

SUPPORTING STATEMENT

A. Justification

1. On January 29, 1998, the Commission adopted a *Second Report and Order and Order on Reconsideration* (“*Second Report and Order*”), CC Docket No. 92-77, FCC 01-355, released January 29, 1998. The *Second Report and Order* addressed the problem of widespread consumer dissatisfaction with the high rates charged by many operator services providers (OSPs) for calls from public phones and other aggregator locations such as hotels, hospitals, and educational institutions. At the time the *Second Report and Order* was released, an away-from-home caller who dialed “0” followed by an inter-exchange number typically did not know what rates the particular OSP would be charging. The Commission responded to this problem in the *Second Report and Order* by adopting price disclosure rules that apply:

(1) to providers of interstate operator services from such phones, and

(2) to providers of operator services from phones set aside for use by inmates at correctional institutions.

These rules were designed to ensure that consumers receive sufficient information about the rates for operator services at public phones and other aggregator locations, thereby fostering a more competitive OSP marketplace.

On December 5, 2001, the Commission adopted a *Second Order on Reconsideration*, CC Docket 92-77, FCC 01-355, released December 12, 2001. The *Second Order on Reconsideration* affirmed rules and disposed of outstanding petitions for reconsideration. The Commission also made several minor modifications and clarifications to the rules. Specifically:

(a) the Commission clarified that the price disclosure rules apply to all interstate non-access code operator service calls, even those that are initiated by dialing 0+, if the consumer will be liable for interstate operator service charges for such calls;

(b) the Commission also confirmed that section 226 of the Communications Act requires price disclosure for all interstate non-access code operator service calls, and therefore declined to exempt interstate intra-LATA toll calls from the price disclosure obligation under the Commission’s rules;

(c) the Commission also clarified that the disclosure of price information is limited to those charges that are billed by, or on behalf of, the interstate operator service provider and the rules accordingly;

(d) the Commission also retained the requirement that oral rate information must be provided to both parties on a collect call in view of the statutory definition of “consumer” in the context of operator services;

(e) lastly, the Commission amended the rules to reflect the finding in the *Second Report and Order* that, in a bill-to-third-number situation, the rate disclosure option must be offered to the

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party to be billed, if the OSP contacts that person to secure approval for billing, as well as to the caller.

These minor clarifications and changes help consumers take advantage of competition in the operator services marketplace, while minimizing administrative burdens.

Therefore, the information collection requirements that are apart of this information collection are as follows:

47 CFR § 64.703(a)(1)-(3) of the Commission's rules requires that OSPs disclose their identity, and upon request by the consumer, the rates for the call, collection methods for the charges, and complaint procedures. A provider of operator services is required to identify itself, audibly and distinctly, to both the calling party and the called party. This requirement was in response to the failure of operator service providers to disclose information necessary for informed consumer choice in the marketplace.

47 CFR § 64.703(a)(4) of the Commission's rules requires OSPs to disclose orally to away-from-home callers, at no cost to such callers, how they may obtain all applicable charges for a call placed through an OSP, without the caller having to hang up to dial a separate number. The rule is intended to make it easier for callers using operator services at pay phones, hotels and other call aggregator locations to immediately obtain the total cost of making a call using the carrier selected by the pay phone or premises owner before the call is made. Furthermore, section 64.703(a)(4) requires each OSP to disclose, audibly and distinctly to the consumer, at no charge and before connecting any interstate call, how to obtain rate quotations, including any applicable surcharges, if the call is to be placed through the carrier selected by the payphone or premises owner.

47 CFR § 64.709 of the Commission's rules codifies OSP informational tariff filings.¹ The Commission also amended the rules to increase the usefulness of informational tariffs by requiring that such tariffs include specific rates expressed in dollars and cents as well as applicable per-call aggregator surcharges or per-call fees, if any, that are collected from consumers.

47 CFR § 64.710 of the Commission's rules requires providers of inmate operator services at correctional institutions to identify themselves, audibly and distinctly, to the party to be billed for the call. The OSPs must also disclose immediately thereafter to that calling party how he or she may obtain the charges for the call and the bill for a call, without having to hang up to dial a separate number, and before the carrier will connect the call.

The Commission is requesting OMB approval for a three year extension of this information collection.

As noted on the OMB Form 83-I, this information collection does not affect individuals or households; thus, there is no impact under the Privacy Act because it does not require the collection of personally identifiable information from individuals.

The statutory authority for this information collection is found at 47 U.S.C. § 226, Telephone Operator Services, Public Law Number 101-435, 104 Stat. 986, codified at 47 CFR sections 64.703(a) Consumer Information, 64.709 Informational Tariffs, and 64.710 Operator Services for Prison Inmate Phones.

¹ Section 226(h)(1)(A) of the Communications Act requires OSPs to file informational tariffs with the Commission.

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2. The Commission believes that the disclosure rules help to ensure that consumers receive information necessary to determine what the charges associated with an OSP-assisted call will be, thereby enhancing informed consumer choice in the operator services marketplace.

3. Pursuant to 47 CFR § 64.703(a)(1) of the Commission's rules which codifies Section 226(b)(1)(A) of the Communications Act, OSPs must identify themselves audibly and distinctly to the consumer at the beginning of each telephone call. The oral disclosure must immediately follow the oral identification of the telephone service brand and may be incorporated in the same automated, electronic recording, without the need for intervention by a live operator. Further, carriers with less intricate rate structures could disclose their rates and relative surcharges, if any, electronically to callers and prospective consumers.

4. The information collection requirements are not duplicative of any existing federal regulatory obligation.

5. There will not be a significant impact on a substantial number of small businesses/entities by this information being collected.

6. Without these information collection requirements, consumers could be burdened with high charges and related surcharges for payphone calls and calls from other aggregator locations, such as hotels, hospitals, airports, and educational institutions. Thus, the number of consumer complaints to the Commission could increase with respect to these segments of the "inter-exchange" market in which carriers historically have competed more for the business of call aggregators and prison administrators than for the business of consumers.

7. No special circumstances exist that would cause this collection to be conducted in any manner that is inconsistent with the guidelines in 5 CFR § 1320.6.

8. The Commission placed a 60 day notice in the *Federal Register* pursuant to 5 CFR § 1320.8. See 73 FR 8670, dated February 14, 2008. The Commission received no comments following publication of this notice.

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

10. The Commission is not requesting that respondents submit confidential information to the Commission.

11. This information collection does not raise any questions or issues of a sensitive nature.

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

NOTE: The Commission estimates that "operator assisted calls, i.e., collect calls, credit card calls, calls from prisons, and calls from telephone booths, etc. may comprise no more than 0.00025% of the total number of interstate telephone calls made annually (45,000,000,000).

45,000,000,000 interstate calls x 0.00025 "operator assisted" = 11,250,000 interstate operator assisted calls

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(a) Section 64.703(a)(1)-(4), Consumer Information:

(1) **Number of Respondents:** 630 respondents

The Commission estimates there are approximately 630 OSPs (respondents) that must provide the information collection requirements contained in this rule section to consumers.

(2) **Frequency of Response:** On occasion reporting requirements

The frequency of response varies according to the number of non-prison “operator assisted” interstate telephone calls the respondents handle annually.

(3) **Number of Responses:**

Of the 11,250,000 “operator assisted” calls, the Commission estimates that approximately 45% (0.45) are made by consumers who are not residents of penal institutions (*i.e.*, from pay phones, hotels, hospitals, collect calls):

$11,250,000 \times 0.45/\text{non-penal institutional consumers} = 5,062,500$ “operator assisted” calls

(4) **Annual Hourly Burden:**

(a) Among the information contained in the automated service recordings that respondents must disclose to the consumer during the “operator assisted” interstate calls made annually are:

identity of OSP; call charges; collection methods for the charges; complaint procedures; and how consumers may obtain all applicable charges for a call placed through the OSP, without the caller having to hang up to dial a separate number.

(b) The Commission believes that even when “operator assistance” is required, respondents will use automated recordings and other computer-assisted mechanisms to provide this information, as allowed by 47 CFR §64.703(a)(1)-(3). Thus:

The Commission estimates that current technology and message information processes require OSPs to spend approximately 4 hours annually preparing the message and the respondents will use their “in house” engineering staff to prepare these recordings.

$630 \text{ respondents} \times 4 \text{ hours/year/recording} = 2,520 \text{ hours}$

(c) The Commission believes that respondents will spend on average 60 seconds (0.0166 hours) to provide automated information and/or live operator assistance, if necessary, to “non prison” callers who require “operator assistance”:

$5,062,000$ “operator assisted” telephone calls $\times 0.0166 \text{ hours} = 84,029 \text{ hours}$

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(5) Annual “In-House” Cost:

The Commission estimates that respondents will use three “in house” engineers earning \$50 per hour, spending approximately four hours per year to create the automated message. Staff will spend 60 seconds per year to provide automated information and/or live operator assistance to non penal institution callers who require operator assistance at a rate of \$50 per hour.

630 respondents x 4 hours/year/recording x \$150/hour (\$50/hr/engineer)	= \$ 378,000
5,062,000 “operator assisted” telephone calls x 0.0166 hours x \$50/hour	= <u>\$4,201,460</u>
	\$4,579,460

(b) Section 64.709, Informational Tariffs:

(1) Number of Respondents: 150 respondents

The Commission estimates that approximately 150 respondents will file new informational tariffs annually, at an average of 1 filing per year.

(2) Frequency of response: Annual reporting requirements

The Commission estimates that respondents make an estimated 1 filing per year.

(3) Number of Responses Annually:

150 respondents x 1 filing/year = 150 filings (responses)

(4) Annual Hourly Burden:

The Commission estimates that each respondent files an informational tariff will spend approximately 50 hours annually to comply with this requirement:

150 responses x 50 hours/tariff filing x 1 filing/year = 7,500 hrs

(5) Annual “In House” Cost:

The Commission estimates that respondents will use “in-house” staff to prepare the information tariff filings at the rate of \$50 per hour, spending approximately 50 hours annually to comply with this requirement:

150 responses x 50 hours/annually x \$50/hour = \$375,000

(c) Section 64.710, Operator services for prison inmate phones:

(1) Number of respondents: 150 respondents

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The record lacks any quantifiable evidence of the number of providers of operator services for interstate calls from inmates at correctional institutions. The Commission estimates that 150 respondents are subject to this requirement.

(2) Frequency of response: On occasion reporting requirements

The frequency of response varies according to the number of interstate operator service calls initiated from correctional institutions.

(3) Number of Responses Annually:

The Commission estimates that prison inmates may make approximately 55% of the 11,250,000 “operator assisted” interstate telephone calls because they lack access to other calling options, *i.e.* cell phones and residential phone lines:

$$11,250,000 \text{ interstate calls} \times 0.55/\text{prison inmate calls} = 6,187,500 \text{ “operator assisted” calls}$$

(4) Annual Hourly Burden:

(a) The Commission estimates that current technology and message information processes require each respondent to spend approximately 4 hours annually preparing the messages that prison inmates and other consumers will hear;

$$150 \text{ respondents} \times 4 \text{ hours/year/recording} = 600 \text{ hours}$$

(b) To comply with the consumer information message requirement, the Commission believes that:

Respondents will spend on average 60 seconds (0.0166 hours) to provide automated information and/or live operator assistance, if necessary, to “non penal institution” callers who require “operator assistance”:

$$6,187,500 \text{ “operator assisted” telephone calls} \times 0.0166 \text{ hours} = 102,713 \text{ hrs}$$

(5) Annual “In-House” Cost:

The Commission estimates that respondents will use three “in house” engineers earning \$50 per hour, spending approximately 4 hours preparing the automated messages. Staff will spend 60 seconds per year to provide automated information and/or live operator assistance to non penal institution callers who require operator assistance at a rate of \$50 per hour.

$$150 \text{ respondents} \times 4 \text{ hours/year/recording} \times 150/\text{hour} (\$50/\text{hr}/\text{engineer}) = \$ 90,000$$
$$6,187,500 \text{ “operator assisted” telephone calls} \times 0.0166 \text{ hours} \times \$50/\text{hour} = \underline{\$5,135,625}$$
$$\$5,225,625$$

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Annual “In-House” Costs Associated with Providing All Operator Assistance Described Above:

The Commission believes that OSPs use their in-house staff to provide consumer information for “operator assisted” telephone calls:

- (i) The Commission estimates that operators are paid at a salary equivalent to the Federal GS-7/Grade 5 level (\$21.36/hour) or \$44,572.00 per year.
- (ii) The Commission also estimates that due to automation and the dramatic decrease in the volume of “operator assisted” telephone calls, OSPs on average employ 50 operators to provide this service:

630 OSPs to provide “operator assistance” staff x 50 operators x \$44,572/year = \$1,404,018,000

OSP to provide “operator assistance” staff x 50 operators x \$44,572/year = \$1,404,018,000

Rule Section	Subsets of Respondents	Frequency of Response	Total Number of Responses Annually	Total Annual Hourly Burden	Total Annual “In House” Cost
(a) Section 64.703(a)(1)-(4), Consumer Information for non-prison calls (collect calls, calls from pay phones, hotels, hospitals, etc.):	630	On occasion	5,062,500	2,520 (prepare recording)	\$4,579,460
				84,029 (operator assistance)	
(b) Section 64.709, Informational tariffs	150	Annual	150	7,500	\$375,000
(c) Section 64.710, Operator services for prison inmate phones	150	On occasion	6,187,500	600 (prepare recording)	\$5,225,625
				102,713 (operator assistance)	
In House Costs to Provide Staffing for Operator Assistance					\$1,404,018,000
TOTALS	630		11,250,150	197,362	\$1,414,198,085

Total Number of Respondents: 630 respondents (OSP)

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Total Number of Responses Annually:

5,062,500 + 50 + 6,187,500 = 11,250,150 responses

Total Annual Hourly Burden:

2,520 + 84,029 + 7,500 + 600 + 102,713 = **197,362 hours**

Total Annual “In House” Costs:

\$4,579,460 + \$375,000 + \$5,225,625 + \$1,404,018,000 = \$1,414,198,085

13. (a) Total Annualized capital and startup costs: **None**

(b) Total annual cost (O&M): **\$116,250**

(c) Total annualized cost requested: **\$116,250**

The Commission rules, 47 CFR 1.1105(a)(4), currently require that informational tariff filing must be accompanied by a \$775 filing fee:

150 tariff filing x \$775 filing fee = **116,250**

14. There are no costs to the Federal Government.

15. The Commission notes that it has recalculated the total annual burden hours, total number of responses, total annual in-house costs, and total annual costs due to the Commission’s re-estimation of the various hourly burdens and increase in staff salaries and filing fees. There are no program changes.

16. The Commission does not intend to publish the results of the information collection requirements.

17. This information collection does not include any FCC forms or other Commission documents requiring an expiration date; thus, the requirements contained herein need not be addressed.

18. In the 60 day Federal Register Notice (Notice) published on February 14, 2008 at 73 FR 8670, the Commission reported the total annual burden hours as “475,728”, the total annual cost as “\$216,150”, the estimated time per response as “30 seconds to 50 hours”, the frequency of response as “on occasion reporting requirement, and inadvertently omitted the number of responses. The Commission revises these burdens to read as follows: total annual burden hours – 197,362; total annual cost – 116,250, estimated time per response – 60 seconds to 50 hours; the frequency of response – annual and on occasion reporting requirements, and number of responses – 11,250,150. There are no other exceptions to the certification statement identified in Item 19, “Certification for Paperwork Reduction Act Submission, of OMB Form 83-I.

B. Collection Information Employing Statistical Methods.

OMB Control Number: 3060-0717

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64.703 (a), 64.709, 64.710**

This information collection does not employ any statistical methods.