

SUPPORTING STATEMENT

A. Justification

1. The Commission issued a *Second Report and Order and Further Notice of Proposed Rulemaking (Section 258 Order)* adopted December 17, 1998, CC Docket No. 94-129, FCC 98-334, released December 23, 1998, which promulgated rules to implement Section 258 of 1996 Telecommunications Act to combat the practice of “slamming” which is the unauthorized change of a subscriber’s preferred carrier.¹

In the *Section 258 Order*, the Commission adopted liability rules designed to diminish the profitability of slamming by broadening the scope of its carrier change rules and adopting, among other things, more rigorous slamming liability and carrier change verification measures. When the Commission released the *Section 258 Order*, it recognized that additional revisions to the slamming rules could further improve the preferred carrier change process and prevent unauthorized changes. Thus, concurrent with the release of the *Section 258 Order*, the Commission issued a *Further Notice* that sought comment on a number of additional proposals to further improve the preferred carrier change process and to prevent unauthorized carrier changes.²

The *First Order on Reconsideration* in CC Docket No. 94-129, released May 3, 2000 (FCC 00-135), established new rules to protect consumers from slamming and to take the profit out of an illegal practice used by unscrupulous companies. These rules have provided a means for consumers who believe they have been slammed to file a complaint with the Commission. The information gathered on the complaint form will significantly improve the Commission’s ability to process complaints without delay.

FCC Form 501, which consumers and businesses file voluntarily, requests only the information that is needed to process and resolve the consumers’ complaints, making the form shorter and simpler to use, and thereby reducing the burden on consumers and businesses (respondents). As a result, the Commission believes that this form provides a more efficient means for handling slamming complaints and taking enforcement action against violators, thereby providing greater protection to the public against slamming and take the profit out of the illegal practice.

¹ 47 CFR § 64.1100 *et seq.* Prior to the adoption of section 258 of the Act, the Commission had taken various steps to address the slamming problem; section 258 expanded the Commission’s authority in this area. *See, e.g.,* Policies and Rules Concerning Unauthorized Changes of Consumers’ Long Distance Carriers, CC Docket No. 94-129, *Report and Order*, 10 FCC Rcd 9560 (1995), *stayed in part*, 11 FCC Rcd 856 (1995); Policies and Rules Concerning Changing Long Distance Carriers, CC Docket No. 91-64, 7 FCC Rcd 1038 (1992), *reconsideration denied*, 8 FCC 3215 (1993); Investigating of Access and Divestiture Related Tariffs, CC Docket No. 83-1145, Phase I, 101 F.C.C.2d 911, 101 F.C.C.2d 935, *reconsideration denied*, 102 F.C.C.2d 503 (1985).

² *Third Report and Order and Further Notice of Proposed Rulemaking* adopted July 21, 2002, CC Docket No. 94-129, FCC 00-255, released August 15, 2000.

The statutory authority for the information collection requirements is found in Section 258 [47 U.S.C 258] Illegal Changes in Subscriber Carrier Selections, Public Law 104-104, 110 Stat. 56.

2. The FCC Form 501, Slamming Complaint Form, is designed to assist consumers and businesses in filing slamming complaints with the Commission. Filing FCC Form 501 is voluntary. The form is devised to ensure complete and efficient submission of the information that is necessary to process the slamming complaints. The form is used by the Commission to provide redress to consumers and to act against companies engaged in this illegal practice as soon as possible.³

This information collection does contain personally identifiable information on individuals (PII).

- (a) The FCC maintains an information system, including both paper files and electronic data, which is covered by a system of records notice (SORN), FCC/CGB-1, "Informal Complaints and Inquiries."⁴ The SORN covers the collection, purposes(s), storage, safeguards, and disposal of the PII that individuals (respondents) may submit to the Commission as part of the data that they include on FCC Form 501 "Slamming Complaint."
 - (b) The FCC has completed a Privacy Impact Assessment covering the information system covered by this SORN, which may be reviewed at:
http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.
 - (c) The FCC last published this SORN on October 11, 2001 (66 FR 51955).
 - (d) The FCC intends to update its inventory of SORNs, including FCC/CGB-1, "Informal Complaints and Inquiries," and to publish a Notice in the *Federal Register* as required by OMB regulations and the Privacy Act, 5 U.S.C. 552a(e).
3. Respondents may file FCC Form 501 electronically at the FCC web site, at the Consumer & Governmental Affairs Bureau web site, or by mail to the Commission or to the Consumer & Governmental Affairs Bureau.⁵
4. There is no duplication of information. The information sought on this form is unique to this inquiry, and the form does not duplicate efforts on the part of any other Commission office. In addition, this form is being made available to state entities that intend to handle slamming complaints.
5. The information collection represented by FCC Form 501 Slamming Complaint Form will affect individual consumers and businesses. In conformance with the Paperwork Reduction Act, the Commission is making an effort to minimize the burden on all respondents. The form reduces the need for the Commission to return incomplete complaints to consumers, and minimizes those situations where consumers must refile

³ See also § 1.719 of the Commission's rules. 47 CFR § 1.719.

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[?] This SORN was formerly titled FCC/CIB-1, "Informal Complaints and Inquiries," SORN. .

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[?] The respondent may request a paper copy of FCC Form 501 or may download and print a copy from the FCC's web page.

their complaints. Further, the Commission has limited the required information on the form to include only that information which is absolutely necessary for processing slamming complaints. These efforts, along with the voluntary nature of the submission, should minimize the impact on all respondents.

6. The Commission will use the information it obtains from the FCC Form 501 to resolve consumer slamming complaints. Absent this information collection, the Commission would lack sufficient information essential to resolve slamming complaints and act against companies engaged in this illegal practice.
7. No special circumstances exist that would cause this collection to be conducted in a manner inconsistent with the guidelines/requirements set forth in the Paperwork Reduction Act of 1995.
8. Pursuant to 5 CFR 1320.8, the Commission placed a notice soliciting public comment in the *Federal Register*. See 72 FR 36706, published July 5, 2007. No comments were received.
9. The Commission does not anticipate providing any payment or gift to respondents.
10. No assurances of confidentiality are being provided to the respondents.

(a) The Commission is requesting that individuals (consumers/respondents) submit their names, addresses, and telephone numbers to the Commission, all of which is necessary to process the complaints. A privacy statement is included on all FCC forms accessed through our Internet web site.

(b) In addition, respondents are made aware of the fact that their complaint information may be released to law enforcement officials and other parties as mandated by law (*i.e.* court-ordered subpoenas). Such information is contained in the operations support for complaint analysis and resolution (OSCAR) and consumer information management system (CIMS) databases, which is covered under the Commission's system of records notice (SORN), FCC/CGB-1, "Consumer Inquiries and Complaints Division." The PII covered by this system of records notice is used by Commission personnel to handle and to process informal complaints from individuals and groups. The Commission will not share this information with other federal agencies except under the routine uses listed in the SORN.

The PIA that the FCC completed on June 28, 2007 gives a full and complete explanation of how the FCC collects, stores, maintains, safeguards, and destroys the PII, as required by OMB regulations and the Privacy Act, 5 U.S.C. 552a. The PIA may be viewed at: http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.

11. This information collection does not raise any questions or issues of a sensitive nature.
 - (a) Additionally, consumers are cautioned not to provide personal information such as social security numbers, credit card numbers, *etc.*
 - (b) As noted earlier, the Commission does require consumers (respondents) to provide their names, addresses, and telephone numbers so that Commission staff may process

these complaints more expeditiously and in the event the Commission needs to contact the complainant for any additional information to resolve the complaint.

(c) In instances where consumers provide PII, the FCC has a SORN, FCC/CGB-1, "Informal Complaints and Inquiries," to cover the collection, use, storage, and destruction of the PII. A full explanation of the privacy safeguards may be found in the Privacy Impact Assessment that the FCC completed on June 28, 2007 and may be viewed at: http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.

12. Estimates of the hour burden for the collection of information are as follows:

The Commission estimates that there will be approximately 1,800 consumers and 1,800 businesses that will file a slamming complaint form with the Commission annually. This estimate is based on the current total volume of complaints received annually by the Commission.

This process will be done "on occasion" and will require approximately 15 minutes (0.25 hours) to complete this process.

Total Number of Annual Respondents:

1,800 consumers + 1,800 businesses = **3,600 respondents**

Total Number of Responses:

1,800 consumers + 1,800 business slamming complaint forms = **3,600 responses**

Total Number of Annual Burden Hours:

1,800 consumer + 1,800 business slamming complaint forms x 0.25 hours (15 minutes per response) = **900 hours**

Annual In-House Cost: The Commission believes that businesses would use "in-house" personnel to complete this process whose pay is comparable to mid-level federal employee (GS-9/5 (\$25/hour), plus 30% overhead (\$7.50); therefore, the Commission estimates the businesses' costs to be about \$32.50 per hour (\$25 + \$7.50) to comply with the requirement.

Total Annual In-House Cost: 1,800 businesses x 0.25/hr. x \$32.50 = **\$14,625**

There will be no additional "in-house" cost incurred from consumers utilizing the slamming complaint form.

13. The annualized cost to respondents for the hourly burdens for collection of information is generally calculated by multiplying the estimated total annual burden for all respondents as a group. Because of the voluntary nature of submission and the brevity and simplicity of the form, the Commission believes these costs to be *de minimis*.

(1) Total annualized capital/start-up costs: **None.**

(2) Total annual cost (O&M): **None.**

(3) Total annualized cost requested: **None.**

14. The Commission will administer the FCC Form 501 “in-house” (using Commission staff):

(a) The Commission will use clerical staff at the GS-9/Step 5 level, to process the complaint data received. The time to process each complaint is estimated to be approximately 30 minutes (0.5 hours); and

(b) the Commission will use paraprofessional staff at the GS-12/Step 5 level to address and resolve slamming complaints. The time to write each Order addressing these complaints is estimated to be approximately 4 hours.

On average, the Commission estimates that it will receive approximately 3,600 complaints annually, thus:

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| 3,600 complaints x 0.5 hours/complaint processing x \$25.00/hour | = \$ 45,000.00 |
| 3,600 complaints x 4 hours/complaint Order x \$36.26/hour | = <u>\$522,144.00</u> |
| Subtotal | = \$567,144.00 |
| 30% Overhead | = <u>\$170,143.00</u> |
| Total Cost to the Federal Government: | \$737,287.00 |

15. There are no program changes to this information collection.
16. The results of these data are not planned to be published. Occasionally, the Commission may publicly disclose statistical information such as the number of slamming complaints filed with the Commission within a given time period.
17. The Commission requests continued permission not to display the expiration date for OMB approval of this information collection on FCC Form 501.
18. There are no exceptions to the certification statement Identified in Item 19, “Certification for Paperwork Reduction Act Submissions,” of OMB Form 83-I.

B. Collections of Information Employing Statistical Method

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