

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

Notice of Public Information Collection)	
Requirement Submitted to OMB for Review)	OMB Control No. 3060-0214
and Approval)	OMB Control No. 3060-0174
)	

**JOINT COMMENTS OF THE
NAMED STATE BROADCASTERS ASSOCIATIONS**

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The State Broadcasters Associations named at the end of this submission (collectively, the “State Associations”) hereby file these Joint Comments in response to the above-captioned notice of the Federal Communications Commission’s (“FCC” or “Commission”) Public Information Collection Requirement submission (as defined below) to the Office of Management and Budget (“OMB”).¹ For the reasons set forth herein, the State Associations urge the OMB to carefully evaluate the proposed Collection under the Paperwork Reduction Act of 1995 (“PRA”),² and to disapprove the proposed Collection because the Commission has failed to comply with the PRA.

Introduction and Summary

In its *Second R&O*,³ the Commission adopted the new, not yet effective, regulation requiring every television broadcast station to post on the Commission’s own website the

¹ Public Information Collection Requirement Submitted to OMB for Review and Approval, Comments Requested, 77 Fed. Reg. 27772 (rel. May 11, 2012).

² See 44 U.S.C. § 3501, *et seq.* (“The purposes of this subchapter are to – (1) minimize the paperwork burden . . . resulting from the collection of information by or for the Federal Government; (2) ensure the greatest possible public benefit from and maximize the utility of information created, collected, maintained, used, shared and disseminated by or for the Federal Government. . . .”); 5 C.F.R. § 1320.8(a)(1) (An agency’s PRA review “shall include: (1) [a]n evaluation of the need for the collection of information. . . .”).

³ *In the Matter of Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, etc.*, MM Docket Nos. 00-168 and 00-44, FCC No. 12-44 (rel. April 27, 2012) (“*Second R&O*”).

contents of each television station's paper-based public inspection files, including all new political time records (collectively, the "Collections"). The only exceptions to this new posting requirement are those documents that are otherwise required to be filed with the Commission, letters and emails from viewers which would remain in paper or electronic format at each station's main studio, and documents contained in a television station's political file prior to the effective date of the Collection.

As a result, the proposed online public/political file Collections cover the following (and often voluminous) types of documents that are currently required to be placed in a station's paper public inspection file located at the station's main studios: "citizen agreements, certain EEO materials, issues/programs lists, children's television commercial limits records, donor lists for NCEs, local public notice announcements, time brokerage agreements, must-carry or retransmission consent elections, joint sales agreements, Class A continuing eligibility documentation, materials related to FCC investigations (other than investigative information requests from the Commission) and any new political file materials."⁴ The Collections also propose to require television stations to maintain "local electronic back-up files" for those documents required to be kept in their political files.⁵

The new regulation also requires television stations to include in the online public file the station's main studio address and telephone number, and the email address of the station's designated contact for questions about the public file.⁶ Furthermore, stations that have websites will be required to: (i) place on their home page a link to the FCC's online public file for the

⁴ *Second R&O* at ¶ 11.

⁵ *Id.* at ¶ 92.

⁶ *Id.* at ¶ 69.

station; and (ii) include on their home page contact information for a station representative who can “assist any person with disabilities with issues related to the content of the public files.”⁷

In adopting its *Second R&O*, the FCC rejected a compromise proposal advanced by the National Association of Broadcasters (“NAB”), the ABC, CBS, NBC, Fox, and Univision networks, various television station groups and the State Associations, regarding the political file. The compromise proposal would have permitted television stations to provide *summary* political advertising information online, including the total amount of an advertising buy and the total amount of money a candidate has spent at that station on ads during a particular election window. The proposal would have substantially eased uploading burdens and kept commercially-sensitive per unit rate information out of the online public file, while still including this information in hard copies of the political files maintained locally at stations for candidates, their representatives and others to inspect.

Discussion

OMB’s careful scrutiny of the proposed Collection is justified not only by the requirements of Federal statutory law but also because the proposed Collections will adversely impact more than 1,000 small television business entities upon which members of the public, throughout the United States, rely for their emergency warnings, local and national news and other valuable broadcast information. In short, when viewed on a national basis, the proposed Collection will likely divert valuable and limited resources of more than 1,000 television stations, which serve hundreds of millions of Americans, from being able to concentrate those limited resources on producing, acquiring and broadcasting valuable informational and entertainment programming that is highly regarded by America’s viewers. The State

⁷ *Id.* at ¶ 110.

Associations submit that the Commission has failed to comply with the PRA in at least these material respects: (i) the FCC failed to adequately assess the substantial burdens that would be imposed upon all television broadcasters if the online public file/political file Collection is implemented; (ii) the proposed Collection is impermissibly duplicative of records already required to be maintained online by the Federal Election Commission (the “FEC”); and (iii) the proposed Collection poses other significant regulatory and compliance concerns which have not been adequately addressed by the FCC in this proceeding.

I. The Commission Has Improperly Failed to Analyze the Impact Its Adopted Online Public/Political File Regulation Will Have on Television Stations Generally, and on Small Television Stations in Particular, Under The PRA

Prior to submitting a public information collection for OMB approval, the FCC (like all federal agencies) is required to assess all proposed information collections carefully by evaluating the need for the information collection, providing a “specific, objectively supported estimate of burden,” and considering whether the burden can be reduced.⁸ The Commission’s Collection has not satisfied the standards of the PRA in this case. In its *Further Notice of Proposed Rulemaking*,⁹ the Commission summarily concluded that because the “Commission [itself will] host the public file it will ease the administrative burden on all broadcasters.”¹⁰ The

⁸ 5 C.F.R. § 1320.8(a)(1), (4), and (5). The PRA was enacted “to minimize the federal paperwork burden” by eliminating regulatory burdens “which are found to be unnecessary and thus wasteful” 44 U.S.C. § 3501(1) (Supp. V 1981). To comply with the OMB regulations promulgated under the PRA, the FCC must evaluate any information collection requirement in a very specific way. Among other things, , pursuant to 5 C.F.R. § 1320.8(a), this review must include:

- An evaluation of the need for the collection of information.
- A “specific, objectively supported estimate of the burden.”
- An evaluation of whether and to what extent the burden can be reduced.
- A test of the collection through a pilot program, if appropriate.
- A plan for the efficient and effective management and use of the information, including necessary resources.

⁹ See *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, etc.*, Order on Reconsideration and Further Notice of Proposed Rulemaking, MM Docket 00-168, FCC 11-162 , 26 FCC Rcd 15788 (rel. Oct. 27, 2011) (“FNPRM”).

¹⁰ FNPRM at ¶ 12.

Commission similarly states in the *Second R&O* that “requiring broadcasters to upload the required items to their online public files housed on the Commission website will not be unduly burdensome.”¹¹ These conclusory statements cannot be squared with the record evidence before the FCC in this proceeding. To the contrary, the actual record before the Commission in the *Second R&O* proceeding is replete with showings that the proposed Collections and reporting requirements are unnecessary and that the burden of compliance on all television stations will be substantial.

The PRA also requires “with respect to the collection of information and the control of paperwork” that “each agency shall” reduce “to the extent practicable and appropriate the burden on persons who shall provide information to or for the agency, **including with respect to small entities. . . .**”¹² The FCC’s Collections have not met this statutory requirement and, undoubtedly, the cost of compliance would fall more heavily on smaller television stations.

As an initial matter, in its Final Regulatory Flexibility Analysis (“FRFA”)¹³ the Commission states that the cost of compliance for television stations to initially upload their existing public file “will average from **\$80 to \$400 per station.**”¹⁴ It is unclear how the FCC arrived at these surprisingly low dollar totals, when the record in this proceeding includes evidence that the paper-based public inspection file of a typical commercial television contains thousands of pages of documents.¹⁵ The Commission discusses one-time per page copying costs, but the information collection and reporting requirements will impose many additional

¹¹ *Second R&O* at ¶ 17.

¹² 44 U.S.C. § 3506(c) (emphasis added).

¹³ See 5 U.S.C. § 603.

¹⁴ 77 Fed. Reg. 27631, 27653 (rel. May 11, 2012).

¹⁵ See State Association Comments at 13 (Dec. 22, 2011), *citing* Comments of The Walt Disney Company, on behalf of itself and its subsidiary, ABC, Inc. This estimate did not account for the years remaining in station’s terms of license or the pages that would be added during those years. *Id.*

costs beyond bare labor costs.¹⁶ Many television stations, particularly smaller entities, would incur significant additional costs, such as new equipment purchases, equipment upgrades, and staffing costs associated with the regular maintenance of the online public file. The OMB should therefore conclude that it is premature to adopt the new Collection, as proposed, given that the FCC has not satisfied the requirements of the small business provisions of the PRA.¹⁷

The PRA also mandates that the Commission, prior to the proposed modification of its public inspection file rules, to evaluate any information collection requirement in a very specific way in order to minimize the burdens imposed by any proposed “collection.” The OMB and its regulations strongly encourage agencies to test an information collection through a “pilot program,” where a pilot program would be helpful.¹⁸ The State Associations strongly urged the FCC conduct a pilot program prior to adopting any requirement that television stations maintain online public/political inspection files.¹⁹

As the State Associations discussed in this proceeding, the “FCC will gain valuable experience and insights if it conducts a pilot program involving the licensees of representative large, medium and small market commercial and noncommercial educational television stations, and their trade association representatives, in the re-design of the FCC’s website and in the experimental uploading of certain paper-based public files of sample television stations.”²⁰ In light of the enormous paperwork and reporting burdens to be imposed on television stations, the FCC’s decision not to undertake a pilot program for its new regulations fails to comply with the

¹⁶ *Id.* As the State Associations demonstrated, that this “process alone would take thousands upon thousands of man-hours for scanning and uploading the required documentation. And those time estimates assume no uploading problems caused by the Commission’s own technical infrastructure.” *Id.*

¹⁷ The FCC has also failed to meet its obligations under the Regulatory Flexibility Act, which requires the Commission to analyze the economic impacts on small entities and consider significant alternatives to minimize the impact on such entities. *See* 5 U.S.C. § 603.

¹⁸ 5 C.F.R. § 1320.8(a)(6).

¹⁹ *See* State Association Comments at 12.

²⁰ *Id.* at 14.

OMB regulations promulgated under PRA. A “phase-in” program is not a substitute for a pilot program. Neither is subjecting all major television network stations in the top 50 markets to the new Collections a substitute for a pilot program that will provide real world experiences for television stations of all sizes and in all markets.

The FCC’s refusal to implement a pilot program is even more troubling given that the record before the Commission provides compelling evidence that placing online *the political files alone* would be extraordinarily burdensome and would substantially exceed the Commission’s burden estimates.²¹ Indeed, in 2007, the Commission itself exempted the political file from online posting requirements based on its determination that it would be unduly burdensome for stations to be required to upload political file documents continually into an online political file. As the Commission then recognized:

Daily and even more frequent requests for access by political candidates and their campaign personnel, combined with a need for the station to update the file frequently, may make requiring the station to place this material on the Internet inappropriate. . . . Political candidates and campaigns make heavy use of the file and require quick access to material, and if the volume of material is too great, the station may not be able to update the Internet file quickly enough. Our rules . . . may mean multiple updates each day during peak periods of the election season. . . . While Internet access would obviate the need for physical access to each station and free station personnel from having to assist candidates and their political committees, **we conclude that the burden of placing this material on the Internet outweighs the benefits.**²²

The FCC has provided no valid rationale for its about-face regarding the posting of political files online – ignoring its own valid conclusion in this proceeding from just a few years ago – that requiring television station public files to be uploaded online would be unduly expensive, burdensome, and unnecessary.

²¹ See generally, NAB Comments at 6-22 (Dec. 22, 2011); Comments of Four Commercial and NCE Television Licensees at 4 (Dec. 22, 2011); Joint Comments of Broadcasting Licenses, L.P., *et al.* at 3-7 (Dec. 22, 2011).

²² *FNPRM* ¶ 23 (emphasis added).

The State Associations reminded the FCC in their Comments that based on an informal survey of the State Associations member television stations throughout the U.S., the costs associated with maintaining stations' political files online is very real.²³ Indeed, many member television stations indicated that it would be necessary for them to hire at least one additional employee in order to comply with the political file aspects of the rule alone.²⁴ Similarly, based upon items in the record before the FCC, the NAB informed the FCC that:

- Using the 2008 and 2010 election cycles as a base line, Stations WJZY(TV), Belmont, NC and WMYT(TV), Rock Hill, SC estimate that maintaining an online political file would have approximately doubled the total staff time needed to handle political spots. The stations also state that they would have to hire approximately eight more sales personnel on at least a seasonal basis to handle the increased workload associated with an online political file at a cost of nearly \$80,000 during the political window.²⁵
- Media General Broadcast Group estimates that scanning, saving, and uploading political sale orders alone, and in a non-Presidential election year, would require approximately 4,800 hours of staff time across the Group's 18 stations.²⁶
- One station has estimated that converting its *existing* paper political file to digital files and uploading those alone could take a minimum of 270 hours. Assuming that the person responsible for scanning and uploading the files is paid \$25 per hour, this represents a new cost of \$6,750 for one station to process and upload its existing political files alone. Multiplying this figure by 2,264 (the total number of commercial, non-commercial, and Class A television stations) suggests that the total burden of uploading *existing* political files could be over \$15 million or more across the industry.²⁷

Despite these and other comments urging the Commission to adequately review the cost and burden estimates contained in the record and to implement a pilot program prior to adopting its proposed Collections, the Commission has not done so. There is still too much uncertainty

²³ See State Association Comments at 12, n.11.

²⁴ *Id.* at 12.

²⁵ Supplemental Comments of NAB at 10 (March 8, 2012), *citing* Comments of NAB at 14, 18-19.

²⁶ Supplemental Comments of NAB at 10, *citing* Comments of Joint Broadcasters Comments, Appendix C, Declaration of Elizabeth Hicks, General Manager of Central Traffic Operations, Media General Broadcast Group (internal citations omitted).

²⁷ Supplemental Comments of NAB at 10.

relating to: the design of the Commission's website; the capacity of the Commission's servers to accommodate all of the documents for easy uploading and easy viewing; the time and expense it will take stations to scan and upload all of the required documents; the costs for stations to maintain back-up files to "prove" that their documents were uploaded when required; *etc.*²⁸ The FCC is in the process of engaging in an unprecedented development of a new online system to receive and sort new types of information. Furthermore, that system will import current information to the public files of each station. OMB should not approve the proposed Collections unless and until the FCC's conducts an adequate pilot program to properly evaluate the burdens of an online public and political file requirement on television stations, particularly on smaller television stations.

II. The Collections Proposed Are Impermissibly Duplicative of Records Already Required to be Maintained Online by the FEC

On March 8, 2012, the NAB filed Supplemental Comments with the FCC in this proceeding and demonstrated that in order for the FCC to obtain OMB approval for an information collection under the PRA, the Commission must certify that the collection "is necessary for the proper performance of the functions of the agency, including that the information has practical utility" and "is not **unnecessarily duplicative of information otherwise reasonably accessible to the agency.**"²⁹ As the NAB properly concluded, "it is apparent that Congress intended the FEC to be the central repository of campaign information. Indeed, the data available on campaign spending at the FEC is extensive and includes detailed information about broadcast advertising."³⁰ The NAB also concluded that in "light of the extensive political records available to the FCC and to the public on the FEC's website, the

²⁸ Comments of State Associations at 12-13. *See also* Comments of NAB at 29 and Comments of NAB on Proposed Information Collection Requirements at 3.

²⁹ Supplemental Comments of NAB at 5, *citing* 44 U.S.C. 3506(c)(3)(A) and (B) (emphasis added).

³⁰ *Id.* at 4.

imposition of an online posting requirement on broadcast licensees would fail to meet OMB's standards."³¹

The information required to be contained on the FEC's website overlaps, and even exceeds, in many respects, the data the FCC is seeking to require broadcasters to upload onto the Commission's website. In an *ex parte* filing, the NAB provided the FCC with a detailed explanation and chart illustrating the needless and wasteful overlap the FCC's proposed Collections would create if the FCC were to require television stations to upload their political file documents.³²

FCC Commissioner Robert M. McDowell has echoed the same concern on more than one occasion. For example, during a recent March 19, 2012, budget hearing before the House of Representatives Subcommittee on Financial Services and General Government Committee on Appropriation, Commissioner McDowell made the following statements:

In fact, the evidentiary record before the Commission illustrates that the proposed new rules could cost the TV broadcast industry **\$15 million** in upfront expenses to scan existing paper files and upload them to a new government website while also forcing each station to incur upwards of **\$140,000 per year** in recurring costs to maintain the information in realtime, or "immediately," as the FCC has proposed. The record also shows that these new federally-mandated costs on businesses would likely be offset by cuts to local programming and newsgathering. Not only would such a rule be **especially onerous for smaller and independent broadcasters** in these challenging economic times, but it could also undermine long-standing federal policy to promote local programming.³³

Commissioner McDowell also posed the following questions to the House Members:

Didn't Congress intend through the Bipartisan Campaign Reform Act of 2002 for the expert agency on campaign finance disclosure matters, the Federal Election

³¹ *Id.* at 5-6 (citations omitted).

³² See NAB *Ex Parte Letter* from Jane E. Mago to Marlene H. Dortch, dated April 5, 2012.

³³ Statement of Commissioner Robert M. McDowell, Federal Communications Commission, Before the Subcommittee on Financial Services and General Government Committee on Appropriations, United States House of Representatives, Budget Hearing – Federal Communications Commission, March 19, 2012 (emphasis added).

Commission (FEC), to be in charge of implementing campaign finance disclosure requirements? If so, would FCC requirements that are duplicative to FEC rules violate the Paperwork Reduction Act?³⁴

Similarly, the Commissioner raised a number of issues regarding the FCC's proposed online rules in his Statement approving in part, and dissenting in part, and in his Supplemental Policy and Legal Statement, as part of the *Second R&O*:

To make a long story short, in 2007, I and all four of my fellow Commissioners at that time *unanimously* voted to move almost all sections of broadcasters' general public inspection files online while explicitly exempting the political file from that transition. All of us recognized the unique history and practical realities of the political file requirement and how those contrasted with the history and intent of the general public inspection file rule. We also recognized the competitive sensitivities and burdens of placing pricing information online. In the end, on a bipartisan basis and without dissent, the Commission re-emphasized that the public inspection file contains material that speaks to whether a broadcaster is serving its local community of license while the political file exists to serve political candidates. Accordingly, we chose to treat them differently for good reason.³⁵

Ironically, in an attempt to move away from paper, the majority may run into the requirements of the Paperwork Reduction Act (PRA). Our 2007 order on this matter never went into effect due to PRA concerns. As the mandates in today's order require the duplication of some information already required by the Federal Election Commission, it may also mark time in PRA Purgatory.³⁶

In any event, if the public policy goal of new rules is to produce greater transparency in campaign spending, the Commission is not the best agency to achieve this end. It is the role of the legislative branch and the Federal Election Commission (FEC) to debate, craft, and implement new laws and disclosure requirements in the campaign finance arena ... This [political] information is also required to be maintained in the political file and, therefore, will be placed on the Commission's website, duplicating information already available to the government.³⁷

³⁴ *Id.*

³⁵ *Second R&O*, Commissioner Robert M. McDowell Supplemental Policy and Legal Statement.

³⁶ *Id.*

³⁷ *Id.*

It is troubling that the Commission has not adequately analyzed the costs and burdens that these rules will place on broadcasters vis-à-vis any potential benefit to the public interest as outlined in President Obama's 2011 executive order. These requirements will be especially onerous for 1,006 small commercial broadcasters and 391 noncommercial educational stations. Although the requirement to post the political file is prospective, stations nonetheless incur upwards of \$80,000 to \$140,000 per year, according to the record, in recurring costs to maintain the information. The extra capital and personnel resources needed to maintain an online political file will require broadcasters to make tough choices, such as diverting funds from their newsgathering operations and local programming. These costs will disproportionately harm small and independent broadcasters, especially those owned by women and minorities, which are already experiencing financial pressures in these challenging economic times.³⁸

In short, it is not only the NAB, the State Associations and other broadcasters that believe the FCC's proposals for the online filing of political files fail to meet OMB's standards – FCC Commissioner McDowell has serious concerns as well. The record here does not demonstrate that the information already provided on the FEC website is not adequate to meet the needs of the general public or, to the extent relevant, for researchers and academics who wish to review such political information. It is clear that the FEC already requires far-reaching and detailed campaign finance disclosures to be made online, and that the FEC requirements significantly overlap those of the FCC's political file proposals. It also cannot reasonably be questioned that the FEC, not the FCC, is the proper venue for federal rules regarding the election process and, consequently, the FCC's proposed rules are unnecessarily duplicative and create unnecessary online filing costs and burdens in addition to those that are already required by the FEC.³⁹ Consequently, the OMB should, at the least, decline to approve the political file aspect of the proposed Collections.

³⁸ *Id.*

³⁹ It should also be noted that in addition to the overlapping FEC regulations and proposed FCC Collection, the State of Washington, for example, requires television stations that sell political advertising in their State to maintain political files open to the public. *See, e.g.,* RCW 42.17A.005. *et. seq.*

III. **The Online Posting of a Station’s Political File, Coupled With a Local Back-Up File Requirement, Poses Special Issues Not Adequately Addressed By the FCC**

As noted, the proposed new Collection will also require television stations to post the contents of their political file on the FCC’s website. In what the State Associations believe was a good faith effort by the FCC to reduce the burdens on smaller entities, the proposed new Collection (i) will apply first only to television stations which are located in the top 50 markets and affiliated with one of the four top television networks; (ii) will not apply to the other television stations until two years after the effective date of the new Collection; and (iii) will require television stations to upload documents comprising the political file only on a going forward basis, meaning that only those documents that come into existence on and after the applicable effective date of the new Collection will need to be uploaded onto the FCC’s website.⁴⁰

However, as relates to the political file aspect of the proposed Collection, the FCC has failed to take into consideration at least the following additional issues:

A. The “Dual Platform” Political File Requirement

The proposed Collection will, for the first time, require television stations to maintain political files using two platforms – one online and the other at the station. Notwithstanding the new online posting requirement, the Collection will require stations to maintain “local electronic back-up files” as back-up files.”⁴¹ First, why are stations being denied the flexibility to maintain “back-up files” in paper format? Second, why must stations in effect underwrite the risk that a government program, *i.e.*, use of its own website, may not work from time to time? The Commission failed to adequately address the significant new burdens created by this new dual platform requirement.

⁴⁰ Second R&O at ¶ 11.

⁴¹ *Id.* at ¶ 92.

B. The “Immediately Absent Unusual Circumstances” Filing Requirement

There is no disagreement that stations, which are required to maintain political files at their main studios, have long been required to place the required documents in their paper-based political files “immediately absent unusual circumstances” (“Immediate Filing Requirement”). The Collection adopts this Immediate Filing Requirement for the online posting of political file material as well.

The Commission did not adequately address the burdens caused by applying the Immediate Filing Requirement to online political files. As noted above, the record before the Commission conclusively shows of how difficult it will be for stations to comply with the Immediately Filing Requirement as it relates to the posting of political file-related documents.⁴² Given that, as a practical matter, television stations’ political files must be updated often throughout the day during a busy election season, it goes without saying that the “immediately absent unusual circumstances” requirement to post records online would be unduly burdensome for all television stations and that the hardest hit would be stand-alone and smaller market television stations.

The Commission also fails to take into account that political advertising requests are by their very nature often “last minute” and “end of the day” type requests, making the FCC’s proposed goal of “near real-time upload” compliance with an online political file rule extremely difficult if not impossible to accomplish. Making things worse, and thus increasing the burden particularly on small entities, is the fact that the *Second R&O* does not make clear whether the Collection contemplates that the Immediate Filing Requirement will apply only to the online

⁴² See, e.g., State Associations Comments at 7-8; NAB Comments at 9-15; Joint TV Broadcasters Comments at 4-8; Comments of Joint Broadcasters at 5-7; Comments of Four Commercial and NCE Television Licensees at 4.

political file postings, or to both the online political file postings and the local back-up political files.

The burden of this Immediate Filing Requirement, coupled with the ambiguity in the Commission's *Second R&O*, reaches licensee basic qualifications dimensions when one considers that at renewal time stations are required to "certify" that all documents required in their public files, including their political files, and those documents were placed in the files "at the appropriate times."⁴³ As a result of the Collection, the date and time when a station uploaded a document onto the FCC's website will be a matter of earth-wide, public record. Absent true flexibility in the concept of "immediately," as it relates to the online posting of political file documents, it is foreseeable that endless litigation will ensue over whether a particular political file-related document was posted "immediately," and whether "unusual circumstances" were present. The burden caused by this unintended consequence of applying the stop-watch nature of the Immediate Filing Requirement to the online political file aspect of the Collection was not adequately addressed by the Commission.

To reduce the severe burdens in this area, first, the Commission should state that the documents to be retained as back-up for the local political file may be kept in paper or electronic format.⁴⁴ Second, the Commission should announce that a television station will be deemed to have complied with the Immediate Filing Requirement as relates to its online political file if the particular document in question was either posted on the FCC's website "immediately absent unusual circumstances" or placed in paper or electronic form in the station's local political file "immediately absent unusual circumstances." That way a licensee will have a more certain basis

⁴³ See FCC Form 303-S, Section III, Item No. 3. "**Local Public File.** Licensee certifies that the documentation, required by 47 C.F.R. Sections 73.3526 or 73.3527, as applicable, has been placed in the station's public inspection file at the appropriate times."

⁴⁴ This flexibility will reduce the burden, particularly on smaller entities.

for feeling confident, where either of those two deadlines were met, that it can in good faith make the “Local Public File” certification. Pronouncements along these lines will go a long way toward reducing confusion and foreseeable litigation, both of which will be burdensome on all television stations, and particularly on small entities.

Conclusion

Based on the foregoing, the State Associations respectfully urge the FCC and the OMB to adopt the positions advanced in these Joint Comments and urge the OMB to disapprove the FCC’s proposed Collections.

Respectfully submitted,

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Broadcasters Association, Montana Broadcasters Association, Nebraska Broadcasters Association, Nevada Broadcasters Association, New Hampshire Association of Broadcasters, New Jersey Broadcasters Association, New Mexico Broadcasters Association, The New York State Broadcasters Association, Inc., North Dakota Broadcasters Association, Oklahoma Association of Broadcasters, Oregon Association of Broadcasters, Pennsylvania Association of Broadcasters, Rhode Island Broadcasters Association, South Carolina Broadcasters Association, South Dakota Broadcasters Association, Tennessee Association of Broadcasters, Texas Association of Broadcasters, Utah Broadcasters Association, Vermont Association of Broadcasters, Washington State Association of Broadcasters, West Virginia Broadcasters Association, Wisconsin Broadcasters Association and Wyoming Association of Broadcasters

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