

## SUPPORTING STATEMENT

### A. Justification:

1. The Annual Employment Report is a data collection device to enforce the Federal Communications Commission's (FCC's) EEO rules. All common carrier licensees or permittees with sixteen (16) or more full-time employees are required to file this report and retain it for a two-year period. The report identifies each carrier's staff by gender, race, color and/or, national origin in each of nine major job categories. The Commission has updated its race/ethnicity and job categories on the FCC Form 395 to conform with the race/ethnicity and job categories used by the Equal Employment Opportunity Commission (EEOC). Requirements for filing FCC Form 395 are in accordance with Sections 154 (i), 303, and 307-310 of the Communications Act of 1934, as amended. *See* 47 U.S.C. §§ 154(i), 303, 307-310. Sections 1.815, 22.321, 23.55, 90.168, 101.4, and 101.311 of the FCC rules require this information collection.<sup>1</sup>

The Commission has made various editorial changes to this collection by updating FCC form 395 and adjusting the number of respondents to more accurately reflect the most current data available.

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

The statutory authority for this collection is contained in sections 154(i), 303, and 307-310 of the Communications Act of 1934, as amended. *See* 47 U.S.C. §§ 154(i), 303, 307-310. Sections 1.815, 22.321, 23.55, 90.168, 101.4, and 101.311 of the FCC rules.

2. The information describes the applicant's compliance with the EEO rules. The information is used by the Commission and public interest groups to compile industry employment trends.

3. Improved information technology is being utilized by permitting submission of the report by facsimile and fillable PDF forms.

4. Similar employee data are collected by the Equal Employment Opportunity Commission (EEOC), from all firms with 100 or more employees (EEO-1 Report). The information collected by EEOC is of a confidential nature; whereas, FCC rules require that information collected through the FCC Form 395 be made available for public inspection.

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<sup>1</sup> *See* 47 C.F.R. §§ 1.815, 22.321, 23.55, 90.168, 101.4, and 101.311. Since the previous collection renewal request, the Commission eliminated Part 21 from its rules. *See Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands*, et al.; WT Docket No. 03-66, et al., Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 14165, 14332 (2004). Accordingly, we have deleted reference to section 21.307 on the instant FCC Form 395.

5. The collection is designed to minimize the burden on all carriers regardless of size. Carriers with less than 16 full-time employees are not subject to the collection.
6. The FCC Form 395 is collected annually. Failure to collect the information, or collecting it less frequently, would jeopardize the Commission's EEO policies and programs designed to monitor employment trends of common carriers.
7. The information is not conducted in a manner inconsistent with the guidelines of 5 C.F.R. § 1320.5(d)(1).
8. A notice was placed in the Federal Register as required by 5 C.F.R. § 1320.8(d). See 72 FR 55769 (October 1, 2007). Copy attached. No comments were received.
9. The Commission does not anticipate providing any payment or gifts to respondents.
10. The information is not of a confidential nature.
11. No questions of a sensitive nature are requested.
12. The following represents the estimate of hour burden of the collection of information. We note that the time for complying with the requirement may range anywhere from 5 minutes up to 1 hour. This estimate also includes time for meeting the record retention (recordkeeping) requirement. Respondents are required to retain their submission, including all attachments thereto, for a two-year period.

FCC Form 395

(1) Number of Respondents: 1,000

The Commission had adjusted the estimated number of respondents filing this report from 1,100 to 1,000.

(2) Frequency of Response: One reporting requirement per year and a recordkeeping requirement)

(3) Total Number of Responses Annually: 1,000 responses (approximately)

1,000 respondents x 1 response/annually = 1,000 responses

(4) Total Annual Hourly Burden: 1,000 hours.

The Commission estimates that it will take each respondent no more than one hour to complete the FCC Form 395.

1,000 respondents x 1 hour per Form 395 = 1,000 hours

(5) Total Industry Costs:

The Commission estimates that it will take the average respondent approximately 1 hour to comply with the requirement. The Commission assumes that the respondent uses staff equivalent to a GS-7/Step 5 (\$20.51/hour) Federal employee, plus 30% overhead, to comply with the requirement.

1,000 hours x \$20.51 per hour = \$20,510.00  
30% overhead = \$6,153.00  
Total: \$26,663.00

13. The following represents the Commission's estimate of the annual cost burden to respondents or record-keepers resulting from the collection of information:

- (a) Total capital and start-up cost component (annualized over its useful life): \$0.00.  
The requirement will not require the purchase of additional equipment.
- (b) Total operations and maintenance and purchase of services component: \$0.00.
- (c) Total annualized cost requested: \$0.00.

14. Annualized cost to the Federal government is estimated to be \$6,919.12 based on the following:

a. Processing Costs:

- (1) Estimated processing and maintenance time: 240 hours
- (2) Hours-to-dollars conversion, based on average grade of GS-7/Step 5:

240 hours x \$20.51 per hour = \$4,922.40

b. Printing Costs		<u>\$400</u>
	Subtotal	\$5,322.40
c. Overhead Costs (\$5,322.40 x 30%)		<u>\$1,596.72</u>
	Total	\$6,919.12

15. The Commission notes the following changes:

- (a) The adjustment in Item 13 on the 83i reflects a decrease from 1,100 to 1,000 respondents. A physical audit was conducted since the last OMB renewal (one year ago), and the number of respondents has changed to average 1,000.
- (b) The Commission estimates that the percentage of responses collected electronically is approximately 30%, due to the FCC Form 395 being available in an online fillable format.

(c) The Commission changed the FCC Form 395 race/ethnicity and job categories to conform with the race/ethnicity and job categories used by the Equal Employment Opportunity Commission (EEOC).

16. There are no plans for publication of the results.

17. The Commission does not intend to seek approval not to display the expiration date for OMB approval of the information collection; instead, the Commission will use the edition date in lieu of an OMB expiration date on these forms.

18. The Commission notes the following:

(a) The number of respondents has decreased from 1,100 to 1,000;

(b) The total annual hourly burden has decreased from 1,100 hours to 1,000 hours as a result of the decrease in the number of respondents filing FCC Form 395, as explained above in Question 15; and

(c) This information collection is being submitted under “delegated authority” because the Commission considers the changes it is making to update the race/ethnicity and job categories on the FCC Form 395 to conform with the race/ethnicity and job categories used by the Equal Employment Opportunity Commission (EEOC) to be minor modifications.

There are no other exceptions to the certification statement in Item 19.

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

The Commission does not anticipate that the collections of information will employ statistical methods.