

## SUPPORTING STATEMENT

### **A. Justification:**

The Commission is requesting an extension (no change in the reporting requirement) from the Office of Management and Budget (OMB) to obtain the three year clearance from them. There is no change in the Commission's burden estimates.

1. On August 29, 2007, the FCC released a *Report and Order* ("R&O"), Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight; Federal-State Joint Board on Universal Service; Schools and Libraries Universal Service Support Mechanism; Rule Health Care Support Mechanism; Lifeline and Link-up; and Changes to the Board of Directors for the National Exchange Carrier Association, Inc., WC Docket No. 05-195, CC Docket No. 96-45, CC Docket No. 02-6, WC Docket No. 02-60, WC Docket No. 03-109, and CC Docket No. 97-21; FCC 07-150.

(A) In this *R&O*, the FCC has adopted new and revised information collection requirements for the four universal service programs that include timely filing for Telecommunications Reporting Worksheets, a reminder that USF contributors must file FCC Forms 499-A and 499-Q on a periodic basis, document retention and recordkeeping requirements, and administrative limitation periods. The FCC also adopted performance measures for the four universal service programs and the Universal Service Fund ("USF") Administrator.

(B) These recordkeeping and reporting requirements are part of the FCC's continuing process to deter misconduct and inappropriate uses of the universal service funds. It is the FCC's intention that these requirements will both safeguard the USF from waste, fraud, and abuse and improve the management, administration, and oversight of the USF. These information collection requirements are as follows:

(1) Timely filing for Worksheets.

- (a) At present, Universal Service Fund contributors must file FCC Form 499-Q and the FCC Form 499-A, "Telecommunications Reporting Worksheet" ("Worksheet"), on a timely filing basis and must not submit inaccurate or untruthful information.
- (b) In addition, the *R&O* will require the USF Administrator to add information, *e.g.*, a notification requirement, to the monthly invoice sent to contributors. Each monthly invoice must now also include language pertaining to the Debt Collection Improvement Act (DCIA) of 1996, substantially as follows:
  - (1) A failure to submit payment may result in sanctions, including, but not limited to, the initiation of proceedings to recover the outstanding debt, together with any applicable administrative charges, penalties, and interest pursuant to the provisions of the Debt Collection Act of 1982 (Public Law 97-365) and the Debt Collection Improvement Act of 1996, (Public Law 104-134) as amended (the "DCIA"), as set forth below.
  - (2) The date of payment on the invoice is the due date. If full payment is not received by the date due, the debt is delinquent. The full amount of the outstanding debt may be

transferred to the United States Department of Treasury (“Treasury”) for debt collection. Because the unpaid amount is a debt owed to the United States, we are required by the DCIA to impose interest and to inform you what may happen if you do not pay the full outstanding debt.

- (3) Under the DCIA, the United States will charge interest from the date the contribution was due, you will be required to pay the administrative costs of processing and handling a delinquent claim as set by the Treasury (currently 18 percent of the debt), and you will be charged an additional penalty of 6 percent a year for any part of the debt that is more than 90 days past due.

(a) Interest on the outstanding debt (“DCIA Interest”) will be assessed at the published investment rate for the Treasury tax and loan accounts plus 3.5 percent (“Treasury Current Value of Funds Rate”).

(b) However, if you pay the full amount of the outstanding debt and associated administrative fees and penalties within 30 days of the due date, the DCIA Interest will be waived.

(c) These requirements are set out at 31 U.S.C. § 3717.

(d) In addition to the language in the invoice, the *R&O* has specified that USF Administrator’s invoice shall state clearly that the invoiced amount is due on a specific date and that the debt is delinquent if not paid in full by that date.

(e) The USF Administrator’s invoices and any letters shall also explain the applicable sanction and administrative changes for late payments, *i.e.*, under 31 U.S.C. § 3717, a delinquent debt that is not paid in full within 30 days from the date due will incur interest, and if not paid in full within 90 days from the due date, will also incur a penalty.

(f) In addition, the delinquent contributor will be assessed the administrative costs of collection, pursuant to 47 CFR § 54.713 of FCC rules.

(g) Finally, an invoice sent after partial payment should show clearly that the payment was applied to outstanding penalties, administrative costs, accrued interest, and then to the oldest outstanding principal (“American Rule”).

(2) Document retention requirements.

(a) Having concluded in the *R&O* that document retention and recordkeeping requirements not only prevent waste, fraud, and abuse, but also protect applicants and service providers in the event of vendor disputes, the FCC has adopted or revised several of these requirements that will demonstrate compliance with FCC rules and regulations and be available to the USF Administrator, auditors, and the FCC, as follows:

(1) High-cost program.

(i) Recipients of universal service support for high-cost providers must retain all records that they may require to demonstrate to auditors that the support they

received was consistent with the Communications Act of 1934, as amended, and FCC rules, assuming that the audits are conducted within five years of disbursement of such support.

- (ii) This *R&O* clarifies that beneficiaries must make available all such documents and records that pertain to them, including those of NECA, contractors, and consultants working on behalf of the beneficiaries to the Commission's Office of Inspector General ("OIG"), to the USF Administrator, and to their auditors. See 47 CFR § 54.202(e).<sup>1</sup>

(2) Low-income program.

- (i) With respect to the two low-income universal service programs, Lifeline and Link-Up, the FCC has concluded that it should maintain the current two-tiered document retention requirements. Participating service providers should retain a record verifying the eligibility of a recipient of the program for as long as the recipient continues to receive supported service and three years more, and to make it available in conjunction with any audit to which it may be relevant.
- (ii) The *R&O* removes the clause that waives the requirement to retain documentation of eligibility once an audit is completed.
- (iii) The FCC also clarifies that beneficiaries must make available all documentation and records that pertain to them, including those of contractors and consultants working on their behalf, to the Commission's OIG, to the USF Administrator, and to auditors working on their behalf. See 47 CFR § 54.417(a).<sup>2</sup>

(3) Rural health care and schools and libraries programs.

- (i) The FCC maintains the current requirement that rural health care providers and schools and libraries must retain their records, which evidence that the funding they receive was proper, for five years.
- (ii) In addition, this requirement will now also apply to those service providers that receive support for serving rural health care providers.

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<sup>1</sup> 47 CFR § 54.202(e): All eligible telecommunications carriers shall retain all records required to demonstrate to auditors that the support received was consistent with the universal service high-cost program rules. These rules should include the following: data supporting line count filings; historical customer records; fixed asset property accounting records; general ledgers; invoice copies for the purchase and maintenance of equipment; maintenance contracts for the upgrade or equipment; and any other relevant documentation. This documentation must be maintained for at least five years from the receipt of funding.

<sup>2</sup> 47 CFR § 54.417(a): Eligible telecommunications carriers must maintain records to document compliance with all Commission and state requirements governing the Lifeline/Link Up programs for the three full years preceding calendar years and requiring carriers to retain documentation for as long as the customer receives Lifeline service from the ETC or until audited by the Administrator and provide that documentation to the Commission or Administrator upon request....

- (iii) Furthermore, the FCC clarifies that beneficiaries must make available all documents and records that pertain to them, including those of contractors and consultants, working on their behalf, to the Commission's OIG, to the USF Administrator, and to their auditors, as required by 47 CFR § 54.516(a)<sup>3</sup> and 47 CFR § 54.619(a).<sup>4</sup>

(4) Contributors.

- (i) The R&O also requires contributors to the Universal Service Fund to retain all documents and records, *e.g.*, financial statements and supporting documentation, *etc.*, that they may require to demonstrate to auditors that their contributions were made in compliance with the program rules, assuming that audits are conducted within five years.
- (ii) The FCC clarifies that contributors must make available all documents and records that pertain to them, including those of contractors and consultants working on their behalf, to the Commission's OIG, to the USF Administrator, and to their auditors.

(2) Connectivity.

- (a) The FCC will require the USF Administrator to work with the Commission's Wireline Competition Bureau to modify the relevant FCC Forms or to create additional questions for USF program participants to determine more accurately how schools and libraries connect to the Internet and their precise levels of connectivity.
- (b) These new and revised information collection requirements, which include document retention and recordkeeping requirements, *etc.*, will affect numerous information collections that the FCC currently maintains.
- (c) Once OMB approves these requirements, the FCC will begin to update these information collections as required by the rules adopted in this *R&O*.

As noted on the OMB Form 83-I, this information collection affects businesses and other for-profit entities, which receive the USF funding to provide these services to the effected groups, institutions, and communities. Thus, there are no privacy impacts in this information collection.

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<sup>3</sup> 47 CFR § 54.516(a) Recordkeeping requirements—(1) Schools and libraries. Schools and libraries shall retain all documents related to the application for, receipt, and delivery of discounted telecommunications and other supported services for at least 5 years after the last day of the service delivered in a particular Funding Year. Any other document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism shall be retained as well. Schools and libraries shall maintain asset and inventory records of equipment purchased as components of supported internal connections services sufficient to verify the actual location of such equipment for a period of five years after purchase.

<sup>4</sup> 47 CFR § 54.619(d) Service providers. Service providers shall retain documents related to the delivery of discounted telecommunications and other supported services for at least five years after the last day of the delivery of discounted services. Any documentation that demonstrates compliance with the statutory or regulatory requirements for the rural health care mechanism shall be retained as well.

This information collection is required under Section 254 of the Communications Act of 1934, as amended, 47 U.S.C. 254, and the Debt Collection Improvement Act (DCIA), 31 U.S.C. 3717.

2. The FCC has adopted these information collection requirements, *e.g.*, the five year record retention requirements for the Telecommunications Reporting Worksheets and the FCC Forms 465, 466, 466-A, 467, 470, 471, 472, 473, 474, 497, 479, 486, 499-A, 499-Q, 499-M, 500, 601, and LSS for two purposes:
  - (A) To insure that businesses and other for-profit entities maintain records to document the contributions that they receive from the Universal Service Fund (USF) for the high-cost, low-income, and rural health care universal service programs; and
  - (B) To insure that businesses and other for-profit entities that are USF contributors maintain records to document the money they contribute to the USF.
3. This information collection requirements consist of the five year record retention requirements. The FCC believes that those entities that receive the USF funds and those entities that contribute to the USF funding will use information technology (IT) techniques in their recordkeeping practices. The IT may include readily available (commercial-off-the-shelf or "COTS") accounting and records management software, *etc.*
4. This information collection does not duplicate any existing information collection.
5. This information collection may impact small businesses to the extent that these for-profit entities receive USF funds or are USF contributors. The FCC believes that these recordkeeping requirements will not be burdensome and that they are necessary to safeguard the USF from waste, fraud, and abuse as well as improving the management, administration, and oversight of the USF. Furthermore, these recordkeeping requirements are similar to most recordkeeping practices that businesses currently use.
6. The FCC adopted the information collection requirements, *e.g.*, the five year recordkeeping requirement to safeguard the USF from waste, fraud, and abuse as well as using the requirements to improve the management, administration, and oversight of the USF. These requirement result from the findings in the General Accountability Office's (GAO) 2005 E-Rate Report, which investigated the USF issues. As the FCC stated in this *R&O*, the recordkeeping requirements are one part of the FCC's plan to establish comprehensive performance measures and goals for the USF, as recommended by the GAO.
7. The Commission does not foresee any special circumstances that would cause this information collection to be conducted under extraordinary circumstances.
8. The Commission published a notice in the *Federal Register* on September 30, 2010 (75 FR 60457) pursuant to 5 C.F.R. §1320. The Commission received no comments as a result of the notice.
9. The Commission does not anticipate providing any payment or gifts to respondents.
10. The Commission is not requesting that respondents submit confidential information to the FCC. We note that the Administrator of USAC must preserve the confidentiality of all data obtained from respondents and contributors to the Universal Service Fund.

11. There are no questions of a sensitive nature with respect to the information collection requirements described herein.

12. The Commission makes the following estimates for the burdens associated with these information collection requirements:

(a) Total Number of Respondents: 1.

(b) Frequency of Response: 5 year recordkeeping requirement.

(c) Total Number of Responses Annually: 1 recordkeeping requirement/annum.

1 respondent x 1 response/annum = 1 response.

(d) Total Annual Hourly Burden: **1 hour**.

1 respondent x 1 response/annum x 1 hour = 1 hour recordkeeping requirement.

(e) Total "In House" Costs:

The Commission estimates that the respondent will use staff equivalent to a GS-12/Step 5 (\$36.38) Federal employee, plus 30% for administrative costs and overhead, to comply with the recordkeeping requirement:

1 respondent x 1 hour x \$36.38 = \$36.38.

13. Total Annual Costs to Respondents:

(a) Total annualized capital/start-up costs: \$0.00.

(b) Total operation and maintenance (O&M) costs: \$0.00.

(c) Total annualized cost requested: \$0.00.

14. USAC is handling the Universal Service Fund Management; therefore, there will be no costs to the Commission.

15. There is no change in the Commission's burden estimates.

16. The Commission does not intend to publish any results of these information collection requirements.

17. This information collection does not include any forms; therefore, the Commission is not making any request to OMB regarding the display of an expiration date. The Commission publishes a list of OMB-approved information collections in 47 CFR 0.408 of the Commission's rules.

18. There are no exceptions to the certification statement in Item 19.

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

This information collection does not employ any statistical methods.