

SUPPORTING STATEMENT

A. Justification:

1. **FCC Form 302-TV** is used by licensees and permittees¹ of TV broadcast stations to obtain a new or modified station license and/or to notify the Commission of certain changes in the licensed facilities of these stations.

Form 302-DTV is used by licensees and permittees of Digital TV (“DTV”) broadcast stations to obtain a new or modified station license and/or to notify the Commission of certain changes in the licensed facilities of those stations. It may be used: (1) To cover an authorized construction permit (or auxiliary antenna), provided that the facilities have been constructed in compliance with the provisions and conditions specified on the construction permit; or (2) To implement modifications to existing licenses as permitted by 47 C.F.R. Sections 73.1675(c) or 73.1690(c).

FCC Form 340 is used by licensees and permittees to apply for authority to construct a new noncommercial educational (“NCE”)² FM, TV, and DTV broadcast station, or to make changes in the existing facilities of such a station. The FCC Form 340 is only used if the station will operate on a channel that is reserved exclusively for noncommercial educational use, or in the situation where applications for NCE stations on non-reserved channels³ are mutually exclusive⁴ only with one another.

For existing authorized analog stations to receive authorization for commencement of DTV operation, noncommercial educational broadcast licensees operating on a reserved channel must file FCC Form 340 for a construction permit. This application may be filed anytime after receiving the initial DTV channel allotment,⁵ but must be filed before the mid-point in a particular applicant's

¹ A “permittee” is a party that has received a construction permit for a broadcast station. Once the permittee has constructed the station facilities according to the construction permit, it will file an application for a broadcast license. When the license application is granted, the permittee becomes a “licensee.”

² These stations are licensed to nonprofit educational organizations for use in the advancement of educational programs.

³ These channels are not reserved exclusively for noncommercial educational use, and for which commercial entities could be eligible to operate full power stations. Such channels appear without an asterisk designation in the FM Table of Allotments (§73.202) and TV Table of Allotments (§73.606).

⁴ Mutually exclusive applications are those that either cause or receive prohibited contour overlap with other window-filed applications, thus preventing grant of more than one application.

⁵ Digital TV refers to any technology that uses digital techniques to provide advanced television services such as high definition TV (HDTV), multiple standard definition TV (SDTV) and other advanced features and services. The terms “frequency” or “channel” generally refers to the 6 MHz spectrum block currently used to provide a single National Television System Committee (NTSC) television service or to the equivalent 6 MHz spectrum block to be used for DTV services.

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April 2008

Title: Application for TV Broadcast Station License, Form FCC 302-TV; Application for DTV Broadcast Station License, FCC Form 302-DTV, Application for Construction Permit for Reserved Channel Noncommercial Educational Broadcast Station, FCC Form 340; Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station, FCC Form 349

required construction period. The Commission will consider these applications as minor changes in facilities. Applicants do not have to supply full legal or financial qualification information. In addition, applicants for a newly allotted DTV channel reserved for noncommercial educational use(s) must also file the FCC Form 340. This form also includes the third party disclosure requirement of 47 CFR Section 73.3580. This section requires local public notice in a newspaper of general circulation of all application filings for new or major change in facilities. This notice must be completed within 30 days of the tendering of the application. This notice must be published at least twice a week for two consecutive weeks in a three-week period. A copy of this notice must be placed in the public inspection file along with the application.

FCC Form 349 is used to apply for authority to construct a new FM translator or FM booster broadcast station, or to make changes in the existing facilities of such stations. This form also includes the third party disclosure requirement of 47 CFR Section 73.3580. Section 73.3580 requires local public notice in a newspaper of general circulation of all application filings for new or major change in facilities. This notice must be completed within 30 days of the tendering of the application. This notice must be published at least twice a week for two consecutive weeks in a three-week period. A copy of this notice must be placed in the public inspection file along with the application.

Congress has mandated that after February 17, 2009, full-power television broadcast stations must transmit only in digital signals, and may no longer transmit analog signals.⁶ On December 22, 2007, the Commission adopted a Report and Order in the Matter of the Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, MB Docket No. 07-91, FCC 07-228, to establish the rules, policies and procedures necessary to complete the nation's transition to DTV. With the DTV transition deadline less than one year away, the Commission must ensure that broadcasters meet their statutory responsibilities and complete construction of, and begin operations on, the facility on their final, post-transition (digital) channel that will reach viewers in their authorized service areas by the statutory transition deadline, when they must cease broadcasting in analog. The Commission wants to ensure that no consumers are left behind in the DTV transition. Specifically, the Report and Order requires Noncommercial Educational ("NCE") television stations to use revised FCC Form 340 to obtain the necessary Commission approvals (i.e., construction permits and licenses) in time to build their post-transition facility.

⁶ See Digital Television and Public Safety Act of 2005 ("DTV Act"), which is Title III of the Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4 (2006) ("DRA") (codified at 47 U.S.C. §§ 309(j)(14) and 337(e)). DTV Act § 3002(a) amends Section 309(j)(14) of the Communications Act to establish February 17, 2009 as a new hard deadline for the end of analog transmissions by full-power TV stations. 47 U.S.C. § 309(j)(14)(A). DTV Act § 3002(b) directs the Commission to "take such actions as are necessary (1) to terminate all licenses for full-power television stations in the analog television service, and to require the cessation of broadcasting by full-power stations in the analog television service, by February 18, 2009; and (2) to require by February 18, 2009, ... all broadcasting by full-power stations in the digital television service, occur only on channels between channels 2 and 36, inclusive, or 38 and 51, inclusive (between frequencies 54 and 698 megahertz, inclusive)." 47 U.S.C.A. § 309 Note.

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- Applications for post-transition facilities. NCE television stations without a construction permit for their final, post-transition (DTV) facility must file an application to construct or modify that facility using FCC Forms 340.⁷
- Requests to transition early to post-transition channel. NCE television stations may request authority to transition early to their post-transition channel using FCC Form 340.⁸
- FCC Form 340 was revised to accommodate the filing of post-transition applications. In addition, the Report and Order requires that stations that have applied to construct or modify post-transition facilities must use the Form 302-DTV to obtain a new or modified station license to cover those post-transition facilities.⁹

The FCC received approval under the "emergency processing provisions" of the PRA on January 7, 2008. The requirements for this collection have not changed since we received approval. **(The Commission is now seeking the full three year approval/clearance from OMB for this information collection).**

History:

On April 25, 2007, the Commission adopted a Notice of Proposed Rulemaking ("NPRM"), *In the Matter of the Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, MB Docket No. 07-91, FCC 07-70, to consider the procedures and rule changes necessary to complete the nation's transition to DTV, including how best to ensure that broadcasters complete construction of their facilities¹⁰ on their final, post-transition (digital) channel¹¹ by the statutory deadline.

⁷ The FCC received approval under the "emergency processing provisions" of the PRA on January 7, 2008 for this reporting requirement. The requirement has not changed since we received approval. The Commission is now seeking the full three year approval/clearance from OMB for the information collection requirement.

⁸ The FCC received approval under the "emergency processing provisions" of the PRA on January 7, 2008 for this reporting requirement. The requirement has not changed since we received approval. The Commission is now seeking the full three year approval/clearance from OMB for the information collection requirement.

⁹ The FCC received approval under the "emergency processing provisions" of the PRA on January 7, 2008 for the revisions to FCC Form 340. The form has not changed since we received approval. The Commission is now seeking the full three year approval/clearance from OMB for FCC Form 340.

¹⁰ A station's "post transition facilities" refers to the details of each station's assignment, including technical facilities and predicted service and interference information.

¹¹ A station's "post-transition channel" is the television channel that it will use for digital broadcasting after the transition deadline (i.e., February 17, 2009). The Commission proposed channel assignments and reference facilities for stations' post-transition operations in a 2006 Notice of Proposed Rule Making in MB Docket No. 87-268. See *Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service*, MB Docket No. 87-268, Seventh Further Notice of Proposed Rule Making, 21 FCC Rcd 12100 (2006) ("Seventh FNPRM"). The Seventh FNPRM sets forth a channel for each eligible broadcast TV station in the proposed new DTV Table of Allotments, to be codified at 47 C.F.R. § 73.622(i).

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On April 4, 2000, the Commission adopted a *Report and Order, In the Matter of Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, MM Docket No. 95-31. This *Report and Order* adopted new procedures to select among competing applicants for noncommercial educational (NCE) broadcast channels. Among other things, this *Report and Order* instituted a point system to compare objective characteristics whenever there are competing applications for NCE stations. FCC Forms 340 and 349 were revised to incorporate these newly adopted procedures.

Most applicants who had filed mutually exclusive NCE proposals for the reserved band were required to supplement or settle their proposals by 2001. A small number of these applicants remain, who were never subject to this requirement. These applicants are required to supplement their FCC Form 340 and 349 applications.

On October 22, 1998, the Commission adopted *Report and Orders*, MM Docket Nos. 98-43 (*1998 Biennial Regulatory Review - Streamlining of Mass Media Applications, Rules, and Processes*) and 94-149 (*Policies and Rules Regarding Minority and Female Ownership of Mass Media Facilities*), FCC 98-281. Among other things, these *Report and Orders* substantially revised FCC Forms 302-TV and 340 to facilitate electronic filing by replacing narrative exhibits with the use of certifications and an engineering technical box. The Commission also deleted and narrowed overly burdensome questions.

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.

Statutory authority for this collection of information is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

2. FCC Form 302-TV - the data is used by FCC staff to confirm that the station has been built to terms specified in the outstanding construction permit and to update FCC station files. Data is then extracted from FCC 302-TV for inclusion in the subsequent license to operate the station. The Commission reviews these “one-step” applications to ensure that the minor changes made by the station will not have any significant impact on other stations and the public.

FCC Form 302-DTV - the data is used by FCC staff to confirm that the station has been built to terms specified in the outstanding construction permit, and to update FCC station files. Data is then extracted from FCC 302-DTV for inclusion in the subsequent license to operate the station. Modification of license applications filed pursuant to Section 73.1675 or 73.1690 will be reviewed to ensure that the minor changes made by the station will not have any significant impact on other stations and the public.

OMB Control Number: 3060-0029

April 2008

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FCC Form 340 - the data is used by FCC staff to determine whether the applicant meets basic statutory requirements to become a Commission licensee and to ensure that the public interest would be served by grant of the application. In the case of mutually exclusive qualified applicants, the information will be used to determine which proposal would best serve the public interest.

FCC Form 349 - the data is used by FCC staff to ensure that the applicant meets basic statutory requirements and will not cause interference to other licensed broadcast services. In the case of mutually exclusive qualified applicants, the information will be used to determine which proposal would best serve the public interest.

3. These forms are required to be filed electronically. Paper versions of these forms are accepted only if accompanied by an appropriate request for waiver of the electronic filing requirement. Waivers are not routinely granted, and filers should plead with particularity the facts and circumstances warranting grant of a waiver.
4. This agency does not impose a similar information collection on the respondents. There are no similar data available.
5. In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the burden on all respondents. The Commission has limited the information requirements to those that are absolutely necessary for evaluating and processing the applications to determine the community having the greater need and to deter possible abuses of the processes.. Therefore, the information collection does not have a significant economic impact on a substantial number of small entities/businesses.
6. The frequency for filing is determined by the respondents, as necessary.
7. This collection of information is consistent with 5 CFR § 1320.5(d)(2).
8. The Commission published a Federal Register Notice (73 FR 6504) on February 4, 2008 seeking public comment for the information collection requirements contained in this information collection. No comments were received from the public.
9. No payment or gift is provided to the respondents.
10. There is no need for confidentiality.
11. This collection of information does not address any private matters of a sensitive nature.

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12. The Commission now estimates the annual paperwork burden for this information collection as follows:

<u>Applications</u>	<u>Number of Forms</u>	<u>Respondent's Burden</u>	<u>Total Annual Burden Hours</u>	<u>Hourly In-House Cost</u>	<u>Annual In-House Cost</u>
<u>FCC Form 302-TV</u>					
Construction Permits	100 ¹²	2 hour	200 hours	\$33.65	\$ 6,730.00
	100	2 hours ¹³	200hours	\$33.65	\$ 6,730.00
	100	2 hours ¹⁴	200 hours	\$33.65	\$ 6,730.00
Modifications	100 ¹⁵	2 hours	200 hours	\$33.65	\$ 6,730.00
	100	2 hours ¹⁶	200 hours	\$33.65	\$ 6,730.00
	100	2 hours ¹⁷	200 hours	\$33.65	\$ 6,730.00
					6,730.00
<u>FCC Form 302-DTV</u>					
License Applications	1,200	2 hours	2,400 hours	\$33.65	\$ 80,760.00
Modifications	100	2 hours	200 hours	\$33.65	\$ 6,730.00
<u>FCC Form 340</u>					
FM New & Major	1,000	4 hours	4,000 hours	\$33.65	\$134,600.00
FM Minor Change	300	2 hours	600 hours	\$33.65	\$ 20,190.00
TV Minor Change	25	2 hours	50 hours	\$33.65	\$ 1,682.50
DTV	500	2 hours	1,000 hours	\$33.65	\$ 33,650.00

¹² These 100 applications represent a total of 100 Construction Permit (CP) applications.

¹³ The respondent will consult with an engineer for 2 hours to review information on FCC Form 302-TV.

¹⁴ The respondent will consult with an attorney for 2 hours to review information on FCC Form 302-TV.

¹⁵ These 100 applications represent a total of 100 modifications of license applications.

¹⁶ The respondent will consult with an engineer for 2 hours to review information on FCC Form 302-TV.

¹⁷ The respondent will consult with an attorney for 2 hours to review information on FCC Form 302-TV.

OMB Control Number: 3060-0029

April 2008

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FCC Form 349

Commercial	700 ¹⁸	1.5 hours	1,050 hours	\$17.00 ¹⁹	\$ 17,850.00
	700	1.5 hours	1,050 hours	\$30.00 ²⁰	\$ 31,500.00
Noncommercial	300 ²¹	1.0 hours	300 hours	\$17.00 ²²	\$ 5,100.00
	<u>300</u>	1.0 hours	<u>300 hours</u>	\$30.00 ²³	<u>\$ 9,000.00</u>
TOTALS:	4,325		12,150 hours		\$381,442.50
	(responses)		(Burden)		(In-house Cost)

Total Number of Annual Respondents: 4,325 respondents

Total Number of Annual Responses: 4,325 (responses)

Total Annual Burden Hours: 12,150 hours

Total Annual "In-House" Cost: \$381,442.50

The annual burden was calculated based on the following data:

FCC Form 302-TV:

We assume that the respondents would complete the general and legal portions of the form. Additionally, we assume that each respondent will contract with a consulting engineer to complete the engineering section of the application and also have a consulting attorney review and file FCC

¹⁸ This number represents a total of 700 commercial applications.

¹⁹ This figure represents the hourly salary of the station engineer.

²⁰ This figure represents the hourly salary of the in-house station attorney.

²¹ This number represents a total of 300 noncommercial applications.

²² This figure represents the hourly salary of the station engineer.

²³ This figure represents the hourly salary of the in-house station attorney.

OMB Control Number: 3060-0029

April 2008

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Form 302-TV. We estimate that each respondent will spend approximately 2 hours reviewing the application with the engineering and legal consultants. The respondent will have an average salary of \$70,000/year (\$33.65/hour).

FCC Form 302-DTV:

We estimate that 1,200 license applications will be filed and processed. We assume that the respondent and station engineer will complete license applications will take a total of 2 hours to complete. We also estimate that 100 modification applications will be filed and processed. The total average burden will be 2 hours for the respondent to consult with an attorney and engineer regarding the modification of license. The respondent and station engineer are estimated to have an average salary of \$70,000/year (\$33.65/hour).

FCC Form 340:

Respondents would contract with an attorney and a consulting engineer to complete the FCC Form 340. The time spent in consultation with these attorneys and consulting engineers will vary depending upon the application type. We estimate that the respondent would have an average salary of \$70,000/year (\$33.65/hour).

FCC Form 349:

We estimate that most applicants (respondents) will file FCC Form 349 to make repairs or other miscellaneous changes in the FM translator or FM booster station facility. We assume that the average respondent would use engineers employed at the station (\$17/hour), and attorneys employed at the station (\$30/hour).

These estimates are based on FCC staff's knowledge and familiarity with the availability of the data required.

13. The annual cost burden to the respondents was calculated as follows:

<u>Applications</u>	<u>Number of Forms</u>	<u>Consultant's Burden</u>	<u>Total Annual Burden Hours</u>	<u>Hourly Consultant's Cost</u>	<u>Annual Cost Burden</u>
<u>FCC Form 302-TV</u>					
Construction Permits	100 ²⁴	2 hours	200 hours	\$150	\$ 30,000
	100	1 hour	100 hours	\$200	\$ 20,000

²⁴ These 100 applications represent a total of 100 Construction Permit (CP) applications.

OMB Control Number: 3060-0029

April 2008

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Modifications	100 ²⁵	6 hours	600 hours	\$150	\$ 90,000
	100	2 hours	200 hours	\$200	\$ 40,000
	100	---	---	\$250/fee	\$ 25,000

FCC Form 302-DTV

Modifications	100	6 hours	600 hours	\$150	\$ 90,000
	100	2 hours	200 hours	\$200	\$ 40,000
License Applications	1200	--	--	\$250/fee	\$
300,000					

FCC Form 340

FM New & Major	1,000	67 hours	67,000 hours	\$150	\$10,050,000
	1,000	5 hours	5,000 hours	\$200	\$ 1,000,000
	1,000	4 publications	---	\$113.25/fee	\$ 453,000
FM Minor Change	300	67.5 hours	20,250 hours	\$150	\$3,037,500
	300	5 hours	1500 hours	\$200	\$ 300,000
TV Minor Change	25	67.5 hours	1,687.50 hrs.	\$150	\$ 253,125
	25	0.5 hours	12.5 hours	\$200	\$ 2,500
DTV	500	34 hours	17,000 hours	\$150	\$2,550,000
	500	1 hour	500 hours	\$200	\$ 100,000

FCC Form 349

Commercial	700	8 hours	5,600 hours	\$150	\$ 840,000
	700	1 hour	700 hours	\$200	\$ 140,000
	700	---	---	\$625/fee	\$ 437,500
	700	4 publications	---	\$113.25/fee	\$ 317,100

²⁵ These 100 applications represent a total of 100 modifications of license applications.

OMB Control Number: 3060-0029

April 2008

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Noncommercial	300	12 hours	3,600 hours	\$150	\$ 540,000
	300	5.0 hours	1,500 hours	\$200	\$ 300,000
	300	4 publications	---	\$113.25/fee	\$ 135,900
Total Cost Burden:					\$21,091,625

The data used to calculate the cost burden is as follows:

FCC Form 302-TV: We assume that the respondent would use a consulting engineer to prepare the engineer portion of this form and have a consulting attorney to review the form for any legal issues and file it with the FCC. This consulting engineer is estimated to have an average salary of \$150/hour and the consulting attorney would charge approximately \$200/hour. In addition, an applicant must submit a \$250.00 application fee with each application for the TV License to cover construction permits. Applications submitted for modifications to an existing license, which can be made without prior FCC approval, are not subject to the application filing fee(s).

FCC Form 302-DTV: We assume that modification applications will be completed by an attorney (\$200/hour) and a consulting engineer (\$150/hour). It will take the attorney 2 hours to complete each application and the engineer 6 hours to complete each application. In addition, an application fee must be submitted with filing of the license application (\$250/application). Applications submitted for modifications to license, which can be made without prior FCC approval, are not subject to filing fees.

FCC Form 340: We assume that the applicant will contract with an attorney (\$200/hour) and a consulting engineer (\$150/hour) to complete the FCC Form 340. Additionally, a FM or TV applicant must give local public notice of the filing of its application for a new station or for a major change in facilities. This notice must be published in a local newspaper of general circulation at least twice a week for two consecutive weeks in a three-week period. The cost of this publication is estimated to be \$113.25/publication.

FCC Form 349: We assume that the average respondent would contract with consulting engineers (\$150/hour) and attorneys in a law firm (\$200/hour) to complete their applications. A respondent for a commercial station must also submit a fee (\$625/application) with the filing of FCC 349. Additionally, an applicant must give local public notice of the filing of its application for construction permit. This notice must be published in a local newspaper of general circulation at least twice a week for two consecutive weeks in a three-week period. The Commission estimates the cost of this publication is estimated to be \$113.25 per publication.

14. The total cost to the Federal Government was calculated as follows:

OMB Control Number: 3060-0029

April 2008

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FCC Form 302-TV -

Paraprofessional	3 hours x \$30.25/hour x 200 applications =	\$18,150.00
Clerical	1 hour x \$16.50/hour x 200 applications =	<u>\$ 3,300.00</u>
		\$21,450.00

FCC Form 302-DTV:

Paraprofessional	1.75 hours x \$30.25/hour x 1,300 =	\$ 68,818.75
Professional	5.25 hours x \$50.95/hour x 1,300 =	\$347,733.75
Clerical	0.50 hours x \$16.50/hour x 1,300 =	<u>\$ 10,725.00</u>
		\$427,277.50

FCC Form 340 -

FM New and Major Applications:

Clerical	1.5 hours x \$16.50/hour x 1,000 =	\$ 24,750.00
Paraprofessional	7.0 hours x \$30.25/hour x 1,000 =	\$ 211,750.00
Professional	36.9 hours x \$50.95/hour x 1,000 =	<u>\$1,880,055.00</u>
		\$2,116,555.00

FM Minor Change:

Clerical	2.0 hours x \$16.50/hour x 300 =	\$ 9,900.00
Paraprofessional	6 hours x \$30.25/hour x 300 =	\$ 54,450.00
Professional	25 hours x \$50.95/hour x 300 =	<u>\$382,125.00</u>
		\$446,475.00

TV Minor Change/DTV Applications:²⁶

Clerical	2 hours x \$16.50/hour x 525 =	\$ 17,325.00
Paraprofessional	6 hours x \$30.25/hour x 525 =	\$ 95,287.50
Professional	16 hours x \$50.95/hour x 525 =	<u>\$427,980.00</u>
		\$540,592.50

FCC Form 349 -

700 commercial applications x 1 hour x \$16.50 =	\$ 11,550.00
700 commercial applications x 4 hours x \$50.95 =	\$142,660.00
300 noncommercial applications x 1 hour x \$16.50 =	\$ 4,850.00
300 noncommercial applications x 6 hours x \$50.95 =	<u>\$ 91,710.00</u>
	\$250,770.00

Totals: \$21,450.00 + 427,277.50 + \$2,116,555.00 + \$446,475.00 + \$540,592.50 + \$250,770.00
= \$3,803,120

²⁶ These applications include 25 TV Minor Change Applications + 260 DTV Applications = 285 Applications.

OMB Control Number: 3060-0029

April 2008

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Total Cost to Federal Government = \$3,803,120.00

The following data was used to calculate the total cost to the Federal Government:

***FCC Form 302-TV** - The Commission will use paraprofessional and professional staff at the GS-11, step 5 level (\$30.25/hour), and clerical staff at the GS-5/Step 5 level (\$16.50/hour) to process the FCC 302-TV applications.

***FCC Form 302-DTV** - The Commission will use professional staff at the GS-14, step 5 level (\$50.95/hour), paraprofessional staff at the GS-11, step 5 level (\$30.25/hour), and clerical staff at the GS-5/Step 5 level (\$16.50/hour) to process the FCC 302-DTV applications.

***FCC Form 340** - The Commission will use professional staff at the GS-14, step 5 level (\$50.95/hour), paraprofessional staff at the GS-11, step 5 level (\$30.25/hour) and clerical staff at the GS-5, step 5 level (\$16.50/hour) to process these applications.

***FCC Form 349** - The Commission will use professionals at the GS-14, step 5 level (\$50.95/hour) and clerical personnel at the GS-5, step 5 level (\$16.08/hour) to process these applications.

15. There are no program changes. The Commission had an adjustment in the total annual burden cost due to rounding issues in ROCIS.

16. The Commission does not intend to publish the results of these information collection requirements.

17. The Commission requests an extension of the waiver not to publish the expiration date on FCC Forms 302-TV, 302-DTV, 340 and 349. This waiver will obviate the need to update electronic files 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. There are no exceptions to Item 19 of the Certification Statement.

B. Collections of Information Employing Statistical Methods

This information collection does not employ any statistical methods.