

## SUPPORTING STATEMENT

### A. Justification:

1. Licensees of noncommercial educational AM, FM, and television broadcast stations must file FCC Form 323-E every two years. Biennial Ownership Reports shall provide information accurate as of October 1 of the year in which the Report is filed. Form 323-E shall be filed by December 1 in all odd-numbered years.

In addition, Licensees and Permittees of noncommercial educational AM, FM, and television stations must file Form 323-E following the consummation of a transfer of control or an assignment of a noncommercial educational AM, FM, or television station license or construction permit; a Permittee of a new noncommercial educational AM, FM, or television station must file Form 323-E within 30 days after the grant of the construction permit; and a Permittee of a new noncommercial educational AM, FM, or television station must file Form 323-E to update the initial report or to certify the continuing accuracy and completeness of the previously filed report on the date that the Permittee applies for a license to cover the construction permit.

In the case of organizational structures that include holding companies or other forms of indirect ownership, a separate Form 323-E must be filed for each entity in the organizational structure that has an attributable interest in the Licensee.

A copy of all ownership and supplemental ownership reports and related material filed pursuant to Section 73.3615 of the FCC's rules shall be maintained and made available for public inspection locally.<sup>1</sup>

### History:

On December 18, 2007, the Commission adopted a *Report and Order and Third Further Notice of Proposed Rulemaking (Diversity Order)* in MB Docket Nos. 07-294; 06-121; 02-277; 04-228, MM Docket Nos. 01-235; 01-317; 00-244; FCC 07-217; 23 FCC Rcd 5922 (2008). The *Diversity Order* adopted rule changes designed to expand opportunities for participation in the broadcasting industry by new entrants and small businesses, including minority- and women-owned businesses.

On April 8, 2009, the Commission adopted a *Report and Order and Fourth Further Notice of Proposed Rulemaking (323 Order and Fourth Further Notice)* in MB Docket Nos. 07-294, 06-121, 02-277, 01-235, 01-317, 00-244, 04-228; FCC 09-33; 24 FCC Rcd 5896 (2009). The *323 Order* adopted significant improvements to the Commission's broadcast ownership data collection in order to obtain an accurate, reliable, and comprehensive assessment of minority and

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<sup>1</sup> This recordkeeping information collection requirement is covered under OMB Control Number 3060-0214, which requires that a copy of the most recent, complete Ownership Report for Noncommercial Educational Broadcast Stations, FCC Form 323-E (OMB control number 3060-0084) filed with the FCC for the station, together with any statements filed with the FCC certifying that the current Report is accurate.

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female ownership of broadcast stations in the United States. Specifically, the Commission established a new uniform biennial filing deadline for ownership reports filed by commercial stations, expanded the class of persons and entities required to file biennial ownership reports, and among other things, directed Commission staff to build additional checks into the form to perform verification and review functions and also to ensure that the ownership data is provided in a format that can be electronically searched, aggregated, and cross-referenced. The *Fourth Further Notice* sought comment on whether to collect race, gender, and ethnicity data for persons reported on Form 323-E for noncommercial broadcast stations in order to obtain more comprehensive data that would further the Commission's goal to design policies to advance diversity in the broadcasting industry. Among other things, the *Fourth Further Notice* also sought comment on whether the Commission should adopt the same or similar modifications for Form 323-E as it did for the ownership form that commercial stations file, including a uniform biennial filing deadline, and whether the data quality measures adopted in the *323 Order* would be appropriate and sufficient to ensure that the data collected on Form 323-E are aggregable.

On December 21, 2012, the Commission adopted a *Sixth Further Notice of Proposed Rulemaking (Sixth Further Notice)*. The *Sixth Further Notice* sought comment on the Commission's requirement that licensees of commercial broadcast stations and other entities with attributable interests in such stations provide an FCC Registration Number (FRN) for each attributable individual reported on the form. To obtain an FRN, a party generally must submit a Taxpayer Identification Number (TIN) or Social Security Number (SSN) to the Commission via the Commission Registration System (CORES). Noting that the CORES FRN enables unique identification of individuals, the *Sixth Further Notice* sought comment on its proposal to eliminate the interim Special Use FRN—a computer-generated number that is created by clicking a button in the electronic Form 323 and is not backed by any identifying information. The *Sixth Further Notice* proposed to extend the CORES FRN requirement to all listed interest holders on Form 323-E if the Commission implements the filing modifications proposed in the *Fourth Further Notice*. In addition, the *Sixth Further Notice* proposed to extend the filing deadline for biennial ownership reports to give filers an additional 30 days and also sought comment on certain proposals regarding the Commission's ownership data collection that commenters submitted previously.

On February 11, 2015, the Commission adopted a *Second Further Notice of Proposed Rulemaking and Seventh Further Notice of Proposed Rulemaking (Seventh Further Notice)*. The *Seventh Further Notice* proposed to implement a new Restricted Use FRN, requiring submission of an alternative set of identifying information that does not include a full SSN, that filers could use in lieu of CORES FRNs for attributable individuals listed on ownership reports. The *Seventh Further Notice* sought comment on extending the Restricted Use FRN to Form 323-E in the event that the Commission adopts the changes proposed in the *Fourth Further Notice* and the *Sixth Further Notice*. In addition, the *Seventh Further Notice* sought additional comment on the elimination of the Special Use FRN.

On January 8, 2016, the Commission adopted a *Report and Order, Second Report and Order, and Order on Reconsideration, FCC 16-1 (323/CORES Order and Reconsideration Order)*. The

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*323/CORES Order and Reconsideration Order* adopted changes to the ownership reporting requirements that are intended to further improve the ownership data collection. The *323/CORES Order and Reconsideration Order* adopted a Restricted Use FRN within CORES that individuals may use solely for the purpose of broadcast ownership report filings. In light of the Commission's adoption of the Restricted Use FRN, the *323/CORES Order and Reconsideration Order* eliminated the availability of the interim Special Use FRN for broadcast station ownership reports, except in very limited circumstances. The *323/CORES Order and Reconsideration Order* prescribed revisions to Form 323-E that conform the reporting requirements for noncommercial educational (NCE) broadcast stations more closely to those for commercial stations, including revisions to collect race, gender, and ethnicity information for attributable interest holders; require that CORES FRNs or Restricted Use FRNs be used; and conform the biennial filing deadline for NCE broadcast ownership reports with the biennial filing deadline for commercial station ownership reports. The *323/CORES Order and Reconsideration Order* also made a number of other improvements to the forms that are intended to reduce the filing burdens on broadcasters, streamline the filing process, and increase the quality and usability of the data submitted to the Commission. These changes included extending the biennial filing deadline, reducing the number of filings required, improving the reporting of other broadcast interests, and additional improvements.

In a subsequent *Order on Reconsideration (323-E Reconsideration Order)*, the Commission revisited its previous decision in the *323/CORES Order and Reconsideration Order* to require that a CORES FRN or a Restricted Use FRN be reported for each individual on Form 323-E except in very limited circumstances. On reconsideration of this issue the Commission decided to allow NCE filers discretion to report Special Use FRNs for attributable individuals on Form 323-E in cases where the individual has not obtained a CORES FRN or Restricted Use FRN.

Consistent with the actions taken by the Commission in the *323/CORES Order and Reconsideration Order* and the *323-E Reconsideration Order*, the following changes were made to Form 323-E: The instructions for Form 323-E have been revised to state the revised biennial filing requirements that the Commission adopted in the *Orders* and updated to provide more detailed information about completing the form. The form and instructions have been revised to require the reporting of a CORES FRN for entities that hold attributable interests in an NCE station and the reporting of a CORES FRN, Restricted Use FRN, or a Special Use FRN if the individual does not have a CORES FRN or Restricted Use FRN, as well as race, gender, and ethnicity information on biennial filings, for individuals that hold attributable interests in NCE stations. The form and instructions also have been revised to allow parent entity filers with multiple licensee subsidiaries to list all of those licensees and their associated stations on a single report, rather than filing separate ownership reports for each of those licensees; and simplify the reporting of attributable interest holders' other attributable broadcast interests by eliminating the need for significant amounts of data entry in the form itself, or via separately filed exhibits, and adding simple yes/no buttons. In addition, many questions on the form have been reworked or reordered in order to (1) clarify the information sought in the form; (2) provide respondents additional menu-style and checkbox-style options in order to simplify data entry; and (3) make the data collected on the form more adaptable for use in database programs used to prepare economic and policy studies relating to media ownership. The

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instructions have been significantly revised to make them clearer and easier to follow by going question-by-question and having each instruction correspond to the relevant question. Questions that relate to non-biennial filings and questions that relate to biennial filings have been placed into separate subsections of the form. Respondent using the Commission's electronic filing system will be required to launch only the portions of the form that are applicable depending on the purpose of the filing (i.e., whether it is a biennial filing or a non-biennial filing) and complete only those sections.

The *323/CORES Order and Reconsideration Order* made the following specific changes to the FCC's rules relating to Form 323-E (no additional changes were made in the *323-E Reconsideration Order*):

**73.3615(d):** The *323/CORES Order and Reconsideration Order* revised the rule to require that the Ownership Report for Noncommercial Broadcast Stations, FCC Form 323-E be filed electronically by December 1 in all odd-numbered years, rather than on the date that the station files its license renewal application and every two years thereafter on the anniversary of the date that the station's renewal application is required to be filed. The revised rule requires that the information provided on each biennial ownership report shall be current as of October 1 of the year in which the ownership report is filed. Rather than specifying the information that must be provided on biennial ownership reports, the revised rule provides that each ownership report shall include all information required by, and comply with all requirements set forth in, the version of FCC Form 323-E (including all instructions for the form) that is current on October 1 of the year in which the ownership report is filed. A respondent with a current and unamended biennial ownership report on file with the Commission that is still accurate and which was filed using the version of FCC Form 323-E that is current on October 1 of the year in which its biennial ownership report is due may electronically validate and resubmit its previously filed biennial ownership report.

**73.3615(e):** The *323/CORES Order and Reconsideration Order* revised this rule to state the existing requirement that each permittee of a noncommercial educational AM, FM or TV broadcast station and any entity that holds an interest in the permittee that is attributable pursuant to Section 73.3555 of the Commission's rules must file an Ownership Report for Noncommercial Broadcast Stations, FCC Form 323-E (1) within 30 days of the date of grant by the FCC of an application by the permittee for original construction permit (Permittee Report), and (2) on the date that the permittee applies for a station license. While the instructions for Form 323-E stated that a separate Form 323-E should be submitted for each entity that directly or indirectly controls the licensee or permittee, Section 73.3615(e) previously did not state this specific requirement but instead required respondents to provide all information required by Form 323-E. Each ownership report shall provide all information required by, and comply with all requirements set forth in, the version of FCC Form 323-E (including all instructions for the form) that is current on the date on which the ownership report is filed. As previously provided by this rule, if a respondent has a current and unamended ownership report on file with the Commission that was filed pursuant to paragraphs (e) (1) (i.e., a Permittee Report) or (f) of Section 73.3615, was submitted using the version of FCC Form 323-E that is current on the date on which the ownership report due pursuant to this subsection is filed, and is still accurate, the respondent may certify that it has reviewed such

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ownership report and that it is accurate, in lieu of filing a new ownership report.

**76.3615(f):** As previously required by this rule, each permittee or licensee of a commercial AM, FM or TV broadcast station must file an Ownership Report for Noncommercial Broadcast Stations, FCC Form 323-E within 30 days of consummating authorized assignments or transfers of permits or licenses. The *323/CORES Order and Reconsideration Order* revised this rule to state the existing requirement that such ownership reports must also be filed by any entity that holds an interest in the permittee that is attributable pursuant to Section 73.3555 of the Commission's rules. While the instructions for Form 323-E stated that a separate Form 323-E should be submitted for each entity that directly or indirectly controls the licensee or permittee, Section 73.3615(f) previously did not state this specific requirement but instead required respondents to provide all information required by Form 323-E. As previously required by this rule, each ownership report shall provide all information required by, and comply with all requirements set forth in, the version of FCC Form 323-E (including all instructions for the form) that is current on the date on which the ownership report is filed.

This information collection contains personally identifiable information on individuals (PII).

(a) The system of records notice (SORN), FCC/MB-1, "Ownership Reports for Commercial and Noncommercial Broadcast Stations," which was approved on November 28, 2016 (81 FR 72047), covers the collection, purposes(s), storage, safeguards, and disposal of the PII that individual respondents may submit on FCC Form 323-E.

(b) The FCC published the FCC/MB-1 SORN in the Federal Register.

(c) The FCC is drafting a Privacy Impact Assessment (PIA) for the FCC/MB-1 SORN. Upon completion of the PIA, it will be posted on the FCC's website, as required by the Office of Management and Budget (OMB) Memorandum, M-03-22 (September 22, 2003).

Statutory authority for this collection of information is contained in Sections 1, 2(a), 4(i), 257, 303(r), 307, 308, 309, and 310 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152(a), 154(i), 257, 303(r), 307, 308, 309, and 310 of the Communications Act of 1934, as amended.

2. FCC staff use the data to determine whether the licensee/permittee is in compliance with Sections 308 and 310 of the Communications Act, as amended, and the Commission's ownership disclosure requirements.

3. The Commission requires filers to submit Form 323-E electronically via the Commission's Licensing and Management System (LMS).

4. No other agency imposes a similar information collection on the respondents. There is no other data collection that includes information from all NCE stations and that contains the same level of detail necessary to provide the snapshot of ownership data needed to effectively study and analyze

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ownership trends together with the ownership data that the Commission gathers from commercial broadcast stations.

5. In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the burden on all respondents. This information collection as revised may have an impact on a substantive number of small entities, as described below but the Commission has taken steps to minimize the additional burden.

Previously, the *323/CORES Order and Reconsideration Order* required that filers provide a CORES FRN or Restricted Use FRN—requiring the submission to the Commission of an SSN or other limited personal information that includes only the last four digits of an SSN—for any reportable individual attributable interest holder. However, the *323/CORES Order and Reconsideration Order* maintained the availability of the Special Use FRN in limited circumstances so that filers, including small entities, may timely submit Form 323-E even if the filer is unable to obtain a CORES FRN or Restricted Use FRN for an individual reported on the form. The *323/CORES Order and Reconsideration Order* also established a uniform biennial filing deadline for Form 323-E and provided all filers, including small businesses, an additional 30 days to file biennial ownership reports. In addition, the *323/CORES Order and Reconsideration Order* adopted other improvements to Form 323-E that reduce the filing burden on all filers, including small entities.

As discussed above, the Commission subsequently revisited its previous decision in the *323/CORES Order and Reconsideration Order* to require that a CORES FRN or a Restricted Use FRN be reported for each individual on Form 323-E except in very limited circumstances. On reconsideration of this issue the Commission decided in the *323-E Reconsideration Order* to allow NCE filers discretion to report Special Use FRNs for attributable individuals on Form 323-E in cases where the individual has not obtained a CORES FRN or Restricted Use FRN. This decision further reduces the filing burden on all Form 323-E filers, including small entities.

6. The frequency for this collection of information is biennially, within 30 days of the date of grant by the Commission of an application by the permittee for an original construction permit, on the date that the permittee applies for a station licensee, and within 30 days of the permittee's or licensee's consummation of an authorized assignment or transfer of a permit or license. Less frequent reporting could result in violations remaining undetected and becoming established in a manner contrary to the purpose of the Communications Act and the Commission's implementing regulations. The Commission has established a uniform date for biennial filings so that a more accurate snapshot of minority and female ownership may be obtained that could then later be used to assess trends. In addition, the data collected on biennially filed Form 323-E Reports are intended to be used by the Commission to prepare economic analyses in conjunction with its statutorily mandated periodic review of the FCC's media ownership regulations. The Commission requires collection of data on a regular periodic basis in order to track ownership trends over time and gauge the effects of FCC policy on media ownership in the United States. Less frequent reporting would materially degrade the quality of the data collected and would hamper the ability of the Commission to make meaningful evaluations of ownership trends.

7. This collection of information is consistent with the guidelines in 5 CFR 1320.5(d)(2).
8. The Commission published a Notice (84 FR 20129) in the *Federal Register* on May 8, 2019, seeking comments on the information collection requirements in this supporting statement. No comments were received from the public.
9. No payment or gift was provided to the respondent.
10. Form 323-E collects two types of information from respondents: (a) personal information in the form of names, addresses, job titles and demographic information; and (b) FCC Registration Numbers (FRNs).

Confidentiality of Personal Information: The FCC/MB-1 SORN, which was approved on November 28, 2016 (81 FR 72047), covers the collection, purpose(s), storage, safeguards, and disposal of the PII that individual respondents may submit on FCC Form 323-E. FCC Form 323-E includes a privacy statement to inform applicants (respondents) of the Commission's need to obtain the information and the protections that the FCC has in place to protect the PII.

Confidentiality of FRNs: FRNs are assigned to applicants who complete FCC Form 160 (OMB Control No. 3060-0917). Form 160 requires applicants for FRNs to provide their TIN and/or SSN. The FCC's CORES system then provides each registrant with a CORES FRN, which identifies the registrant in his/her subsequent dealings with the FCC. This is done to protect the individual's privacy.

FCC Form 160 also enables applicants to obtain a Restricted Use FRN, which may be used on Form 323-E to identify an individual reported as an attributable interest holder. Form 160 requires applicants for Restricted Use FRNs to provide an alternative set of identifying information that does not include the individual's full SSN: his/her full name, residential address, date of birth, and only the last four digits of his/her SSN. Restricted Use FRNs may be used in lieu of CORES FRNs only on broadcast ownership reports and only for individuals (not entities) reported as attributable interest holders.

The Commission maintains a SORN, FCC/OMD-25, "Financial Operations Information System (FOIS)" to cover the collection, purpose(s), storage, safeguards, and disposal of the PII that individual respondents may submit on FCC Form 160. FCC Form 160 includes a privacy statement to inform applicants (respondents) of the Commission's need to obtain the information and the protections that the FCC has in place to protect the PII.

11. Form 323-E does not collect information on any private matters of a sensitive nature. However, as noted above, it does collect personal information in the form of names, addresses, job titles, and demographic information. The form also collects FRNs. Registration of an FRN requires the submission of a private TIN and/or SSN—or in the case of Restricted Use FRNs, other limited personal information that includes only the last four digits of an individual's SSN—on the separate

Form 160 (OMB Control No. 3060-0917).

Collection of personal information is necessary in order to permit the Commission to perform quality analyses of ownership trends. Without the addition of the personal information to the general demographic data collected on the form, the Commission cannot verify that the data collected are accurate. In addition, the Commission would be unable to determine how many unique owners of broadcast interests there are for purposes of analyzing data on minority and female ownership.

12. The following estimates are provided for annual public burden on respondents:

Service	No. of Reports	Respondent's Burden	Annual Burden Hours	Hourly In-House Cost	Annual In-House Cost
Biennial Reports <sup>2</sup>	2,461	1.5 hours	3,691.5 hours	\$48.08	\$177,487.32
All Other Reports	175	1 hour	175 hours	\$48.08	\$8,414
<b>TOTALS:</b>	<b>2,636 (Responses)</b>		<b>3,867 hrs. (rounded) (Burden Hours)</b>		<b>\$185,901.32 (In-house cost)</b>

**Total Number of Annual Respondents/Responses: 2,636 respondents and 2,636 responses**

**Total Annual Burden Hours: 3,867 hours (rounded)**

**Total Annual "In-house" Cost: \$185,901.32**

We assume that the respondent would consult with its in-house staff and/or attorney to complete and file the FCC Form 323-E. We estimate that these respondents would have an average salary of \$100,000 (\$48.08/hour). These estimates are based on FCC staff's knowledge and familiarity with the availability of the data required.

13. **ANNUAL COST BURDEN:** We assume that the respondent would use an attorney to complete and file the FCC Form 323-E. We estimate that this attorney would charge an average of \$300/hour for such services.

$$2,461 \text{ biennial reports} \times 3 \text{ hours} \times \$300/\text{hour} = \$2,214,900$$

<sup>2</sup> Although the biennial reports are filed every two years, the Commission calculated the 2,461 responses (and all other burden estimates for the biennial filings) based on an annual basis since OMB requires an annual calculation of filings, costs, and burden hours.



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175 other reports x 2 hours x \$300/hour	=	\$ 105,000
<b>Total Annual Cost Burden</b>	=	<b>\$2,319,900</b>

14. **Cost to the Federal Government:** The Commission will use paraprofessional staff at the GS-11 Level, step 5 (\$37.79/hour) to process the FCC Form 323-E. The work will take 1 hour per report for biennial and non-biennial ownership reports.

**Total Cost = 2,636 FCC Form 323-E x 1 hour/report x \$37.79/hour = \$99,614.44**

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

16. The data will not be published. However, the data collected by the Commission on Form 323-E may be used in future economic studies and other analyses conducted by the Commission for the purposes of analyzing trends in media ownership, and those studies may be published. In addition, the data collected on Form 323-E will be available to members of the public via the search functions of the Commission's electronic filing systems for Form 323-E and other FCC forms. Publicly-available data from Form 323-E will include FRNs attached to specific ownership records, but the underlying confidential TIN/SSN or other confidential personal information submitted on Form 160 to obtain those FRNs will not be made public. We anticipate that outside economists, academics, and members of the public may use the data collected on Form 323-E in future economic or other academic studies relating to media ownership issues, and that those studies may be published or made publicly available by their respective authors.

17. An extension of the waiver not to publish the expiration date on the form is requested. This will obviate the need for the Commission to update electronic files upon the expiration of the collection. OMB approval of the expiration date of the information collection will be displayed at 47 C.F.R. Section 0.408.

18. There are no exceptions to the Certification Statement.

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

No statistical methods are employed.