

SUPPORTING STATEMENT

A. Justification

1. The Federal Communications Commission (“Commission”) is requesting that the Office of Management and Budget (OMB) approves this submission as a revision of a information collection under OMB Control No. 3060-0944 titled, “Cable Landing License Act – 47 CFR 1.767; 1.768; Executive Order 10530” to reflect the new information collection requirement that resulted from the Commission’s adoption and release of the rulemaking discussed below.

New Order On Reconsideration (Recon Order)

On November 2, 2010, the Commission released a Recon Order titled, “In the Matter of Amendment of Parts 1 and 63 of the Commission’s Rules,” IB Docket No. 04-47, FCC 10-187.¹ In this Recon Order, the Commission amended its cable landing license application rules and application procedures to require applicants to certify their compliance with the Coastal Zone Management Act of 1972 (CZMA), as amended, 16 U.S.C. Section 1456. The goal of the CZMA is to preserve, protect, develop and, where possible, restore and enhance the national’s coastal resources. Therefore, 47 CFR Section 1.767(k)(4) states that cable landing license applicants must furnish a certification to the Commission that the applicant is not required to submit a consistency certification with any state pursuant to the Coastal Zone Management Act.

Background Information

In order to land a submarine cable on U.S. shores, a carrier must generally obtain cable landing license from the U.S. government. The Cable Landing License Act, gives the President of the United States broad discretion to grant, withhold, condition or revoke cable landing licenses under certain conditions. By Executive Order 10530, the Commission has been delegated the responsibility for issuing cable landing licenses.

Current Cable Landing License Application

We are requesting continued OMB approval of the Submarine Cable Landing License Application (FCC Form 220) referenced under 47 CFR 1.767 and Executive Order 10530. The purpose of this application is to request authorization from the Commission to land one or both ends of a cable in the territorial waters of the U.S.

¹ See IB Docket No. 04-47; FCC 07-118 which contains the original requirement for 47 CFR Section 1.767(k)(4) before it was amended/clarified by the Recon Order.

Cable Landing License Application Forms Pending Development by the Commission

The Commission plans to develop eight new cable landing license application forms that impact this information collection. We do not know the specific time frame for the development of each application form. However, we estimate that the new projected completion date for all cable landing license application forms is December 30, 2012. The development of the application forms is contingent upon the availability of budget funds, human resources and other factors.

In March 2006, the Commission received blanket approval of all eight applications listed below with the following terms of clearance: OMB approves this information collection. However, as applications contained within the supporting statement are developed, a change worksheet should be submitted to OMB. The change worksheet should include the information elements that are to be collected, as well as a copy of the proposed form. This should be submitted before the application goes “live” and OMB reserves the right to make modifications to the forms and information collected as necessary.

Currently, applicants file pleadings with the Commission for amendments, modifications and other filings for which there is no existing application form.² These information collections are approved under OMB Control No. 3060-0944. On September 30, 2008, the Commission’s International Bureau launched an e-filing module in IBFS to provide the option of electronic filing for certain filings in lieu of filing through the Commission’s Office of the Secretary. Interested parties have the option to file their applications, pleadings and other filings through the IBFS module or submit their filings to the Office of the Secretary. (Please reference Public Notice DA 08-2173 for additional information).

² The Commission expects the burden for the existing requirements to be reduced for the respondent once the Cable Landing License Application Forms are developed.

A complete list of cable landing license applications pending development is as follows:

| Name of Form | Brief Description | Rule Section |
|---|---|------------------------------|
| 1. Submarine Cable Landing License Amendment | Amendment of an application to correct information required for the processing of the original application. | §1.767(m)(1) |
| 2. Submarine Cable Landing License Assignment | Application to assign a license, or a portion of it, from one entity to another. Following an assignment, the license will usually be held by an entity other than the one to which it was originally granted. | §1.767(a)(11) |
| 3. Submarine Cable Landing License Landing Point Notification | Notification of specific description of the landing stations in the U.S. and the foreign countries where the cable will land. | §1.767(a)(5) §1.767(g)(8) |
| 4. Submarine Cable Landing License Modification | Modification application requesting authority to modify the terms or conditions of a license, such as adding a new licensee or relinquishing an interest in a license; also may be used to update information required to maintain accuracy of the certifications made in the original application. | §1.767(m)(1) |

| Name of Form | Brief Description | Rule Section |
|---|--|---------------------|
| 5. Submarine Cable Landing License Special Temporary Authority | Application requesting immediate authority for temporary service or for emergency service (Special Temporary Authority). | §1.767(a) |
| 6. Submarine Cable Landing License Transfer of Control of License | Application to transfer control of a license. Following the transfer of control, the license remains held by the same entity or entities, but there is a change in the entity or entities that control a license holder. | §1.767(a)(11) |
| 7. Submarine Cable Landing License Other Filings | Notification of miscellaneous items such as name changes, notification of consummation of transfers of control and assignments. | §1.767(a)(11)(iii) |
| 8. Submarine Cable Landing License Notification of Operation | Notifications of the commencement of service and/or termination of service. | §1.767(g)(14) |

This information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

The statutory authority for this information collection is contained in the Submarine Cable Landing License Act of 1921, Executive Order 10530, 47 U.S.C. 34-39, 151, 154(i), 154(j), 155, 225, 303(r), 309 and 325(e).

2. The information will be used by the Commission staff in carrying out its duties under the Cable Landing License Act. The information collections pertaining to Part 1 of the rules are necessary to determine whether the Commission should grant a license for proposed submarine cables landing in the United States. Pursuant to Executive Order No. 10530, the Commission has been delegated the President's authority under the Cable Landing License Act to grant cable landing licenses, provided that the Commission must obtain the approval of the State Department and seek advice from other government agencies as appropriate.

3. It is estimated that 95 percent of submarine cable landing license applications and pleadings are submitted to the Commission electronically through the International Bureau Filing System (IBFS), including the IBFS module. It is estimated that 5 percent of interested parties file pleadings in paper form through the Commission's Office of the Secretary.
4. An applicant for a common carrier subcable must file two electronic applications: (1) a cable landing license application and (2) an international section 214 application for overseas cable construction. While the applicant may be able to use some of the same information in both applications, the applicant must file two separate applications through the IBFS.
5. The Commission has considered the impact of our information collection requirements on small businesses and other small entities, and it believes that the public interest requires the Commission not to adopt an exemption for these entities. In order to fulfill its statutory obligations under the Cable Landing License Act, the Commission must analyze the impact of foreign carrier investment in submarine cables landing in the United States. The rules and regulations will benefit all entities by expediting the processing of applications. Also, the Commission has developed procedures that permit a large number of small entities to be exempt from the requirements contained in the Order.
6. The frequency of filing applications under the Cable Landing License Act will be determined largely by the applicants seeking to construct and operate a submarine cable. If the collection is not conducted or is conducted less frequently, applicants will not obtain the authorizations necessary to provide telecommunications services, and the Commission will be unable to carry out its mandate under the Cable Landing License Act and Executive Order 10530. In addition, without the collection, the United States would jeopardize its ability to fulfill the U.S. obligations as negotiated under the World Trade Organization (WTO) Basic Telecom Agreement because these information collection requirements are imperative to detecting and deterring anticompetitive conduct. They are also necessary to preserve the Executive Branch agencies and the Commission's ability to review foreign investments for national security, law enforcement, foreign policy, and trade concerns.
7. There are no other special circumstances associated with this collection of information.

8. The Commission published a 60-day notice in the Federal Register (72 FR 63897) seeking comments on the information collection requirements contained in this supporting statement. The Commission required a comment on November 26, 2007 from Kent D. Bressie on behalf of North American Submarine Cable Association (NASCA) for Section 1.767(k)(4). The comment paraphrased a Petition for Reconsideration filed by NASCA. That Petition argued that: (1) the CZMA does not require the Commission to promulgate rules with respect to processing of cable landing license applications; (2) cable landing license applicants cannot comply with the rules as adopted; (3) the Commission erred in assessing the burdens and benefits of the CZMA rules; and (4) the CZMA rules are unworkable. In the Order on Reconsideration, the Commission granted in part and denied in part NASCA's Petition for Reconsideration. In deference to NOAA's statutory and regulatory authority and in furtherance of the Commission's cable landing licensing authority under the Cable Landing License Act, the Commission rejected NASCA's argument that the CZMA does not require the Commission to promulgate rules with respect to the processing of cable landing license applications. The Commission, however, amended its rules to clarify the licensing requirements and ensure that the Commission's process for evaluating cable landing licenses complies with the CZMA consistency review procedures.

9. Respondents will not receive any payments or gifts.

10. The Commission has not granted assurances of confidentiality to those parties submitting the information. In those cases where a respondent believes information requires confidentiality, the respondent can request confidential treatment and submit a protective order requesting confidential treatment. Commission staff will make a determination pursuant to agency rules.

11. The collection of information does not include any questions of a sensitive nature.

12. There are 255 applicants/licenseses who will comply with the information collection requirements contained in this supporting statement. The estimated total annual number of responses and annual burden hours are listed below.

Chart of Respondents, Responses and Annual Burden Hours

| Rule Section and Explanation of Burden Estimate 1\ | Number of Responses | Time Per Response | Total Annual Burden Hours³ |
|---|----------------------------|--------------------------|--|
| 47 CFR 1.767(a); EXECUTIVE ORDER 10530 CABLE LANDING LICENSE APPLICATION (FCC FORM 220) The specific contents of the application are included in 47 CFR 1.767(a)(1) through (a)(10). | 6 | 2 hours (On occasion) | 12 hours |
| 47 CFR 1.767(a) SUBMARINE CABLE LANDING LICENSE SPECIAL TEMPORARY AUTHORITY Application requesting immediate authority For temporary service or for emergency Service. | 3 | 2 hours (On occasion) | 6 hours |
| 47 CFR 1.767(a)(5) SUBMARINE CABLE LANDING LICENSE LANDING POINT NOTIFICATION Map providing a specific description of the cable landing stations on the shore of the U.S. and in foreign countries where the cable will land and must specify the coordinates of any beach joint where those coordinates differ from the coordinates of the cable station. This information must be filed with the Commission at least 90 days prior to construction. | 6 | 4 hours (On occasion) | 24 hours |

³ All of the information collection requirements contained in this chart including waivers have true burden impacts.

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| <p>47 CFR 1.767(a)(7) SUPPLEMENTARY INFORMATION A list of the proposed owners of the cable system, including each U.S. cable landing station, their respective voting and ownership interests in each U.S. cable landing station, their respective voting interests in the wet link portion of the cable system, and their respective ownership interests by segment in the cable.</p> | 6 | 4 hours (On occasion) | 24 hours |
| <p>47 CFR 1.767(a)(8) SUPPLEMENTARY INFORMATION For each applicants of the cable system, a certification as to whether the applicant is, or is affiliated with, a foreign carrier, including an entity that owns or controls a foreign cable landing station in any of the cable's destination markets. Include the citizenship of each applicant and information and certifications required in Sections 63.18(h) through (k) and in Section 63.18(o) of this chapter.</p> | 6 | 2 hours (On occasion) | 12 hours |
| <p>47 CFR 1.767(a)(9) SUPPLEMENTARY INFORMATION A certification that the applicant accepts and will abide by the routine conditions specified in paragraph (g) of this section</p> | 6 | 1 hour (On occasion) | 6 hours |
| <p>47 CFR 1.767; 47 CFR 63.18 INTERNATIONAL SECTION 214 APPLICATION FOR OVERSEAS CABLE CONSTRUCTION (FCC FORM 214)</p> | 6 | 2 hours (On occasion) | 12 hours |
| <p>47 CFR 1.767(a)(11)(i) ASSIGNMENTS AND TRANSFERS OF CONTROL Applicants should include a narrative of the means by which the transfer or assignment will take place and specify, on a segment specific basis, the percentage of voting and ownership interests being transferred or assigned in the cable system, including in a U.S. cable landing station.</p> | 12 | 1 hour (On occasion) | 12 hours |

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| <p>47 CFR 1.767(a)(11)(ii) ASSIGNMENTS AND TRANSFERS OF CONTROL If the filing of a foreign carrier notification pursuant to 1.768 is required, the applicant shall reference in the application the foreign carrier affiliation notification and the date of its filing.</p> | 12 | 1 hour (On occasion) | 12 hours |
| <p>47 CFR 1.767(a)(11)(iii) Post-transaction notification of pro forma assignments and transfers of control are required pursuant to 47 CFR 1.768(g)(7).</p> | 12 | 1 hour (On occasion) | 12 hours |
| <p>47 CFR 1.767(a)(11)(iii) OTHER FILINGS An assignee or transferee must notify the Commission no later than 30 days after either consummation of the assignment or transfer or a decision not to consummate the assignment or transfer.</p> | 6 | 1 hour (On occasion) | 6 hours |
| <p>47 CFR 1.767(f) THIRD PARTY DISCLOSURE Applicants shall disclose to any interested member of the public, upon written request, accurate information concerning the location and timing for the construction of a submarine cable system authorized under this section. The disclosure shall be made within 30 days of receipt of the request.</p> | 6 | 2 hours (On occasion) (Third Party Disclosure) | 12 hours |
| <p>47 CFR 1.767(g) Applicant must comply with the routine conditions as noted under Sections 47 CFR 1.767(11)(g)(1) through (14).</p> | 6 | 2 hours (On occasion) | 12 hours |
| <p>47 CFR 1.767(g)(7) A pro forma assignee or person or company that is the subject of a pro forma transfer of control must notify the Commission no later than 30 days after the assignment or transfer of control is consummated. The notification must certify that the assignment or transfer of control was pro forma, as defined in Section 63.24 of this chapter, and together with all previous pro forma</p> | 6 | 4 hours (On occasion) | 24 hours |

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| <p>transactions, does not result in a change of the licensee's ultimate control. The licensee may file a single notification for an assignment or transfer of control of multiple licenses issued in the name of the licensee if each license is identified by the file number under which it was granted.</p> | | | |
| <p>47 CFR 1.767(g)(8) Unless the licensee has notified the Commission in the application of the precise locations at which the cable will land, as required by paragraph (a)(5) of this section, the licensee shall notify the Commission no later than 90 days prior to commencing construction at that landing location.</p> | <p>0 See 1.767(a)(5)⁴</p> | <p>0</p> | <p>0</p> |
| <p>ENVIRONMENTAL ASSESSMENT 47 CFR 1.767(g)(9) The Commission may require that the licensee file an environmental assessment should it determine that the landing of the cable at the specific locations and construction of necessary cable landing stations may significantly affect the environment within the meaning of Section 1.1307 implementing the National Environmental Policy Act of 1969.</p> | <p>6</p> | <p>8 hours (On occasion)</p> | <p>48 hours</p> |
| <p>47 CFR 1.767(g)(14) SUBMARINE CABLE LANDING LICENSE NOTIFICATION OF OPERATION The licensee must notify the Commission within 30 days of the date the cable is placed into service. The cable landing license shall expire 25 years from the in-service date, unless renewed or extended upon proper application. Upon expiration, all rights granted under the license shall be terminated.</p> | <p>6</p> | <p>1 hour (On occasion)</p> | <p>6 hours</p> |

⁴ The burden is accounted for the requirement under Section 1.767(a)(5).

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| <p>47 CFR 1.767(j) APPLICATIONS FOR STREAMLINING THIRD PARTY DISCLOSURE Applicants must request streamlined processing in its application and must provide a copy of the application to the Department of State to initiate approval of the application by the Department of State.</p> | 6 | 2 hours (On occasion) | 12 hours |
| <p>47 CFR 1.767(k)(1) Each applicant must demonstrate eligibility for streamlining by certifying that it is not a foreign carrier and it is not affiliated with a foreign carrier in any of the cable's destination markets.</p> | 6 | 1 hour (On occasion) | 6 hours |
| <p>47 CFR 1.767(k)(2) Each applicant for streamlining must demonstrate pursuant so Section 63.12(l)(i) through (iii) of this chapter that any such foreign carrier or affiliated foreign carrier lacks market power or meet requirements in 47 CFR 1.767(14)(k)(3).</p> | 6 | 2 hours (On occasion) | 12 hours |
| <p>47 CFR 1.767(k)(3) Each applicant may certify that the destination market where the applicant is, or has an affiliation with, a foreign carrier is a World Trade Organization (WTO) member and the applicant agrees to accept and abide by the reporting requirements set out in para (l) of this section. An applicant that includes an applicant that is, or is affiliated with, a carrier with market power in a cable's non-WTO Member destination country is not eligible for streamlining.</p> | 6 | 1 hour (On occasion) | 6 hours |
| <p>47 CFR 1.767(k)(4) CERTIFCATIONS TO THE COMMISSION Cable Landing Licensees are required to file with the Commission a certification that the applicant is not required to submit a Consistency certification with any state Pursuant to the Coastal Zone Management Act.</p> | 9 | 2 hour (On occasion) | 18 hours |

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| <p>47 CFR 1.767(l) REPORTING REQUIREMENTS APPLICABLE TO LICENSEES AFFILIATED WITH A CARRIER WITH MARKET POWER IN A CABLE'S WTO DESTINATION MARKET AND REQUESTS STREAMLINED PROCESSING OF ITS APPLICATION Licensees must file quarterly reports summarizing the provisioning and maintenance of all network facilities and services procured from the licensee's affiliate in that destination market, within 90 days from the end of each calendar quarter that contain the types of facilities and services provided and other information stated in 47 CFR 1.767(l)(i) through (iii).</p> | <p>24 filings (6 filings per Quarter)</p> | <p>4 hours (1hour/quarter)</p> | <p>96 hours</p> |
| <p>47 CFR 1.767(m)(1) SUBMARINE CABLE LANDING LICENSE AMENDMENTS AND MODIFICATIONS</p> | <p>3</p> | <p>2 hours (On occasion)</p> | <p>6 hours</p> |
| <p>47 CFR 1.767(m)(2) Any licensee that seeks to relinquish its interest in a cable landing license shall file an application to modify the license. Such application must include a demonstration that the applicant is not required to be a licensee under paragraph (h) of this section and that the remaining licensee(s) will retain collectively de jure and de facto control of the U.S. portion of the cable system sufficient to comply with the requirements of the Commission's rules and any specific conditions of the license, and must be served on each other licensee of the cable system.</p> | <p>24 filings (6 filings/quarter)</p> | <p>2 hours (0.5 hours/quarter)</p> | <p>48 hours</p> |
| <p>47 CFR 1.767(n) All applications and notifications must be filed electronically through the International Bureau Filing System (IBFS) subject to the availability of electronic forms.</p> | <p>0 See R&O (FCC 05-91)</p> | <p>0</p> | <p>0</p> |

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| 47 CFR 1.768 Cable landing applicant/licensee that becomes, or seeks to become, affiliated with a foreign carrier that is authorized to operate in that market, must notify the Commission of that affiliation. | 6 | 1 hour (On occasion) | 6 hours |
| 47 CFR 1.768(a) The licensee must notify the Commission 45 days before consummation of a transaction involving an acquisition as stated under 47 CFR 1.767(a)(1) and (2). | 6 | 1 hour (On occasion) | 6 hours |
| 47 CFR 1.768(2) The licensee may certify that the destination market where the cable lands is a WTO Member and provides certification to satisfy the conditions stated in 47 CFR 1.768(2)(i) and (iii). | 6 | 1 hour (On occasion) | 6 hours |
| 47 CFR 1.768(c) NOTIFICATION AFTER CONSUMMATION Any licensee that becomes affiliated with a foreign carrier and has not previously notified the Commission pursuant to the requirements of this section shall notify the Commission within 30 days after consummation of the Acquisition. | 6 | 1 hour (On occasion) | 6 hours |
| 47 CFR 1.768(d) If the transaction also involves a transfer of control or assignment application pursuant to 1.767, the foreign carrier notification shall reference in the notification of the transfer of control or assignment application and the date of its filing. | 12 | 1 hour (On occasion) | 12 hours |
| 47 CFR 1.768(e) The notification related to an assignment or transfer of control must include the certifications as stated in 1.768(e)(1) through (7). | 12 | 2 hours (On occasion) | 24 hours |
| 47 CFR 1.768(f) If the licensee seeks to be excepted from the reporting requirements contained in 1.767(l), the licensee should demonstrate that each foreign carrier affiliate names in the notification lacks market power pursuant to Section 63.10. | 6 | 3 hours (On occasion) | 18 hours |
| 47 CFR 1.768(h) | 2 | 2 hours | 4 hours |

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| For a period of 45 days after filing, applicants must file a corrected notification referencing FCC filing numbers under which the original notification was provided if the information furnished is no longer accurate. | | (On occasion) | |
| 47 CFR 1.768(i) A licensee that files a prior notification pursuant to paragraph (a) of this section may request confidential treatment of its filing, pursuant to Section 0.459 of this chapter, for the first 20 days after filing. | 4 | 2 hours (On occasion) | 8 hours |
| 47 CFR 1.768(j) All notifications described in Section 1.768 must be filed electronically through the International Bureau Filing System (IBFS). | 0 See R&O (FCC 05-91) | 0 | 0 |
| Totals: | 255 Number of Responses | 1 - 16 Hours | 534 Total Annual Burden Hours |

In-House Costs – We estimate that in-house staff is paid at an estimated rate of \$40 per hour.

534 hours X \$40 per hour = \$21,360 Total In-House Costs to Respondents

13. Annual Burden Cost:

(a) Capital and Start-up Costs: 0

(b) Operation and Maintenance Costs

Outside Legal/Engineering Assistance: We estimate that the respondent will require outside legal assistance for 50% (128) of the responses after the respondent has completed his/her part.⁵ The cost of outside legal assistance is estimated at \$300 per hour. The figure is based on a small survey of local firms in the D.C. area and is considered a conservative estimate.

128 responses X \$300 per hour X 2 hours per submission = **\$76,800** Total Outside Legal/Engineering Costs

⁵ See question 12 of this supporting statement for the respondent's burden for the information collection requirements.

Application Filing Fees:

As shown on the chart below, the total of application filing fees is **\$191,745**.

| Cable Landing License Application Filing Fees | Number of Applicants | Application Fees | Total Costs |
|--|-----------------------------|-------------------------|--------------------|
| Cable Landing License (Common Carrier) | 1 | \$1,700 | \$1,700 |
| Cable Landing License (Non-common Carrier) | 5 | \$16,820 | \$84,100 |
| Overseas Cable Construction | 6 | \$15,120 | \$90,720 |
| Special Temporary Authority | 3 | \$1,015 | \$3,045 |
| Assignments and Transfers of Control | 12 | \$1,015 | \$12,180 |
| Totals: | 27 | \$35,670 | \$191,745 |

(c). Total Annual Cost Burden

| Description of Estimated Costs to Respondents | Total Costs |
|--|--------------------|
| Outside Legal/Engineering Assistance | \$76,800 |
| Application Filing Fees | \$191,745 |
| Total Cost to Respondents | \$268,545 |

14. Estimates of Annualized Cost to the Federal Government:

The estimates of annualized cost to the Federal government are summarized in the chart below. As shown in the chart, the annualized costs to the Federal government are **\$346,976**.

| Federal Government Staff | Number of Staff | Salary Per Hour | Annual Burden Hours | Annualized Costs |
|---------------------------------|------------------------|------------------------|----------------------------|-------------------------|
| GS-15/Step 5 Attorney | 6 | \$67.21 | 500 | \$201,630 |
| GS-14/Step 5 Attorney | 4 | \$57.13 | 500 | \$114,260 |
| GS-15/Step 5 Engineers | 1 | \$67.21 | 250 | \$16,803 |
| GS-14/Step 5 Engineers | 1 | \$57.13 | 250 | \$14,283 |
| | 12 | | | \$346,976 |

15. This Supporting Statement reflects program changes of +9 to the annual number of responses, +18 hours to the annual burden hours and +3,000 to the annual costs. These program changes are due to the information collection requirements adopted in FCC 10-187.

The Supporting Statement also reflects adjustments of \$24,600 to the annual costs which are due to increases in consulting fees.

16. The Commission does not plan to publish the information for statistical use.

17. No waiver of the OMB expiration date is necessary.

18. The Commission published a 60-day notice in the Federal Register (72 FR 63897). The Commission published in error in the notice the following information: total number of respondents as 211; total number of responses as 211; estimated time per response as 7 hours; total annual burden hours as 1,056 hours and the total annual cost burden as \$407,600. The Commission corrects these numbers to read: total number of respondents as 255; total number of responses as 255; estimated time per response as 1 to 16 hours; total annual burden hours as 534 hours and total annual cost burden as \$268,545. Lastly, quarterly reporting requirement is included in this information collection. It was inadvertently omitted from the notice. There are no other exceptions to the Certification Statement.

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Part B. Collections of Information Employing Statistical Methods:

This collection of information does not anticipate the use of statistical methods.