

SUPPORTING STATEMENT

A. Justification:

1. The Commission is seeking OMB approval for an extension without change of this currently approved information collection.

The following information collection requirements have not changed since the Commission last received OMB approval:

FCC Form 317¹ and Section 73.624(g) of the Rules:²

- Each licensee/permittee of a digital television (DTV) station must file on an annual basis FCC Form 317. Specifically, required filers include the following (but we generally refer to all such entities herein as a “DTV licensee/permittee”):
 - A licensee of a digital commercial or noncommercial educational (NCE) full power television (TV) station, low power television (LPTV) station, TV translator or Class A TV station.
 - A permittee operating pursuant to digital special temporary authority (STA) of a commercial or NCE full power TV station, LPTV station, TV translator or Class A TV station.
- Each DTV licensee/permittee must report whether they provided ancillary or supplementary services at any time during the reporting cycle.³
 - Specifically, a DTV licensee/permittee must include the following in its annual report:
 1. a brief description of the ancillary or supplementary services provided;
 2. which services were feeable;
 3. whether any services provided were not subject to a fee;
 4. the gross revenues received from all feeable services provided during the applicable period; and
 5. the amount of bitstream used to provide services during the applicable period.
- Concurrent with the submission of FCC Form 317, each DTV licensee/permittee is required to remit a payment to the Commission, via FCC Form 159 (*see* OMB Control No. 3060-0589), in the amount of five percent of the gross revenues derived from the provision of its ancillary or supplementary services.

¹ To view a copy of FCC Form 317, visit the Commission’s website at <http://www.fcc.gov/forms> or <http://transition.fcc.gov/Forms/Form317/317.pdf>.

² 47 C.F.R. § 73.624(g).

³ Ancillary 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.

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- Each DTV licensee/permittee is required to retain the records supporting the calculation of the fees due for three years from the date of remittance of fees. Each NCE licensee/permittee must also retain for eight years documentation sufficient to show that its entire bitstream was used “primarily” for NCE broadcast services on a weekly basis.

HISTORY:

- On July 15, 2011, the Commission adopted a Second Report and Order (FCC 11-110) in , MB Docket No. 03-185,⁴ which, among other things, widened the scope of the Commission’s ancillary and supplementary services rule to include LPTV station permittees operating pursuant to a digital STA.
- On December 22, 2007, the Commission adopted a Report and Order (FCC 07-228) in MB Docket No. 07-91,⁵ which, among other things, required DTV stations that are permittees to comply with the requirements for feeable ancillary or supplementary services in Section 73.624(g) of the Commission’s rules (using FCC Form 317).
- On October 11, 2001, the Commission adopted a Report and Order (FCC 01-306) in MM Docket No. 98-203,⁶ which, among other things, clarified that NCE licensees are required to pay fees on revenues generated by the remunerative use of their excess DTV capacity.
- On November 19, 1998, the Commission adopted a Report and Order (FCC 98-303) in MM Docket No. 97-247⁷ that established a program for assessing and collecting fees for the provision of ancillary or supplementary services by commercial DTV licensees, in compliance with Section 336(e)(1) of the Communications Act.⁸ In this Report and Order, the Commission developed FCC Form 317 to collect this data annually from commercial DTV licensees.

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. FCC staff will use the data to ensure that DTV licensees and permittees comply with the requirements of

⁴ *Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Digital Low Power Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations*, MB Docket No. 03-185, Second Report and Order, 26 FCC Rcd 10732 (2011) (“*LPTV Digital Second Report and Order*”).

⁵ *Third Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television*, MB Docket No. 07-91, Report and Order, 23 FCC Rcd 2994 (2007) (“*Third DTV Periodic Report and Order*”).

⁶ *Ancillary Or Supplementary Use Of Digital Television Capacity By Noncommercial Licensees*, MM Docket No. 98-203, Report and Order, 16 FCC Rcd 19042 (2001).

⁷ *Fees For Ancillary Or Supplementary Use Of Digital Television Spectrum Pursuant To Section 336(E)(1) Of The Telecommunications Act Of 1996*, MM Docket No. 97-247, Report and Order, 14 FCC Rcd 3259 (1998).

⁸ 47 U.S.C. § 336(e).

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Section 336(e) of the Communications Act, 47 U.S.C. § 336(e), and Section 73.624(g) of the Rules, 47 C.F.R. § 73.624(g).

3. DTV licensees and permittees must file FCC Form 317 electronically. A licensee/permittee may file a waiver request to the Commission seeking approval to file a paper copy of the form if electronic means are not possible.
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 educational (NCE) 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 NCE licensees/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 (82 FR 25286) in the *Federal Register* on June 1, 2017, seeking public comment for the information collection requirements contained in this supporting statement. No comments were received from the public.
9. No payment or gift was provided to the respondents.
10. There is no need for confidentiality with this collection of information.
11. This collection of information does not address any private matters of a sensitive nature.

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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						
9,391	1	9,391	2 hours ⁹	18,782 hours	\$48.08	\$903,038.56
Recordkeeping Requirement						
9,391	1	9,391	4 hours	37,564 hours	\$48.08	\$1,806,077.10
Totals						
9,391 Respondents		18,782 Filings/ Records Kept		56,346 hours		\$2,709,115.60

- **Total Number of Annual Respondents: =**

1,815 Full Power NCE/ Commercial DTV Licensees and Permittees

7,576 Low power television, TV translator, and Class A television station DTV Licensees and Permittees

9,391 (Respondents)

- **Total Number of Annual Responses: =** 9,391 FCC Form 317 Filings

9,391 Records Kept

18,782 (Responses)

- **Total Annual Burden Hours: 56,346 hours**

- **Total Annual "In-house" Cost: \$2,709,115.60**

⁹ The 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.

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13. Annual Cost Burden: We expect the respondents will consult with an attorney for review of the FCC Form 317 before submission to the Commission. We estimate the attorney's average salary is \$300/hour and the time required for review is 30 minutes.

1,815	Full power commercial/NCE DTV applications x 0.5 hours x \$300/hour = \$	272,250
7,576	Low power television, TV translator, and Class A television DTV applications x 0.5 hours x \$300/hour =	<u>\$1,136,400</u>
	Total Annual Cost Burden =	\$1,408,650

14. Cost to the Federal Government: The Commission will use professionals at the GS-14, step 5 level (\$60.83) and clerical staff at the GS-5, step 5 level (\$19.12) to process the FCC Form 317.

Professionals:	0.25 hours x \$60.83/hour x 9,391 =	\$142,813.63
Clerical:	0.75 hours x \$19.12/hour x 9,391 =	<u>\$134,666.94</u>
TOTAL COST TO THE FEDERAL GOVERNMENT	=	\$277,480.57

15. There are no program changes or adjustments to this collection.

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. The Commission published a Federal Register Notice seeking comments from the public on the information collection contained in this collection (79 FR 41560). The Commission inadvertently omitted State, Local or Tribal Government as respondents to this collection. There are no other exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods:

No statistical methods are employed.

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