

**Communications Assistance for Law Enforcement Act (CALEA) and
Broadband Access and Services**

SUPPORTING STATEMENT

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

- (a) The Communications Assistance for Law Enforcement or CALEA was enacted in October 1994 to respond to rapid advances in telecommunications technology and to eliminate obstacles faced by law enforcement personnel in conducting electronic surveillance.
- (b) In brief, CALEA was intended to preserve the ability of law enforcement agencies to conduct electronic surveillance by requiring that telecommunications carriers and manufacturers of telecommunications equipment modify and design their equipment, facilities, and services to ensure that they have the necessary surveillance capabilities.
- (c) The information collection requirements were established to implement sections 105, 107(c), 109(b) and 301 of the Communications Assistance for Law Enforcement Act (CALEA), 47 U.S.C. §§ 1004, 1006(c), 1008(b), and 229; Pub. L. No. 103-414, 108 Stat. 4279 (1994).

Background:

- (a) The information collection requirements were established by a *Report and Order*¹ (R&O) in CC Docket No. 97-213 adopted in January 1999.
- (b) The information collection requirements were subsequently modified by an *Order on Reconsideration*² (*Recon Order*) in that proceeding adopted in July 1999.
- (c) The information collection requirements were further modified by a *Second Order on Reconsideration*³ (*Second Recon Order*) in that proceeding adopted in April 2001 and were codified in 47 C.F.R. §§ 64.2103, 64.2104, and 64.2105.
- (d) However, as a result of the *Second Report and Order and Memorandum Opinion and Order*⁴ (*Second R&O*) in ET Docket No. 04-295, 21 FCC Rcd 5360 (2006), these burdens are now codified in 47 C.F.R. §§ 1.20003, 1.20004, and 1.20005.

¹ Communications Assistance for Law Enforcement, *Report and Order*, (CC Docket No. 97-213, FCC 99-11), 14 FCC Rcd 4151 (1999), 64 FR 51462, September 23, 1999.

² Communications for Assistance for Law Enforcement Act, *Order on Reconsideration*, (CC Docket No. 97-213, FCC 99-184), 15 FCC Rcd 20735 (1999), 64 FR 52244, September 28, 1999.

³ Communications Assistance for Law Enforcement Act, *Second Order on Reconsideration*, (CC Docket No. 97-213, FCC 01-126), 16 FCC Rcd, (1999), 66 FR 22446, May, 4, 2001.

⁴ Communications Assistance for Law Enforcement Act and Broadband Access and Services, *Second Report and Order and Memorandum Opinion and Order*, (ET Docket No. 04-295, FCC 06-56), 21 FCC Rcd 5360 (2006), 71 FR 38091, July 5, 2006.

**Communications Assistance for Law Enforcement Act (CALEA) and
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- (a) Section 105 of CALEA requires telecommunications carriers to protect against the unlawful interception of communications passing through their systems.
- (b) Section 301(a) of CALEA requires the Commission to prescribe necessary CALEA implementing rules.
- (c) Section 301(b) of CALEA requires carriers:
 - (1) to establish appropriate policies and procedures to ensure the security and integrity of their facilities,
 - (2) to submit their systems security and integrity policies and procedures to the Commission, and
 - (3) to maintain records of all interceptions [hereinafter referred to as “system security requirements”].
- (d) Section 301(c) of CALEA requires the Commission to review the filings made under Section 301(b) and to order the correction of any deficiencies.

Regarding the system security requirements, the *R&O* in CC Docket No. 97-213, adopted in January 1999, 14 FCC Rcd 4151 (1999); *Recon Order*, 15 FCC Rcd 20735 (2000); and *Second Recon Order*, 16 FCC Rcd 8959 (2001) made the following requirements:

- (a) Each telecommunications carrier must establish and submit to the Commission its policies and procedures for ensuring that any interception of communications or access to call-identifying information effected within its switching premises can be activated only in accordance with lawful authorization and with the affirmative intervention of an individual officer or employee of the carrier, acting in accordance with regulations prescribed by the Commission.
- (b) Each telecommunications carrier must include in this submission:
 - (1) information about the senior officer or employee responsible for the carrier’s interception operations,
 - (2) information necessary for law enforcement agencies to contact the carrier regarding interceptions, and
 - (3) other information about the carrier’s security and integrity program.
- (c) The Commission must review each carrier’s policies and procedures to determine whether these are in compliance with the rules established under CALEA.
- (d) If the Commission determines that any carrier’s policies and procedures are non-compliant, the carrier must modify its policies and procedures accordingly.

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- (e) The certification requirement can be met by having the designated company liaison:
 - (1) sign the certification statement,
 - (2) verify that the records are complete and accurate, and
 - (3) attach the appropriate legal authorization and any extensions.
- (f) The two-tiered recordkeeping requirement mandates that each telecommunications carrier:
 - (1) maintain its certification, as is the case with authorized interceptions, for a “reasonable period of time;” and
 - (2) include in its policies and procedures, submitted to the Commission for review, a detailed description of how long it will maintain its record of interceptions.
- (g) The *First Report and Order* in ET Docket No. 04-295, adopted in August 2005, 20 FCC Rcd 14989 (2005),⁵ concluded that CALEA also applies to:
 - (1) facilities-based broadband Internet access providers, and
 - (2) providers of interconnected Voice over Interconnected Protocol (VoIP).

New Information Collection Requirements:

- (a) On May 12, 2006, the Commission released the *Second Report & Order (Second R&O)* in ET Docket No. 04-295. The rules in this *Second R&O* became effective on August 4, 2006, except for 47 C.F.R. §§ 1.20004 and 1.20005, which contain information collection requirements subject to OMB approval. See *Second R&O*; paragraph 76 and Appendix B, sections 1.20004 and 1.20005.
- (b) In addition to re-codifying the existing CALEA burdens, the *Second R&O*:
 - (1) established additional burdens and guidelines for filing CALEA sections 107(c) and 109(b) petitions and for filing CALEA monitoring reports (FCC Form 445). See *Second R&O*; paragraphs 27, 30, 35, 37, 38, 57, and 60; Appendix E; Appendix F; and Appendix G..
 - (2) determined that CALEA applies to all “telecommunications carriers,” as that term is defined in the CALEA statute;
 - (3) concluded that the language and legislative history of CALEA provide sufficient guidance as to what the term “telecommunications carrier” means, such that it can be applied to particular carriers, their offerings and facilities; and
 - (4) concluded further that as a matter of law, the entities and services subject to CALEA must be based on the CALEA definitions, independently of their classification for the separate purposes of the Communications Act.

⁵ Communications Assistance for Law Enforcement Act and Broadband Access and Services, *First Report and Order and Further Notice of Proposed Rule Making*, (ET Docket No. 04-295, FCC 05-153), 20 FCC Rcd 149489 (2005), 70 FR 59664, October 13, 2005.

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(c) The *Second R&O* made additional findings regarding CALEA that resulted in additional information collections requirements.

(1) Sections 107(c) and 109(b) of CALEA provide only limited and temporary relief from compliance requirements. See *Second R&O*; paragraphs 27, 30, 35, 37, and 38.

(2) Moreover, telecommunications carriers must:

(a) generally pay for CALEA development and implementation costs incurred after January 1, 1995, but

(b) may recover costs from other sources, such as from their subscribers.

(3) CALEA section 107(c) permits a carrier to apply to the Commission for an extension of the Commission's deadline to come into compliance with CALEA section 103 capability requirements, limited to no more than two years from the date that the extension is granted.

(a) This section applies to all carriers subject to CALEA and any petitions filed under it are voluntary.

(b) In addition, because section 107(c) petitions are available only for facilities and services deployed prior to October 25, 1998, the Commission determined that a carrier that has a CALEA section 107(c) extension petition currently on file must submit to the Commission a letter documenting that the carrier's equipment, facility, or service qualifies for section 107(c) relief under the October 25, 1998 cutoff for such relief. See *Second R&O*, paragraph 30.

(4) CALEA section 109(b):

(a) permits a carrier to file a petition with the Commission and an application with the Department of Justice (DOJ) to request that DOJ pay the costs of the carrier's compliance (cost-shifting relief) with respect to any equipment, facility, or installed or deployed after January 1, 1995. See *Second R&O*, Appendix E.

(b) also applies to all carriers subject to CALEA and any petitions filed under it are voluntary.

(5) Facilities-based broadband Internet access providers and providers of interconnected VoIP must file with the Commission a monitoring report, FCC Form 445, to ensure their timely compliance with CALEA.

(a) Providers of these services are to comply with CALEA by May 14, 2007, by filing a FCC Form 445, Monitoring Report. See *Second R&O*, paragraph 60 and Appendix G.

(b) FCC Form 445, Monitoring Report, and instructions for completing that form are attached.

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(6) Within 90 days of the effective date of sections 1.20004 and 1.20005 of the *Second R&O*, facilities based broadband Internet access and interconnected VoIP providers newly-identified in the *First Report and Order* in ET Docket No. 04-295 are required to file system security information under the Commission's rules, as specified in section 1.20005. See *Second R&O*, paragraph 76 and Appendix B, sections 1.20004 and 1.20005.

(7) System security requirements also are currently approved under this existing information Collection:

(a) These requirements mandate that all telecommunications carriers establish and submit to the Commission their policies and procedures for ensuring that any interception of communications or access to call-identifying information effected within its switching premises can be activated only in accordance with lawful authorization and with the affirmative intervention of an individual officer or employee of the carrier, acting in accordance with regulations prescribed by the Commission.

(b) This submission must include:

(1) information about the senior officer or employee responsible for the carrier's interception operations,

(2) information necessary for law enforcement agencies to contact the carrier regarding interceptions, and

(3) other information about the carrier's security and integrity program.

The Commission has authority for this information collection pursuant to sections 105, 107(c), 109(b) and 301 of the Communications Assistance for Law Enforcement Act (CALEA), 47 U.S.C. §§ 1004, 1006(c), 1008(b), and 229; Public Law No. 103-414, 108 Stat. 4279 (1994).

As noted on the OMB 83-I, this information collection does not affect individuals or household; thus, there are no impacts under the Privacy Act.

2. Indicate how, by whom and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

(a) The Commission uses all of the information submitted, *e.g.*, information about the senior officer or employee responsible for the carrier's interception operations, information necessary for law enforcement agencies to contact the carrier regarding interceptions, and other information about the carrier's security and integrity program, to determine whether or not the carrier is in conformance with CALEA's requirements and the Commission's rules.

(b) In addition, the Commission reviews sections 107(c) and section 109(b) filings to determine, respectively:

(1) whether a carrier should be granted additional time to comply with CALEA, consistent with the statutory requirements, or

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(2) whether a carrier's network should be deemed to be in compliance if the Attorney General does not pay the carrier to upgrade its network to meet CALEA's obligations.

(c) Because CALEA requires the Commission to consult with the Attorney General on carriers' petitions for additional time to comply or reimbursement for network upgrades, carriers are required to file with the Federal Bureau of Investigation copies of their sections 107(c) and 109(b) petitions and their monitoring reports.

(d) The Commission shares with law enforcement officials the system security information that carriers file, *e.g.*, the contact information that law enforcement officials need to serve an intercept order or warrant on a carrier.

(e) Finally, law enforcement officials rely on the system security records maintained by telecommunications carriers to determine the accountability and accuracy of telecommunications carriers' compliance with lawful electronic surveillance orders.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.

(a) All submissions are treated as presumptively confidential under the Commission's rules.

(b) At present, applicants may only file their submissions on paper; however, submissions may also be allowed to be filed electronically once the Commission has completed work on setting up a system for ensuring the security of potentially sensitive information filed electronically and the authentication of each electronic submission.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in item 2 above.

None of the information collected as a result of the *Second R&O* will be duplicative of other information.

5. If the collection of information impacts small businesses or other small entities (item 5 of OMB Form 83-I), describe any methods used to minimize burden.

(a) In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize burdens on all respondents, regardless of size.

(b) Regarding the system security requirements of CALEA, the *Notice of Proposed Rulemaking (NPRM)* in CC Docket No. 97-213 sought comment on whether to adopt different, less burdensome requirements for small businesses filing compliance statements:

(1) the Commission received little comment regarding this proposal, and

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- (2) in adopting final rules, the Commission found that CALEA mandates—and the critical nature of our goals in this proceeding necessitate—that all carriers comply with our rules and regulations regarding implementation of CALEA.
- (c) The January 1999 *R&O* and subsequent Orders in CC Docket No. 97-213, however, substantially reduced the burden proposed in the *NPRM* for all telecommunications carriers, regardless of size.
- (1) For example, while the *NPRM* proposed the inclusion of information on designated and non-designated employees who participate in surveillance work, the *R&O* substantially reduced this burden by requiring that only the one senior employee responsible for CALEA be identified in the required filing.
- (2) The *NPRM* proposed a dual certification/affidavit regarding authorized and unauthorized interceptions; the January 1999 *R&O* narrowed this requirement to a single document, ideally consisting of a copy of the legal authorization, accompanied by a signed certification that the record is complete and accurate.
- (d) Most importantly, the *Recon Order* in July 1999 reduced the recordkeeping burden by not designating a specific period of time for records of authorized and non-authorized interceptions to be maintained. Instead, the *Recon Order* asked that the certification be maintained for a “reasonable period of time” to be determined by the carrier.
- (e) The *Second R&O* found that sections 107(c) and 109(b) of CALEA provide only limited and temporary relief from compliance requirements, and that they are complementary provisions that serve different purposes, which are, respectively:
- (1) extension of the CALEA section 103 compliance deadline; and
- (2) recovery of CALEA-imposed costs.
- (f) CALEA allows the Commission to grant a section 107(c) extension petition if it determines, after consultation with the Attorney General, that a carrier’s compliance is not “reasonably achievable” within the compliance period.
- (g) The Commission provides carriers some flexibility to demonstrate whether compliance is “reasonably achievable” including, for example, evidence that:
- (1) the Federal Bureau of Investigation has agreed to a delayed deployment schedule for the carrier,
- (2) the carrier’s network cannot be modified to comply with CALEA or the cost to do so prevents compliance, or
- (3) the carrier cannot rely on a trusted third party to comply with CALEA.
- (h) In addition, because section 107(c) petitions are available only for facilities and services deployed prior to October 25, 1998, the Commission will dismiss petitions for all subsequently deployed facilities and services.
- (i) To reduce the burden on all carriers with pending petitions, only those carriers that have a qualifying CALEA section 107(c) extension petition currently on file must submit to the

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Commission a letter documenting that the carrier's equipment, facility, or service qualifies for section 107(c) relief; petitions from carriers who do not file a letter will be dismissed.

- (j) Regarding section 109(b) petitions, in the *Second R&O* the Commission noted that CALEA section 109(b) lists 11 criteria for determining whether CALEA compliance is "reasonably achievable" for post-1995 facilities or services by a particular telecommunications carrier.
- (k) Thus, carriers are required to address each factor in their petitions, and the Commission has provided guidance to carriers on the type of evidence they should provide for each factor.
- (l) In the *Second R&O*, the Commission noted that CALEA section 109(b) permits small carriers to seek a determination from the Commission that CALEA compliance is not reasonably achievable, and, upon such a determination, the Attorney General may agree to pay the costs of compliance for these carriers, or the carriers will be deemed to be in compliance.
- (m) Finally, the Commission is requiring a one-time submission of the monitoring report from providers of broadband Internet access and interconnected VoIP to ensure their timely compliance with the May 14, 2007 deadline.
- (n) The monitoring report is one-page and can be used for all facilities and services comprising the carrier's network.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

- (a) The system security filings and record maintenance is required by CALEA.
- (b) The Commission anticipates collecting this information once from telecommunications carriers detailing their policies and procedures regarding compliance with CALEA and regarding authorized and unauthorized interceptions and call-identification information.
- (c) When these policies and procedures are changed, however, the affected carrier will have to resubmit this information for Commission review.
- (d) The requirement that carriers maintain a record of each electronic surveillance for a "reasonable period of time" will be a **one-time** activity for each surveillance.
- (e) Without this information and record maintenance, the Commission and law enforcement agencies will not be able to monitor compliance with the statutory requirements of CALEA.
- (f) Sections 107(c) and 109(b) petitions are voluntary and are the bases, respectively, of granting carriers additional time to comply with CALEA or recovery of network upgrade costs. If these filings are not made, relief cannot be granted.
- (g) The letters demonstrating that currently filed section 107(c) petitions qualify for relief and the monitoring reports are **one-time filings** that will ensure carriers compliance with CALEA.
- (h) The monitoring report, Form 445, is necessary to insure that providers of services that use

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packet technologies become CALEA compliant expeditiously.

- 7. Explain any special circumstances that cause an information collection to be conducted in a manner: requiring respondents to report information to the agency more often than quarterly; requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it; requiring respondents to submit more than an original and two copies of any document; requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

Current data collection is consistent with 5 CFR §§ 1320.6.

- 8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information prior to submission to OMB.**

The 60-day notice was published in the *Federal Register* on August 1, 2006 (71 FR 43479). The only comment was received from VeriSign, Inc., and it urges rapid approval and implementation of the information collection. A copy of the notice is attached.

- 9. Explain any decision to provide any payment or gift to respondents, other than reenumeration of contractors or grantees.**

The respondents will not receive any payments.

- 10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation or agency policy.**

(a) Applicants seeking confidential treatment of their filings, may do so pursuant to 47 CFR § 0.459(g) and § 0.461 of the Commission's rules.

(b) Section 107(c) and section 109(b) filings are entitled to confidential treatment under the Freedom of Information Act.

(1) The Commission has directed respondents to file their petitions under a general claim of confidential or proprietary protection, subject only to scrutiny by the Commission and the Attorney General who is consulted in section 107(c) adjudications and is a party to all section 109(b) adjudications.

(2) Pursuant to section 0.457(g) of the Commission's rules, the information in the CALEA petitions will not be made routinely available for public inspection.

- 11. Provide additional justification for any questions of a sensitive nature.**

(a) System security filings are not made available to the public;

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(1) The Commission shares with law enforcement officials the system security information that carriers file, *e.g.*, the contact information that law enforcement officials need to serve an intercept order or warrant on a carrier.

(2) This contact information must be placed in a separate appendix, so that it can be passed on to law enforcement agencies without disclosing confidential material in the rest of the system security filing.

(b) To further avoid disclosure of confidential material, the completed FCC Form 445, "Monitoring Reports" discussed under section 1., will not be made available to the public.

(c) However, the Commission will direct carriers to send a copy of FCC Form 445, "Monitoring Report" to the Federal Bureau of Investigation, so that agency may evaluate the progress each provider of a service that uses packet technology is making to achieve CALEA compliance.

12. Provide estimates of the hour burden of the collection of information. The statement should: indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance.

HOURLY BURDEN ON RESPONDENTS:

A. Submitting System Security Filings to the Commission

Telecommunications Carriers CALEA Compliance:

As result of Commission action in CC Docket No. 97-213, we estimate that 5,000 telecommunications carriers were obliged to establish and submit to the Commission their policies and procedures for complying with CALEA requirements.

This submission must include information regarding the appointment of a senior authorized officer or employee responsible for CALEA activities, and a 24-hour point of contact for law enforcement officials.

Initial filings were made in 2000, and are not a recurring burden. However, any time the policies and procedures change or a liaison either steps down or is appointed, a revised submission must be sent to the Commission.

This resubmission should take about 1 hour, and the Commission expects to get as many as 1,000 revisions a year, all to be completed by staff attorneys. This should take about one hour per submission, for a total of 1,000 annual burden hours.

Carriers Subject to CALEA as a Result of CC Docket No. 97-213

Annual burden hours per entity: **1 hour x 1,000 entities**

Total annual burden hours: **1,000 hours**

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The Commission believes that respondents will submit approximately 1,000 revisions of the initial (CC Docket No. 97-213) system security submissions per year, all prepared by “in-house” staff attorneys at \$150 per hour, for a total of about 1,000 hours.

1,000 hours x \$150 = \$150,000.

Broadband Internet Access and Interconnected VOIP CALEA Compliance:

The *Second R&O* required that facilities-based broadband Internet access and interconnected VoIP providers undertake system security filings within 90 days of the effective date of 47 C.F.R. §§ 1.20004 and 1.20005.

We estimate that there will be 535 broadband providers and 385 VoIP providers subject to CALEA as a result of ET Docket No. 04-295, and the time to prepare their system security filings will be 7.5 hours for each carrier.

Carriers Subject to CALEA as a Result of ET Docket No. 04-295

Broadband: **535 providers at 7.5 hours each = 4,012.5 hours**

VoIP: **385 providers at 7.5 hours each = 2,887.5 hours**

Total annual burden hours: 6,900 hours

The Commission also believes that the 535 facilities-based broadband Internet access and 385 interconnected VoIP providers subject to CALEA as a result of ET Docket No. 04-295 will utilize “in-house” staff attorneys at \$150 per hour to provide their systems security filings. The Commission estimates the total annual hourly burden for this at 6,900 hours.

6,900 Hours x \$150 = \$1,035,000.

B. System Security Certification and Recordkeeping

The Commission also requires that the designated employees certify to the accuracy of records for each electronic surveillance and that this information be maintained for a “reasonable period of time.”

The Commission believes that the 5,000 carriers will all utilize staff attorneys to complete the certification, and that each will take about an hour.

The Commission estimates that, on average, each carrier will likely prepare five certifications per year, for a total of 5 burden hours per licensee and a total annual burden of 25,000 hours.

Carriers Subject to CALEA as a Result of CC Docket No. 97-213

Annual burden hours per entity: **5 hours x 5,000 entities**

Total annual burden hours: **25,000 hours**

The Commission assumes that all 5,000 carriers subject to CALEA as a result of CC Docket No. 97-213 will utilize “in-house” staff attorneys at \$150 per hour to complete the certification elemental to this requirement. The Commission estimates the total annual hourly burden for this at 25,000 hours.

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25,000 Hours x \$150 = \$3,750,000.

All 5000 carriers are also likely to use staff secretaries to comply with the recordkeeping requirements. The Commission finds that, on average, it should take approximately 2 hours per licensee per year to establish and maintain these record files, for a total of 10,000 burden hours per year.

Carriers Subject to CALEA as a Result of CC Docket No. 97-213

Annual burden hours per entity: **2 hours x 5,000 entities**

Total annual burden hours: **10,000 hours**

All 5,000 carriers are expected to utilize staff secretaries at \$15 per hour to establish and maintain a filing system for these certifications. The total annual burden hours for this obligation is estimated at 10,000 hours.

10,000 Hours x \$15 = \$150,000.

C. Section 107(c) Petitions.

The Commission requires each carrier that has a section 107(c) petition on file with the Commission and that continues to seek section 107(c) relief to submit a letter documenting that the carrier's equipment, facility or service qualifies for such relief.

The Commission estimates that 100 carriers will do so, and that it should take approximately 1 hour per carrier to prepare these letters.

Further, the Commission estimates that 75 new petitions will be filed, and that these petitions will require an average of 20 hours to prepare. All entities filing petitions are subject to CALEA as a result of CC Docket No. 97-213.

Existing Petitions

Annual burden hours per entity: **1 hour x 100 entities**

Total annual burden hours: **100 hours**

New Petitions

Annual burden hours per entity: **20 hours x 75 entities**

Total annual burden hours: **1,500 hours**

Total annual burden hours: 1,600 hours

The Commission assumes that 100 carriers subject to CALEA as a result of CC Docket No. 97-213 will submit a letter documenting that the carrier's equipment, facility or service qualifies for section 107(c) relief and that 75 carriers will submit new section 107(c) petitions, and that these carriers will utilize "in-house" staff attorneys at \$150 per hour. The Commission estimates the total annual hourly burden for this at 1,600 hours.

1,600 Hours x \$150 = \$240,000.

D. Section 109(b) Petitions.

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If a carrier believes that compliance with CALEA is not reasonably achievable with respect to any equipment, facility or service installed or deployed after January 1, 1995, the Commission requires that carrier to file a petition and an application with the Department of Justice (DOJ) to request that DOJ pay the costs of the carrier's CALEA compliance.

The Commission estimates that there are 254 facilities-based broadband Internet access providers, 77 interconnected VoIP providers, and 40 wireline and wireless carriers that will file section 109 petitions. We estimate that the time to prepare each filing will be 80 hours.

Broadband: 254 providers at 80 hours each = 20,320 hours

VoIP: 77 providers at 80 hours each = 6,160 hours

The Commission assumes that 254 facilities-based broadband Internet access and 77 interconnected VoIP providers will file section 109(b) petitions, and that these carriers will utilize staff attorneys at \$150 per hour. The Commission estimates the total annual hourly burden for this at 26,480 hours.

26,480 Hours x \$150 = \$3,972,000.

Wireline and Wireless: 40 carriers at 80 hours each = 3,200 hours

The Commission assumes that 40 carriers subject to CALEA as a result of CC Docket No. 97-213 will file section 109(b) petitions, and that these carriers will utilize staff attorneys at \$150 per hour. The Commission estimates the total annual hourly burden for this at 3,200 hours.

3,200 Hours x \$150 = \$480,000.

Total annual burden hours: 20,320 + 6,160 + 3,200 = 29,680 hours

E. Filing monitoring reports (FCC Form 445).

The Commission also requires that all facilities-based broadband Internet access and interconnected VoIP providers file monitoring reports to ensure that they are able to meet their May 14, 2007, CALEA compliance deadline. This is a one-time filing requirement. We estimate that there are 1270 facilities-based broadband Internet providers and 385 interconnected VoIP providers subject to CALEA.

Broadband: 1270 providers at 1 hour each = 1,270 hours

VoIP: 385 carriers at 1 hour each = 385 hours

Total annual burden hours: 1,270 + 385 = 1,655 hours

The Commission assumes that all 1,270 facilities-based broadband Internet access and 385 interconnected VoIP providers subject to CALEA will file monitoring reports, and that these carriers will utilize staff attorneys at \$150 per hour. The Commission estimates the total annual hourly burden for this at 1,655 hours.

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1,655 Hours x \$150 = \$248,250.

Total Annual Burden Hours

This section shows the burden hours in A-E above for each type of telecommunications carrier. The Table following Section 14 summarizes these burden hours and their associated costs.

**Telecommunications Carriers Subject to CALEA as a Result of CC Docket No. 97-213
(Excludes Facilities-Based Broadband Internet Access and Interconnected VoIP Services):**

- A. Submitting policies and procedures = 1,000 hours
- B. Certification = 25,000 hours
Recordkeeping = 10,000 hours
- C. Section 107(c) Petitions = 1,600 hours
- D. Section 109(b) Petitions = 3,200 hours

Total = 40,800 hours

Facilities-Based Broadband Internet Access and Interconnected VoIP Services:

Facilities-based broadband Internet access services

- A. Submitting policies and procedures = 4,012.5 hours
- D. Section 109(b) Petitions = 20,320 hours
- E. FCC Form 445 Monitoring Reports = 1,270 hours

Total = 25,602.5 hours

Interconnected VoIP services

- A. Submitting policies and procedures = 2,887.5 hours
- D. Section 109(b) Petitions = 6,160 hours
- E. FCC Form 445 Monitoring Reports = 385 hours

Total = 9,432.5 hours

Total for Broadband and VoIP = 35,035 hours

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Total Number of Respondents: 5,920

Total Annual Hourly Burden for all telecommunications carrier: 75,835 hours

Total Number of Responses Annually:

5,000 recordkeeping responses + 9,121 reporting responses = **14,121 responses**

- (a) The number of responses per respondent will average 2.39 annually.
- (b) However, the number of annual responses per respondent can be either 2, 3, 4, or 5.
- (c) Two annual responses (system security certification and recordkeeping filings) will be required of most carriers subject to CALEA as a result of CC Docket No. 97-213.
- (d) However, some of these carriers may also choose to make an updated system security filing, for a total of three annual responses.
- (e) Further, facilities-based broadband Internet access providers and interconnected VoIP providers subject to CALEA as a result of CC Docket No. 97-213 will be required to make three filings (system security certification and recordkeeping filings plus CALEA monitoring report), and some also may choose to make an updated system security filing plus file either a CALEA Section 107(c) petition or a CALEA Section 109(b) petition, for a total of up to five annual responses.
- (f) Finally, facilities-based broadband Internet access providers and interconnected VoIP providers subject to CALEA as a result of ET Docket No. 04-295 will also be required to make two filings (initial system security filing plus CALEA monitoring report), and some also may choose to file either a CALEA Section 107(c) petition or a CALEA Section 109(b) petition, for a total of up to three annual responses.

13. Provide estimate for the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hourly burden shown in items 12 and 14).

- (a) Total annualized capital costs/startup costs: **\$0.00**
- (b) Total annual costs (O&M): **\$0.00**
- (c) Total annualized cost-requested: **\$0.00**

14. Provide estimates of annualized costs to the Federal government. Also provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), any other expenses that would not have been incurred without this collection of information.

A. Costs for system security policies and procedures

**Communications Assistance for Law Enforcement Act (CALEA) and
Broadband Access and Services**

GS-15 attorney to review 1,000 revised system security submissions annually, 535 new system security submissions from facilities-based broadband Internet access providers, and 385 system security submissions from interconnected VoIP providers (total of 1,920 submissions) at \$50 an hour; one hour per submission.

1,920 Hours x \$50 = \$96,000.

B. Costs for CALEA Section 107(c) Petitions

GS-15 attorney to review 100 letters documenting that the carrier's equipment, facility or service qualifies for section 107(c) relief and 75 new section 107(c) petitions (total of 175 submissions) at \$50 an hour; one hour per submission.

175 Hours x \$50 = \$8,750.

C. Costs for CALEA Section 109(b) Petitions

GS-15 attorney to review 40 section 109(b) petitions from carriers subject to CALEA as a result of CC Docket No. 97-213, 254 section 109(b) petitions from facilities-based broadband Internet access providers, and 77 section 109(b) petitions from interconnected VoIP providers (total of 371 submissions) at \$50 an hour; 20 hours per submission.

7,420 Hours x \$50 = \$371,000.

D. Costs for Monitoring Reports

GS-15 engineer to review 1,270 monitoring reports from facilities-based broadband Internet access providers and 385 monitoring reports from interconnected VoIP providers (total of 1,655 submissions) at \$50 an hour; 1 hour per submission.

1,655 Hours x \$50 = \$82,750.

Total Cost Totals

The total cost of the above burdens is **\$558,500**. A cost summary is set forth in the following table.

**Communications Assistance for Law Enforcement Act (CALEA) and
Broadband Access and Services**

CALEA HOURLY AND COST BURDENS

Information Collection Requirements	Respondents	Average Hours Per Respondent	Total Hourly Burden on Respondents	Cost to Respondents	Cost to Federal Government
A. System Security Filings:					
Carriers Subject to CALEA as a Result of CC Docket No. 97-213	1,000	1	1,000	\$150,000	
Facilities-Based Broadband Internet Access and VoIP Providers Subject to CALEA as a Result of ET Docket No. 04-295:	920	7.5	6,900	\$1,035,000	
Total Hourly Burden and Costs			7,900	\$1,185,000	\$96,000
B. System Security Certification and Recordkeeping, Carriers Subject to CALEA as a Result of CC Docket No. 97-213:					
Certification	5,000	5	25,000	\$3,750,000	
Recordkeeping:	5,000	2	10,000	\$150,000	
Total Hourly Burden and Costs			35,000	\$3,900,000	\$0
C. Section 107(c) Petitions, Carriers Subject to CALEA as a Result of CC Docket No. 97-213:					
Existing Petitions	100	1	100	\$15,000	
New Petitions	75	20	1,500	\$225,000	
Total Hourly Burden and Costs			1,600	\$240,000	\$8,750
D. Section 109(b) Petitions:					
Carriers Subject to CALEA as a Result of CC Docket No. 97-213	40	80	3,200	\$480,000	
Facilities-Based Broadband Internet Access and VoIP Providers Subject to CALEA as a Result of ET Docket No. 04-295:	331	80	26,480	\$3,972,000	
Total Hourly Burden and Costs			29,680	\$4,452,000	\$371,000
E. Monitoring Report, All Facilities-Based Broadband Internet Access and VoIP Providers	1,655	1	1,655	\$248,250	\$82,750
F. CUMULATIVE TOTALS					
Carriers Subject to CALEA as a Result of CC Docket No. 97-213			40,800	\$4,770,000	
Facilities-Based Broadband Internet Access and VoIP Providers			35,035	\$5,255,250	
Grand Total	5,920		75,835	\$10,025,250	\$558,500

15. Explain the reasons for any program changes or adjustments reported in items 13 or 14 of the OMB Form 83-I.

- (a) There is a change in the burden hours for the modifications to this collection, due to release of the *Second R&O* on May 12, 2006.

**Communications Assistance for Law Enforcement Act (CALEA) and
Broadband Access and Services**

- (b) The Commission estimates that the total burden for the information collection requirements contained herein will now be 75,835 hours, which represents an increase of 39,835 burden hours.
- (c) There is a change in the number of respondents, due to the release of the *Second R&O* on May 12, 2006.
- (d) The Commission estimates that there will now be 5,920 respondents, which represents a decrease of 3,201. However, the number of annual responses has increased to 14,121 (9,121 reporting responses and 5,000 recordkeeping responses).

16. For collections of information whose results will be published, outline plans for tabulation and publication

The data will not be published for statistical use.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The Commission is requesting a waiver from displaying the OMB expiration date on FCC Form 445. Granting this waiver will prevent the Commission from destroying the existing stock of forms, upon OMB approval of this information collection.

The Commission will, however display the “edition date” to inform users of which edition of this form they are filing.

The Commission will publish a notice in the *Federal Register* upon receipt of OMB approval of the collection informing the respondents of the approval and expiration date.

18. Explain any exceptions to the Certification Statement identified in Item 19, “Certification of Paper Work Reduction Act Submissions,” of OMB Form 83-I.

(a) In the Notice published in the *Federal Register* on August 1, 2006, the Commission over-estimated the total annual burden hours by 31,283. We have calculated the actual annual burden hours as 75,835 for this information collection.

(b) There are no exceptions to the Certification Statement in Item 19.

B. Collections of Information Employing Statistical Methods:

This information collection does not employ any statistical methods.