

## SUPPORTING STATEMENT

### A. Justification:

1. The Broadcast Mid-Term Report (FCC Form 397) is required to be filed by each broadcast television station that is part of an employment unit with five or more full-time employees and each broadcast radio station that is part of an employment unit with more than ten full-time employees. It is a data collection device used to assess broadcast compliance with EEO outreach requirements in the middle of license terms that are eight years in duration.

### History:

On November 7, 2002, the Commission adopted a Second Report and Order and Third NPRM (Second R&O), MM Docket No. 98-204, FCC 02-303, 68 FR 670 (2003), establishing new EEO rules and forms to comply with the court's decision in *MD/DC/DE Broadcasters Association v. FCC*. The new rules revised FCC Form 397. The new EEO rules also ensure equal employment opportunity in the broadcast and Multi-Channel Video Program Distribution (MVPD) industries through outreach to the community in recruitment and prevention of employment discrimination.

The revised FCC Form 397 adopted by the Second Report and Order is entitled "Broadcast Mid-Term Report." Thus, unlike the earlier version, it is only filed once at the mid-point of the eight-year license terms of certain television and radio licensees. As noted, the report must be filed only by broadcast television stations that are part of an employment unit with five or more full-time employees and broadcast radio stations that are part of an employment unit with more than ten full-time employees. Pursuant to the prior version of the form, licensees were required to certify whether they have complied with the Commission's EEO rules during the period prior to the date of the Statement. This certification requirement has been deleted. The only substantive information required by the revised FCC Form 397 is that television station and radio station employment units subject to mid-term review attach copies of EEO reports that are required to be placed in the stations' local public file for the last two years.

The Commission is requesting an extension of this information collection in order to receive the full three year approval/clearance from OMB.

As noted on the OMB Form 83-I, this information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

The statutory authority for this requirement is in accordance with Sections 154(i) and 303 of the Communications Act.

2. This report will be used by FCC staff and interested parties to monitor a broadcaster's compliance with the Commission's EEO requirements at the midpoint of the license term.

3. The next filing of this FCC Form 397 is June 2007. This form will be filed electronically.

4. No other agency imposes a similar information collection on the respondents. There are no similar data available.
5. This program considers the needs of small stations by applying the filing requirement only to television stations that are part of an employment unit with five or more full-time employees and radio stations that are part of an employment unit with more than ten full-time employees. Therefore, this information collection will not have a significant economic impact on a substantial number of small entities/businesses.
6. The frequency for this collection of information is once every eight years, at the midpoint of the license term. Requiring the filing of the FCC Form 397 at the midpoint of the license term will encourage licensees to evaluate their EEO efforts on an ongoing basis instead of only at renewal time.
7. This collection of information requires that records be retained for one license term. Pursuant to 47 CFR Section 73.2080 this retention period is necessary to provide the FCC and the public with information to evaluate the station's EEO program compliance during its entire license term.
8. The Commission published a Notice (71 FR 37074) in the Federal Register on June 29, 2006. No comments were generated as a result of the Notice. A copy of the Notice is attached.
9. No payment or gift was provided to the respondents.
10. There is no need for confidentiality.
11. This form does not address any private matters of a sensitive nature.
12. We estimate that 4,300 station employment units (SEUs) will file FCC Form 397 during an eight year period which equates to an average of 538 SEUs annually. The average burden on respondents is 0.5 hours. This estimate is based on the staff's knowledge and familiarity with the availability of the data required.

**Total Number of Annual Respondents: 538 Station Employment Units**

**Total Number of Annual Responses: 538 FCC 397 Forms**

**Total Annual Burden Hours:**

538 FCC 397 Forms x 0.5 hours/form = **269 hours**

**Annual “In-house cost”:** We assume that the respondent would have its human resources person complete and file the Form FCC 397. The staff salary is estimated at \$25/hour.

$$538 \text{ FCC 397 Forms} \times 0.5 \text{ hours/form} \times \$25/\text{hour} = \$6,725.00$$

**Total Annual “In-house” Cost: \$6,725.00**

**13. Annual Cost Burden:**

- (a) Total annualized capital/startup costs: None
- (b) Total annual costs (O&M): None
- (c) Total annualized cost requested: None

**14. Cost to the Federal Government:** The Commission will use an EEO Specialist at the GS-12, step 5 level (\$35.32/hour) to review the FCC Form 397 filings.

$$538 \text{ FCC 397 forms filed} \times 1.0 \text{ hr/form} \times \$35.32/\text{hr} = 19,002.16$$
$$\text{Overhead (30\%)} = \underline{5,700.65}$$

**Total Cost to the Federal Government = \$24,702.81**

15. There are no program changes or adjustments.

16. The data will not be published.

17. We request extension of the waiver not to publish the expiration date on the form. This will obviate the need for the Commission to update electronic forms upon the expiration of the clearance. OMB approval of the expiration date of the information collection will be displayed at 47 CFR § 0.408.

18. We note an error in the Commission’s initial 60-day Federal Register Notice. The number of respondents is “538” instead of “4,300.” There are no other exceptions to Item 19 of the Certification Statement.

**B. Collections of Information Employing Statistical Methods**

No statistical methods are employed.