

Note: This submission is made pursuant to 44 USC 3507. This collection is being submitted to extend the existing collection that is expiring. The Commission has not changed the reporting requirement for this IC. The Commission is reporting a 248 hour reduction which is due to fewer respondents based on three Commission forbearance orders and a Wireline Competition Bureau's December 31, 2008 Public Notice.

## SUPPORTING STATEMENT

### **A. Justification:**

1. Section 220 of the Communications Act of 1934, as amended, 47 USC 220, allows the Commission, at its discretion, to prescribe the forms of any and all accounts, records and memoranda to be kept by carriers subject to this Act, including the accounts, records and memoranda of the movement of traffic, as well as the receipts and expenditures of moneys.

Section 219(b) of the Communications Act of 1934, as amended, 47 USC 219(b), authorizes the Commission by general or special orders to require any carrier subject to this Act to file monthly reports of earnings and expenses and to file periodical and/or special reports concerning any matters with respect to which the Commission is authorized or required by law to act.

Filing of FCC Form 492 and FCC Form 492A are required by Section 65.600 of the FCC Rules. Filing of the FCC Form 492 on an annual basis is required from each local exchange carrier or group of affiliated carriers, which is not subject to sections 61.41 through 61.49 of the Commission's Rules and which has filed individual access tariffs during the enforcement period. Each local exchange carrier or group of affiliated carriers subject to the previously stated sections shall file the FCC Form 492A report with the Commission for the calendar year. These carriers are also required to file within 15 months after the end of each calendar year a report reflecting any corrections or modifications. The forms are necessary to enable the Commission to monitor the access tariffs and to enforce rate-of-return prescriptions. A copy of each report must be retained in the principal office of the respondent and shall be filed in such manner as to be readily available for reference and inspection. The Commission does not specify a retention period.

In the April 24, 2008 Memorandum Opinion and Order (ARMIS Forbearance Order) the Commission granted conditional forbearance for all AT&T affiliates, including BellSouth affiliates, to file FCC Form 492 subject to Commission approval of AT&T's compliance plan. *See Petition of AT&T Inc. For Forbearance Under 47 U.S.C. § 160 From Enforcement of the Commission's Cost Assignment Rules; Petition of BellSouth Telecommunications, Inc. For Forbearance Under 47 U.S.C. § 160 From Enforcement of Certain of the Commission's Cost Assignment Rules, WC Docket Nos. 07-21, 05-342, Memorandum Opinion and Order, 23 FCC Rcd 7302 (2008) (AT&T Cost Assignment Forbearance Order), pet. for recon. pending, pet. for*

review pending, *NASCUA v. FCC*, Case No. 08-1226 (D.C. Cir. filed June 23, 2008). On September 6, 2008, the Commission extended the same relief, subject to the same conditions, to Verizon and Qwest. See *Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering*, WC Docket Nos. 08-190, 07-139, 07-204, 07-273, 07-21, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 23 FCC Rcd 13647 (2008) (*Verizon/Qwest Cost Assignment Forbearance Order*), *pet for recon. pending, petition for review pending, NASUCA v. FCC*, Case No. 08-1226 (D.C. Cir. filed June 23, 2008). The Commission also issued a Memorandum Opinion and Order granted forbearance for Qwest and Verizon from filing FCC Form 492A, subject to Commission approval of Qwest's and Verizon's compliance plan. See *Petition of Qwest Corporation for Forbearance From Enforcement of the Commission's ARMIS and 492A Reporting Requirements Pursuant to 47 U.S.C. § 160©*; *Petition of Verizon for Forbearance Under 47 U.S.C. § 160(c) From Enforcement of Certain of the Commission's Recordkeeping and Reporting Requirements*, WC Docket Nos. 07-204, 07-273, Memorandum Opinion and Order, FCC 08-271 (Dec. 12, 2008) (*ARMIS Financial Reporting Forbearance Order*). On December 31, 2008, the Wireline Competition Bureau issued a Public Notice that found AT&T, Verizon and Qwest had satisfied the condition that they obtain Bureau approval of their compliance plan describing in detail how they will continue to fulfill their statutory and regulatory obligations.

In this collection, we are revising the number of carriers filing FCC Forms 492 and 492A to 80 from 111 to reflect the above three Commission orders and the Wireline Competition Bureau's December 31, 2008 public notice. The updated number of 80 reflects the carriers that filed Forms 492 and 492A in April 2009. The Commission, in its *ARMIS Forbearance Orders*, noted that, among other things, that the carriers receiving forbearance relief have committed to collecting and retaining all information/data internally that was previously reported through September 6, 2010.

Statutory authority for this collection of information is contained in 47 U.S.C. Sections 160, 161, 209(b) and 220.

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 contained in FCC Forms 492 and 492A is data used by staff members for enforcement purposes and by the public in analyzing the industry. The reports are also used by the Commission in the tariff review process and provide both the Commission and the carriers with an early warning system if rate adjustments are necessary to correct significant targeting errors. It also enhances the Commission's ability to quantify the effects of policy proposals.
3. Paper filings are the least burdensome reporting format. If carriers desire to utilize improved information technology to submit data, we will be glad to accommodate them whenever feasible. Both forms are available on FCC's Internet Home Page (Forms).
4. No duplication of the required data exists outside the agency. The Commission knows of no

other existing information that would serve our regulatory purpose.

5. The collection of information does not involve small businesses or other small entities. These forms are filed only by the local exchange carriers (LECs) that have filed access tariffs with the FCC and the National Exchange Carrier Association (NECA). Most of the small companies choose to be in the NECA pools instead of filing their own access tariff with the Commission.

6. The FCC Forms 492 and 492A are filed once a year. If the forms were filed less frequently, the Commission would not be able to conduct its studies of these data in a timely manner. These data also represent a part of the data necessary to support the Commission's other oversight functions. Subsequent submissions correcting previously filed data are to be filed within 15 months after the end of each calendar year.

7. Section 42.4 of the Commission's Rules requires carriers to maintain a master index that identifies each record retained, the related retention period, and the location where the records are maintained. The Commission prescribes a specific record retention period for telephone toll records per section 42.6. Section 42.7 states that except as specified in section 42.6, each carrier shall retain records identified in its master index of records for the period established therein. Records a carrier is directed to retain as a result of a proceeding or inquiry by the Commission to the extent not already contained in the index will also be added to the index and retained until final disposition of the proceeding or inquiry. Furthermore, the Commission maintains these filed reports for ten years and then forwards them to the Federal Records Center, where they are stored for another ten years and destroyed when they are twenty years old.

8. A notice was published in the Federal Register pursuant to 5 CFR § 1320.8(d). See 75 FR 14595, dated March 26, 2010. No comments were received.

9. Not applicable. There will be no payments or gifts to respondents.

10. Ordinarily, questions of a sensitive nature are not involved in FCC Forms 492 and 492A. The Commission contends that areas in which detailed information is required are fully subject to regulation and the issue of data being regarded as sensitive will arise in special circumstances only. In such circumstances, the respondent is instructed on the appropriate procedures to follow to safeguard sensitive data. 47 CFR Part 0.459 contains the procedures for requesting confidential treatment of data. See 47 C.F.R. § 0.459

11. The respondents are instructed on the appropriate procedures to follow to safeguard information deemed sensitive data. Section 0.459 of the Commission's rules contains procedures for requesting confidential treatment of data. See 47 C.F.R. § 0.459

12. The following represents the estimate of the annual burden hours and the annual cost burden for this collection of information. We note that the burden hours imposed by the requirement is very difficult to quantify. The following represents our best estimate.

FCC Forms 492 and 492A:

1. Number of respondents: 80\*; Number of responses: 80
2. Frequency of response: Annual reporting requirement.
3. Annual burden per respondent: 8 hours. Total annual burden hours: **640 hours**.
4. Respondents estimated annualized cost for the burden hours for the collection of information: \$28,320.
5. Explanation of calculation: We estimate it will take approximately 8 hours to comply with the requirement. 80 (number of respondents) x 1 (number of filings) x 8 (hours per filing) x \$44.25 per hour = \$28,320.

\* In this submission, we are adjusting the number of carriers filing this Rate of Return Report from 111 to 80 to reflect three Commission orders and a Wireline Competition Bureau's December 31, 2008 Public Notice. Of the 80 reporting carriers, 25 non-price cap carriers file FCC Form 492 and 55 price-cap carriers file the FCC Form 492A based on the April 2009 filings.

13. The following represents the Commission's estimate of the annual cost burden for respondents or record keepers resulting from the collection of information.

(a)(1) Total capital and start-up cost component (annualized over its expected useful life): \$0. The reporting requirement will not require the purchase of additional equipment.

(b)(2) Total operation and maintenance and purchase of services component: \$0.

14. The Federal government's annualized cost for FCC Forms 492 and 492A at \$1,019.20 using a formula of staff hours multiplied by a calculated the average-grade level cost.

Processing cost:

-processing time	16 hours
-avg. grade of employee	<u>x49.00/hr.</u>
Subtotal	\$784.00
Overhead costs at 30%	<u>235.20</u>
<b>Total</b>	<b>\$1,019.20</b>

15. The annual burden for this collection is 640 hours. We are decreasing the number of respondents by 31, to 80 from 111, to reflect the two Commission forbearance orders and the Wireline Competition Bureau's Public Notice mentioned above. Therefore, the Commission has adjusted its estimate of the total annual burden hours to 640 hours to reflect the latest filing information [April 1, 2009], a decrease of 248 hours, from the 888 hours previously reported to OMB.

16. Data from the Forms 492 and 492A are tabulated for monitoring purposes as soon as the reports are received. Completed reports are due three months after the calendar year ends.

17. The Commission seeks continued approval not to display the expiration date of OMB approval on the FCC forms. Display of the expiration date would not be in the Commission's interest because we would have to destroy all of the unused reports previously printed. This would constitute waste and would not be cost effective.

18. The Commission does not require carriers to retain copies of FCC Forms 492 and 492A for a specific period of time. Carriers are required by Section 42.4 of the Commission's Rules (47 C.F.R. § 42.4) to maintain a master list of records; to identify the retention period for each type of record listed in the master file; and, to keep the records for the time specified by the carrier's master file.

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

The Commission does not anticipate that the collection of information will employ statistical methods.