

SUPPORTING STATEMENT

A. Justification:

I. Revised information collection requirement:

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. 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 ("Third DTV Periodic Report and Order") to establish the rules, policies and procedures necessary to complete the nation's transition to DTV.

As a result of the Third DTV Periodic Report and Order, DTV stations that are permittees must now comply with the requirements for feeable ancillary or supplementary services in Section 73.624(g) (using FCC Form 317).¹ **This new requirement in 47 C.F.R. § 73.624(g) adds a new group of respondents to this collection (namely, "DTV permittees"). The Commission has also revised FCC Form 317 and its instructions to indicate that DTV permittees are required to file the form and report their ancillary and supplementary services. (OMB review and approval are needed for this new requirement and form revisions).**

Information collection requirements that were approved by OMB and have not changed since the previous approval:

47 C.F.R. § 73.624(g): The following information collection requirements have not changed since OMB approval was last received:

- Each commercial and noncommercial educational (NCE) digital television (DTV) broadcast station licensee is required to file FCC Form 317 annually. The licensees report whether they provided ancillary or supplementary services at any time during the reporting cycle. The report indicates which services were provided, fee related services, gross revenues received from all feeable ancillary and supplementary services, and the amount of bitstream used to provide ancillary or supplementary service.
- Concurrent with the submission of FCC Form 317, each commercial and noncommercial educational DTV licensee is required to remit to the Commission a payment, FCC Form 159 (3060-0589), in the amount of 5% of the gross revenues derived from the provision of its ancillary or supplementary services.
- Each licensee is required to retain the records supporting the calculation of the fees due for three years from the date of remittance of fees. Noncommercial DTV licensees must also retain for eight years

¹Ancillary or supplementary services are all services provided on that portion of the station's digital spectrum capacity or bitstream not needed to provide the required one free, over-the-air video broadcast signal to viewers, except that any video broadcast signal provided at no direct charge to viewers shall not be considered ancillary or supplementary. Such services include, but are not limited to, computer software distribution, data transmissions, teletext, interactive materials, aural messages, paging services, audio signals, subscription video, and the like.

documentation sufficient to show that their entire bitstream was used “primarily” for noncommercial education broadcast services on a weekly basis.

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, 336 and 403 of the Communications Act of 1934, as amended.

2. The data is used by FCC staff to ensure that DTV licensees comply with the requirements of Section 336(e) of the Communications Act.
3. DTV licensees and permittees must file FCC Form 317 electronically. Licensees and permittees can file waiver requests to the Commission seeking approval to file paper copies of the forms if electronic means are not accessible to the licensees.
4. This agency does not impose a similar information collection on the respondents. There is 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. Therefore, this information collection will not have a significant economic impact on a substantial number of small entities/businesses.
6. The FCC Form 317 is filed annually. Section 336 of the Communications Act requires the Commission to establish a program to assess and collect an annual fee for ancillary or supplementary services provided by a DTV licensee and permittee.
7. Noncommercial DTV licensees and permittees are required to retain certain documentation for eight years, but only for three years to show documentation for calculating fees. The Commission has determined this recordkeeping schedule is necessary to provide sufficient time for these noncommercial DTV licensees and permittees to show compliance with the requirement to use their entire bitstream primarily for nonprofit, noncommercial, and educational broadcast services.
8. The Commission published a notice (73 FR 41353) in the *Federal Register* on July 18, 2008, seeking public comment for the information collection requirements contained in this supporting statement. The Commission did not receive any comments.
9. No payment or gift was 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.

12. The following estimates are provided for public burden:

# of Respondents	# of Filings/FCC Form 317	Total # of Responses/ Form 317 Filings / Records Kept	Respondent Hourly Burden	Annual Burden Hours	Respondent's Hourly Wage	Annual "In-house" Cost
FCC Form 317 Filing						
1,815	1	1,815	2 hours ²	3,630 hours	\$48.08	\$ 174,530.40
Recordkeeping Requirement³						
1,815	1	1,815	4 hours	7,260 hours	\$48.08	\$ 349,060.80
Totals						
1,815		3,630 Filings/ Records Kept		10,890 hours		\$ 523,591.20

- **Total Number of Annual Respondents: = 1,815 Licensees and Permittees**
- **Total Number of Annual Responses: = 1,815 FCC Form 317 Filings
 1,815 Records Kept
 3,630 (responses)**
- **Total Annual Burden Hours: 10,890 hours**
- **Total Annual "In-house" Cost: \$523,591.20**

13. Annual Cost Burden: We expect the respondents will consult with an attorney for review of the FCC

²The respondent's burden includes 30 minutes of consulting time with an outside attorney to allow the respondent to review completed FCC Form 317 applications and the remaining 1 hour and 30 minutes will be time that the respondent will use to complete FCC Form 317.

³This is a recordkeeping requirement for both commercial and NCE DTV licensees.

Form 317 before submission to the Commission. We estimate the attorney's average salary is \$200/hour and the time required for review is 30 minutes.

1,815 commercial/NCE DTV applications x 0.5 hours x \$200/hour = \$181,500

Total Annual Cost Burden = \$181,500

14. Cost to the Federal Government: The Commission will use professionals at the GS-14, step 5 level (\$53.24) and clerical staff at the GS-7, step 5 level (\$21.36) to process the FCC Form 317.

Professionals:	0.25 hours x \$53.24/hour x 1,815 =	\$24,157.65
Clerical:	0.75 hours x \$21.36/hour x 1,815 =	<u>\$29,076.30</u>
TOTAL COST TO THE FEDERAL GOVERNMENT		= \$53,233.95

15. 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 ("Third DTV Periodic Report and Order") to amend 47 C.F.R. § 73.624(g). This revised rule adds a program change to the total annual burden hours of +6,090 hours and +101,500 to the total annual costs . These increases are due to an increase in the number filers for this information collection - DTV permittees (new universe of filers).

16. The data will not be published.

17. We request an 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 Section 0.408.

18. There are no exceptions to Item 19 of the Certification Statement.

B. Collections of Information Employing Statistical Methods:

No statistical methods are employed.