

SUPPORTING STATEMENT

A. Justification:

1. The Federal Communications Commission (“Commission”) is requesting that the Office of Management and Budget (OMB) approve the revision of OMB Control No. 3060-0686¹ titled, “International Section 214 Authorization Process and Tariff Requirements – 47 CFR Sections 63.10, 63.11, 63.13, 63.18, 63.19, 63.21, 63.24, 63.25 and 1.1311.” This information collection is being revised to receive OMB approval for information collection requirements that were not previously included in this collection and should have been included, and to clearly state and clarify the existing rule sections and information collection requirements, including all Section 214-related applications, which are contained in this information collection.

Section 214-Related Applications

We are requesting continued approval of the following Section 214-related applications:

1. International Section 214 Application (**FCC Form 214**) (Reference: 47 CFR 63.18)
2. International Section 214 Authorizations for Assignment and Transfer of Control (**FCC Form 214TC**) (Reference: 47 CFR 63.24(e))
3. International Section 214 – Request for Special Temporary Authority (**FCC Form 214STA**) (Reference: 47 CFR 63.25(b))

Additionally, in November 2005, the Commission received blanket approval from OMB for four new Section 214 applications that are pending development by the Commission: (1) International Telecommunications Certificate (ITC) Amendment, (2) ITC Modification, (3) ITC Other Filings and (4) Foreign Carrier Notification. Development of the forms is contingent upon the availability of budget funds and contract staff. We would like to maintain OMB approval of these applications.

The Commission’s plan to develop these four new applications resulted from the adoption and release of the Report and Order, “In the Matter of Mandatory Electronic Filing For International Telecommunications Services and Other International Filings,” IB Docket No. 04-226, FCC 05-

¹ This information collection accounts for a portion of the information collection requirements contained under Part 64. OMB has approved other information collections for Part 64 apart from collection 3060-0686.

**International Section 214 Process and Tariff
Requirements – 47 CFR Sections 63.10, 63.11, 63.13,
63.18, 63.19, 63.21, 63.24, 63.25 and 1.1311**

**OMB Control No. 3060-0686
February 2009**

91. The Report and Order was adopted by the Commission on April 29, 2005 and released on May 11, 2005. (Note: This rulemaking is referred to as the International E-Filing R&O).

Terms of Clearance: On February 21, 2006, the OMB approved OMB Control No. 3060-0686 with the following Terms of Clearance: FCC shall submit the forms associated with the four (4) applications contained within the collection before associated development occurs on the IBFS. These forms should be submitted as part of a change worksheet (either together or separately for each application). In addition, the forms should be submitted to OMB at least 60 days prior to deployment to allow sufficient review time. Change worksheets should include the specific information collection elements requested, as well as the associated burden hours.

The four applications referenced in OMB's Terms of Clearance are as follows: (1) International Telecommunications Certificate (ITC) Amendment, (2) ITC Modification, (3) ITS – Other Filings and (4) Foreign Carrier Notification. To date, the Commission has not developed the four applications due to a lack of budget funds. The timing for development of the applications is unknown and is contingent upon the availability of budget funds and work priorities of management staff in the Commission.

As noted on the OMB Form 83-I, this information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

The statutory authority for this information collection is as follows: Sections 1, 4(i), 4(j) 11, 201-205, 211, 214, 219, 220, 303(r), 309, 310 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 161, 201-205, 21, 214, 219, 220, 303(r), 309 and 403, and sections 34-39.

2. The information is used by the Commission staff in carrying out its duties under the Communications Act. The information collections pertaining to Part 63 are necessary largely to determine the qualifications of applicants to provide common carrier international telecommunications service, including applicants that are affiliated with foreign carriers, and to determine whether and under what conditions the authorizations are in the public interest, convenience, and necessity. The information collections contained in Part 63 are necessary for the Commission to maintain effective oversight of U.S. carriers that are affiliated with, or involved in certain co-marketing or similar arrangements with, foreign carriers that have market power. Furthermore, the information collections are necessary to maintain effective general oversight of U.S. international carriers.

3. In December **2006**, the Commission received OMB approval of mandatory electronic filing of all Section 214-related applications and notifications under OMB Control No. 3060-0686.²

A total of 100 percent of Section 214 authorizations are filed electronically in the International Bureau Filing System (IBFS).

4. To the extent that information collection requirements contained in Section 310(b)(4) are similar to those in Section 214, the Commission eliminated duplicative collections of information. Applicants filing under both Sections 310 and 214 are not required to duplicate their information requirements. Similarly, Section 214 applicants filing information under Section 63.18 need not file duplicative information. Regarding all other aspects of this collection, the information that is collected is not available elsewhere.

5. In developing this collection, the Commission considered the impact of our information collection requirements on small businesses and other small entities, and believes that the public interest requires the Commission not to adopt an exemption for these entities. In order to fulfill its statutory obligations under Sections 214 and 310(b)(4) of the Communications Act, the Commission must analyze the impact of foreign carrier investment in and by U.S. common carriers regardless of the size of the U.S. carrier. The Commission made every effort to simplify and clarify the purpose and application of Section 63.11 without compromising the integrity of our policies and the interest of the public. Therefore, the Commission does not believe this information collection will have a significant economic impact on a substantial number of small entities.

6. The frequency of filing applications pursuant to Sections 214, 310(b)(4) as well as initial international tariffs, will be determined largely by the applicant seeking to provide international common carrier service and to exceed the statutory 25 percent indirect investment threshold for common carrier radio licensees. Carriers will also determine largely when to notify the Commission to seek additional foreign investors under Section 310(b)(4). They will also determine largely the frequency of filing under Sections 63.14(c), 63.18(e)(3) and 63.21(e), (f), (i), and (j). If the collections are not conducted or are conducted less frequently, applicants will not obtain the authorizations necessary to provide telecommunications services, and the

² The International E-Filing R&O (FCC 05-91) eliminated paper filings by requiring applicants to file electronically all applications and other filings related to international telecommunications services via the user-friendly, Internet-based electronic filing system called the International Bureau Filing System (IBFS). We would like to maintain OMB approval for mandatory electronic filing of all Section 214-related applications and filings pursuant to 47 CFR Sections 1.1000 through 1.0018, 63.11(j), 63.18(q), 63.19(d), 63.20, 63.21(j) and 63.53, including currently existing applications and applications pending development by the Commission.

**International Section 214 Process and Tariff
Requirements – 47 CFR Sections 63.10, 63.11, 63.13,
63.18, 63.19, 63.21, 63.24, 63.25 and 1.1311**

**OMB Control No. 3060-0686
February 2009**

Commission will be unable to carry out its mandate under the Communications Act of 1934. In addition, without the information collections, the United States would jeopardize its ability to fulfill the U.S. obligations as negotiated under the World Trade Organization (WTO) Basic Telecom Agreement because these collections are imperative to detecting and deterring anticompetitive conduct. They are also necessary to preserve the Executive Branch agencies' and the Commission's ability to review foreign investments for national security, law enforcement, foreign policy, and trade concerns.

Regarding Section 63.11, carriers determine largely when to notify the Commission of planned investments by or in foreign carriers. If the information is not collected by the Commission, we will not be able to prevent carriers that control bottleneck facilities in foreign countries from using those bottlenecks to discriminate against unaffiliated U.S. carriers.

7. To the extent that a carrier considers the material submitted to be of a commercially sensitive nature, it may request confidential treatment. Under OMB 3060-0686, carriers are permitted to request confidential treatment for materials that may be of a commercially sensitive nature. In Section 63.11, carriers are able to request in an accompanying cover letter that the Commission maintain confidential treatment of the prior notification information for 20 days, after which date the carrier agrees to public treatment of such information. There are no other circumstances that would require the information to be collected in a manner inconsistent with the general information collection guidelines in 5 CFR § 1320.

8. 60-Day Notice: On November 3, 2008, the Commission published a 60-day notice in the Federal Register (Cite: 73 FR 65309) to solicit comments from the public. The comment period ended on January 2, 2009. No comments were received from the public in response to the notice.

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

10. The Commission has not granted assurances of confidentiality to those parties submitting the information. In those cases where a respondent believes information requires confidentiality, the respondent can request confidential treatment and the Commission will afford such confidentiality for 20 days, after which the information will be available to the public

11. This collection does not include any questions of a sensitive nature.

International Section 214 Process and Tariff Requirements – 47 CFR Sections 63.10, 63.11, 63.13, 63.18, 63.19, 63.21, 63.24, 63.25 and 1.1311

**OMB Control No. 3060-0686
February 2009**

12. The information collection requirements are summarized in the chart below.³ The total number of respondents for this information collection is 1,650.

Rule Section and Explanation of Burden Estimate	Number of Responses	Frequency of Response	Time Per Response	Total Annual Burden Hours
Section 310(b) of the Communications Act of 1934, as amended ALL PETITIONS FOR DECLARATORY RULING	75	1 (On occasion)	1	75
47 CFR 63.10(a)(3) Non-dominant U.S. carriers must submit information to the Commission to demonstrate that its foreign affiliate lacks sufficient market power on the foreign end of the route to affect competition adversely in the U.S. market	352	1 (On occasion)	4	1408
47 CFR 63.10(a)(4) Non-dominant carriers must notify the Commission at any time that it begins to provide international switched service through the resale of an affiliated U.S. facilities-based carrier's international switched services	352	1 (On occasion)	2	704
47 CFR 63.11(b)(2) Authorized carriers that become affiliated with foreign carriers must provide certifications to the Commission that meet either of the following criteria: (1) demonstrates that it is entitled to retain non-dominant classification on its newly	352	1 (On occasion)	4	1408

³ All certifications contained in the chart have true burden attached to them.

International Section 214 Process and Tariff Requirements – 47 CFR Sections 63.10, 63.11, 63.13, 63.18, 63.19, 63.21, 63.24, 63.25 and 1.1311

**OMB Control No. 3060-0686
February 2009**

affiliated route pursuant to 63.10; or (2) agrees to comply with the dominant carrier safeguards contained in 63.10 effective upon the acquisition of the affiliation				
47 CFR 63.11(c) Any authorized carrier that becomes affiliated with a foreign carrier and has not previously notified the Commission pursuant to this section shall notify the Commission within 30 days after consummation of the acquisition	352	1 (On occasion)	4	1408
47 CFR 63.11(e)(1) through (9) The foreign carrier notification shall certify the name of the newly affiliated foreign carrier; which, if any, of those countries is a Member of the World Trade Organization (WTO) and other requirements.	352	1 (On occasion)	2	704
47 CFR 63.11(f) In order to retain non-dominant status on each newly affiliated route, the authorized carrier should demonstrate that it qualifies for non-dominant classification pursuant to 63.10	352	1 (On occasion)	4	1408
47 CFR 63.11(g)(2) In the case of a prior notification filed pursuant to paragraph 47 CFR 63.11(a) in which the foreign carrier is authorized to operate in a non-WTO member, the authorized carrier must demonstrate that it continues to serve the public interest for it	352	1 (On occasion)	4	1408

International Section 214 Process and Tariff Requirements – 47 CFR Sections 63.10, 63.11, 63.13, 63.18, 63.19, 63.21, 63.24, 63.25 and 1.1311

**OMB Control No. 3060-0686
February 2009**

to operate on the route for which it proposes to acquire an affiliation with the non-WTO foreign carrier by making the required showing in 63.18(k)(2) or (3) to the Commission				
47 CFR 63.11(h) Within a period of 45 days after filing information with the FCC pursuant to Sections 63.10 and 63.11, any corrected notification referencing the FCC file numbers under which the original notification was provided, must be filed with the FCC; except, that the carrier shall immediately inform the FCC if at any time, the representations in the "special concessions" certification under Section 63.11(e)(6) or 63.18(n) are no longer true	352	1 (On occasion)	2	704
47 CFR 63.13 Any party that desires to modify its regulatory status from dominant to non-dominant for the provision of particular international communications services on a particular route should provide information in its application to demonstrate that it qualifies for non-dominant classification pursuant to 63.10	352	1 (On occasion)	1	352
47 CFR 63.18 and Section 214 of the Communications Act of 1934 INTERNATIONAL SECTION 214 APPLICATION (FCC FORM 214) International Section 214 applications must demonstrate how the grant of the application	352	1 (On occasion)	2.5	880

International Section 214 Process and Tariff Requirements – 47 CFR Sections 63.10, 63.11, 63.13, 63.18, 63.19, 63.21, 63.24, 63.25 and 1.1311

**OMB Control No. 3060-0686
February 2009**

will serve the public interest, convenience, and necessity and include other information described in 63.18(a) - (e)				
47 CFR 63.18(e)(2) Global Resale Authority - If applying for authority to resell the international services of authorized carriers subject to 63.23, the applicant must state that it is requesting Section 214 authority to operate as a resale carrier pursuant to 63.18(e)(2), etc.	176	1 (On occasion)	3	528
47 CFR 63.18(e)(3) If applying for authority to acquire facilities or to provide services not covered by paragraphs 63.18(e)(1) and (e)(2), the applicant shall provide a description of the facilities and services for which it seeks authorization and certify that it will comply with the terms and conditions contained in 63.21, 63.22, and 63.23 as appropriate	176	1 (On occasion)	3	528
47 CFR 63.18(f) Applicants must file separate applications for services that are not subject to streamlined processing under 63.12	352	1 (On occasion)	8	2816
47 CFR 1.1311 Environmental assessment required by international carriers	352	1 (On occasion)	8	2816
47 CFR 63.18(h) Other authorizations - Applicant must provide name, address, citizenship and principal businesses of any person or entity	352	1 (On occasion)	2	704

International Section 214 Process and Tariff Requirements – 47 CFR Sections 63.10, 63.11, 63.13, 63.18, 63.19, 63.21, 63.24, 63.25 and 1.1311

**OMB Control No. 3060-0686
February 2009**

that directly or indirectly owns at least 10 percent of the equity owned by each of those entities; identify any interlocking directorates with a foreign carrier				
47 CFR 63.18(i) Other authorizations - A certification as to whether or not the applicants is, or is affiliated with, a foreign carrier. The certification shall state with specificity each foreign country in which the applicant is, or is affiliated with, a foreign carrier	352	1 (On occasion)	2	704
47 CFR 63.18(j) and (k) Other authorizations - A certification as to whether or not the applicant seeks to provide international telecommunications services to any destination country for which any of the following is true. The certification shall state the foreign carriers and destination countries and provide additional information stated in 63.18(j) and (k)	352	1 (On occasion)	2	704
47 CFR 63.18(l) Any applicant that proposes to resell the international switched services of an unaffiliated U.S. carrier for the purpose of providing international telecommunications services to a country where it is a foreign carrier shall either provide a showing that would satisfy 63.10(a)(3) or state that it will file the quarterly traffic reports required by 43.61(c)	176	1 (On occasion)	2	352
47 CFR 63.18(m) Carrier must provide information	176	1 (On occasion)	2	352

International Section 214 Process and Tariff Requirements – 47 CFR Sections 63.10, 63.11, 63.13, 63.18, 63.19, 63.21, 63.24, 63.25 and 1.1311

**OMB Control No. 3060-0686
February 2009**

in its application to demonstrate that it qualifies for non-dominant classification pursuant to 63.10		occasion)		
47 CFR 63.18(n) A certification that the applicant has not agreed to accept special concessions directly or indirectly from a foreign carrier with respect to any U.S. international route where the foreign carrier possesses market power on the foreign end of the route and will not enter into such agreements in the future	352	1 (On occasion)	2	704
47 CFR 63.18(o) A certification pursuant to 1.2001 through 1.2003 that no party of the application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988	352	1 (On occasion)	1	352
47 CFR 63.18(p) If the applicant desires streamlined processing pursuant to 63.12, a statement of how the application qualifies for streamlined processing.	352	1 (On occasion)	1	352
47 CFR 63.19(a)(1) and (a)(2) Any international carrier that seeks to discontinue, reduce or impair service, including the retiring of international facilities, dismantling or removing of international trunk lines shall notify all affected customers of the planned discontinuance, reduction or impairment at least	352	1 (On occasion)	2	704

International Section 214 Process and Tariff Requirements – 47 CFR Sections 63.10, 63.11, 63.13, 63.18, 63.19, 63.21, 63.24, 63.25 and 1.1311

**OMB Control No. 3060-0686
February 2009**

30 days prior to its planned action and will file a copy of the notification with the Commission on the date on which notice has been given to all affected customers				
47 CFR 63.19(b) If a carrier discontinues, reduces or impairs the dominant service, or retires facilities that impair or reduce the service, the carrier shall file an application pursuant to 63.62 and 63.500	352	1 (On occasion)	2	704
47 CFR 63.21(a) Whenever the substance of any such certification is no longer accurate, the carrier shall as promptly as possible and, in any event, within 30 days, file with the Commission a corrected certification referencing the FCC file number under which the original certification was provided. The information may be used by the Commission to determine whether a change in regulatory status may be warranted under Section 63.10. See also 63.11.	176	1 (On occasion)	2	352
47 CFR 63.21(b) Carriers must file copies of operating agreements entered into with their foreign correspondents as specified in Section 43.51 and shall otherwise comply with the filing requirements contained in that section	352	1 (On occasion)	2	704
47 CFR 63.21(c) Dominant carriers must file tariffs pursuant to Section 203 of the Communications Act and must comply with all	352	1 (On occasion)	16	5632

International Section 214 Process and Tariff Requirements – 47 CFR Sections 63.10, 63.11, 63.13, 63.18, 63.19, 63.21, 63.24, 63.25 and 1.1311

**OMB Control No. 3060-0686
February 2009**

applicable public disclosure and maintenance of information requirements in 42.10 and 42.11				
47 CFR 63.21(e) Third party disclosure requirement In seeking to obtain approval, the carrier must notify the U.S. customer that the customer may require the carrier to disclose the information to unaffiliated third parties upon written request by the customer	352	1 (On occasion)	2	704
47 CFR 63.21(h) Within 30 days after the subsidiary begins providing service, the carrier must file with the Commission a notification referencing the authorized carrier's name and the FCC file numbers under which the carrier's authorizations were granted and identifying the subsidiary's name and place of legal organization	352	1 (On occasion)	2	704
47 CFR 63.21(i)⁴ An authorized carrier that changes its name must notify the Commission within 30 days of the name change	35	1 (On occasion)	1	35
47 CFR 63.24(e) Substantial transactions INTERNATIONAL SECTION 214 AUTHORIZATIONS FOR ASSIGNMENT OR TRANSFER OF CONTROL (FCC FORM 214TC) Applicants must file Section 214 Applications for Assignments and/or Transfer of Control in order to assign or transfer control of an authorization whether voluntarily or involuntarily or directly or indirectly;	150	1 (On occasion)	8	1200

⁴ This notification requirement has true burden attached to it.

International Section 214 Process and Tariff Requirements – 47 CFR Sections 63.10, 63.11, 63.13, 63.18, 63.19, 63.21, 63.24, 63.25 and 1.1311

**OMB Control No. 3060-0686
February 2009**

Prior approval is required by the FCC				
47 CFR 63.24(f) Notifications for non-substantial or pro forma transactions A pro forma assignee or carrier that is subject to a pro forma transfer of control must file a notification with the Commission no later than 30 days after the assignment or transfer is completed and must include the information stated in 63.24(2), through 63.24(h)	176	1 (On occasion)	2	352
47 CFR 63.25(b) REQUEST FOR SPECIAL TEMPORARY AUTHORITY (FCC FORM 214STA) Applicants may request Special Temporary Authorizations (STA) under emergencies that include reason why immediate authority is required, nature of the emergency, type of facilities to be used, and other information under 63.25(b)	64	1 (On occasion)	8	512
47 CFR 63.25(c) A carrier must requesting continuing authority by filing a statement with the Commission making reference to this paragraph and setting forth the construction, lease, installation and other details related to each project, costs and other details	64	1 (On occasion)	8	512
Totals:	9,892 Number	On	1-16 hours Time	33,486 Total Annual Burden Hours
	of Responses	Occasion	Per Response	

In-House Cost to Respondents: We estimate that in-house staff is paid at an estimated rate of \$40 per hour.

33,486 hours X \$40 per hour = **\$1,339,440 Total In-House
Costs to Respondents**

13. **Annual Burden Cost:**

(a). **Capital and Start-Up Costs: 0**

(b). **Operations and Maintenance Costs**

Outside Legal Assistance: We estimate that the respondent will require outside legal assistance for 50% (4,941) of the responses.⁵ The cost of outside legal assistance is estimated at \$200 per hour. This figure is based on a small survey of local firms in the D.C. area and is considered a conservative estimate.

4,941 responses X \$200 per hour X 2 hours per submission = **\$1,976,400 Total Outside
Legal/Engineering
Costs**

Application Filing Fees: Part 214-related application fees are approximately \$965. The 352 responses (Section 214 applications) + 150 responses (assignments and transfers of control applications) + 64 responses (request for special temporary authority applications) = 566 applicants.

A total of 566 responses/applications X \$965 average fee = **\$546,190 Total
Application
Fees**

⁵ The respondent will require outside legal assistance for 50% of the responses after the respondent has completed his/her part with the responses as accounted for under question number 12. The respondent will also complete 50% of the responses without outside assistance as stated under question 12.

(c). Total Annual Cost Burden:

Description of Estimated Costs to Respondents	Total Costs
Outside Legal/Engineering Assistance	\$1,976,400
Application Filing Fees	\$546,190
Total Cost to Respondents	\$2,522,590

14. Estimates of Annualized Cost to the Federal Government:

The estimates of annualized cost to the Federal government are summarized in the chart below. As shown in the chart, the annualized costs to the Federal government are \$677,540.

Federal Government Staff	Number of Staff	Salary Per Hour	Annual Burden Hours	Annualized Costs
GS-15/Step 5 Attorney	6	\$65.62	1000	\$393,720
GS-14/Step 5 Attorney	4	\$55.78	1000	\$223,120
GS-15/Step 5 Engineers	1	\$65.62	500	\$32,810
GS-14/Step 5 Engineers	1	\$55.78	500	\$27,890
	12			\$677,540

15. This Supporting Statement reflects a program changes of +12,115 to the annual burden hours and + \$485,200 to the annual cost burden. These program changes are the result of information collection requirements not being included in this collection that should have been

included when the collection was previously approved by OMB.

Also, the Commission grossly over estimated the total annual burden hours and miscalculated the total annual cost burden in this previous submission to OMB. Therefore, there are adjustments of -126,682 to the annual burden hours and -\$14,124,610 to the annual cost burden. With this submission, the Commission more accurately calculated the annual burden hours and the annual cost burden.

16. The Commission does not plan to publish the information for statistical use.

17. The Commission will display the OMB control number and expiration date on the Section 43.61 and Section 43.82 manuals used by carriers in submitting the information.

18. On November 3, 2008, the Commission published a 60-day notice in the Federal Register (Cite: 73 FR 65309) to solicit comments from the public. The Commission published in the notice the following items in error: the number of responses as 3,603; estimated time per response as 1 - 6,056 hours; total annual burden hours as 148,053; total annual cost burden as \$16,162,000. These numbers were corrected in the Commission's 30-day Federal Register Notice to read as follows: the number of responses as 9,892; estimated time per response as 1 – 16 hours; total annual burden hours as 33,486 hours and the total annual cost burden as \$2,522,590.⁶ There are no other exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods:

This information collection does not employ statistical sampling.

⁶ The Commission inadvertently published the annual cost burden as \$1,976,400 in the 30-day notice (74 FR 6034). The actual cost burden is \$2,522,590.