

SUPPORTING STATEMENT

A. Justification:

1. In the *Fifth Report and Order*, FCC 99-206, adopted and released in August 1999, the Commission permitted price cap LECs to introduce new services on a streamlined basis, without prior approval. The Commission modified the rules to eliminate the public interest showing required by 47 C.F.R. Section 69.4(g) and to eliminate the new services test (except in the case of loop-based new services) required under 47 C.F.R. Section 61.49(f) and (g). These modifications eliminate delays that existed for the introduction of new services as well as encourage efficient investment and innovation. Section 61.49 also requires supporting information to be submitted with letters of transmittal for tariffs of carriers subject to price cap regulation. The other rule sections that were adopted in the *Fifth Report and Order* that are subject to OMB review and approval are the following:

Section 1.774, Pricing Flexibility, describes what a petitioner for pricing flexibility must provide for specific services pursuant to Part 69, Subpart H with respect to a metropolitan statistical area (MSA), as defined in Section 22.909(a), or the non-MSA parts of a study area, must show that the price cap LEC has met the relevant thresholds set forth in Part 69, Subpart H.

Section 61.55, Contract-based tariffs shall include the terms of contract, including any renewal options; a brief description of each of the services provided under the contract; minimum volume commitments for each service; the contract price for each service or services at the volume levels committed to by the customers; a general description of any volume discounts built into the contract rate structure; and a general description of other classifications, practices, and regulations affecting the contract rate.

Section 61.58, Notice requirements establish various time requirements for filing tariffs or amendments.

Section 69.707, for Metropolitan Statistical Areas (MSAs) a price cap LEC filing a petition for pricing flexibility in a MSA shall include data sufficient to support its petition, as set forth in subpart H, Pricing Flexibility, disaggregated by MSA. A price cap LEC may request pricing flexibility for two or more MSAs in a single petition, provided that it submits supporting data disaggregated by MSA.

For Non-MSAs in this rule section, a price cap LEC will receive pricing flexibility with respect to those parts of a study area that fall outside of any MSA, provided that it provides data sufficient to support a finding that competitors have collocated in a number of wire centers in that non-MSA region sufficient to satisfy the criteria for the pricing flexibility sought in the petition, as set forth in Subpart H, if the region at issue were a MSA. A petitioner may aggregate data for all the non-MSA regions in a single study area for which

it requests flexibility in its petition. A petitioner may request pricing flexibility in the non-MSA regions of two or more of its study areas, provided that it submits supporting data disaggregated by study area.

Section 69.713(b)(1), Phase I Triggers, to obtain Phase I pricing flexibility, as specified in 47 C.F.R. 69.727(a), for the services identified in paragraph (a) of this section, a price cap LEC must provide convincing evidence that, in the relevant areas as described in 47 C.F.R. 69.707, its unaffiliated competitors, in aggregate, offer service to at least 15 percent of the price cap LEC's customer locations. For purposes of the showing required by paragraph (b)(1) of this section, the price cap LEC may not rely on service the competitors provide solely by reselling the price cap LEC's services, or provide through unbundled network elements as defined in 47 C.F.R. 51.5, except that the price cap LEC may rely on service the competitors provide through the use of the price cap LEC's unbundled loops.

Section 69.727 requires except for new services subject to paragraph (b) of this rule section, a price cap LEC may obtain pricing flexibility for a new service that has not been incorporated into a price cap basket by demonstrating in its pricing flexibility petition that the new service would be properly incorporated into one of the price cap baskets and service bands for which the price cap LEC seeks pricing flexibility.

The Commission is submitting this collection to extend the current OMB approval for three years. There is an increase in the number of respondents (from 17 to 21) since 2005 which has resulted in a +40 hour total burden adjustment. The \$16,275 annual cost increase is due to a \$775 filing fee that is required that was mistakenly omitted from the 2005 submission to the OMB.

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.

Statutory authority for this information collection is Sections 1, 4(i), 4(j), 201-205, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 201-205, 303(r), 403, and 5 U.S.C. § 553.

2. The information collected will be submitted to the Commission by an incumbent LEC for use in determining whether the rates proposed by an incumbent LEC offering a new loop-based switched access service are reasonable.
3. Generally, there is no improved technology identified by the Commission to reduce the burden of these collections. However, the Commission does not prohibit the use of improved technology where appropriate.
4. We know of no duplication of this information. There is no similar information available in this area.
5. The burden has been minimized for all subject to the collection.

6. Failing to collect the information would violate the language and/or intent of the 1996 Act; to ensure that access to the evolving, advanced telecommunications infrastructure would be made broadly available in all regions of the nation at just, reasonable and efficient rates.
7. We are not aware of any circumstances that require the collection to be conducted in any manner inconsistent with the guidelines in 5 C.F.R. § 1320.5.
8. Pursuant to 5 C.F.R. § 1320.8(d), the Commission published a 60-day notice in the *Federal Register* to seek public comment on this information collection renewal. See 73 FR 50009, dated August 25, 2008. No comments were received as a result of the notice. A reference to the notice is included in the submission to the OMB.
9. The Commission does not anticipate providing any payment or gift to respondents.
10. No information of a confidential nature is being sought; however, respondents may request materials or information submitted to the Commission to be withheld from public inspection under section 0.459 of the Commission's rules (47 C.F.R. § 0.459). See also, 47 C.F.R. § 1.774(b).
11. There are no questions of a sensitive nature with respect to the information collected.
12. The following represents the estimated hour burden of the information collection:

(1) Number of respondents: 21.

(2) Frequency of response: On occasion reporting requirement.

(3) Total number of responses annually: 21.

21 respondents x 1 response each per year = 21 responses.

(4) Annual hour burden per respondent: 10 hours.

(5) Total annual burden: **210 hours**.

The Commission estimates that price cap LECs would make 1 filing per year, each of which would take 10 hours to prepare.

21 respondents x 1 filing/year x 10 hours = 210 hours.

(6) Total estimate of "in house" cost to respondents: \$16,800.

(7) Explanation of the calculation:

The Commission estimates that the average in-house cost for respondents is approximately \$80 per hour.

210 hours/year x \$80/hour = \$16,800.

- 13a. The following represents the Commission's estimate of the annual cost burden to respondents or recordkeepers resulting from the information collection:

These information collection requirements impose no start-up costs on respondents.

- 13b. Estimated operations and maintenance cost to respondents:

Respondents are subject to a filing fee of \$775 per filing. We anticipate that approximately 21 respondents will be subject to the filing requirement. Thus:

21 responses x 1 annual response x \$775 filing fee = **\$16,275.**

14. Estimated costs to the Commission: \$6,720.

Four hours to review each filing x 21 filings per year x \$80 per hour (includes staff time, overhead costs, and printing) = \$6,720.

15. The Commission notes the following adjustments to the previous submission:

(a) There is an increase in the burden hours of +40 hours which resulted from 170 hours that was reported in 2005 to now reporting 210 total annual burden hours due to an increase in the number of respondents.

(b) The total number of respondents has increased by four, from 17 to 21, as a result of an increase in the number of price cap carriers.

(c) Respondents are subject to a \$775 filing fee. The imposition of a filing fee was mistakenly omitted from the previous submission.

(d) Additionally, the estimated annualized in-house cost to respondents for this information collection is now \$16,800.

16. The Commission does not anticipate that it will publish any of the information collected.

17. The Commission does not seek approval not to display the expiration date for the information collection.

18. There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods: Not applicable.