not withstand scrutiny. By definition, a new burden added to an existing burden will result in an increased burden. As such, the Commission's burden estimate, which essentially provides no estimate at all, does not adequately quantify the new information collection burdens imposed by proposed changes to the Form 601.

The *WRS Second Report & Order* adopted a new license renewal standard in which a licensee seeking renewal at the end of an initial license term “must demonstrate that it timely constructed to any level(s) required by the service-specific rules and, thereafter, consistent with our permanent discontinuance rules, continuously provided service or operated at or above the

³ Petition of American Messaging Services, LLC for Partial Reconsideration or Clarification, WT Docket No. 10-112 (Oct. 2, 2017) (“American Messaging Petition”).

⁴ FR Notice, 85 Fed. Reg. at 6950; OMB Control Number: 3060-0800.

required level(s) for the remainder of the license term. For subsequent renewals, the licensee must demonstrate that, over the license term at issue, it continuously provided service to the public or operated under the license to meet the licensee’s private, internal communications needs, at or above the level required to meet the final construction requirement during the initial term of the license. In all events, the licensee also must certify that its service or operations are continuing.”⁵ The Commission acknowledged that its new license renewal standard would “likely” impose additional costs and burdens on licensees. In particular, though the Commission noted that the new requirement is consistent with those adopted in more recently licensed wireless services, the same could not be said of earlier licensed services.⁶

Specifically, in order to comply with this new requirement, renewal applicants must either: 1) make certain certifications necessary to satisfy the requirements for a license renewal safe harbor, or 2) submit a detailed license renewal showing documenting how the license has been used during the prior license term.⁷ Either option imposes significant new burdens on licensees. For example, in order to claim a license renewal safe harbor, a geographic area licensee must, among other things, certify that it has maintained at least the same level of coverage necessary to satisfy its previous performance requirement, and that it has not dipped below that level of coverage for 180 days or more. A licensee cannot simply make this certification without conducting any due diligence – for example, periodically performing Commission-compliant coverage analyses, which are laborious, complex and expensive.

⁵ *WRS Second Report & Order*, 32 FCC Rcd 8877-78 ¶ 10.

⁶ *Id.* at 8878 ¶ 11.

⁷ *Id.* at 8881 ¶ 16.

Consequently, the Commission's conclusion that no new burdens cannot be accurate because it does not reflect consideration of these additional obligations.

In addition, a licensee that cannot make the certifications necessary to claim a license renewal safe harbor must instead file a detailed license renewal showing demonstrating:

- the level and quality of service/operation provided by the applicant (e.g., for service—the population served, the area served, the number of subscribers, the services offered; for operation—the number of users (if applicable), the operating area, the type of operation);
- the date service commenced, whether it was ever interrupted, and the duration of any interruption or outage;
- the extent to which service is provided to rural areas;
- the extent to which service is provided to qualifying tribal land; and
- any other factors associated with the level of service to the public.⁸

Each of these mandating showings require the licensee to research and compile data, analyze and make determinations about the nature and quality of service being provided, and prepare, provide, and defend a written summary of these factors to the Commission. Here too, the Commission acknowledged the additional burdens this would impose on licensees:

Many commenters object to the adoption of this renewal showing for all WRS licensees. These commenters argue that the proposed renewal showing is complex and would impose substantial costs and burdens on licensees. ...[] ... We acknowledge commenters' many concerns regarding a general requirement that all WRS licensees submit detailed renewal showings and have concluded that, in many cases, streamlined applications containing the required certifications for safe harbor treatment will be sufficient to ensure that we renew licenses in the public interest, consistent with the Act. ... [] ... Rather, only licensees that cannot satisfy

⁸ *Id.* at 8888 ¶ 31.

one of the enumerated safe harbors will be required to file a detailed renewal showing. To fulfill our statutory mandate to ensure efficient spectrum use consistent with the public interest, where a licensee does not satisfy one of our streamlined processes, we must undertake a closer examination of a licensee's record of service or operation over its license term. Consistent with the Commission's conclusions in the AWS-4, H Block, AWS-3, and 600 MHz proceedings, we find that the renewal showing we adopt today, applied in the limited circumstances described herein, is in the public interest and its benefits outweigh any likely costs.⁹

Yet, the Commission's conclusion that no new burdens will result from the proposed information collection does not reflect the substantial additional information gathering and reporting that is required, or the additional costs its new requirements impose.

The Commission should thus take no further action on the proposed changes to Form 601 without a better assessment of the increased burdens involved.

II. A LESS BURDENSOME ALTERNATIVE INFORMATION COLLECTION WOULD SERVE THE COMMISSION'S NEEDS

American Messaging proposed a much simpler safe harbor certification requirement in its October 2, 2017 Petition.¹⁰ American Messaging explained that the changes adopted in the *WRS Second Report and Order* would impose burdensome new recordkeeping and information collection requirements, particularly in the case of messaging licensees that typically hold a large and complex mix of site-based and geographic area licenses due to the unique history of the paging industry.¹¹ In light of that, American Messaging proposed that licensees, particularly messaging licensees, should be allowed to claim a license renewal safe harbor where they are able to certify that they: 1) satisfied all applicable initial and final performance requirements, (2)

⁹ *Id.* at 8887-88 ¶ 30 (citation omitted).

¹⁰ American Messaging Petition at 7.

¹¹ *Id.* at 3-5.

provided coverage and service in their license area during the license term, and 3) did not permanently discontinue service at any time during the license term. This simpler certification requirement is consistent with the Commission's new license renewal standard, does not impose burdensome new requirements or information collection requirements on licensees, and would provide the Commission with assurances that licensee used its spectrum during the license term. The Commission should act on this and other pending petitions for reconsideration in this proceeding and resolve these issues before adopting new information collection requirements.

III. CONCLUSION

For the above reasons, the Commission should withhold further action on the proposed information collection until such time as it is able to provide a more accurate estimate of the burden, or until it acts on the pending petitions for reconsideration. Until these issues are addressed, the proposed information collection is defective and premature.

Respectfully submitted,

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