

**Part 64, Pay Telephone Reclassification and Compensation Provisions of the
Telecommunications Act of 1996**

SUPPORTING STATEMENT

Note: This submission is being made as an extension to an existing information collection pursuant to 44 U.S.C. § 3507.

A. Justification:

1. (a) In this *Order on Reconsideration* (FCC 04-251),¹ the Commission considered four petitions for reconsideration of our *Report and Order*. The *Report and Order* established detailed rules (Payphone Compensation Rules) ensuring that payphone service providers or PSPs are “fairly compensated” for each and every completed payphone-originated call pursuant to section 276 of the Communications Act, as follows:

The Payphone Compensation Rules place liability to compensate PSPs for payphone-originated calls on the facilities-based long distance carriers from whose switches such calls are completed.

The Payphone Compensation Rules define these responsible carriers as “Completing Carriers” and require them to develop their own system of tracking calls to completion, the accuracy of which must be confirmed and attested to by a third-party auditor.

Completing Carriers must file with PSPs a quarterly report and must also submit an attestation by the chief financial officer (CFO) that the payment amount for that quarter is accurate and is based on 100% of all completed calls.

The rules also require reporting obligations for other facilities-based long distance carriers in the call path, if any, and define these carriers as “Intermediate Carriers.”

Additionally, the rules give parties flexibility to agree to alternative compensation arrangements (ACA) so that small Completing Carriers may avoid the expense of instituting a tracking system and undergoing an audit.

¹ The Commission adopted its *Order on Reconsideration* (FCC 04-251) issued pursuant to petitions for reconsiderations filed in response to the *Report and Order*. The *Report and Order* established new payphone compensation rules that place liability on the Completing Carrier, a facilities-based long distance carrier - either an interexchange carrier or a switch-based reseller (SBR) - to compensate payphone service providers (PSPs) for completed payphone-originated calls.

The *Order on Reconsideration*'s modified final rules have been implemented, and our experience is that although the modified final rules increased the time carriers must retain certain data and adds burden in that regard, it removed potentially burdensome paperwork requirements by encouraging carriers to comply with the reporting requirements through electronic means. The clarifications contained in the *Order on Reconsideration* significantly decreased the paperwork burden on carriers.

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The Payphone Compensation Rules satisfy section 276 by identifying the party liable for compensation and establishing a mechanism for PSPs to be paid.

(b) OMB's approval on Wednesday, May 5, 2004 for the Payphone Compensation Rules adopted in the *Report and Order* requested the Commission to:

- (1) clarify that there are alternatives to the 3rd party audit requirement; and
- (2) clarify the accountability notification from the CFO and allow the CFO to sign a blanket statement covering all entities they are being held accountable to.

The modified rules adopted in the *Order on Reconsideration* responded to OMB's request establishing the following new collections of information to implement Section 276 of the Telecommunications Act of 1996:

a. Clarify alternative arrangements for small businesses. A Completing Carrier must give the PSP adequate notice of an ACA:

- (1) prior to its effective date with sufficient time for the PSP to object to an ACA; and
- (2) prior to the termination of an ACA.

Also, in a complaint proceeding under the Payphone Compensation Rules, a Completing Carrier may assert as an affirmative defense that the PSP's objection to an ACA was unreasonable.

Such an agreement made pursuant to 47 C.F.R. Section 64.1310(a) relieves a Completing Carrier of 47 C.F.R. Section 64.1320's obligation to undergo an audit. (47 U.S.C. § 276(b)(1)(A)).

b. Clarify any paperwork burdens imposed on carriers. A Completing Carrier may give PSPs adequate notice of ACAs by placing the notice on a clearinghouse website. A Completing Carrier's CFO may issue a single, blanket certification covering all PSPs and provide the certification to PSPs by posting it on the carrier's website or through any other electronic method. A Completing Carrier may post its "System Audit Report" and section 64.1320(e) statement setting forth its dispute resolution contact information on its website or a clearinghouse website (47 U.S.C. § 276(b)(1)(A)).

c. Completing Carrier and Intermediate Carrier quarterly reports. Completing Carriers are required to report only completed calls in their quarterly reports. Completing Carriers and Intermediate Carriers should also follow industry standard formats for their quarterly reports. (47 U.S.C. § 276(b)(1)(A)).

d. Retention of data extended. The time period that Completing Carriers and Intermediate Carriers must retain certain payphone records, for dispute resolution

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purposes, is extended from 18 to 27 months. (47 U.S.C. § 276(b)(1)(A)).

This submission is made pursuant to 44 U.S.C. § 3507 and 5 C.F.R. § 1320.13, and for which we seek extension of this currently approved collection.

The statutory authority for this collection is contained in sections 1, 4, and 276 of the Communications Act of 1934, as amended, 47 U.S.C. §§151, 154, and 276.

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. For the final rules, the information collected under Completing Carrier filing of quarterly reports and Intermediate Carrier filing of quarterly reports must be provided to third parties. The information collected under Completing Carrier establishment of call tracking system must be provided to third parties and submitted to the Commission. The information collected annually under Completing Carrier establishment of call tracking system, Completing Carrier filing of quarterly report and Intermediate Carrier filing of quarterly reports would be used to ensure that Completing Carriers comply with their obligations under the 1996 Act.
3. Generally, there is no improved technology identified by the Commission to reduce the burden of these collections. However, the Commission in the *Order on Reconsideration* does encourage the use of improved technology where appropriate. The Commission took into account critical factors such as the time it will take before appropriate technological ability can be achieved, and who has the available information/data, before requiring these collections. Accordingly, the Commission provides for transition flexibility and choice of arrangements which the Commission believes will substantially reduce the burden of this collection.
4. There will be no duplication of information. In most instances, the information sought is unique to each respondent.
5. The collections of information may have some impact on small businesses or other small entities. The Commission considered many alternatives before choosing the least burdensome methods to accomplish the objectives of Section 276. Wherever possible, the Commission has provided for flexibility, such as permitting electronic submissions where appropriate and permitting certain functions to be contracted out to third parties. Although the calculations in item 12 below are based on an estimated 762 Completing Carriers, the final rules permit Completing Carriers to contract around these paperwork requirements. Based on the record in the proceeding, the Commission estimates that the vast majority of Completing Carriers will not need to comply with these paperwork requirements due to contracts that they make with PSPs and Intermediate Carriers.
6. Failing to collect the information, or collecting it less frequently, would violate the language and/or intent of the 1996 Act to “establish a per call compensation plan to ensure that all payphone service providers are fairly compensated for each and every completed intrastate

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and interstate call,” 47 U.S.C. § 276(b)(1)(A), and “promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public.” 47 U.S.C. § 276(b).

7. Commission requirements do not impose any obligations that would require parties to report information to the Commission more often than quarterly, nor will these requirements impose any other special circumstances. In some instances, a respondent might need to make a showing or filing more often than quarterly due to actions by private parties.
8. The Commission placed a notice in the *Federal Register* pursuant to 5 C.F.R. Section 1320.8. See 76 FR 7565, dated February 11, 2011, a copy of which is attached. No comments were received.
9. Respondents are not providing any payments or gifts.
10. The Commission is not requesting that the respondents submit confidential information. Respondents may, however, request confidential treatment for information that they believe to be confidential under 47 C.F.R. Section 0.459 of the Commission’s rules.
11. There are no questions of a sensitive nature with respect to the information collected, nor are there any impacts related to the Privacy Act of 1974.
12. The following represents the estimates of hour burden of the collections of information. We note that the hour burden imposed by the following requirements is very difficult to quantify at this time. The following represents our best high estimate concerning the final rules.
 - a. Completing Carrier establishment of Call Tracking System and Annual Requirement. (Section 276(b)(1)(A)).
 - 1) Number of Respondents: 684 (This estimate was obtained by reference to the Telecommunications Provider Locator report, FCC Wireline Competition Bureau, Industry Analysis and Technology Division, Table 2 (January 2010)).
 - 2) Frequency of Response: One time and annual reporting requirements; third party disclosure.
 - 3) Total Number of Responses Annually: 1,444
 - 38 one time reports
 - 38 3rd party disclosures
 - 684 annual reports

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684 3rd party disclosures

Total: $38 + 38 + 684 + 684 = 1,444$ responses

- 4) Annual burden per respondent: 24 hours (average).
- 5) Total Annual Hour Burden: 16,400 hours.

The Commission estimates that approximately 5% of the Completing Carriers, approximately 34 respondents, will file the initial audit report (one time reporting requirement) to give the PSP notice.

The other 95% of the competing carriers, approximately 650 respondents, will file the annual PSP notice.

The Commission estimates that respondents require approximately 99.5 hours to file this one-time report:

$34 \text{ respondents} \times 1 \text{ response (one time)} \times 99.5 \text{ hours/response} = 3,383 \text{ hours}$

The Commission estimates that respondents require approximately 0.5 hours (30 minutes) to comply with the 3rd party disclosure requirement:

$34 \text{ respondents} \times 0.5 \text{ hours/3}^{\text{rd}} \text{ party response/annum} = 17 \text{ hours}$

The Commission estimates that respondents require approximately 19.5 hours to file the annual audit report:

$650 \text{ respondents} \times 1 \text{ response/annum} \times 19.5 \text{ hours/response} = 12,675 \text{ hours}$

The Commission estimates that respondents require approximately 0.5 hours (30 minutes) to comply with the 3rd party disclosure requirement:

$650 \text{ respondents} \times 0.5 \text{ hours/3}^{\text{rd}} \text{ party disclosure} = 325 \text{ hours}$

Total Hours: $3,383 + 17 + 12,675 + 325 = 16,400$ hours

b. Completing Carrier Filing of a Quarterly Report. (Section 276(b)(1)(A)).

- 1) Number of Respondents: 684 (This estimate was obtained by reference to the Telecommunications Provider Locator report, FCC Wireline Competition Bureau, Industry Analysis and Technology Division, Table 2 (January 2010)).
- 2) Frequency of Response: Quarterly reporting requirements and third-party disclosure.
- 3) Total Number of Responses Annually: 5,472 responses

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Two responses per respondent—one for the quarterly report and the second for the 3rd party disclosure

684 respondents x 1 responses x 4 times/annum = 2,736 (quarterly reports)

684 respondents x 1 responses x 4 times/annum = 2,736 (3rd party disclosure)

Total: 2,736 + 2,736 = 5,472 responses

4) Annual burden per respondent: 200 hours (average).

5) Total Annual Hour Burden: 136,800 hours.

The Commission estimates that respondents require approximately 49.5 hours to file the quarterly report:

684 respondents x 4 responses/annum x 49.5 hours/response = 135,432 hours

The Commission estimates that respondents require approximately 0.5 hours (30 minutes) to comply with the 3rd party disclosure requirement:

684 respondents x 4 responses/annum x 0.5 hours/3rd party response = 1,368 hours

Total Hours: 135,432 + 1,368 = 136,800 hours

c. Intermediate Carrier Filing of a Quarterly Report. (Section 276(b)(1)(A)).

1) Number of Respondents: 240

This requirement only applies to the Intermediate Carriers.

2) Frequency of Response: Recordkeeping requirements.

3) Total Number of Responses Annually: 240.

240 respondents x 1 recordkeeping requirement/annum = 240

4) Annual Burden per Respondent: 6 hours.

The Commission now believes that respondents will use sophisticated information technology, automation, and standardized business practices to reduce the amount of time necessary to keep records to approximately 6 hours annually, or 30 minutes per month (0.5 hours).

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- 5) Total Annual Hour Burden: 1,440 hours.

240 respondents x 6 hours/recordkeeping requirement/annum = 1,440 hours

- d. Retention of data extended. (47 U.S.C. Section 276(b)(1)(A)).

- 1) Number of Respondents: 924.

- 2) Frequency of Response: Recordkeeping requirement.

- 3) Total Number of Responses Annually: 924.

240 respondents x 1 recordkeeping requirement/annum = 240 responses

684 respondents x 1 recordkeeping requirement/annum = 684 responses

Total: 240 + 684 = 924 responses

- 4) Annual Burden per Respondent: 6 hours.

- 5) Total Annual Hour Burden: 5,544 hours.

240 respondents x 1 recordkeeping requirement/annum x 6 hours = 1,440 hours

684 respondents x 1 recordkeeping requirement/annum x 6 hours = 4,104 hours

Total: 1,440 + 4,104 = 5,544 hours

Summary of Burden Calculations:

Total Number of Respondents: 684 + 240 = **924 respondents.**

Total Number of Responses Annually: 1,444 + 5,472 + 240 + 924 = **8,080 responses.**

Total Annual Burden Hours: 16,400 + 136,800 + 1,440 + 5,544 = **160,184 hours.**

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

(a) total capital and start up cost component: \$0.00;

(b) total operation and maintenance and purchase of services: \$0.00.

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

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14. There is an annual cost of \$125.71 to the Federal government.

An employee being paid at the GS-13, Step 5 level, \$48.35 per hour, plus 30% overhead, will review the report in about 2 hours:

1 FCC employee x 2 hours/review x \$48.35 = \$96.70

30% overhead = \$29.01

Total Cost to the Federal Government: \$125.71

15. The Commission notes that there are no revisions, *e.g.*, program changes.

We do note that we have re-evaluated the following burden estimates, resulting in an adjustment:

(a) The total number of respondents has decreased and is now estimated to be 924, a decrease of 99 respondents from the previous submission. This decrease is due to a decrease in the number of Completing Carrier respondents from 762 to 684. The 684 estimate was obtained by reference to the most recent Telecommunications Provider Locator report. (Telecommunications Provider Locator, FCC Wireline Competition Bureau, Industry Analysis and Technology Division, Table 2 (January 2010)). We also decreased the number of Intermediate Carrier respondents from 261 to 240 based on our knowledge that the number of Intermediate Carriers has also likely decreased since the last submission.

(b) The total annual hourly burden is now estimated to be **160,184**, a decrease of 18,208 hours from the previous estimate of 178,392 hours.

The collections are necessary for the Commission to implement the express directives of Congress in the Act.

16. The Commission does not anticipate that it will publish the results of these collections of information.

17. The Commission does not intend to seek approval not to display the expiration date for OMB approval of the information collections since the information collection requirements do not include any forms, etc.

18. There are no other exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods.

This information collection does not employ any statistical methods.