

REVISED SUPPORTING STATEMENT

**A. Justification**

1. The Federal Communications Commission ("Commission") is requesting that the Office of Management and Budget (OMB) approve a revision of OMB Control No. 3060-0169 titled, "Sections 43.51 and 43.53 – Reports and Records of Communications Common Carriers and Affiliates."

Sections 211 and 215 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 211 and

215 require that the FCC examine transactions of any common carrier relating to the activities of that carrier that may affect the charges and/or services rendered under the Act.

Previously, the Commission had required carriers to file two reports, 47 C.F.R. Sections 43.51 and 43.53, by which the Commission gathers information concerning the activities of carriers which it examines.

**Revised Information Collection Requirement:**

On May 13, 2011, the Federal Communications Commission released a First Report and Order and Further Notice of Proposed Rulemaking (FCC 11-76) in *Reporting Requirements for U.S. Providers of International Telecommunications Services, Amendment of Part 43 of the Commission's Rules*, IB Docket No. 04-112 (rel. May 13, 2011) (*Part 43 Review Order*). In the First Report and Order portion of the *Part 43 Review Order* (First Report and Order), the Commission removed section 43.53 as no longer being required in the public interest. It did not alter section 43.51.

**Background on the Requirements:**

The Commission had adopted section 43.53 as a way to ensure that monopoly carriers in other countries could not use their market power to "whipsaw" competitive U.S. international telegraph carriers serving such a route. Under what was referred to as the Uniform Settlements Policy, the Commission required U.S. carriers to have operating agreements with uniform terms and condition, to split the international tolls 50/50 with their correspondents (the foreign carriers with which they jointly provided service) and to provide for proportionate return (that is, each U.S. carrier would receive a percentage of return traffic that was equal to their the percentage of traffic they carried to the foreign country). The section 43.53 report ensured that all U.S. carriers had complied with the Uniform Settlements Policy.

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Settlements Policy. The Commission found that the telegraph service has declined to such an extent that the rule now serves little purpose, so the Commission acted to remove the reporting requirement.

Section 43.51 requires that any communications common carrier described in paragraph 43.51(b) file with the Commission, within thirty (30) days of execution, a copy of each contract, agreement, concession, license, authorization, operating agreement or other arrangement to which it is a party and any amendments.

Section 43.51 also requires carriers to maintain copies of certain contracts, to have them readily accessible to Commission staff and members of the public upon request and to forward individual contracts to the Commission as requested.

See rule sections for complete description of all requirements contained under Section 43.51.

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

The statutory authority for this collection is contained in sections: 1-4, 10, 11, 201-205, 211, 218, 220, 226, 303(g), 303(r) and 332 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 160, 161, 201-205, 211, 218, 220, 226, 303(g), 303(r) and 332.

2. The information contained in this report is used by the FCC to determine whether the activities reported have affected or are likely to adversely affect the carrier's service to the public or whether these activities result in undue or unreasonable increases in charges.

If this information were not reported, the FCC would not be able to ascertain the impact of these activities on the just and reasonable rates required by the Act.

3. The Commission is not considering use of improved information technology at this time.
4. We know of no duplication of this information. There is no similar information available in this area.
5. The burden has been minimized for all subject to the collection.
6. If these reports were made less frequently instead of as each activity occurs, the FCC would not be able to examine them in a timely manner. The result would be an inability to minimize any adverse affects on the public.

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7. We are not aware of any circumstances that require the collection to be conducted in any manner inconsistent with the guidelines in 5 C.F.R. § 1320.5.
8. The Commission published a 60-day notice in the Federal Register seeking comments from the public on the information collection requirements contained in this collection on July 22, 2011 (76 FR 44007). No comments were received from the public.
9. The Commission does not provide any payment or gift to respondents.
10. No information of a confidential nature is being sought; however, respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 C.F.R. § 0.459 of the Commission’s rules.
11. The information is not of sensitive nature, nor are there any privacy issues.
12. The following represents the estimated hour burden of the information collection. (We note that the burden hour estimates are our best estimate based on our overall experience with this data collection.)

**Section 43.51:**

(1) Number of respondents: 55.

(2) Frequency of response: On occasion and annual reporting requirements, third party disclosure requirement and recordkeeping requirement.

(3) Total number of responses annually: 1,210.

55 respondents x 5 responses/year = 275 reporting requirements (responses)

55 respondents x 5 third party disclosures/respondent = 275 third party disclosures (responses)

55 respondents x 1 recordkeeping requirement/mo. x 12 mos. = 660 recordkeeping responses

**Total:** 275 reporting requirements + 275 third party disclosures + 660 recordkeeping = 1,210 responses

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(4) Annual hour burden per respondent: 6 hours (average)

Annual burden per respondent to comply with these three requirements is:

16.5 hours/on occasion and annual reporting

1.25 hours/third party disclosure

0.25 hours/recordkeeping

The average burden is 6 hours per respondent.

(5) Total annual hour burden: **5,047 hours**.

(6) How the burden was estimated:

The Commission estimates that respondents require approximately 16.5 hours to comply with the reporting requirements for each submission:

55 respondents x 5 reports/year x 16.5 hours/report = 4,538 hours

The Commission estimates that respondents require approximately 1.25 hours to comply with the third party disclosure requirements for each such disclosure:

55 respondents x 5 third party disclosures/year x 1.25 hours/disclosure = 344 hours

The Commission estimates that respondents require approximately 0.25 hours (15 minutes) to comply with the recordkeeping requirements each month. We believe that respondents use sophisticated electronic IT software and automation to minimize the time required to maintain these records:

55 respondents x 12 recordkeeping requirements/year x 0.25 hours/year = 165 hours

**Total:** 4,538 hrs/reporting + 344 hrs/third party disclosure + 165 hrs/recordkeeping = **5,047 hrs**

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- (7) Estimates of “in house” costs to respondents: Responses are received infrequently as an activity occurs that must be reported to the FCC. These burden estimates are based on senior FCC staff members’ knowledge of and familiarity with the requirements.

The burden varies widely because of differences in activity, size, and complexity of respondents who range from a small carrier operated by only a few individuals and having gross annual revenues of a few thousand dollars to a carrier like AT&T with thousands of employees and several billion dollars in gross annual revenues. In addition, as we noted above, each requirement takes a different amount of time for compliance.

We estimate that respondents use senior staff, earning approximately \$45.00/hour, to comply with the reporting and third party disclosure requirements. We also estimate that respondents use clerical staff, earning approximately \$25.00/hour, to perform the recordkeeping.

4,538 hours/reporting x \$45.00/hour = \$204,210.00

344 hours/third party disclosure x \$45.00/hour = \$15,480.00

165 hours/recordkeeping x \$25.00/hour = \$4,125.00

**Total:** \$204,210.00 + \$15,480.00 + \$4,125.00 = \$223,815.00

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

(1) Total capital and start-up cost component (annualized over its useful life): \$0.

(2) Total operations and maintenance and purchase of services component: \$0.

(3) Total annualized cost requested: \$0.

14. The estimated annual cost to the Federal government is **\$327.10** per filing. This is based on an estimate of 6 hours per year for a grade 13 step 5 (\$48.35/hour and a total for the 6 hours of **\$290.10**), Public Utilities Specialist plus 2 hours per year for a grade 5 step 7 (\$18.50/hour and a total for the 6 hours of **\$37.00**), Public Contract Clerk who files the reports.

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**Total Cost to Federal Government:** 275 filings/reporting requirements x \$327.10/filing = **\$89,952.50.**

15. The Commission has program changes/decreases to the number of respondents of 8, to the number of annual responses of 8 and to the annual burden hours of 200 hours. These program changes are due to the Commission removing section 43.53 when it adopted FCC 11-76.

There are no adjustments to this collection.

16. The Commission does not anticipate that it will publish any of the information collected.
17. The Commission does not seek approval not to display the expiration date for OMB approval of the information collection.
18. There are no exceptions to the certification statement for this collection.

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

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