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SUPPORTING STATEMENT

A. Justification:

1. Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, requires that a carrier must first obtain FCC authorization either to (1) construct, operate, or engage in transmission over a line of communications, or (2) discontinue, reduce, or impair service over a line of communications. Part 63 of Title 47 of the C.F.R. implements Section 214. Part 63 also implements provisions of the Cable Communications Policy Act of 1984 pertaining to video approved under OMB control number 3060-0149. See Attachment A for information collection requirements for which continued clearance is requested.

Background: In the *Report and Order* for Implementation of Section 402(b)(2)(A) of the Telecommunications Act of 1996 (“214 Streamlining Order”), released on June 30, 1999, the Commission modified Part 63 to eliminate information submission requirements entirely for some categories of communications carriers and to reduce the submission requirements for other categories. Among other things, carrier filing requirements in the following area were either reduced, altered, or entirely eliminated:

- (1) entry certification for common carriers;
- (2) applications for line extensions;
- (3) reports identifying proposed small projects;
- (4) applications for new lines; and
- (5) applications for exit from the market.

By making those revisions, the Commission substantially reduced the amount of time carriers had to spend in order to fully comply with Part 63’s requirements.

On April 14, 1997, and again in November of 1998, OMB approved the NPRM that proposed these revisions. Many of the proposals contained in the NPRM approved by OMB were adopted in the 214 Streamlining Order.

In the 214 Streamlining Order, the Commission eliminated the entry certifications requirement for carriers for a number of reasons. Among those reasons, the Commission believed that eliminating the requirement would promote competition as contemplated by the Telecommunications Act of 1996 (1996 Act). Moreover, experience during that period showed that virtually all applications were being processed without any opposition being filed. The Commission also entirely eliminated the requirement for line extensions because Congress exempted such “extensions” from the requirements of 47 U.S.C. 214, under Section 402(b)(2)(A) of the 1996 Act. Furthermore, the Commission eliminated certain rules

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containing reporting requirements for domestic non-dominant carriers, small carriers, and carriers proposing small projects. The Commission noted that Congress originally enacted the section 214 entry certification requirements to prevent unnecessary duplication of facilities that could result in increased rates being imposed on captive telephone ratepayers, but the Commission did not find that these carriers would presently be likely to construct, operate, or acquire duplicative facilities, and instead concluded that a grant of blanket entry authority would help to promote competition and accomplish the deregulatory goals that Congress addressed in the 1996 Act.

The last area that the Commission revised in the 214 Streamlining Order was carrier exit procedures, as required by section 214. The Commission significantly streamlined this process because of its desire to eliminate unnecessary barriers to carriers wanting to exit the market. Prior to modification, the Commission would grant discontinuance authority to requesting dominant carriers on a case-by-case basis and the applications of non-dominant carriers could be granted automatically. The revisions created a streamlined process that would allow carriers' affected customers to object to the proposed discontinuance, and, in the absence of sufficient grounds for denial, would allow an application to discontinue service to be automatically granted thirty-one (31) days after the Commission released public notice of the application for non-dominant carriers, and sixty (60) days afterwards for dominant carriers.

Grounds for denial include if customers or other end users would be unable to receive service or a reasonable substitute from another carrier, or if the public convenience and necessity would be otherwise adversely affected, but even in the face of filed objections the application may be granted automatically unless the Commission finds sufficient grounds for denial and notifies the applicant.

In this submission to the OMB, the Commission is revising this information collection in FCC 09-40, WC Docket No. 04-36, released on May 13, 2009, because they modified Part 63 to extend to providers of interconnected Voice over Internet Protocol (VoIP) service the discontinuance obligations that apply to domestic non-dominant telecommunications carriers under Section 214 of the Communications Act of 1934, as amended. Accordingly, the Commission found that before an interconnected VoIP provider may discontinue, reduce, or impair service, it must comply with the streamlined discontinuance requirements for non-dominant providers under Part 63 of the Commission's rules, including the requirements to provide written notice to all affected customers, notify relevant state authorities, and file an application with the Commission for authorization of the planned action. In general, providers of facilities-based interconnected VoIP services and "over-the-top" interconnected VoIP services are subject to the rules in the VoIP Discontinuance Order. However, the Commission found that it made more sense to treat providers of interconnected VoIP services that are mobile in the same way as Commercial Mobile Radio Service (CMRS) providers, which are not subject to the Commission's Section 214 discontinuance obligations.

The statutory authority for this collection of information is contained in sections 47 U.S.C. 151, 154(i), 154(j), 160, 161, 201-205, 214, 218, 403, 571.

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2. The Commission will use the information to determine if affected respondents are in compliance with its rules and the requirements of Section 214 of the Communications Act of 1934, as amended. The information that the Commission stopped collecting primarily entailed paper submissions.
3. In an effort to reduce any burden created by these information collections, the Commission will permit all respondents to file responses using automated, electronic, mechanical or other technological collection techniques where feasible.
4. The Commission sought to eliminate duplicative filing requirements in the 214 Streamlining Order. Under the current rules, the Commission eliminated from Section 63.01 certain filing requirements including:
 - (a) whether the carrier is or will become a carrier subject to Section 214 of the Communications Act;
 - (b) whether the facilities will be used to extend communication services into territory at present not directly serviced by the applicant or to supplement existing facilities of the applicant;
 - (c) the types of services to be provided over the proposed facilities;
 - (d) the applicant's present and estimated future facilities requirements;
 - (e) the map or sketch showing the proposed facilities;
 - (f) a description of the manner and means by which other interstate and foreign communications services of a similar character are now being rendered by the applicant and others in the area to be served by the proposed facilities;
 - (g) proposed tariff charges and regulations for domestic applications; and
 - (h) a statement of the accounting proposed to be performed in connection with the project.

The Commission concluded that all of this information is either collected elsewhere by the Commission, unnecessary, confusing in light of the provisions of Section 402(b)(2)(A), or no longer significant.
5. The Commission designed the rules to minimize the burden on all carriers regardless of size.
6. The rules adopted pursuant to the 214 Streamlining Order eliminated and/or reduced many previous requirements that were no longer deemed necessary, and thus promoted Federal programs and policies. The rules adopted in the VoIP Discontinuance Order further promote

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Federal programs and policies by protecting consumers of interconnected VoIP service from the abrupt discontinuance, reduction or impairment of their service.

7. Section 214 applications for discontinuance authority require the filing of an original and five (5) copies. See 47 C.F.R. §63.52(a). The original is filed in a pending file folder at the Division level, one (1) copy is maintained for ready reference and as a “tickler” in a pending folder in the Division which processes Sections 214 applications, two (2) copies are given to the staff employee assigned the processing responsibility, one (1) copy is retained by the staff attorney who is responsible for overseeing discontinuance issues, and one (1) copy is maintained in the Commission’s public reference room. Should the Commission require additional copies of a particular application, it may request them from the applicant (47 C.F.R. Section 63.52 (a)); but such requests are infrequent.
8. The Commission published a notice in the *Federal Register* as required by 5 CFR §1320.8. See 74 FR 37708, dated July 29, 2009. No comments were received from the notice.
9. The Commission does not presently provide and does not plan to provide any payment or gifts.
10. Information filed in section 214 applications has generally been non-confidential. Requests from parties seeking confidentially are considered by Commission staff pursuant to agency rules. See 47 C.F.R. §0.459.
11. There are not questions of a sensitive nature involved, nor are there any privacy issues.
12. The Commission has calculated the average number of 214 applications received from July 1, 2006 to June 30, 2007, and from July 1, 2007 to June 30, 2008, taking into account an anticipated increase in the overall number of respondents as a result of the application of these rules to interconnected VoIP providers. In light of all of these factors, the Commission estimates the hour burden for the Part 63 collections to be as follows:
 - (1) Total Number of Respondents: Approximately 90 respondents.
 - (2) Total Number of Responses Annually: 90 responses—one response per respondent.
 - (3) Frequency of Response: On occasion reporting requirements.
 - (4) Annual Hour Burden Per Respondent: 5 hours.
 - (5) Total Annual Hour Burden: 450 hours.

90 respondents x 5 hours/response = 450 hours.
 - (6) Total estimate of annualized cost to respondents for the hour burdens for collection of information: \$67,500.

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- (7) Explanation of calculation: A number of variables must be considered. Complex section 214 applications generally are prepared by high level in-house staff attorneys of applicants supported by lower categories of staff; basic section 214 applications of firms are prepared by staff specialists supported primarily by secretaries/typists.

We estimate preparation costs of 90 respondents x an average hourly salary for all staff categories of \$150 x 5 hours per respondent.

Thus, the total estimated cost to the industry is approximately \$67,500.

90 carriers x \$150/hour x 5 hours/respondent = \$67,500.

Summary of Change:

	No. of Respondents	Total Annual Responses = Total Hour Burden	
Current Estimates	90	90	450
In OMB's Inventory:	45	45	225
Change in Estimates	45	45	225

The increase in average respondents more recently observed is reflected in the current estimate. Whereas the previous rules required different filings and reports on a routine and special basis, the current rules only require that a carrier files an application if it proposes to transfer control to another carrier or discontinue service to a community or part of a community. Moreover, the authorization process has been streamlined, so that authorization is automatically granted unless customers show that public convenience and necessity would be harmed by the proposed discontinuance.

13. Estimates of annualized costs to respondents for the hour burdens for providing these applications:
- (a) We estimate that there will be no capital or start-up costs for any of these requirements.
 - (b) We do not believe that these requirements will necessitate additional equipment.
 - (c) We estimate that there will be no operation and maintenance and purchase of service costs for these requirements.
14. Estimated annual cost to the Federal government is \$183,088 based on the current requirements and is as follows:

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Processing Costs

-Average staff years to process all filings made pursuant to Part 63 in a 12 month period	1.7	
- Average grade of employee, GS-12/5 (includes 9.3% benefits)		<u>x \$82,845</u>
- Subtotal (1.7 x \$82,845)		\$140,836.50
- Overhead Cost (30% x 140,836.50)		\$ 42,250.95
Total In-House Government Cost		—————\$183,087.45

This is based on the Commission's rules.

15. Burden for Part 63 was adjusted to reflect the current requirements. The Commission has determined, based on its most up-to-date empirical data, that the total average number of respondents are likely to increase from 45 to 90 respondents. Due to the changes in the Report and Order, the Commission is reporting a program change for the collections is now estimated at 450 burden hours. (OMB's current inventory should reflect this increase (adjustment) of 225 burden hours, from 225 to 450 hours.)
16. No information is proposed to be published.
17. Approval to not display the expiration date for OMB approval is not sought since this information collection does not include any forms, etc.
18. See item 7 above. Multiple copies of the filings are needed to facilitate processing. There are no other exceptions to Item 19 of the Certification Statement.

B. Collections of Information Employing Statistical Methods:

This information collection does not employ any statistical methods.

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Attachment A

Listing of collections currently in force in Part 63 for which continued OMB approval is sought, unless noted.

- Section 63.01 – Authority for all domestic common carriers.
- Section 63.02 – Exemptions for extensions of lines and for systems for the delivery of video programming.
- Section 63.10 – Regulatory classification of U.S. international carriers. – Approved under OMB control number 3060-0686.
- Section 63.11 – Notification by and prior approval for U.S. international carriers that are or propose to become affiliated with a foreign carrier. Approved under OMB control number 3060-0686.
- Section 63.13 – Procedures for modifying regulatory classification of U.S. international carriers from dominant to non-dominant. Approved under OMB control number 3060-0686.
- Section 63.17 – Special provisions for U.S. international common carriers. Approved under OMB control number 3060-0686.
- Section 63.18 – Contents of applications for international common carriers. Approved under OMB control number 3060-0686.
- Section 63.19 – Special procedures for discontinuances of international services. Approved under OMB control number 3060-0686.
- Section 63.20 – Electronic filing, copies required; fees; and filing periods for international service providers. Approved under OMB control number 3060-0686.
- Section 63.21 – Conditions applicable to international Section 214 authorizations. – Approved under OMB control number 3060-0686.
- Section 63.50 – Amendment of applications.
- Section 63.51 – Additional information.
- Section 63.52 – Copies required; fees; and filing periods for domestic authorizations.
- Section 63.53 – Form.
- Section 63.60 – Definitions.
- Section 63.61 – Applicability.
- Section 63.62 – Type of discontinuance, reduction, or impairment of telephone or telegraph service requiring formal application.
- Section 63.63 – Emergency discontinuance, reduction or impairment of service.
- Section 63.65 – Closure of public toll station where another toll station of applicant in the community will continue service.
- Section 63.66 – Closure of or reduction of hours of service at telephone exchanges at military establishments.
- Section 63.71 – Procedures for discontinuance, reduction or impairment of service by domestic carriers.
- Section 63.90 – Publication and posting of notices.
- Section 63.100 – Notification of service outage. Approved under OMB control number 3060-0484.
- Section 63.500 – Contents of applications to dismantle or remove a trunk line.

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- Section 63.501 – Contents of applications to sever physical connection or to terminate or suspend interchange of traffic with another carrier.
- Section 63.504 – Contents of applications to close a public toll station where no other such toll station of the applicant in the community will continue service and where telephone toll service is not otherwise available to the public through a telephone exchange connected with the toll lines of a carrier.
- Section 63.505 – Contents of applications for any type of discontinuance, reduction, or impairment of telephone service not specifically provided for in this part.
- Section 63.601 – Contents of applications for authority to reduce the hours of service of public coast stations under the conditions specified in Section 63.70.
- Section 63.701 – Contents of application.
- Section 63.702 – Form. Approved under OMB control number 3060-0357.