

272 Sunset Order, WC Docket No. 06-120; Access Charge Reform, CC Docket No. 96-262, First Report and Order; Second Order on Reconsideration and Memorandum Opinion and Order; and Fifth Report and Order. The Commission is seeking Office of Management and Budget (OMB) approval for an extension (no change in the reporting requirements) to obtain the full three year clearance for this expiring information collection.

SUPPORTING STATEMENT

A. Justification:

1. In the *Fifth Report and Order (Fifth Order)*, CC Docket No. 96-262, the Commission modified the rules that govern the provision of interstate access services by those price cap Local Exchange Carriers (LECs) subject to price regulation to advance the pro-competitive, de-regulatory national policies embodied in the Telecommunications Act of 1996. The pricing flexibility framework adopted in the *Fifth Order* was designed to grant greater flexibility to price cap LECs as competition develops, while ensuring that: (1) price cap LECs do not use pricing flexibility to deter efficient entry or engage in exclusionary pricing behavior; and (2) price cap LECs do not increase rates to unreasonable levels for customers that lack competitive alternatives.

The information collection requirements are as follows:

- a. **Showings under the Market-Based Approach:** In the *Fifth Order*, the Commission provided detailed rules for implementing the market-based approach, pursuant to which price cap LECs would receive pricing flexibility in the provision of interstate access services as competition for those services develops. The *Fifth Order* granted immediate pricing flexibility to price cap LECs in the form of streamlined introduction of new services, geographic deaveraging of rates for services in the trunking basket, and removal of certain interstate interexchange services from price cap regulation. The *Fifth Order* also provided for additional pricing flexibility, to be granted in two phases, that is contingent upon competitive showings.

To obtain Phase I relief:

- Price cap LECs must demonstrate that competitors have made irreversible, sunk investments in the facilities needed to provide the services at issue.
 - For instance, for dedicated transport and special access services, price cap LECs must demonstrate that unaffiliated competitors have collocated in at least 15 percent of the LEC's wire centers within a Metropolitan Statistical Area (MSA) or collocated in wire centers accounting for 30 percent of the LEC's revenues from these services within an MSA.
 - Higher thresholds apply, however, for channel terminations between a LEC end office and an end user customer. In that case, the LEC must demonstrate that unaffiliated competitors have collocated in 50 percent of the price cap LEC's wire centers within an MSA or collocated in wire centers accounting for 65 percent of the price cap LEC's revenues from this service within an MSA.
- For traffic-sensitive, common line, and the traffic-sensitive components of tandem-switched transport services, a LEC must show that competitors offer service over their own facilities to 15 percent of the price cap LEC's customer locations within an MSA. Phase I relief permits price cap LECs to offer, on one day's notice, volume and term discounts and contract tariffs for these services, so long as the services provided pursuant to contract are removed from price caps.

272 Sunset Order, WC Docket No. 06-120; Access Charge Reform, CC Docket No. 96-262, First Report and Order; Second Order on Reconsideration and Memorandum Opinion and Order; and Fifth Report and Order. The Commission is seeking Office of Management and Budget (OMB) approval for an extension (no change in the reporting requirements) to obtain the full three year clearance for this expiring information collection.

To obtain Phase II relief:

- Price cap LECs must demonstrate that competitors have established a significant market presence (i.e., that competition for a particular service within the MSA is sufficient to preclude the incumbent from exploiting any individual market power over a sustained period) for provision of the services at issue.
 - Phase II relief for dedicated transport and special access services is warranted when a price cap LEC demonstrates that unaffiliated competitors have collocated in at least 50 percent of the LEC's wire centers within an MSA or collocated in wire centers accounting for 65 percent of the LEC's revenues from these services within an MSA.
 - Again a higher threshold applies to channel terminations between a LEC end office and an end user customer. In that case, a price cap LEC must show that unaffiliated competitors have collocated in 65 percent of the LEC's wire centers within an MSA or collocated in wire centers accounting for 85 percent of the LEC's revenues from this service within an MSA.
 - Phase II relief permits price cap LECs to file tariffs for these services on one day's notice, free from both our Part 61 rate level and our Part 69 rate structure rules.
- b. Contract-based Tariff Filings: Price cap LECs who have made a Phase I showing may now offer contract-based tariffs. Contract-based tariffs enable price cap LECs to tailor services to their customers' individual needs, but also prevent targeting by requiring that price cap LECs make contract tariffs available to all similarly situated customers. See 47 C.F.R. §§ 61.55 and 69.727.
- c. Proposed Deaveraging of Common Line and Traffic Sensitive Access Elements: Deaveraging common line and traffic sensitive access elements would require at least one additional tariff filing and may require an additional competitive showing.
- d. Proposed Common Line and Traffic Sensitive Phase II Showings: Incumbent LECs seeking pricing flexibility for switched services may be required to file a petition demonstrating that each LEC has met the triggers, and make an initial tariff filing.
- e. Contract Tariff Certification: Each of AT&T, Qwest and Verizon incumbent LECs is now required, pursuant to the *Section 272 (f)(1) Sunset of the BOC Separate Affiliate and Related Requirements; 2000 Biennial Regulatory Review Separate Affiliate Requirements of Section 64.1903 of the Commission's Rules; Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) with Regard to Certain Dominant Carrier Regulations for In-Region, Interexchange Services*, Report and Order and Memorandum Opinion and Order in WC Docket No. 06-120 (272 Sunset Order), see FCC 07-159, to provide a certification to the Commission, pursuant to 47 C.F.R. § 69.727(a)(iii), prior to providing contract tariff services to itself or to any affiliate that is neither a section 272 nor a rule 64.1903 separate affiliate for use in the provision of any in-region, long distance services to provide service pursuant to that contract tariff to an unaffiliated customer.

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.

272 Sunset Order, WC Docket No. 06-120; Access Charge Reform, CC Docket No. 96-262, First Report and Order; Second Order on Reconsideration and Memorandum Opinion and Order; and Fifth Report and Order. The Commission is seeking Office of Management and Budget (OMB) approval for an extension (no change in the reporting requirements) to obtain the full three year clearance for this expiring information collection.

The Commission's statutory authority to collect this information is provided under 47 U.S.C. §§ 201-205, 303(r).

2. The need for these information collection requirements follows:

The information to be collected is submitted to the FCC by incumbent LECs for use in determining whether the incumbent LECs should receive the regulatory relief proposed in the *Orders*.

The information collected under the *Second Order on Reconsideration and Memorandum Opinion and Order* is submitted by the LECs to interexchange carriers (IXCs) for use in developing the most cost-efficient rates and rate structures.

The certification required of AT&T, Qwest and Verizon is currently required of all price cap LECs that provide interexchange services through a Section 272 or rule 64.1903 affiliate. To ensure that equal protection is in place in the event the BOCs provide in-region, long distance services directly, we implemented this certification information collection requirement in the *Sunset Order*.

3. The Commission has established a program of mandatory electronic filing of tariffs and associated documents by incumbent local exchange carriers. These carriers must file tariffs and associated documents electronically in accordance with the requirements established by the Wireline Competition Bureau. Other parties may also file documents in tariff proceedings via the Electronic Tariff Filing System. See 47 C.F.R. § 1.774(e).

4. There will be no duplication of information. In most instances, the information sought is unique to each carrier.

5. The majority of the information collection requirements affect only incumbent price-cap LECs, which are mostly or entirely large entities. Nonetheless, these information collection requirements may also affect small entities in some instances.

6. These information collection requirements are necessary to allow the Commission to become aware of unjust or unreasonable charges in a timely manner. Without these information collection requirements the Commission would not be able to minimize any adverse effects on the public.

7. FCC requirements do not impose any obligations that would require parties to report information to the FCC more often than quarterly, nor will our requirements impose any other special circumstances.

8. Pursuant to 5 C.F.R. § 1320.8(d), the Commission published a 60-day notice in the Federal Register on May 13, 2011 (See 76 FR 28029). No comments were received.

9. The Commission does not anticipate providing any payment or gift to respondents.

272 Sunset Order, WC Docket No. 06-120; Access Charge Reform, CC Docket No. 96-262, First Report and Order; Second Order on Reconsideration and Memorandum Opinion and Order; and Fifth Report and Order. The Commission is seeking Office of Management and Budget (OMB) approval for an extension (no change in the reporting requirements) to obtain the full three year clearance for this expiring information collection.

10. The information is not of a confidential nature. Respondents who believe certain information to be of a proprietary nature may request confidential treatment in accordance with the procedures described in 47 C.F.R. § 0.459. See also 47 C.F.R. § 1.774(b).

11. The information is not of a sensitive nature, nor are there any privacy impacts.

12. The following represents the estimated hour burden of the information collections:

a. **Reporting Requirement: Showings Under Market-Based Approach**

1. Number of respondents: Approximately **17**.
2. Frequency of response: One time filing (reporting requirement).
3. Total number of responses annually: Approximately **377**.

The total annual responses are as follows:

Phase I:

- We estimate that a dedicated transport and special access filer (except channel terminations to end users) will submit **approximately 74 filings annually**, which is approximately the number of MSAs with more than one price cap LEC, and the rest of the study areas, minus the 62 study areas where pricing flexibility has already been granted.
- We estimate that channel terminations to end users filer may submit **approximately 69 filings annually**, which is approximately the number of MSAs with more than one price cap LEC, and the rest of the study areas, minus those 83 study areas where pricing flexibility has already been granted.
- We estimate that a common line and traffic sensitive services filer may submit **approximately 84 filings annually**, which is approximately the number of MSAs with more than one price cap LEC and the rest of the study areas, minus those 8 study areas where pricing flexibility has already been granted.

Phase I Total: $74 + 69 + 84 = 227$ filings (responses).

Phase II:

- We estimate that a dedicated transport and special access filer (except channel terminations to end users) may submit **approximately 71 filings annually**, which is the number of MSAs and the rest of the study areas, minus those 77 study areas where pricing flexibility has already been granted.

272 Sunset Order, WC Docket No. 06-120; Access Charge Reform, CC Docket No. 96-262, First Report and Order; Second Order on Reconsideration and Memorandum Opinion and Order; and Fifth Report and Order. The Commission is seeking Office of Management and Budget (OMB) approval for an extension (no change in the reporting requirements) to obtain the full three year clearance for this expiring information collection.

- We estimate that channel terminations to end users may submit **approximately 79 filings annually**, which is the number of MSAs and the rest of the study areas, minus those 35 study areas where pricing flexibility has already been granted.

Phase II Totals: $71 + 79 = 150$ filings (responses).

Phases I and II Total: $227 + 150 = 377$ filings/year (responses).

4. Estimated time per response: Between 5 and 300 hours.
5. Total annual burden: **26,655** hours

Phase I:

- We estimate that each of the 74 dedicated transport and special access (except channel terminations to end users) filings¹ will take approximately 5 hours to prepare and submit:

$74 \text{ responses} \times 5 \text{ hours per response} = 370 \text{ hours.}$

- We estimate that each of the 69 channel terminations to end users filings² will take approximately 5 hours to prepare and submit:

$69 \text{ responses} \times 5 \text{ hours per response} = 345 \text{ hours.}$

- We estimate that each of the 84 common line and traffic sensitive services filings³ will take approximately 300 hours to prepare and submit:

$84 \text{ responses} \times 300 \text{ hours per response} = 25,200 \text{ hours.}$

Phase I Totals: $370 \text{ hours} + 345 \text{ hours} + 25,200 \text{ hours} = 25,915 \text{ hours}$

Phase II:

- We estimate that each of the 71 dedicated transport and special access (except channel terminations to end users) filings⁴ will take approximately 5 hours to prepare and submit:

$71 \text{ responses} \times 5 \text{ hours per response} = 355 \text{ hours.}$

¹ The 74 filings are the approximate number of MSAs with more than one price cap LEC, and the rest of the study areas minus the 62 study areas where pricing flexibility has already been granted for dedicated transport and special access.

² The 69 filings are the approximate number of MSAs with more than one price cap LEC, and the rest of the study areas, minus those 83 study areas where pricing flexibility has already been granted for channel terminations.

³ The 84 filings are the approximate number of MSAs with more than one price cap LEC and the rest of the study areas, minus those eight study areas where pricing flexibility has already been granted for common line and traffic sensitive.

⁴ The 71 filings are the approximate number of MSAs and the rest of the study areas, minus those 77 study areas where pricing flexibility has already been granted for dedicated transport and special access.

272 Sunset Order, WC Docket No. 06-120; Access Charge Reform, CC Docket No. 96-262, First Report and Order; Second Order on Reconsideration and Memorandum Opinion and Order; and Fifth Report and Order. The Commission is seeking Office of Management and Budget (OMB) approval for an extension (no change in the reporting requirements) to obtain the full three year clearance for this expiring information collection.

- We estimate that each of the 79 channel terminations to end users filings⁵ will take 5 hours to prepare and submit:

79 responses x 5 hours per response = 395 hours.

Phase II Totals: 355 hours + 395 hours = 750 hours

Total for Phases I & II: 25,915 hours + 750 hours = **26,665 hours**

6. Total estimate of “in house” cost to respondents: **\$1,466,575.**

7. Explanation of calculation:

The Commission estimates that the respondents will use senior staff to prepare the approximately 377 filings, totaling 26,665 hours annually at a cost of approximately \$55 per hour. Thus:

26,665 hours/year x \$55 = \$1,466,575.

b. **Reporting Requirement: Contract-Based Tariff Filings**

1. Number of respondents: Approximately **17**.
2. Frequency of response: On occasion reporting requirement.
3. Total number of responses annually: Approximately **340** responses.
4. Estimated time per response: 3 hours.
5. Total annual burden: **1,020** hours.

The Commission estimates that approximately 17 entities will require approximately 3 hours of reporting time per filing.

17 respondents x 20 submissions/year x 3 hours = 1,020 hours.

6. Total estimate of “in house” cost to respondents: **\$40,800.**

7. Explanation of calculation:

It is difficult to provide a sound estimate of respondent’s cost without conducting a survey. Assuming that respondents use mid to senior level personnel to comply with Part 61 requirements

⁵ The 70 filings are the approximate number of MSAs and the rest of the study areas, minus those 35 study areas where pricing flexibility has already been granted for channel terminations to end users.

272 Sunset Order, WC Docket No. 06-120; Access Charge Reform, CC Docket No. 96-262, First Report and Order; Second Order on Reconsideration and Memorandum Opinion and Order; and Fifth Report and Order. The Commission is seeking Office of Management and Budget (OMB) approval for an extension (no change in the reporting requirements) to obtain the full three year clearance for this expiring information collection.

comparable in pay to Federal government, we estimate respondent's cost to be approximately \$40 per hour.

$17 \text{ respondents} \times 20 \text{ filings/year} \times 3 \text{ hours/filing} \times \$40/\text{hour} = \$40,800.$

c. **Reporting Requirement: Proposed Deaveraging of Common Line and Traffic Sensitive Access Elements**

1. Number of respondents: Approximately **17**.
2. Frequency of response: One time reporting requirement.
3. Total number of responses annually: Approximately **17**.
4. Estimated time per response: 20 hours.
5. Total annual burden: **340 hours**.

The Commission estimates that this requirement will take approximately 20 hours and that 17 entities will respond once a year.

$17 \text{ respondents} \times 1 \text{ submission/year} \times 20 \text{ hours} = 340 \text{ hours}$

6. Total estimate of "in house" cost to respondents: **\$13,600**.
7. Explanation of calculation:

If a carrier is required to respond to this reporting requirement, each filing could take as much as 20 hours to complete. The Commission estimates that the average cost for respondents is approximately \$40 per hour.

$17 \text{ respondents} \times 20 \text{ hrs/filing} \times \$40/\text{hr} = \$13,600.$

d. **Reporting Requirement: Proposed Common Line and Traffic Sensitive Phase II Showings**

1. Number of respondents: Approximately **17**.
2. Frequency of response: One time reporting requirement.
3. Total number of responses annually: **150**.
4. Estimated time per response: 5 hours.
5. Total annual burden: **750 hours**.

272 Sunset Order, WC Docket No. 06-120; Access Charge Reform, CC Docket No. 96-262, First Report and Order; Second Order on Reconsideration and Memorandum Opinion and Order; and Fifth Report and Order. The Commission is seeking Office of Management and Budget (OMB) approval for an extension (no change in the reporting requirements) to obtain the full three year clearance for this expiring information collection.

The Commission estimates that the 17 respondents require approximately 5 hours to prepare and submit each filing:

150 one-time filings x 5 hours/filing = 750 hours

6. Total estimate of “in house” cost to respondents: \$30,000.

7. Explanation of calculation:

The Commission estimates that the average cost for respondents is approximately \$40 per hour.

750 hours/year x \$40/hour = \$30,000.

e. **Reporting requirement: Contract Tariff Certification:**

1. Number of respondents: 3.

2. Frequency of response: On occasion reporting requirement.

This obligation is required each time each respondent provides contract tariff services to itself or to any affiliate that is neither a section 272 nor a rule 64.1903 separate affiliate for use in the provision of any in-region, long distance services.

3. Total number of responses annually: 3.

4. Estimated time per response: 20 hours.

5. Total annual burden: 60 hours.

The Commission estimates that this requirement will take approximately 20 hours and that the 3 respondent entities (BOCs) will respond once a year.

3 respondents x 1 submission/year x 20 hours = 60 hours

6. Total estimate of “in house” cost to respondents: \$2,400.

7. Explanation of calculation:

The Commission estimates that respondents will use staff equivalent to mid to senior level personnel to complete and file the information, which we estimate to be approximately \$40 per hour.

We estimate it will take approximately 60 hours to comply with the requirement:

3 respondents x 20 hours per filing x \$40/hour = \$2,400.

272 Sunset Order, WC Docket No. 06-120; Access Charge Reform, CC Docket No. 96-262, First Report and Order; Second Order on Reconsideration and Memorandum Opinion and Order; and Fifth Report and Order. The Commission is seeking Office of Management and Budget (OMB) approval for an extension (no change in the reporting requirements) to obtain the full three year clearance for this expiring information collection.

Information Collection Requirements	Number of Respondents	Number of Responses	Burden Hours	Industry Costs
a. Showings under market-based approach	17	377	26,665	\$1,466,575
b. Contract-based tariff filings	17	340	1,020	\$40,800
c. Proposed deaveraging of common line and traffic sensitive access elements	17	17	340	\$13,600
d. Proposed common line and traffic sensitive Phase II showings	17	150	750	\$30,000
e. Contract tariff certification	3	3	60	\$2,400
Total	71	887	28,835	\$1,553,375

Total Number of Respondents: 71

Total Number of Responses Annually: 887

Total Annual Burden Hours: 28,835 hours

Total Industry Costs: \$1,553,375

13 a. The following represents the Commission's estimate of the annual cost burden to respondents or record keepers resulting from this collection of information: \$0.

These information collection requirements impose no start-up costs on respondents.

b. Estimated operations and maintenance and purchase of services component: **\$736,760**.

Respondents are subject to a filing fee of \$815. Thus:

904 responses x \$815 filing fee = **\$736,760**.

The Commission is reporting an increase in the filing fee (from \$775 to \$815).

c. Total annualized cost requested: **\$736,760**.

14. Estimated costs to the Commission:

a. Market-Based Approach: The Commission estimates that it will take approximately 5 hours to review each first and second category of Phase I filing, and 80 hours for category 3, or approximately 90 hours

272 Sunset Order, WC Docket No. 06-120; Access Charge Reform, CC Docket No. 96-262, First Report and Order; Second Order on Reconsideration and Memorandum Opinion and Order; and Fifth Report and Order. The Commission is seeking Office of Management and Budget (OMB) approval for an extension (no change in the reporting requirements) to obtain the full three year clearance for this expiring information collection.

to review all Phase I filings. We further estimate that it will take approximately 5 hours to review each first and second category of Phase II filing, or approximately 10 hours to review these Phase II filings. These filings will be made over a five-year period, so that the Commission will spend approximately 20 hours per filing area. We estimate 377 filings. At a cost of \$55/hour, this translates to a total for the Commission of:

$377 \text{ filings} \times 20 \text{ hours (100 hours/5 years)} \times \$55/\text{hour} = \$414,700 \text{ annually.}$

- b. Contract-based Tariff Filings: We estimate that the time required to review contract-based tariff filings is approximately 3 hours. At a cost of \$55/hour, this equals a total cost for the Commission of:

$340 \text{ filings} \times 3 \text{ hours} \times \$55/\text{hour} = \$56,100.$

- c. Proposed Deaveraging of Common Line and Traffic Sensitive Access Elements: We estimate that it will take approximately 5 hours to review each deaveraging filing. At a cost of \$55/hour, the total cost:

$17 \text{ deaveraging filing reviews} \times 5 \text{ hours} \times \$55/\text{hour} = \$4,675.$

- d. Proposed Common Line and Traffic Sensitive Phase II Showings: We estimate that the time required to review category 3 of the Phase II filings is 15 hours per filing at a cost of \$55/filing, which equals a total cost for the Commission of:

$150 \text{ filings} \times 15 \text{ hours} \times \$55/\text{hour} = \$123,750.$

- e. Contract Tariff Certification: The Commission notes that it does not review this information collection requirement.

Cost to the Commission: $\$414,700 + 56,100 + 4,674 + 123,750 = \$599,224$

15. The Commission notes the following changes since the previous submission, due in part to some corrected calculations.

- (a) The Commission has increased the filing fee from \$775 to \$815, which resulted in an increase in the total annual cost from \$700,600 to \$736,760 (an increase of \$36,160).
- (b) The calculation in subpart 12(c) has been corrected. This results in a decrease in hourly burden from 1,853 hours to 340 hours (a decrease of 1,513 hours). This creates a decrease in the respondent's "in house" costs from \$56,800 to \$13,600 (a decrease of \$43,200).
- (c) The estimated cost to the Commission has decreased from \$927,025 to \$599,224 (a decrease of \$327,801) as a result of correcting the calculations in subpart 12(c).

16. The Commission does not anticipate that it will publish any of the information.

272 Sunset Order, WC Docket No. 06-120; Access Charge Reform, CC Docket No. 96-262, First Report and Order; Second Order on Reconsideration and Memorandum Opinion and Order; and Fifth Report and Order. The Commission is seeking Office of Management and Budget (OMB) approval for an extension (no change in the reporting requirements) to obtain the full three year clearance for this expiring information collection.

17. We do not seek approval to not display the expiration date for OMB approval of the information collections.

18. There are no exceptions to the certification statement.

B. Collection of Information Employing Statistical Methods:

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