

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418-0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-0095.

Title: Annual Employment Report—Cable Television.

Form Number: FCC 395-A.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 2,564.

Estimated Time per Response: 1.83 hours (avg.).

Frequency of Response: Annually.

Total annual burden: 4,683 hours.

Total annual costs: None.

Needs and Uses: The Annual Employment Report (FCC Form 395-A) is a data collection device used to assess and enforce the Commission's EEO requirements. The report identifies employees by gender, race, color, and/or national origin in nine major job categories. Every cable entity with 6 or more full-time employees and all Satellite Master Antenna Television Systems serving 50 or more subscribers and having 6 or more full-time employees must file annually a full FCC Form 395-A. However, cable entities with 5 or fewer full-time employees must only file Sections I, II, and IX of the FCC Form 395-A, and thereafter, need not file again unless its employment increases. In addition, cable entities with 6 or more full-time employees will file a Supplemental Investigation Sheet once every 5 years. The data are used by FCC staff to monitor a cable unit's efforts to afford equal employment opportunity in employment. The data are also used to assess industry trends.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99-16595 Filed 6-29-99; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[FCC 99-123]

Canyon Area Residents for the Environment

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document denies an Application for Review of a letter ruling of October 9, 1998, by Dale Hatfield,

Chief of the Office of Engineering and Technology, which denied the request of Canyon Area Residents for the Environment (CARE) for a blanket prohibition on the siting of communications facilities on Lookout Mountain near Denver, Colorado, and denied CARE's proposal that the Commission adopt stricter limits on public exposure to radiofrequency (RF) radiation.

DATES: Effective June 30, 1999.

FOR FURTHER INFORMATION CONTACT:

Robert Cleveland, Office of Engineering and Technology, (202) 418-2422.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order*, FCC 99-123, adopted May 27, 1999, and released May 27, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (TW-A306), 445 12th Street, SW, Washington, DC, and also may be purchased from the Commission's duplication contractor, International Transcription Services, (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, DC 20036.

Summary of the Memorandum Opinion and Order

1. The Commission has before it an Application for Review and related pleadings filed by the Canyon Area Residents for the Environment (CARE) dated November 5, 1998, seeking review of a letter ruling of October 9, 1998, by Dale Hatfield, Chief of the Office of Engineering and Technology (OET Letter), which denied CARE's request for a blanket prohibition on the siting of communications facilities on Lookout Mountain near Denver, Colorado, and denied CARE's proposal that the Commission adopt stricter limits on public exposure to radiofrequency (RF) radiation. CARE's Application for Review was opposed by the Lake Cedar Group (LCG). We deny the Application for Review.

Procedural Issues

2. As an initial matter, we note that CARE's Application for Review and its supplementary filings raise a number of issues that were not before the staff when it considered CARE's earlier filings in the OET Letter. CARE raises for the first time the questions of historical preservation, endangered species, and blanketing interference. Section 1.115(c) of the Commission's Rules states that: "[N]o application for review will be granted if its relies on questions of fact or law upon which the designated authority has been afforded

no opportunity to pass. 47 CFR 1.115(c). In this case, CARE has not adequately explained why it was unable to raise these matters in a more timely fashion. We cannot allow a party to "sit back and hope that a decision will be in its favor and, when it isn't, to parry with an offer of more evidence. No judging process in any branch of government could operate efficiently or accurately if such a procedure were allowed." *Colorado Radio Corp. v. FCC*, 118 F. 2d 24, 26 (D.C. Cir. 1941). Therefore, we are not obligated to consider the new matters raised in CARE's filings. However, we have examined the new matters raised by CARE, and we find that CARE has failed to present any relevant evidence or law demonstrating that we should not have granted the DTV applications.

3. CARE also requests that the Commission seek public comment on its Application for Review. It is not the Commission's practice to solicit additional public comment on rulemaking proceedings that have been concluded and license applications that have been granted, and our rules do not require us to do so. CARE provides no reasons why additional public comment would be beneficial. Since there appears to be little or no benefit to be achieved by seeking additional public comment on the matters raised by CARE, and the present record is adequate for the Commission to decide the matter, CARE's request that we allow public comment on the Application for Review is denied.

Arguments Concerning RF Radiation

4. The results of the Commission studies of the Lookout Mountain have been described in separate reports, dated November 12, 1998, and January 4, 1999, respectively. Non-complying areas were identified as a result of these studies, and recommendations were made for corrective actions to ensure that the Lookout Mountain site was brought into compliance with Commission exposure limits. CARE's claim that it has supplied the information necessary to trigger an Environmental Assessment (EA) of the site, as specified in the Commission's Rules [47 CFR 1.1307(c)], is now moot since the extensive Commission studies and follow-up activities obviate the need for the preparation of an EA.

5. CARE claims that the Commission has violated the National Environmental Policy Act (NEPA) of 1969 (Sections 5 and 6) and that the Commission's guidelines are not sufficiently protective of human health. The Commission adopted new RF exposure guidelines (ET Docket 93-62) following a one-year period for public comment with

hundreds of pages of comments being filed with the Commission from industry, trade associations, citizens and expert federal health and safety agencies. See *Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation*, 11 FCC Rcd 15123 (1997), 61 FR 41006, August 7, 1996. CARE's collateral attack on the Commission's RF exposure guidelines is not timely and is dismissed.

6. CARE states that the Commission violated its rules implementing NEPA by not requiring a draft EIS and final EIS for licensees on Lookout Mountain. Under the Commission's rules, however, EIS's are only prepared after the Commission reviews the Environmental Assessment (EA) and determines that the proposal "will have a significant effect upon the environment," and such effect cannot be resolved by corrective action. See 47 CFR 1.1308, 1.1314-1.1319. In the present situation corrective actions have already been taken to bring the site into compliance prior to even the preparation of an EA. Therefore, there is no longer an environmental issue with respect to potential violation of Commission RF exposure guidelines requiring the preparation of either an EA or EIS.

7. CARE's allegations that alternative sites should be considered as part of an environmental evaluation are untimely, and, in any case, would only be relevant if a determination had been made that a significant environmental effect, such as RF exposure, currently exists at the site. Therefore, there is no need to consider alternative sites because of a potential RF exposure problem. Furthermore, the Commission is not inclined to become involved in application site selection, or local zoning issues as long as federal requirements are met.

8. We find no merit to CARE's claim that area residents' fear of RF radiation and concern over property values are environmental factors that should be considered by the Commission. This claim is untimely.

9. CARE's claim that Lookout Mountain broadcasters should "show cause" (Section 10), under § 312(b) of the Communications Act, as to, "why they should not cease and desist from violating § 1.1310 of the Commission's rules," is, again, a moot point. Since the compliance problems have been remedied by radio licensees, there is no longer a violation, and such an action is unnecessary.

10. CARE's claim that the Commission's actions, "violate the personal, property and constitutional rights of these residents," is untimely, and, in any case, without merit. This

claim is based on an allegation that the Commission had failed ("without due process of law") to consider "current relevant and credible scientific evidence" in making its decisions with respect to RF guideline implementation and protection of human health.

11. CARE's claim that the Commission did not follow recommendations of federal health and safety agencies in adopting its new RF exposure guidelines is an improper collateral attack on the Commission's rules and is wholly without merit. On the contrary, letters of support for the Commission's guidelines have been received from senior officials of the U.S. Environmental Protection Agency (EPA), the U.S. Food and Drug Administration (FDA), the National Institute for Occupational Safety and Health (NIOSH) and the Occupational Safety and Health Administration (OSHA). These letters are included in the record of ET Docket 93-62 and were extensively relied upon. EPA has also sent a recent letter to the FCC addressing the situation at Lookout Mountain and reaffirming its support for the Commission's RF guidelines. In addition, the Commission continues to cooperate with these other federal agencies and coordinate activities of mutual interest through an on-going radiofrequency inter-agency working group, chaired by the EPA.

12. CARE again claims that the Commission has not considered scientific information on biological effects in developing its guidelines. The Commission conducted the extensive proceeding in ET Docket 93-62, reviewed comments from the public, industry, expert organizations and federal health and safety agencies to determine which scientifically-based guidelines to adopt for use in evaluating human exposure, and, in fact, considered relevant scientific information on biological effects in adopting its guidelines. It is important to point out that biological "effects" are not the same as biological "hazards." The exposure criteria recommended by both the National Council on Radiation Protection and Measurements (NCRP) and the Institute of Electrical and Electronics Engineers (IEEE), upon which the Commission's guidelines are based, are themselves based on thresholds for known biological effects that are potentially *hazardous*. These existing RF standards and guidelines are designed to protect the public from scientifically established levels for potentially harmful effects linked to exposure to RF fields. In any event, as stated previously, CARE's collateral

attack on the Commission's RF guidelines is untimely.

13. CARE claims that the Commission places an unfair burden on citizens for monitoring compliance and cites the situation at Lookout Mountain where Mr. Hislop and Dr. Larson performed their own measurement surveys, the results of which contradicted some of the earlier measurement data obtained there by consultants for LCG. This isolated incident, in which Mr. Hislop and Dr. Larson discovered previously undetected areas of non-compliance, does not prove that it is Commission policy to expect citizens to routinely undertake such tasks. In this case, it is our belief that the under-reporting of field levels at certain locations was unintentional on the part of the broadcast licensees and applicants. In a sworn affidavit, Mr. Robert Weller, of Hammett and Edison, Inc., the engineering consulting firm that advised LCG, has described the problems he experienced with certain instrumentation used for his measurements.

14. If there is evidence of willful misrepresentation by a licensee or applicant to the Commission with respect to RF compliance certification or some other issue, the Commission has the authority to levy forfeitures and/or take other punitive actions including license revocation. We see no basis to conclude that this occurred with respect to the Lookout Mountain site. Those areas which were recently found to be out of compliance with respect to the new exposure guidelines (implemented in October of 1997) were in compliance with the previous guidelines in effect at the time the stations were last required to certify compliance. Furthermore, the measurement problems experienced and sworn to by Mr. Weller do not, without more evidence, support a conclusion that the Lake Cedar Group or other broadcasters intentionally misled the Commission with respect to RF exposure.

15. Finally, CARE alleges that computer modeling alone is not sufficient to guarantee compliance. We fully agree that at complex antenna sites such as Lookout Mountain computer modeling alone may not be sufficient to evaluate compliance. In fact, this is the reason that the Commission has required that actual measurements be made at the site, and that is why the staff twice conducted its own measurement studies. Also, as a condition of the grant of the LCG application, future measurements must be taken to ensure compliance once the new broadcast tower is constructed and operational. In addition, Jefferson

County is considering its own monitoring requirements for the area, and we understand and expect that a site coordination committee is being established by the licensees located at Lookout Mountain. Therefore, the implication that the Commission has based, or will base, decisions on "computer modeling alone" is factually inaccurate.

Other New Matters

16. In its Application for Review and supplemental filings, CARE raised additional objections to the LCG tower with respect to blanketing interference, facilities sited within an officially-designated wildlife preserve, siting of a facility listed in the National Register of Historic Places, and claims of effects on an endangered species. CARE's objections are untimely, and, in any case, are without merit. While we are not obligated to do so under § 1.115(c) of the Rules, each of these matters were considered in the Memorandum Opinion and Order.

17. It is our belief that CARE has provided no new evidence that would warrant any further environmental analysis of the Lookout Mountain site with respect to either compliance with the Commission's RF exposure guidelines or electromagnetic interference or a reconsideration of the conclusions expressed in the OET Letter. Furthermore, the new matters raised by CARE do not demonstrate that the OET Letter was in error as a matter of fact or law. Therefore, we deny CARE's Application for Review.

18. Accordingly, it is ordered, that pursuant to the authority of Sections 4(i) and (j) and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j) and 403, and of the Commission's Rules, 47 CFR 1.115, the Application for Review filed by Canyon Area Residents for the Environment is denied and the letter ruling of October 9, 1998, by the Chief of the Office of Engineering Technology is affirmed.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99-16562 Filed 6-29-99; 8:45 am]

BILLING CODE 6712-01-P

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995, the Federal Housing Finance Board (Finance Board) hereby gives notice that it is seeking public comments concerning a three-year extension by the Office of Management and Budget (OMB) of the previously approved information collection entitled "Community Support Requirements."

DATES: Interested persons may submit comments on or before August 30, 1999.

ADDRESSES: Address comments and requests for copies of the information collection to Elaine L. Baker, Secretary to the Board, by telephone at 202/408-2837, by electronic mail at bakere@fhfb.gov, or by regular mail at the Federal Housing Finance Board, 1777 F Street, NW, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT:

Amy Maxwell, Program Analyst, Program Assistance Division, Office of Policy, Research and Analysis, by telephone at 202/408-2882, by electronic mail at maxwella@fhfb.gov, or by regular mail at the Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

A. Need for and Use of the Information Collection

Section 10(g)(1) of the Federal Home Loan Bank Act (Bank Act) requires the Federal Housing Finance Board (Finance Board) to promulgate regulations establishing standards of community investment or service that Federal Home Loan Bank (FHLBank) members must meet in order to maintain access to long-term advances. See 12 U.S.C. 1430(g)(1). In establishing these community support requirements for FHLBank members, the Finance Board must take into account factors such as the FHLBank member's performance under the Community Reinvestment Act of 1977 (CRA), 12 U.S.C. 2901, *et seq.*, and record of lending to first-time homebuyers. 12 U.S.C. 1430(g)(2). Part 936 of the Federal Housing Finance Board's (Finance Board) regulations implements section 10(g) of the Bank Act. See 12 CFR part 936. The rule provides uniform community support standards all FHLBank members must meet and review criteria Finance Board staff must apply to determine compliance with section 10(g). More specifically, section 936.2 of the rule implements the statutory community support requirement. 12 CFR 936.2. Section

936.3 establishes community support standards for the two statutory factors—CRA and first-time homebuyer performance—and provides guidance to a respondent on how it may satisfy the standards. 12 CFR 936.3. Sections 936.4 and 936.5 establish the procedures and criteria the Finance Board uses in determining whether FHLBank members satisfy the statutory and regulatory community support requirements. 12 CFR 936.4 and 936.5.

The information collection contained in Form 96-01, the Community Support Statement Form, and sections 936.2 through 936.5 of the rule is necessary to enable and is used by the Finance Board to determine whether FHLBank members satisfy the statutory and regulatory community support requirements. Only FHLBank members that meet these requirements may maintain continued access to long-term FHLBank advances. See 12 U.S.C. 1430(g).

The OMB number for the information collection is 3069-003. The OMB clearance for the information collection expires on December 31, 1999.

The likely respondents are institutions that are members of a FHLBank.

B. Burden Estimate

The Finance Board estimates the total annual average number of respondents at 3002, with one response per respondent. The estimate for the average hours per response is one hour. The estimate for the total annual hour burden is 3002 hours (3002 respondents x 1 response per respondent x approximately 1.0 hours).

C. Comment Request

The Finance Board requests written comments on the following: (1) whether the collection of information is necessary for the proper performance of Finance Board functions, including whether the information has practical utility; (2) the accuracy of the Finance Board's estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

By the Federal Housing Finance Board.

Dated: June 24, 1999.

William W. Ginsberg,
Managing Director.

[FR Doc. 99-16689 Filed 6-29-99; 8:45 am]

BILLING CODE 6725-01-P

FEDERAL HOUSING FINANCE BOARD

[No. 99-N-7]

Proposed Collection; Comment Request

AGENCY: Federal Housing Finance Board.