

This submission is made pursuant to 44 USC § 3507 to extend an existing collection that is expiring. The Commission has not changed the reporting and/or recordkeeping requirements for this information collection. The Commission is reporting a 191 hour decrease that reflects a reduction in the number of 2011 filings.

## SUPPORTING STATEMENT

### **A. Justification:**

1. The Annual Employment Report is a data collection mechanism to implement the Federal Communications Commission's Equal Employment Opportunities rules. All common carriers 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 ten major job categories. The Commission previously updated its race/ethnicity and job categories on the FCC Form 395 to conform to the race/ethnicity and job categories used by the Equal Employment Opportunity Commission (EEOC). Requirements for filing personal information on FCC Form 395 is authorized by the Communications Act of 1934, as amended.

Section 11 of the Communications Act of 1934, as amended, 47 U.S.C. 161, requires the Commission, in every even-numbered year beginning in 1998, to review its regulations applicable to providers of telecommunications services to determine whether the regulations are no longer in the public interest due to meaningful economic competition between providers of such services and whether such regulations should be repealed or modified. Section 11 further instructs the Commission to repeal or modify any regulation it determines to be no longer in the public interest.

In this submission to the OMB, there is a change in the number of respondents to 809 from the 1,000 reported on the last PRA submission. This change is based on the 2011 filings received. The Commission is seeking OMB approval for an extension with no change in the reporting and/or recordkeeping requirements to obtain a clearance for a full three years.

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, and 307-310.

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.

2. The information describes the applicant's compliance with the FCC's EEO rules. The common carriers' employment information is available for inspection in the Commission's Public Reference Room.

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

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 publicly available.
5. The collection is designed to minimize the burden on all carriers regardless of size. If a carrier has fewer than 16 full-time employees, no statement need be filed.
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 common carriers' employment trends.
7. No special circumstances are noted. The collection is not conducted in a manner inconsistent with the general paperwork reduction guidelines contained in 5 C.F.R. § 1320.5(d)(1).
8. A notice was published in the Federal Register as required by 5 C.F.R. § 1320.8(d) on May 14, 2013 (78 FR 28215). No PRA comments were received.
9. The Commission does not anticipate providing any payment or gifts to respondents.
10. Ordinarily, questions of a sensitive nature are not involved in the Annual Employment Report. The areas in which detailed information is required are fully subject to regulation and the issue of data being regarded as sensitive will arise in special circumstances only. In such circumstances, the respondent is instructed on the appropriate procedures to follow to safeguard sensitive data. 47 CFR Part 0.459 contains the procedures for requesting confidential treatment of data.
11. The respondents are instructed on the appropriate procedures to follow to safeguard information deemed sensitive. 47 C.F.R. § 0.457 of the Commission's rules details the types of records that is not routinely available for public inspection. Section 0.459 contains procedures for requesting that materials and information submitted to the Commission be withheld from public inspection.
12. The following represents the estimate of annual burden hours and the annual cost burden for the collection of information. The following represents our best estimate based on the 2011 filings received in this data collection.

(1) Number of Respondents: **809**.

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

(3) Total Number of Responses Annually: **809**

809 respondents x 1 response/annually = 809 responses

(4) Total Annual Hourly Burden: **809 hours**.

The Commission estimates that each carrier takes approximately 1 hour to comply with the requirement.

809 carriers x 1 hour per filing = 809 hours

(5) Total Industry Costs:

The Commission estimates that it will take each carrier using in-house staff equivalent to a GS 11/Step 5 federal employee, plus 30% overhead to comply with the requirements. We note that we are utilizing a Federal employee at the GS11/5 level instead of GS7/5 level previously reported to be consistent with our other filings, i.e., the ARMIS and Form 477 Reports.

809 (number of respondents) x 1 (number of filings) x 1 (hours per filing) x \$35.62 per hour = \$28,817.

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 \$12,704 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-11/Step 5:

240 hours x \$35.62 per hour = \$ 8,549

b. Printing Costs

	<u>400</u>
Subtotal	\$ 9,772

c. Overhead Costs (\$9,772 x 30%)

	<u>2,932</u>
Total	<u>\$12,704</u>

We are extending this collection and are adjusting the staff equivalent to a GS 11 Step 5 instead of a GS 13 Step 5 to be consistent with the filers' cost and to be in conformity with other accounting and information reports and requirements filed with OMB. The estimated cost for the government is \$11,634 instead of \$12,704 a decrease of \$1,070.

15. The Commission detailed in item #14 the change in government cost to maintain the carriers' filings. The data provided is needed to assess compliance with the Commission's

EEOC rules and regulations. There is no change to the burden estimate per common carrier filing.

16. The Commission does not anticipate that it will publish any collected information.
17. The Commission seeks approval to not display the OMB expiration date for OMB approval on the FCC Form 395. This will alleviate the Commission from having to update the OMB expiration date on the form each time it is submitted to the OMB for approval. Finally, the Commission publishes a list of all OMB-approved information collections with their associated OMB control numbers, titles and OMB expiration dates under 47 C.F.R. § 0.408 of the Commission's rules.

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

It is noted that carriers are required to retain their annual employment report, equal employment opportunity program statements, annual report on complaints regarding violations of equal employment provisions of the law, and all exhibits, letters and other related documents that has been filed with this Commission for a period of two years.

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

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