3060-0791
November 2006

SUPPORTING STATEMENT

This collection is being submitted as a delegated collection (extension, no change in requirements).

A. Justification:

1. On March 13, 1997, the Commission adopted a Report and Order (FCC 97-80) establishing what accounting rules and ratemaking policies should apply to litigation costs incurred by carriers subject to the Commission's rules. In CC Docket No. 93-240, the Commission considered the issue of the accounting rules and ratemaking policies that should apply to litigation costs incurred by carriers subject to Part 32 of its rules and regulations. The Commission adopted accounting rules that require carriers to account for adverse federal antitrust judgments and post-judgments special charges. With regard to settlements of such lawsuits, there will be a presumption that carriers can recover the portion of the settlement that represents the avoidable costs of litigation; provided that the carrier makes a required showing.

To receive recognition of its avoided cost of litigation, a carrier must demonstrate, in a request for special relief, the avoided costs of litigation by showing the amount corresponding to the additional litigation expenses discounted to present value, that the carrier reasonably estimates it would have paid if it had not settled. Settlement costs in excess of the avoided costs of litigation are presumed not recoverable unless a carrier rebuts that presumption by showing the basic factors that enticed the carrier to settle and demonstrating that ratepayers benefited from the settlement. A carrier requesting recovery of the avoided costs of litigation must accompany its request with clear and convincing evidence that, without the settlement, it would have incurred the expenses it estimates. The evidence will vary according to the circumstances. Among the data a carrier may provide are any avoidable cost estimates provided are any avoidable cost estimates provided by the law firm representing the carrier, an estimate of attorney hours needed to complete the case along with the hourly rates for the attorneys involved, information regarding the discovery remaining to be completed, the amount of trail time scheduled by the judge, and information regarding the number of witnesses or documents that would have been introduced at trial, including any pretrial statements filed with the court, costs of expert witnesses, travel time, saved in-house counsel replacement costs, and any other material the carrier considers relevant. The avoided costs of litigation of a prejudgment settlement would include the anticipated costs of litigating until a judgment. The avoided cost of litigation of a post-judgment settlement would anticipate a successful appeal in the particular case.

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.

The statutory authority for this collection is contained in: Part 32 of the Commission's rules.

2. A fundamental requirement of Title II of the Communications Act of 1934, as amended, is that "all charges for and in connection with interstate communication service, shall be just and reasonable." This provision safeguards consumers against rates that are unreasonably high and guarantees carriers that they will not be required to charge rates that are so low as to be confiscatory. Carriers under the Commission's jurisdiction must be allowed to recover the reasonable costs of providing service to ratepayers, including reasonable and prudent expenses and a fair return on investment. This fundamental requirement is unchanged by the Telecommunications Act of 1996.

3. Generally, there is no improved technology to reduce the burden of collection. However, the Commission does not prohibit the use of improved technology where appropriate. We do note that carriers subject to the ARMIS reporting requirements may be also required to report recordkeeping information required by the USOA (such as account 7370) in their ARMIS filings which is an automated reporting system.

4. There will be no duplication of information. The information sought is unique to each respondent.

5. Entities directly subject to the rule changes are engaged in the provision of local exchange and exchange access services. These entities are large corporations, affiliates of large corporations, or are dominant in their fields of operation, and thus, are not "small entities" as defined by the Act.

6. If the information is not collected, the Commission will not be able to carry out its responsibilities.

7. Not applicable. The collections are not designed in any known manner to be inconsistent with the OMB's guidelines.

8. A 60 day notice was published in the Federal Register as required by 5 CFR 1320.8. No comments were received. See 71 FR 18757, dated April 12, 2006. A copy of this notice is attached to this submission.

9. There will be no payments or gifts to respondents.

10. The Commission is not requesting respondents to submit confidential information to the Commission. If the Commission requests applicants to submit information that the respondents believe is confidential, respondents may request confidential treatment of such information under section 0.459 of the Commission's rules.

11. There are no questions of a sensitive nature with respect to the information solicited.

12. The following represents the estimates of hour burden of the collections of information:

a. Recordkeeping Requirement:

(1) Number of respondents: 1

(2) Frequency of responses: On occasion reporting requirement and recordkeeping requirement.

(3) Annual hour burden per collection: 36 hours. Total annual burden: **36 hours.**

(4) Total estimate of annualized cost to respondents for the hour burden: $55.

(5) Explanation of calculation: We estimate the burden to be 36 hours to comply with this requirement. 36 hour x 1 respondent x $55 = $1980.

Total annual burden for the requirements: 36 hours. We anticipate that one carrier will be subject to this requirement in a 12 month period. The Commission realizes that OMB approval is not necessary for less than 10 entities; however, the WCB attorney, out of an abundance of caution, does not want to voluntarily discontinue this collection.

13. The following represents the Commission's estimate of the annual cost burden to respondent and recordkeepers resulting from the collection of information:

We estimate that there will not be 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 operating and maintenance or purchase of services costs for these requirements.

14. The following represents the Commission's estimate of the annual costs to the federal government as a result of the requirements:

Review of submission: 1 (staff member to process submission) x $40 (average grade and hourly salary of staff) x 36 (hours to process the applications = $1440.

15. No change in burden is requested. Public burden for the requirements continues to be estimated at 36 hours. The requirement is necessary in order for the Commission to carry out its mandate.

16. This information will not be published.

17. The Commission does not intend to seek permission not to display the expiration date for OMB approval.

18. No exception is reported.

B. Collection of Information Employing Statistical Methods:

Not applicable.