

Note: This submission is made pursuant to 44 USC 3507.

## SUPPORTING STATEMENT

### **A. Justification:**

1. Section 220 of the Communications Act of 1934, as amended, 47 USC 220, allows the Commission, at its discretion, to prescribe the forms of any and all accounts, records and memoranda to be kept by carriers subject to this Act, including the accounts, records and memoranda of the movement of traffic, as well as the receipts and expenditures of moneys.

Section 219(b) of the Communications Act of 1934, as amended, 47 USC 219(b), authorizes the Commission by general or special orders to require any carrier subject to this Act to file monthly reports of earnings and expenses and to file periodical and/or special reports concerning any matters with respect to which the Commission is authorized or required by law to act.

Filing of FCC Form 492 and FCC Form 492A is required by Section 65.600 of the FCC Rules. Filing of the FCC Form 492 on an annual basis is required from each local exchange carrier or group of affiliated carriers, which is not subject to sections 61.41 through 61.49 of the Commission's Rules and which has filed individual access tariffs during the enforcement period. Each local exchange carrier or group of affiliated carriers subject to the previously stated sections shall file the FCC Form 492A report with the Commission for the calendar year. These carriers are also required to file within 15 months after the end of each calendar year a report reflecting any corrections or modifications. The forms are necessary to enable the Commission to monitor the access tariffs and to enforce rate-of-return prescriptions.

Section 11 of the Communications Act of 1934, as amended, 47 U.S.C. 161, requires the Commission, in every even-numbered year beginning in 1998, to review its regulations applicable to providers of telecommunications services to determine whether the regulations are no longer in the public interest due to meaningful economic competition between providers of such services and whether such regulations should be repealed or modified. Section 11 further instructs the Commission to repeal or modify any regulation it determines to be no longer in the public interest.

We are extending this collection and are adjusting the number of carriers filing this report to 111 from 114. The updated number of 111 reflects the carriers that filed Forms 492 and 492A in April 2007.

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.

2. The information contained in FCC Forms 492 and 492A is data used by staff members for enforcement purposes and by the public in analyzing the industry. The reports are also used by the Commission in the tariff review process and provide both the Commission and the carriers with an early warning system if rate adjustments are necessary to correct significant targeting errors. It also enhances the Commission's ability to quantify the effects of policy proposals.
3. Paper filings are the least burdensome reporting format. If carriers desire to utilize improved information technology to submit data, we will be glad to accommodate them whenever feasible. Both forms are available on FCC's Internet Home Page (Forms).
4. No duplication of the required data exists outside the agency. The Commission knows of no other existing information that would serve our regulatory purpose.
5. The collection of information does not involve small businesses or other small entities. These forms are filed only by the local exchange carriers (LECs) that have filed access tariffs with the FCC and the National Exchange Carrier Association (NECA). Most of the small companies choose to be in the NECA pools instead of filing their own access tariff with the Commission.
6. The FCC Forms 492 and 492A are filed once a year. If these reports were filed less frequently, the Commission would not be able to conduct its studies of these data in a timely manner. These data also represent a part of the data necessary to support the Commission's other oversight functions. Subsequent submissions correcting previously filed data are to be filed within 15 months after the end of each calendar year.
7. Section 42.4 of the Commission's Rules requires carriers to maintain a master index that identifies each record retained, the related retention period, and the location where the records are maintained. The Commission prescribes a specific record retention period for telephone toll records per section 42.6. Section 42.7 states that except as specified in section 42.6, each carrier shall retain records identified in its master index of records for the period established therein. Records a carrier is directed to retain as a result of a proceeding or inquiry by the Commission to the extent not already contained in the index will also be added to the index and retained until final disposition of the proceeding or inquiry. Furthermore, the Commission maintains these filed reports for ten years and then forwards them to the Federal Records Center, where they are stored for another ten years and destroyed when they are twenty years old.
8. On March 5, 2007, the Commission requested comments on the paperwork burden associated with complying with certain Commission reporting requirements.<sup>1</sup> In response to the *Notice*, Qwest Corporation (Qwest) submitted comments regarding the price cap carrier rate of return report, FCC Form 492A. Qwest asserts that because "neither the sharing requirement nor the low- end adjustment applies to most price cap LECs," "most of the information" collected

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<sup>1</sup> See *Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested*, dated Mar. 5, 2007, 72 Fed. Reg. 11875 (Mar. 14, 2007) (*Notice*).

through Form 492A is “no longer necessary” for the Commission to perform its regulatory duties. As such, Qwest argues that the Commission should eliminate Form 492A “as an unnecessary and burdensome reporting requirement” for those price cap carriers “that have waived any right to use the low end adjustment.”

Contrary to Qwest’s unsupported assertions, FCC Form 492A is needed to provide the Commission with data required to fulfill its regulatory responsibilities with respect to interstate telephone service under Title II of the Communications Act of 1934, as amended. The sharing mechanism and the low-end adjustment were mechanisms that triggered rate changes based on specific earning levels. The elimination of these two mechanisms does not change the fact that price cap carriers continue to be subject to economic oversight by the Commission, which requires annual disclosure of the information provided in FCC Form 492A. Specifically, all price cap carriers continue to have a statutory obligation to provide service at just and reasonable rates. The information collected on this form assists the Commission in determining whether any action is necessary to ensure rates are just and reasonable. In particular, rate of return information has been referenced in the currently open proceeding examining special access pricing and the Commission’s pricing flexibility rules. In addition, with the expiration of the CALLS plan, the Commission may determine that a recalculation of the X-factor would be appropriate and the information provided by Form 492A would be useful in that calculation. Finally, the data collected through Form 492A is also relevant in the open proceeding on intercarrier compensation and can inform the Commission’s consideration of proposals to reform the present intercarrier compensation system.

9. Not applicable. There will be no payments or gifts to respondents.

10. Ordinarily, questions of a sensitive nature are not involved in FCC Forms 492 and 492A. The Commission contends that areas in which detailed information is required are fully subject to regulation and the issue of data being regarded as sensitive will arise in special circumstances only. In such circumstances, the respondent is instructed on the appropriate procedures to follow to safeguard sensitive data. 47 CFR Part 0.459 contains the procedures for requesting confidential treatment of data.

11. Not applicable. There are no questions of a sensitive nature with respect to the information collected.

12. The following represents the estimate of the annual burden hours and the annual cost burden for the collection of information. Of the 111 reporting companies, 44 non-price cap companies filed FCC Form 492 and 67 price cap companies filed FCC Form 492A. We note that the burden hours imposed by the requirement is very difficult to quantify. The following represents our best estimate.

FCC Forms 492 and 492A:

1. Number of respondents: 111
2. Frequency of response: Annual reporting requirement.

- 3. Annual burden per respondent: 8 hours. Total annual burden hours: **888 hours**.
- 4. Respondents estimated annualized cost for the burden hours for the collection of information: \$35,520.
- 5. Explanation of calculation: We estimate it will take approximately 8 hours to comply with the requirement. 111 (number of respondents) x 1 (number of filings) x 8 (hours per filing) x \$40 per hour = \$35,520.

13. The following represents the Commission's estimate of the annual cost burden for respondents or record keepers resulting from the collection of information.

(a)(1) Total capital and start-up cost component (annualized over its expected useful life): \$0. The reporting requirement will not require the purchase of additional equipment.

(b)(2) Total operation and maintenance and purchase of services component: \$0.

14. The Federal government's annualized cost for FCC Forms 492 and 492A at \$1,019.20 using a formula of staff hours multiplied by a calculated the average-grade level cost.

Processing cost:

-processing time	16 hours
-avg. grade of employee	<u>x49.00/hr.</u>
Subtotal	\$784.00
Overhead costs at 30%	<u>235.20</u>
<b>Total</b>	<b>\$1,019.20</b>

15. The annual burden for this collection is 888 hours. We are decreasing the number of respondents by three to reflect the latest filing information. FCC Forms 492 and 492A enable the Commission to fulfill its regulatory responsibilities.

16. Data from the Forms 492 and 492A are tabulated for monitoring purposes as soon as the reports are received. Completed reports are due three months after the calendar year ends.

17. The Commission seeks approval not to display the expiration date of OMB approval. Display of the expiration date would not be in the public interest because we would have to destroy all of the unused reports previously printed. This would constitute waste and would not be cost effective.

18. The Commission does not require carriers to retain copies of the Forms 492 and 492A for a specific period of time. Carriers are required by section 42.4 of the Commission's rules (47 C.F.R. 42.4) to maintain a master index of records, to identify the retention period for each type of record listed in the master index, and to keep the records for the time periods specified by the carrier in the master index.

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

Not applicable.