

**Before the  
OFFICE OF MANAGEMENT AND BUDGET  
725 17<sup>th</sup> Street, NW  
Washington, DC 20503**

In the Matter of	)	
	)	
FCC Application for Radio Service	)	OMB Control Number: 3060-0798;
Authorization; Wireless Telecommunications	)	IRC Reference Number: 202004-
Bureau; Public Safety and Homeland Security	)	3060-026
Bureau	)	

**JOINT COMMENTS**

American Messaging Services, LLC (“American Messaging”),<sup>1</sup> and Sensus USA Inc. and its wholly-owned subsidiary, Sensus Spectrum LLC<sup>2</sup> (collectively “Sensus,” and together with American Messaging, the “Parties”), hereby submit the following Joint Comments to the Office of Management and Budget (“OMB”) in response to the new information collection proposed by the Federal Communications Commission (“Commission” or “FCC”) referenced above.<sup>3</sup> The purpose of the proposed new information collection is to modify FCC Form 601 in order to implement the Commission’s new wireless license renewal standard adopted in the FCC’s 2017 Wireless Radio Services Second Report and Order.<sup>4</sup> Specifically, the FCC seeks to require FCC Form 601 wireless license renewal applicants either to make expansive new certifications or to

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<sup>1</sup> AMS Spectrum is among the largest and most experienced wireless messaging carriers in the United States.

<sup>2</sup> Sensus USA Inc. and Sensus Spectrum LLC are wholly-owned subsidiaries of Xylem Inc., a leading global water technology company.

<sup>3</sup> Information Collections Being Submitted for Review and Approval to Office of Management and Budget by the Federal Communications Commission, 85 Fed. Reg. 21432 (April 17, 2020) (“FR Notice”).

<sup>4</sup> *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 R&O*”). American Messaging and Sensus each filed petitions for reconsideration of the *WRS Second R&O* which remain pending before the FCC.

provide extensive additional information, both of which impose significant new burdens on licensees. The Parties object to this new information collection because it: (i) grossly understates the additional burden that it will impose on licensees and (ii) fails to consider a less burdensome alternative sufficient for the Commission's purposes. Therefore, the Parties respectfully request that OMB withhold action on the FCC's proposed information collection until such time as FCC: (i) provides a more meaningful assessment of the new burdens it seeks to impose on licensees, and (ii) addresses the less burdensome alternatives raised in this proceeding.

**I. THE PROPOSED NEW FORM 601 INFORMATION COLLECTION IS SIGNIFICANT AND THE COMMISSION'S BURDEN ESTIMATE IS INACCURATE AND INADEQUATE**

The FCC's submission to OMB seeks comment on the accuracy of its burden estimate for the proposed new information collection.<sup>5</sup> In the FCC's Supporting Statement accompanying its submission to OMB, the FCC reiterates its view that its new information collection requirements will not "have any impact on the burden to complete the FCC Form 601."<sup>6</sup> The FCC's Supporting Statement asserts that the license renewal process remains virtually unchanged for site-based licenses, and that licensees in several market-based radio services already are subject to similar license renewal requirements. In sum, the Supporting Statement implies that the burden associated with the proposed new information collection is essentially negligible.<sup>7</sup> This assessment is simply not accurate. Under the FCC's new renewal standard, a licensee must either make expansive certifications necessary to claim a license renewal safe harbor or file a

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<sup>5</sup> FR Notice at 85 Fed. Reg. 21432.

<sup>6</sup> FCC Supporting Statement to OMB at 2.

<sup>7</sup> *Id.*

detailed license renewal showing – both of which impose significant new burdens that the FCC fails to quantify in any meaningful way.

For example, a site-based licensee seeking to claim a license renewal safe harbor will be required to certify under penalty of perjury: (i) that it is “continuing to operate consistent with its most recently filed construction notification (or most recent authorization, when no construction notification is required . . . ,” (ii) that “no permanent discontinuance of service occurred during the license term”, and (iii) that it “substantially complied with all applicable FCC rules, policies, and the Communications Act of 1934, as amended.”<sup>8</sup> In order to make this certification, a licensee will need to perform some degree of due diligence including, potentially, reviewing internal records, interviewing employees, and making informed judgement calls (often necessitating the advice of legal counsel) about the applicability of the proposed certifications to unique situations and circumstances. This is a brand-new requirement that will impose a new burden on every site-based license renewal application – literally hundreds of thousands of applications (some having dozens of individual site locations per license) over the next decade – yet the FCC does not attempt to quantify the extent of this new burden which cannot fairly be described as negligible.

The Supporting Statement also does not provide an accurate assessment regarding the added burden that will be imposed on market-based licenses. As indicated above, the Supporting Statement notes that licensees in some market-based radio services (*i.e.*, 700 MHz Commercial Services and the 600 MHz, H-Block, AWS-3, AWS-4 and 218-219 MHz Radio Services)<sup>9</sup> already are subject to enhanced renewal requirements, implying that the new information

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<sup>8</sup> 47 C.F.R. §§ 1.949(e)(1), (g).

<sup>9</sup> FCC Supporting Statement to OMB at 2.

collection requirement does not amount to a significant change. This also is not accurate. As of May 11, 2020, the Commission's license records indicate that there are currently 47,496 active licenses in 37 distinct market-based FCC radio services. Of these, only 6,878 are in the services cited by the Commission as already being subject to similar license renewal requirements. This means that for 40,618 licenses – approximately 83.1% of all market-based licenses – the expansive new certifications required by the proposed new information collection will be an entirely new requirement.<sup>10</sup>

In addition to making the no permanent discontinuance and substantial compliance certifications described above, market-based licensees seeking to claim a license renewal safe harbor also will be required to perform coverage analyses to confirm that they have maintained a minimum level of coverage and service during their license term. Preparation of these analyses is a laborious process in which licensees are required to plot the location of each transmitter, and then tabulate the area and/or population that receives service from each such transmitter, all on a license-by-license basis, with the systems associated with these licenses sometimes including hundreds of individual transmitting locations. These are not *pro forma* analyses, but instead require a significant understanding of RF engineering, geographic information system data and software. For many licensees, a new coverage analysis will be required whenever a transmitter is relocated or decommissioned, new equipment is installed, or other changes are made to network operations that might change the level of coverage being provided. This new burden on market-based licensees cannot fairly be described or considered negligible, yet the FCC does not

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<sup>10</sup> Based on an analysis of license data downloaded from the FCC's Universal Licensing System on May 11, 2020.

attempt to quantify the additional burdens this requirement will impose on 40,618 market-based licenses for the first time.

Licensees unable to make the necessary safe harbor certifications must instead submit a renewal showing which imposes even more laborious requirements. Specifically, the licensee must prepare a license-specific showing detailing how the license has been used during the prior license term, including: the level and quality of the service provided; the date service commenced, whether service was ever interrupted and, if so, the duration of the 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 being provided. Moreover, since these license renewal showings will be evaluated on a case-by-case basis with no standard for review, there is no discernable limit and thus no minimum (or maximum) amount of time that will be needed to prepare an acceptable license renewal showing. Again, however, the Commission is of the view that its new license renewal requirements will not have any impact on the burden needed to complete the Form 601. This assessment is inaccurate.

In light of the foregoing, until such time as the FCC is able to meaningfully quantify the scope of additional new burdens the proposed information collection will impose on licensees, the Parties respectfully submit that the OMB should withhold its approval.

## **II. A LESS BURDENSOME CERTIFICATION REQUIREMENT WOULD SATISFY THE COMMISSION'S OBJECTIVES**

The Parties each proposed a less burdensome certification requirement in their respective petitions for reconsideration of the FCC's WRS Second R&O, which are awaiting FCC action, as well as in their respective comments to the FCC regarding its proposed revisions

to FCC Form 601.<sup>11</sup> The FCC’s Supporting Statement in this proceeding asserts these issues are more appropriately addressed as part of the FCC’s rulemaking proceeding, and not as part of the information collection review process.<sup>12</sup> The Parties respectfully disagree. As part of its obligations under the Paperwork Reduction Act of 1995, the FCC invited parties to submit comments concerning “ways to minimize the burden” of the proposed information collection, and “whether the proposed collection of information is necessary for the proper performance of the functions of the Commission.”<sup>13</sup> The Parties therefore submit that consideration of a less burdensome information collection requirement that satisfies the Commission’s needs is directly germane to the OMB’s review of the proposed information collection.

The Parties therefore reiterate that the Commission should more simply require renewal applicants to certify that they have: (1) satisfied all applicable initial and final performance requirements, (2) provided coverage and service in their license area during the license term, and (3) not permanently discontinued service at any time during the license term. This simpler certification requirement, moreover, is consistent with the Commission’s new license renewal standard, which simply provides that:

To qualify for renewal, each WRS licensee must demonstrate that over the course of its license term, the licensee either: (1) provided and continues to provide service to the public, taking into account the periods of time the applicable service-specific rules give licensees to construct facilities and meet performance benchmarks, or (2) operated and continues to operate over the course of the license term to address the licensee’s private, internal communications needs, again taking into account the periods of time the

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<sup>11</sup> American Messaging Services, LLC, Petition for Reconsideration, FCC 17-105 (Oct. 2, 2017); Sensus USA Inc. and Sensus Spectrum LLC, Petition for Reconsideration, FCC 17-105 (Oct. 2, 2017); American Messaging Services, LLC, Comments on Proposed Information Collection: Proposed Revisions to FCC Form 601 (April 6, 2020); Sensus USA Inc. and Sensus Spectrum LLC, Comments (April 6, 2020). Copies of the Petitions are available in the FCC’s Electronic Comment Filing System (ECFS”), <http://www.fcc.gov/ecfs/> (WT Docket No. 10-112). Copies of the Comments are appended to the FCC’s OMB submission in this proceeding.

<sup>12</sup> FCC Supporting Statement to OMB at 4.

<sup>13</sup> FR Notice at 85 Fed. Reg. 6948, 6949 (Feb. 6, 2020).

applicable service-specific rules give licensees to construct facilities and meet performance benchmarks.<sup>14</sup>

This simpler certification, moreover, does not needlessly impose burdensome new recordkeeping requirements on licensees, and also provides the Commission with assurances that a license is being used to provide service.

Put differently, the proposed new information collection is excessive, and is not necessary to implement the Commission's new license renewal standard which can be achieved with a simpler, less burdensome alternative. In this regard, the OMB should direct the FCC to explain why this much simpler certification requirement is inadequate, and why the more expansive, open-ended and burdensome information collection it proposes is necessary for the FCC to ensure compliance with its new license renewal standard.

### **III. CONCLUSION**

For the above reasons, the Parties respectfully submit that OMB should not approve the proposed revisions to FCC Form 601 until such time as the FCC meaningfully quantifies the additional new burdens these revisions put on licensees, and addresses whether a simpler, less burdensome certification requirement would be sufficient to ensure compliance with the new license renewal standard. To aid in this undertaking, the Parties encourage the FCC to take action on their pending petitions for reconsideration of the new license renewal rules. In any event, the OMB should not take further action on the FCC's submission until the FCC addresses the patent deficiencies of its proposed information collection.

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<sup>14</sup> *WRS Second R&O*, 32 FCC Rcd 8874, at 8877.

Respectfully submitted,

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