

SUPPORTING STATEMENT

This information collection (IC) is being submitted to OMB to extend the existing approval. This delegated IC is being submitted to the OMB with no changes to the annual and biennial reporting requirements in order to obtain the full three year clearance.

A. **Justification:**

1. Sections 201, 202, and 203 of the Communications Act of 1934, as amended, require common carriers to establish just and reasonable charges, practices and regulations for their interstate telecommunications services provided. See 47 U.S.C. Sections 201, 202 and 203.

For services that are still covered under Section 203, tariff schedules containing charges, rates rules, and regulations must be filed with the FCC. If the FCC takes no action within the notice period, then the filing becomes effective. The Commission is granted broad authority to require the submission of data showing the value of the property used to provide these services, some of which are automatically required by its rules and some of which can be required through individual requests. All filings that become effective are considered legal but only those filed pursuant to Section 204(a)(3) of the Act are deemed lawful.

For services that are detariffed, no tariffs are filed at the FCC and determination of reasonableness and any unreasonable discrimination is generally performed through the complaint process.

Pursuant to its statutory mandate to assure just, reasonable, and non-discriminatory charges for interstate telecommunications services, the FCC has adopted specific rules, applicable to incumbent local exchange carriers (ILECs), regarding the development of rates, terms and conditions for interstate access and end user services. See 47 C.F.R. Parts 61 and 69. Competitive local exchange carriers are not subject to Part 69.

ILECs can make a voluntary tariff filing at anytime, but are required to update rates annually or biennially. See 47 C.F.R. Section 69.3. To minimize the regulatory burden on reporting ILECs, as well as reviewers, the Commission has undertaken many reforms as described in the following paragraphs.

The Commission has developed standardized Tariff Review Plans (TRPs) which set forth the summary material ILECs file to support revisions to the rates in their interstate access service tariffs. The TRPs display basic data on rate development in a consistent manner, thereby facilitating review of the ILEC rate revisions by the Commission and interested parties. The TRPs have served this purpose effectively in past years.

Incentive-based regulation (price caps) was developed by the Commission to simplify the process of determining the reasonableness of rates or rate restructures for those ILECs subject to price caps. Supporting material requirements for price cap ILECs qualifying for pricing flexibility have been eliminated. See 47 C.F.R. sections 69.701-69.711. In addition, ILECs having 50,000 or fewer access lines do not have to file any supporting material unless requested to do so.

Price cap ILECs can elect to be subject to Title I versus Title II of the Act for certain forms of internet access in order to offer their internet access services on a detariffed basis pursuant to private

contracts. Rate-of-return ILECs can choose to change from tariffed to detariffed for the same internet services, but are still subject to Title II regulation.

Through forbearance, the Commission has allowed those ILECs whose petition has been granted to choose mandatory detariffing of certain broadband and packet services. See 47 U.S.C. Section 10(a).

As of November 2008, there are 110 total tariff filing entities. Of them, there are 22 ILECs that file pursuant to price cap regulations under Section 61.41-61.49 of the Commission's rules. Outside of the National Exchange Carrier Association (NECA), there are 24 ILECs filing their own tariffs pursuant to rate-of-return regulation under Section 61.38 of the Commission's rules. NECA files one TRP for approximately 1,000 Section 61.38 and 61.39 ILECs. The remaining 63 ILECs file their own tariffs pursuant to Section 61.39 of the Commission's rules. Therefore, we estimate $22 + 24 + 1$ (NECA) = 47 filing entities.

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.

The statutory authority for this collection is contained in: 47 C.F.R. Sections 61.38, 61.39, 61.41 through 61.49, 69.701 through 69.711, 47 U.S.C. Section 10(a) Act and the Broadband Order.¹

2. For those services still requiring cost support TRPs assist in determining whether ILEC access charges are just and reasonable as required under the Act.
3. The TRP format is the same for each company required to file such a document.
4. The price cap TRP is designed not to duplicate data in other reports. The rate-of-return TRP includes some cost data reported in the Commission's current Automated Reporting and Management Information System (ARMIS). Any duplication is necessary to put the data in a format suitable for rate analysis. ARMIS has been changed to eliminate certain data requirements so duplication is now much less likely and generally has been superseded by Compliance Plans to be approved by the Commission.

The Commission updates the rate-of-return TRP every year to eliminate respondents' requirement to file cost and demand data that may be more than two years old and to bring the TRP into conformance with current Commission policies. Without the TRP, except in exceptional cases, similar data would be unavailable to the Commission. The TRPs are designed to provide data to evaluate forecasts of cost and demand for the coming year which would not be available in other FCC required documents.

5. The collection does not involve small businesses as defined by the Regulatory Flexibility Act. However, the Commission recognizes that the ability of the ILECs to provide supporting material varies

¹ See *Appropriate Framework for Broadband Access to the Internet over Wireline Facilities; Universal Service Obligations of Broadband Providers; Review of Regulatory Requirements for Incumbent LEC Broadband Telecommunications Services; Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review – Review of Computer III and ONA Safeguards and Requirements; Conditional Petition of the Verizon Telephone Companies for Forbearance Under 47 U.S.C. § 160(c) with Regard to Broadband Services Provided via Fiber to the Premises; Petition of the Verizon Telephone Companies for Declaratory Ruling or, Alternatively, for Interim Waiver with Regard to Broadband Services Provided Via Fiber to the Premises; Consumer Protection in the Broadband Era*, CC Docket Nos. 02-33, 01-337, 95-20, 98-10 and WC Docket Nos. 04-242, 05-271, Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 14853 (2005).

depending on the ILECs' size. For example, the Commission does not require a TRP from small companies that file pursuant to Section 61.39.

6. Part 69 of the FCC's rules requires the annual or biennial filing of access rates. In 1993, the Commission changed its rules to allow all ILECs, except price cap ILECs, to make biennial filings. Biennial filing for price cap ILECs are impractical, because the inflation index that impacts the price cap indices are required under our rules to be updated annually.

7. ILECs file tariffs and supporting information, including the TRPs, electronically through the Electronic Tariff Filing System (ETFS).

8. The 60 day notice was published in the Federal Register as required by 5 C.F.R. § 1320.8(d) on December 22, 2008 (see 73 FR 78357).

One comment was filed on this collection which was received from the United States Telecom Association (US Telecom) on February 20, 2009 (end of 60 day comment period).

In their comments, US Telecom suggests that the Commission "should eliminate the Short Form TRP in its entirety and should also eliminate the Out Price Cap 1 and Out Price Cap 2 forms." Nothing in US Telecom's comment persuade us that the information contained in the filings cited by US Telecom is not necessary or has no practical utility to the Commission at this time. Based on the Commission's experience in reviewing TRPs year-after-year, the submission by price cap ILECs of the short form TRP, together with comments and reply comments by interested parties, aids the Commission in analyzing the annual demand and rate revisions to be filed every June, when the long form TRP is filed. The Commission will continue to review the information required to perform necessary tariff reviews and consider modification to this information collection where appropriate.

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

10. Respondents are not being asked to submit confidential information to the Commission. If the Commission requests respondents to submit information which respondents believe is confidential, respondents may request confidential treatment of such information under Section 0.459 of the Commission's rules.

11. There are no questions of a sensitive nature with respect to the information collected.

12. The following represents the estimates of hour burden of the collection of information:

(1) Number of respondents: **47**.

(2) Frequency of response: Annually or biennially reporting requirements.

(3) Total number of responses annually: 47.

47 respondents x an average of 1 response per year = 47 responses.

(4) Annual hour burden per respondent: 61 hours.

(5) Total annual burden: **2,867 hours**.

The Commission estimates that ILECs would make 1 filing per year, which would take approximately 61 hours to prepare.

47 respondents x 1 filing/year x 61 hours = 2,867 hours.

(6) Total estimate of “in house” cost to respondents: \$157,685.

(7) Explanation of calculation:

The Commission estimates that the average in-house cost for respondents is approximately \$55 an hour.

2,867 hours/year x \$55/hour = \$157,685.

13a. Estimated cost to the Respondent: None. ~~The following represents the Commission’s estimate of the annual cost burden to respondents or record keepers resulting from the collection of information:~~

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

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

~~The information collection requirements impose no operations and maintenance costs on respondents.~~

14. Estimated cost to the Commission: \$16,500.

The estimated number of hours to prepare for TRPs, including the release of a Public Notice, review of comments, modifications to the TRP, and release of the TRP document equals approximately 100 hours. The number of hours spent in reviewing the TRPs equals approximately 200 hours. Thus, the total number of hours to prepare and review the TRPs equals approximately 300 hours.

300 hours x \$55/hour = \$16,500.

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

(a) There is an increase in the burden hours of 427 hours. This is a change from 2,440 hours reported in 2006 to now reporting 2,867 total annual burden hours. This increase adjustment is a result of the increase in the number of respondents and the resulting total annual burden hours.

(b) The total number of respondents has increased by seven, from 40 to 47, as a result of an increase in the number of price cap carriers.

16. The Commission does not anticipate that it will publish any of the information proposed to be collected as a result of the TRP.

17. The Commission does not intend to seek approval not to display the expiration date for OMB approval of the information collected.

18. As mentioned in item 7 above, respondents are required to file the TRP electronically through the Electronic Tariff Filing System (ETFS).

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