

SUPPORTING STATEMENT

Part A. Justification:

1. The Federal Communications Commission ("Commission") is requesting that the Office of Management and Budget (OMB) approve a three-year extension of OMB Control No. 3060-0106 titled, "Part 43 – Reporting Requirements for U.S. Providers of International Telecommunications Services and Affiliates."

The reporting requirements that are covered under this information collection are contained in 47 CFR 43.61 and are listed below:

47 CFR 43.61(a)(1) - Reports of International Telecommunications Traffic including actual traffic and revenue data for each and every service provided by a common carrier, divided among service billed in the U.S., service billed outside of the U.S., and service transiting the U.S. shall be filed with the Commission not later than July 31 of each year.

47 CFR 43.61(a)(2) – Each common carrier shall submit a revised report by October 31 identifying and correcting any inaccuracies included in the annual report exceeding five percent of the reported figure;

47 CFR 43.61(b)(1) – Common carriers must file actual traffic and revenue data for each calendar quarter in which the carrier's quarterly minutes exceed the corresponding minutes for all carriers applying one or more tests specified in 43.61(b)(1)(i)-(iv)

47 CFR 43.61(c) – Each common carrier engaged in the resale of international switched services that is affiliated with a foreign carrier that has sufficient market power on the foreign end of an international route to affect competition adversely in the U.S. market and that collects settlement payments from U.S. carriers shall file a quarterly version of the report required in paragraph (a) of 43.61 for its switched resale services on the dominant route within 90 days from the end of each calendar quarter.

The above referenced reports enable the Commission to analyze the U.S. international telecommunications market, track market developments, and to determine the competitiveness of each service and geographical market. Furthermore, the Commission uses the reports to formulate rules and policies consistent with the public interest, to monitor compliance with those rules and policies, and to gauge the competitive effect of Commission decisions on the international market.

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Moreover, the reports provide a means by which to determine whether a U.S. carrier's foreign-carrier correspondents are engaging in anti-competitive conduct.

The Commission has authority for this information collection pursuant Sections 1, 4(i), 4(j) 11, 201-205, 211, 214, 219, 220, 303(r), 309, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 161, 201-205, 211, 214, 219, 220, 303(r), 309 and 403.

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

2. The Commission has a responsibility under the Communications Act to make available world-wide communications with adequate facilities at reasonable charges. The Commission's primary goal underlying the reporting requirements for international carriers has been and continues to be the protection of U.S. consumers and carriers from potential harm caused by instances of insufficient competition caused by the exercise of market power by foreign incumbent carriers. The Commission's goals in regulating the U.S.-international marketplace have been (1) to promote effective competition in the global market for communications services; (2) to prevent anticompetitive conduct in the provision of international services or facilities; and, (3) to encourage foreign governments to open their communications markets. The Commission's ability to respond to failures in the U.S.-international market depends upon having adequate information about the market. The Commission uses the information provided by the traffic and revenue reports and the circuit-status report to ensure compliance with its international rules and policies.

3. Carriers submit information on a commercially available spreadsheet program. Currently, facilities-based and facilities-resale carriers submit the Section 43.61 data on CDs that are fully IBM compatible. Pure switched resale carriers have the option of filing the required data on paper. Facilities-based and facilities-resale carriers are required to file hard copies of their submission with the agency. Due to the requirement that carriers must file hard copies of their reports with the Commission, it is estimated that 50 percent of information is collected electronically by the agency.

4. This information collection requirement is not duplicated elsewhere in the Commission's rules.

5. The NPRM (FCC 04-70) proposed to simplify the information that the carriers, both small and large, must submit for any traffic and revenue reports. First, the NPRM proposed to eliminate the requirement that carriers provide information on the number of messages that they

carried the previous year. Second, the NPRM proposed to eliminate the requirement that carriers use the billing codes set out in the section 43.61 Filing Manual and the Public Notices. Currently, carriers report international telephone traffic under 12 different billing codes, and the various billing codes have presented recurring problems for carriers filing the reports as well as those who review the reports. Third, the NPRM proposed a set of schedules for the reporting of the traffic and revenue and circuit-status information in lieu of the two filing manuals that are currently used. The Notice proposed to streamline some of the reporting categories, which will reduce the reporting requirements on both small and large entities.

The NPRM proposed to consolidate sections 43.61 (traffic and revenue reporting requirement) and 43.82 (circuit-status reporting requirement)¹ into one rule. Consolidating the rules will eliminate the requirement that carriers file two separate reports – one for traffic and revenue data and one for circuit-status data. The Notice proposed that one filing manual be developed that will satisfy the reporting requirements of the new rule. One consolidated filing manual for both reports would be less confusing and less time-consuming for both small and large carriers.

In summary, the proposals discussed in the NPRM would minimize the economic impact on small entities to the greatest extent possible.

6. If the information collection was not conducted or was conducted less frequently, the Commission would not be able to ensure compliance with its international rules and policies. Furthermore, the Commission would not have sufficient information to take measures to prevent anticompetitive conduct in the provision of international communications services. The Commission would not have adequate information to respond to failures in the U.S.-international market. The Commission would not be able to promote effective competition in the global market for communications services. The lack of effective competition would adversely affect the U.S. revenues in the telecommunications industry. The agency would not be able to comply with the international regulations stated in the World Trade Organization (WTO) Basic Telecom Agreement. Carriers and other entities outside the Commission, such as other government agencies, international organizations, and academia, use the information to analyze industry trends. Other government agencies use the information in merger analyses and negotiations with foreign countries. If the information collection was not conducted, carriers, government agencies and other entities would not have accurate industry data available in order to conduct analyses.

7. Currently, facilities-based and facilities-resale carriers are required to file three paper copies and three CDs containing the required data. The paper copies must contain data that is identical to the

¹ This information collection requirement is currently approved under OMB control number 3060-0572.

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data filed on the CDs. Two copies (one copy of the paper submission and one of the CD) are used by the Commission's copy contractor. Carriers that provide only pure switched resale services are not required to file data on CDs.

8. The Commission published a 60-day notice in the Federal Register (74 FR 53235). The comment period began on October 16, 2009 and ended on December 15, 2009. On December 15, 2009, AT&T Inc. filed the only comment in response to the notice in the Federal Register. AT&T makes two points in its comments. First, it states that the time it needs to complete the required reports is significantly higher than the time estimates in the notice. Second, AT&T urges the FCC to proceed with its proposed reforms to the reporting requirements.

Although the numbers that AT&T cites in its comments to prepare the required reports are higher than we would expect, AT&T is one of the largest carriers and thus would have the most difficult and time consuming filings. The estimated time in the notice is a weighted average of many carriers, most of which are smaller than AT&T and would not need as much time to prepare their submissions as AT&T requires. We estimate that facilities-based carriers (which file country-by-country data), like AT&T, would need 240 hours to prepare their submission, while resale carriers (which file world-wide total data) would need only 2 hours to prepare their submission. Further, the notice contained an error and the estimated time should have been listed as 18 hours rather than two hours.

The FCC agrees with AT&T that we should complete the proceeding where we have proposed changes to the reporting requirements. FCC staff is working on Further Notice of Proposed Rulemaking in that proceeding and will seek further comment on the proposals to reform the reporting requirements. FCC staff have met with AT&T and let them know the status of the proceeding.

9. The Commission will not provide any payment or gift to respondents.

10. Pursuant to Section 43.61(b), carriers file their quarterly traffic and revenue reports with the Commission on a confidential basis. Except for the quarterly reports under sections 43.61(b) and 43.61(c), the Commission generally treated the information submitted pursuant to Section 43.61 as non-confidential. However, the Commission allowed carriers to request proprietary treatment for specific pieces of information, such as information on transit traffic. The Commission proposed to continue its policy of making the carriers' annual traffic and revenue data available to the public. In the interest of public access to information, even where the Commission grants a request to keep a particular piece of information confidential, the

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agency proposed to include that information in the industry-wide totals it compiles in the annual International Telecommunications Data Reports.

Carriers that seek to protect the confidentiality of particular data elements may request such treatment under section 0.459 of the Commission's rules. That rule requires such a carrier to justify fully its request for confidentiality by providing enough information for the Commission to determine the need for confidential treatment. The rule requires a carrier requesting confidentiality to submit an unredacted version of its data, as well as a redacted version to be made publicly available. Should the Commission decide to grant a request for confidential treatment of information that does not fall within a specific exemption pursuant to the Freedom of Information Act (FOIA), that Act requires the Commission to disclose publicly the information upon an appropriate request. The Commission may grant requests for confidential treatment either conditionally or unconditionally. As such, the Commission has the discretion to release on public interest grounds information that does fall within the scope of a FOIA exemption. The Commission is requesting public comment on the granting of confidential treatment for particular pieces of data in the annual traffic and revenue or circuit-status reports.

11. There are no questions of a sensitive nature with respect to the information that is being collected from the public.

12. Estimate of Burden Hours:

Please see the charts below for the explanation of burden estimates, number of annual responses, frequency of response, time per response and annual burden hours for the **1,262 respondents** to this information collection.

Explanation of Burden Estimate	Number of Responses	Frequenc y of Response	Time Per Response	Annual Burden Hours
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47 CFR 43.61(a)(1)

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<p>Reports of International Telecommunications Traffic including actual traffic and revenue data for each and every services provided by a common carrier divided among service billed in the U.S., service billed outside of the U.S., and service transiting the U.S.</p>	<p>77 * 1,175 **</p>	<p>Annual Annual</p>	<p>240 hours 2 hours</p>	<p>18,480 hours 2,350</p>
<p>47 CFR 43.61(a)(2) Each common carrier shall submit a revised report by October 31 identifying and correcting any inaccuracies included in the annual report exceeding five percent of the reported figure.</p>	<p>3</p>	<p>Annual</p>	<p>80 hours</p>	<p>240 hours</p>
<p>47 CFR 43.61(b)(1) Common carriers must file actual traffic and revenue data for each calendar quarter in which the carrier's quarterly minutes exceed the corresponding minutes for all carriers applying one or more of the tests specified in 43.61(b)(1)(i)-(iv)</p>	<p>6</p>	<p>Quarterly (4 times/year)</p>	<p>480 hours (120 hours each X 4 quarters = 480)</p>	<p>2,880 hours</p>
<p>47 CFR 43.61(c)</p>	<p>1</p>	<p>Quarterly</p>	<p>4 hours</p>	<p>4 hours</p>

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Each common carrier engaged in the resale of international switched services that is affiliated with a foreign carrier that has sufficient market power on the foreign end of an international route to affect competition adversely in the U.S. market and that collects settlement payments from U.S. carriers shall file a quarterly version of the report required in paragraph (a) of this section for its switched resale services on the dominant route within 90 days from the end of each calendar quarter.

(4
times/year)

Totals:	1,262	2-480	23,954 Hours
	Responses	Hours	

*** 77 is the number of facilities-based carriers that have to file country-by-country traffic and revenue information = 77 reports filed annually**

**** 1,175 is the number of resale carriers that file worldwide traffic and revenue information = 1,175 reports filed annually**

In-House Costs:

The hourly rate for in-house staff is estimated at \$57.13 per hour which is equivalent to the hourly rate for a GS-14/Step 5 Federal government employee. Therefore, the in-house costs are calculated as follows:

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23,954 hours X \$57.13 hourly rate = **\$1,368,492.02**

13. The estimate of costs for the respondents is as follows:

(a) Start-Up Costs: Zero

(b) Operations and Maintenance Costs: **\$340,800**

Description	Annual Responses	Costs per Hour	Hourly Processing per Response	Total
Outside Legal Counsel ²	1,136	\$300 per hour (Based on industry survey)	1 hour/response	\$340,800 (O&M)

Total Annual Costs: \$340,800

14. The annualized costs to the Federal government are as follows:

Government Staff	Annual Burden Hours	Costs
GS-15/Step 5 Hourly Rate: \$67.21	Review and Process 10% of the filings = 126 filings	\$8,468.46
GS-13/Step 5 Hourly Rate: \$48.35	Review and Process 90% of the filings = 1,136 filings	\$54,925.60
Total Cost to Federal Government:		\$63,394.06

² It is estimated that respondents will need assistance from outside legal counsel with 90% of the filings (1,262 x 90% = 1,136 filings).

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15. This Supporting Statement reflects an adjustment in the number of annual respondents from 134 to 1,262 (+1,128 annual respondents) and an increase in the number of responses from 134 to 1,262 (+1,128). This change resulted from an increase in the number of respondents making annual and quarterly reports during the past year. Furthermore, the statement shows an adjustment in the number of annual burden hours from 2,412 to 23,954 (+21,542). This increase resulted from a correction in the time per response for respondents.

Additionally, the statement reflects an adjustment in annual costs from \$216,534 to \$340,800 (+ \$124,266). The increase in annual costs is due to a significantly higher number of respondents who incur costs associated with preparing and submitting the annual and quarterly reports to the Commission and an increase in the hourly rate for attorneys from \$200 per hour to \$300 per hour.

There are no program changes to this collection.

16. The collected information is reviewed, consolidated and released by the Federal Communications Commission to the public.

17. The Commission is requesting a waiver to not display the OMB control number and expiration date on the Section 43.61 manual used by carriers in submitting the information. This will alleviate the Commission from having to update the OMB expiration date on the manual whenever it is resubmitted to OMB. The Commission will use an edition date in lieu of the OMB expiration date. Finally, all OMB-approved information collections (including this one) will be published in 47 CFR 0.408 that “displays” the title, OMB control number and OMB expiration date.

18. On October 16, 2009, the Commission published a 60-day notice in the Federal Register (74 FR 53235). We stated in the notice that the number of respondents/responses is 134. However, 1,262 carriers filed annual and quarterly reports during the past year and we updated the supporting statement to reflect more current totals. Additionally, we stated in the notice that the estimated time per response is two hours. The estimated time per response was corrected to reflect 2 to 480 hours per response in this supporting statement and the published 30-day notice. As a result in the increase in the time per response, the total annual burden hours were corrected from 2,412 to 23,954 hours. The annual cost burden was corrected from \$216,534 to \$340,800. There are no

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other exceptions to the Certification Statement.

Part B. Collections of Information Employing Statistical Methods:

This information collection does not employ statistical methods.