

This submission is made pursuant to 44 USC § 3507 to extend an existing collection that is expiring. The Commission is seeking OMB approval for an extension with no change in the reporting and/or recordkeeping requirements in order to obtain the full three-year approval.

## **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 FCC 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due to meaningful economic competition between providers of such services and whether such regulations should be repealed or modified.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.

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.

This information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

2. The information describes the respondents' compliance with the FCC's EEO rules. The common carriers' employment information is available for inspection in WC Docket No. 16-233 using the Commission's ECFS mechanism.

3. The Commission requires carriers to file the Form 395 data electronically through the Commission's Electronic Filing System (ECFS) which can be accessed at <https://www.fcc.gov/ecfs/>. Carriers and other interested parties are able to access Form 395 data via ECFS.

4. Similar employee data are collected by the Equal Employment Opportunity Commission (EEOC) from all firms with 100 or more employees (EEO-1 Report) but this information is of a confidential nature. FCC rules require that information collected through FCC Form 395 as well as any reports on any equal employment opportunity discrimination complaints brought against the respondents be publicly available.

5. FCC Form 395, Common Carrier Annual Employment Report, is to be filed by all licensees with sixteen (16) or more full-time employees as required by 47 C.F.R. § 1.815 and therefore minimizes the burden on smaller carriers. If a carrier has fewer than 16 full-time employees, no Form 395 filing is required.

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. The Commission notes that Section 22.321(f) requires the carriers are required to maintain their annual employment report, equal employment opportunity program statements, annual report on complaints regarding violations of equal employment provisions of Federal, State, Territorial or local law, and all exhibits, letters and other related documents that has been filed with this Commission for a period of two years.

8. A notice was published in the Federal Register as required by 5 C.F.R. § 1320.8(d) on December 8, 2021 (See 86 FR 69643). 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. Part 0.459, 47 C.F.R., 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. Section 0.457 of the Commission's rules details the types of records that are 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 2021 filings received in this data collection.

(1) Number of Respondents: **521**

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

(3) Total Number of Responses Annually: **521**

521 respondents x 1 response/annually = 521 responses

(4) Total Annual Hourly Burden: **521 hours**

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

521 carriers x 1 hour per filing = 521 hours

(5) Total in-house costs to the respondent: \$27,566

The Commission estimates that it will take each carrier using in-house staff equivalent to a GS 11/Step 5 federal employee (\$40.70 per hour), plus 30% overhead (\$12.21 per hour) to comply with the requirements.

521 (number of respondents) x 1 (number of filings) x 1 (hours per filing) x \$52.91 per hour = \$27,566.<sup>1</sup>

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 \$0 since the August 26, 2016 Public Notice announced that the FCC Forms 395 Reports, including resubmissions, are to be filed electronically in WC Docket No. 16-233 using the Commission's ECFS mechanism (with the exception of confidential filings).

15. The Commission is reporting a decrease to this collection since the last submission to OMB. We have adjusted the total number of respondents, total annual responses and total annual burden hours to 521 from 1,315 (-794) which are based on the total 2021 filings received in WC Docket No. 16-233.

There are no program changes.

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

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<sup>1</sup> Salary Table 2022 - DCB For Locality Pay Area of Washington-Baltimore-Arlington, DC-MD-VA-WV-PA, Effective January 2022.

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.

18. There are no exceptions to the Certification Statement.

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

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