

## SUPPORTING STATEMENT

This collection is being submitted to extend an existing collection. See item 15 for an explanation of the change in the Commission's burden estimates.

### **A. Justification:**

1. 47 CFR Sections 1.5000 – 1.5007 implement Section 34(a) of the Public Utility Holding Company Act. The rules provide filing requirements and procedures to expedite public utility holding company entry into the telecommunications industry. To achieve this goal, the regulations require persons seeking a determination of ETC status to file in good faith for a determination by the Commission.

Applicants are required to file with the Commission a brief description of their planned activities, and a sworn statement attesting to any facts presented to demonstrate eligibility for ETC status and attesting to any representation otherwise offered to demonstrate eligibility for ETC status.

Applicants are required to submit a sworn statement certifying that they comply with Part 1, Subpart P, of the Commission's regulation, 47 CFR Sections 1.2001, et seq., regarding implementation of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.

Finally, applicants would also be required to serve copies of their application with the SEC and affected state commissions. The applicants must notify the Commission of material change in facts within 30 days of the change in fact. See 47 CFR Section 1.5006. Persons wishing to be heard concerning an application for ETC status may file with the Commission within 15 days from the release date of a public notice regarding the application. Any person who files comments with the Commission must also service copies of all comments on the applicant. See 47 CFR 1.5007.

The collection of information was required by section 34(a)(1) of the Public Utility Holding Company Act of 1935 (PUHCA 1935), as amended by section 103 of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996), and authorized by sections 4(i), 4(j) and 303(r) of the Communications Act of 1934, as amended.

On August 8, 2005, the President signed the Energy Policy Act of 2005 (EPAAct 2005) into law, repealing the PUHCA 1935 and enacting the Public Utility Holding Company Act of 2005 (PUHCA 2005) in its place. See Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 594. Congress further directed the Federal Energy Regulatory Commission (FERC) to issue final regulations and submit further recommendations to Congress four months after the date of enactment. The EPAAct 2005 makes no mention of exempt telecommunications companies, nor any relevant mention of telecommunications

as they relate to exempt telecommunications company status, and the PUHCA 2005, which replaces PUHCA 1935, does not address exempt telecommunications companies at all. Consequently, in the Wireline Competition Bureau Staff Report prepared pursuant to the Federal Communications Commission's biennial regulatory review process, staff recommended that sections 1.5000-1.5007 of the rules be eliminated. *See* 2006 Biennial Regulatory Review, Wireline Competition Bureau Staff Report in WC Docket No. 06-157, DA 07-656 (released February 14, 2007). This recommendation has not yet been effectuated, so the rule is still currently in place. Therefore, the Commission is seeking a renewal of the previous OMB approval for this existing information collection.

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.

2. The information is used by the Commission to determine whether persons satisfy the criteria for “exempt telecommunications company” status. Without such information, the Commission could not determine whether persons satisfy the criteria under section 34(a) (1) of the PUHCA, as amended.
3. The Commission is not considering the use of improved information technology at this time to collect the information.
4. Not applicable. The information is not duplicated elsewhere. No similar information is available.
5. The collection has been designed to place the minimum amount of burden on all respondents.
6. Frequency is determined by the applicant. The respondents would determine whether to seek a determination of ETC status.
7. Within 30 days of any change in material fact that may affect ETC status, persons who received ETC status have an affirmative duty to either: (a) apply to the Commission for a new determination of ETC status; (b) file a written explanation with the Commission of why the material change in facts does not affect the ETC’s status; or (c) notify the Commission that it no longer seeks to maintain ETC status.
8. Pursuant to 5 CFR 1320.8(d), the Commission placed a notice in the Federal Register to solicit public comment on the collection on July 28, 2009. *See* 74 FR 37225. No comments were received.
9. The Commission does not anticipate providing any payment or gift to respondents.
10. The Commission is not requesting respondents to submit confidential information to the Commission.

11. There are no questions of a sensitive nature with respect to the information the Commission is collecting.

12. The Commission estimates the hour burden for the collection of information as follows:

(a) Number of respondents: 1.

(b) Frequency of response: On occasion reporting requirement and third party disclosure requirement.

(c) Burden per respondent: 10 and 16 hours.

(d) Total annual burden: ~~2610~~ **hours**.

(e) How burden was estimated. The original estimate assumed fifteen registered public utility holding companies, and noted that these companies must file for ETC determination if they wish to diversify into telecommunication industries. We estimated that each registered public utility holding company would file, at minimum, one application for ETC status annually. In recent years we have received far fewer than 15 ETC applications per year, so our current estimate reflects this reduction. We estimate that 100% of respondents would contract out the burden of responding. We estimate that it would take approximately 10 hours to coordinate information with those contractors. As explained below, we estimate that each contractor would take approximately 16 hours to complete an application. Therefore, we estimate that the maximum total respondent burden hours to collect the information would be:

Assuming 1 application x 10 hours to coordinate information = **10 hours**;

Assuming 1 application x 16 hours to complete an application = **16 hours**;

**Total estimated burden hours = 26 total annual hours.**

13. Cost to the Respondent:

a. Total capital and start-up cost: These costs should be de minimis, as the applications would require no special system or technology acquisitions or capital equipment to file for ETC status.

b. We assume that the respondents contracting out the information would use an outside attorney (\$200/hour) to prepare the information. We estimate that each application would take 16 hours to prepare.

Total cost: \$200/hour x 1 application x 16 hours = **\$3,200**.

14. Cost to Federal Government:

Processing Costs: Attorney approximately \$40/hour x 32 hours x 1 application = \$1,280.

15. The Commission has adjusted the burden estimates for this information collection. The previous submission reported 15 respondents; 150 total annual hours and \$48,000 in annual costs. This submission reduced the estimate to one respondent. Therefore, the burden hours and annual costs have been reduced (adjusted reduction).

16. The data will not be published for statistical use.

17. We do not seek approval to not display the expiration date for OMB approval of the information collection.

18. There was an exception to Item 19. When the Commission published the 60-day notice in the Federal Register, we mistakenly omitted the application preparation estimate of 16 hours. Therefore, the total annual burden estimate is 26 hours rather than 10 hours.

**B. Collections of Information Employing Statistical Methods:**

No statistical methods are employed.