

SUPPORTING STATEMENT

This collection is being submitted to extend an existing collection.

A. Justification:

1. *Circumstances that make collection necessary.* On August 24, 1982, the U.S. District Court for the District of Columbia entered the Modification of Final Judgment (MFJ), in which it required AT&T to divest its ownership of the Bell Operating Companies (BOCs).¹ The U.S. District Court subsequently divided all territory in the continental United States served by the BOCs into Local Access and Transport Areas (LATAs).² Under the MFJ, BOCs were permitted to provide telephone service within a LATA (intraLATA service), but were not permitted to carry traffic that crossed LATA boundaries (interLATA service).³ InterLATA traffic was required to be carried by interexchange carriers.⁴

Congress, in the 1996 amendments to the Telecommunications Act, shifted the authority over LATA boundaries from the U.S. District Court to the Commission. Sections 601(a) (1) and 601 (e)(1) of the Act shift any “conduct or activity” previously subject to the AT&T Consent Decree to the requirements and obligations of the Act, as amended.⁵ Section 3(25) of the Act defines a LATA, in part, to mean a “contiguous geographic area...established or modified by a Bell operating company after [February 8, 1996] and approved by the Commission.”⁶ The Act thus gives the Commission sole authority to approve any BOC action to establish or to modify LATA boundaries as they existed on February 8, 1996.⁷ Furthermore, Congress also incorporated into the 1996 Act a policy, in section 706, for the Commission to encourage the deployment on a reasonable and timely basis of advanced services to all Americans. Subsequently, the Commission

¹ *United States v. American Telephone and Telegraph Co.*, 552 F. Supp. 131 (D.D.C. 1982), *aff'd sub nom. Maryland v. United States*, 460 U.S. 1001 (1983).

² See *United States v. Western Electric*, 569 F. Supp. 990, 993-994 (D.D.C. 1983) (hereinafter *Western Electric*).

³ *Id.* at 994.

⁴ *Id.*

⁵ 47 U.S.C. §§ 152(a)(1), (e)(1).

⁶ 47 U.S.C. § 153(25) (emphasis added).

⁷ See *Application for Review and Petition for Reconsideration or Clarification of Declaratory Ruling Regarding US West Petitions to Consolidate LATAs in Minnesota and Arizona*, NSD-297-6, Memorandum and Order, 14 FCC Rcd 14392, (LATA Modification Order on Review).

specifically denied BOC requests for large-scale elimination or modification of LATA boundaries to allow BOCs to provide advanced services across currently recognized LATA boundaries.⁸

Bell Atlantic subsequently filed a petition to modify the LATA boundaries in and around West Virginia to allow Bell Atlantic to transmit data across LATA boundaries. In response, we require in the attached Order that future petitions for LATA modifications comply with specified criteria, so that the Commission may review requests for LATA boundary modifications in an efficient manner. These criteria will also ensure that any LATA modifications shall comply with section 706, without violating any other statutory provisions of the 1996 Act. We also require the petitioning BOC to serve its state commission with a copy of the petition, and we encourage the state commission to participate in the proceeding.

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.

Statutory Authority: 47 U.S.C. § 153; 47 U.S.C. § 157; 47 U.S.C. § 601; and 47 U.S.C. § 706.

2. *Use of Information.* In order to review requests for LATA modifications promptly and efficiently, it is necessary that BOCs provide the information specified. The criteria set forth in this Order will serve to ease the petition process on BOCs by providing guidelines that will serve to narrow the scope of their petitions to the issues and facts that the Commission is primarily concerned with. In addition, the request will also expedite the petition review process by ensuring that petitioners will provide all of the information the Commission needs to properly review the requests.

3. *Technological collection techniques.* The Commission does not prohibit the use of improved technology where appropriate.

4. *Efforts to identify duplication.* The information requested from BOCs is not readily available from any other source.

5. *Impact on small entities.* This collection of information does not impact small entities. The Order only applies to Bell Operating Companies (BOCs), which do not qualify as small entities under the Regulatory Flexibility Act (RFA).

6. *Consequences if information is not collected.* Without the information sought by the information collection the Commission will be unable to determine whether the requested LATA boundary modification satisfies the requirements specified in the Order and therefore, any insufficient petition may be denied.

⁸ *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 13 FCC Rcd 24012 at 24048 (1998)

7. *Special Circumstances.* The Commission has not established filing frequency. Respondents may be required to report information to the agency more often than quarterly if the carrier files a plurality of LATA boundary modification petitions within that time period.

8. *Federal Register notice; efforts to consult with persons outside the Commission.* A notice was placed in the Federal Register. *See* 71 FR 14526, March 22, 2006 (copy attached). No comments were received.

9. *Payments or gifts to respondents.* The Commission does not anticipate providing any payment or gift to respondents.

10. *Assurance of confidentiality.* Respondents may claim that some of the information they are being asked to provide is proprietary trade secret or other confidential information. If so, they may request confidential treatment under section 0.459 of the Commission's rules.

11. *Questions of a sensitive nature.* There are no questions of a sensitive nature with respect to the information collection.

12. *Estimates of the hour burden of the collection to respondents.*

(1) Number of Respondents: 1. (There are currently only 4 BOCs in the universe of respondents, however the Commission estimates that only one of the BOCs provide this information on an annual basis.)

(2) Frequency of response: On occasion. We anticipate that one BOC will file approximately 1 petition, totaling 1 petition annually.

(3) Average hour burden per respondent: Approximately 8 hours. Total annual burden: **8 hours.**

(4) Total estimate of annualized cost to respondents for the hour burdens for the collection of information: \$1,600.

(5) Explanation of above calculations: Estimates of the hour burden are based on the average length of time a respondent will likely require filing a petition. It is anticipated that it will take 8 hours per each BOC per petition to satisfy the required criteria. The estimates of the annualized cost for the hour burden assumes that each hour-burden costs approximately \$200. The cost of the hour-burden is based on the assumptions that respondents will use personnel who are experienced attorneys.

The Commission anticipates that providing the required information should take no more than 8 hours for carriers. Thus total cost is \$1,600 based on \$200 per hour. The information sought should be readily available from each respondent.

13. *Estimates of the cost burden of the collection to respondents.* We estimate that there will be no capital or start-up costs for any of these requirements. We do not believe that these requirements will necessitate any additional equipment. We estimate that there will be no operation, maintenance, or purchase of service costs for these requirements.

14. *Estimate of the cost burden to the Commission.* There will be few if any costs to the Commission because the information collection will be provided in a standardized format to allow for efficient processing. The Commission estimates that the processing of each request will require a federal employee at GS-13, step 5, Federal employee (\$87,664/year or approx. \$42/hr), and that overhead costs per hour-burden will be approximately 30% of the hourly rate ($\$42 \times .3 = \14). Therefore, the total cost per hour will be approximately \$56. The Commission estimates that the total amount of time required, per petition, to collect the information, analyze it, and draft a decision is 120 hours. The total cost to the Commission, therefore, will be the total number of hours per petition (120) multiplied by the cost per hour (\$56), the sum of which is multiplied by the total number of anticipated petitions (1) which is \$6,720.

15. *Program changes or adjustment.* A reduction in burden is requested. Total hour burden for the information collection is reduced from 160 hours to 8 hours. This adjustment is due to fewer respondents (from 20 to 1). Therefore, the Commission is submitting this extension with recalculated estimates.

16. *Collections of information whose results will be published.* The Commission anticipates publishing the information to be collected in this data request in its responses to future petitions for LATA boundary modifications. Because the information requested will narrow the Commission's review process, the Commission anticipates responding petitions in a timely manner.

17. *Display of expiration date for OMB approval of information collection.* The Commission is not seeking approval not to display the expiration date for OMB approval of the information collection.

18. *Exceptions to the certification statement for Paperwork Reduction Act submissions* (Item 19 of OMB Form 83-1). When the Commission published the 60 day notice, we use the total number in the universe rather than the actual number of respondents filing the information.

B. Collections of Information Employing Statistical Methods:

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