

This submission is being made pursuant to 44 U.S.C. § 3507 of the Paperwork Reduction Act of 1995 to revise existing collection 3060-0298.

SUPPORTING STATEMENT

A. Justification:

1. Sections 201, 202, 203, 204 and 205 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 201, 202, 203, 204 and 205, require that common carriers establish just and reasonable charges, practices and regulations which must be filed with the Commission which is required to determine whether such schedules are just, reasonable and not unduly discriminatory.

Part 61 of the Commission's rules establishes the procedures for filing tariffs which contain the charges, practices and regulations of the common carriers, supporting economic data and other related documents. The supporting data must also conform to other parts of the rules such as Parts 36 and 69. Part 61 prescribes the framework for the initial establishment of and subsequent revisions to tariffs. Issuing carriers that do not conform to Part 61 may be required to post their schedules or rates and regulations. See 47 C.F.R. § 61.72.

On April 28, 2000, the Court of Appeals upheld the Commission's order¹ requiring detariffing of all interstate, domestic, interexchange services and lifted the stay on May 1, 2000.² On May 9, 2000, the Common Carrier Bureau (now known as the Wireline Competition Bureau) issued a Public Notice³ implementing a transition plan and asking for comments on modifications to the transition plan. Since the end of the nine-month transition period, on January 31, 2001, interstate, domestic, interexchange services are no longer filed with the FCC with some exceptions. Carriers are permitted to file tariffs for dial-around 1+ services and for new customers for a limited period of time.

On March 3, 2001, the Commission released a Report and Order in IB Docket No. 00-202, requiring the detariffing of interstate international, interexchange services with some exceptions.⁴ On May 2, 2001, the International Bureau issued a Public Notice⁵ implementing a nine-month transition plan. Since the end of the nine-month transition period, on January 28, 2002, international interexchange services are no longer filed with the FCC with some exceptions. Carriers must still file tariffs for international dial-around services, inbound international collect calls, "on-demand" Mobile Satellite Services (MSS) and for new customers for a limited period of time.

¹ *In the Matter of Policy and Rules Concerning the Interstate, Interexchange Marketplace Detariffing Order*, CC Docket No. 96-61, Report and Order, 11 FCC Rcd 20730 (1996) (*Detariffing Order*).

² *MCI Telecommunications Corporation v. FCC*, 209 F. 3d 760 (D.C. Cir. 2000); *MCI Telecommunications Corporation v. FCC*, No. 96-1459, slip op. (D.C. Cir May 1, 2000).

³ *Domestic, Interexchange Carrier Detariffing Order Takes Effect*, CC Docket No. 96-61, Public Notice, 16 FCC Rcd 3688 (CCB 2000) (*Notice*).

⁴ *2000 Biennial Regulatory Review, Policy and Rules Concerning the International Interexchange Marketplace*, IB Docket No. 00-202, Report and Order, 16 FCC Rcd 10647 (2001) (*International Order*).

⁵ *International Detariffing Order Takes Effect*, IB Docket No. 00-202, Public Notice, 16 FCC Rcd 9372 (IB 2001) (*IB Notice*).

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On April 27, 2001, the Commission released the Seventh Report and Order (i.e., the *CLEC Access Order*) in CC Docket No. 96-262, which limited the application of the Commission's tariff rules to interstate access services provided by nondominant local exchange carriers (i.e., CLECs).⁶ Pursuant to this order, Competitive Local Exchange Carrier (CLEC) access rates that are at or below a benchmark set by the Commission will be presumed to be just and reasonable and may be imposed by tariff. Above the benchmark, CLEC access services will be mandatorily detariffed. For purposes of this order, CLECs were required to revise their existing tariffs to bring their rates into line with the benchmark. CLECs followed similar procedures on an annual basis for three years, until 2004, as the benchmark declined pursuant to a schedule adopted by the Commission.

On September 23, 2005, the Commission released the *Wireline Broadband Internet Access Services Order*, which permits facilities-based providers to offer broadband Internet access transmission arrangements for wireline broadband Internet access services on a common carrier basis or a non-common carrier basis.⁷ If the provider decides to offer broadband Internet access transmission service on a common carrier basis, the Commission allows them to do so on a permissive detariffed basis.

On August 31, 2007, the Commission released the *Section 272 Sunset Order*, which found the Bell Operating Companies (BOCs) to be nondominant in the provision of in-region, interstate and international, long distances services, whether they provide these services directly or through affiliates that are neither section 272 nor rule 64.1903 affiliates.⁸ Accordingly, AT&T, Verizon and Qwest are now barred from filing tariffs for in-region, interstate and international, long distance services pursuant to section 203 of the Act and sections 61.31-61.38 and 61.43 of our rules.

In a Further Notice of Proposed Rulemaking released on February 9, 2011, (FCC 11-13) the Commission proposed revised rules that would require incumbent rate-of-return and competitive local exchange carriers to file revised tariffs if they engage in revenue sharing arrangements. We estimated that this could result in a one-time increase in the frequency of response of up to 50 carriers because they would have to make the necessary tariff filing within 45 days of the final rules becoming effective.

⁶ *Access Charge Reform, Reform of Access Charges Imposed by Competitive Local Exchange Carriers*, CC Docket No. 96-262, Order, 16 FCC Rcd 3832 (2001) (*CLEC Access Order*).

⁷ *Appropriate Framework for Broadband Access to the Internet Over Wireline Facilities; Universal Service Obligations of Broadband Providers; Review of Regulatory Requirements for Incumbent LEC Broadband Telecommunications Services, Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review – Review of Computer III and ONA Safeguards and Requirements; Conditional Petition of the Verizon Telephone Companies for Forbearance Under 47 U.S.C. § 160(c) with Regard to Broadband Services Provided Via Fiber to the Premises; Petition of the Verizon Telephone Companies for Declaratory Ruling or, Alternatively, for Interim Waiver with Regard to Broadband Services Provided Via Fiber to the Premises; Consumer Protection in the Broadband Era*, CC Docket Nos. 02-33, 01-337, 95-20, 98-10, WC Docket Nos. 04-242, 05-271, Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 14853 (2005) (*Wireline Broadband Internet Access Services Order*).

⁸ *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*, WC Docket Nos. 02-112 and 06-120, CC Docket No. 00-175, Report and Order and Memorandum Opinion and Order, 22 FCC Rcd 16440 (2007) (*Section 272 Sunset Order*).

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The Commission adopted FCC 11-161 on October 27, 2011 and released it on November 18, 2011. The final rulemaking adopted the proposed information collection requirements that were contained in FCC 11-13 (proposed rulemaking). The Commission is seeking final approval for the final information collection requirement from the Office of Management and Budget (OMB) with this submission.

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

Statutory authority is contained in sections 1-5, 201-205, 208, 251-271, 403, 502, and 503 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-155, 201-205, 208, 251-271, 403, 502, and 503.

2. The information collected through a carrier's tariff is used by the Commission to determine whether services offered are just and reasonable as the Act requires. The tariffs and any supporting documentation are examined in order to determine if the services are offered in a just and reasonable manner.

3. Currently, all nondominant carriers, both domestic and international, are required to file tariffs (where still mandated or permitted) on discs and diskettes, except for informational tariffs filed by operator service providers which are filed on paper. All dominant incumbent local exchange carriers are required to file interstate tariffs electronically.

Pursuant to an Order, the Commission established a mandatory electronic filing system for all incumbent local exchange carriers.⁹ Authority was delegated to the Chief, Common Carrier Bureau to establish a program to implement this electronic filing system. (See OMB Control No. 3060-0745).

Finally, pursuant to an Order on the Electronic Tariff Filing System (ETFS) all incumbent local exchange carriers were directed to file interstate tariffs and associated documents through the Internet on the ETFS as of July 1, 1998.¹⁰ Paper filings are not accepted.

4. No similar information is available elsewhere.

5. As discussed in prior OMB filings, small incumbent local exchange carriers are not considered by the Commission to constitute small entities within the meaning of the Regulatory Flexibility Act, since they are dominant in the provision of local exchange and access services. The Commission, nevertheless, is committed to reducing the regulatory burdens on small incumbent local exchange carriers whenever possible consistent with the Commission's other public interest responsibilities. Nondominant local exchange carriers are permitted, but not required, to file tariffs under the Commission's rules. Some Nondominant local exchange carriers may qualify as small businesses under the Regulatory Flexibility Act. See *CLEC Access Order*, paras. 115-116.

6. This tariff reporting requirement is necessary to allow the Commission to become aware of unjust or unreasonable charges to the public in a timely manner. Without this reporting requirement, the Commission would not be able to minimize any adverse effects on the public.

⁹ *Implementation of Section 402(b)(1)(A) of the Telecommunications Act of 1996*, CC Docket No. 96-187, Report and Order, 12 FCC Rcd 2170 (1997).

¹⁰ *Electronic Tariff Filing System (ETFS)*, DA 98-914, Order, 13 FCC Rcd 12335 (CCB 1998).

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7. Section 61.20(c) of the Commission's rules requires that nondominant carriers file three complete copies of their tariff submissions and one additional copy of the cover letter. Section 61.32(c) of the Commission's rules requires that dominant carriers who file on paper file four copies of their tariff submissions. Multiple copies are needed to maintain the Commission's public reference room and to provide working copies to staff members.

8. Pursuant to 5 C.F.R. § 1320.8(d), the Commission published a 60-day notice in the Federal Register to solicit public comment on the reporting requirement of tariffs on March 2, 2011. See 76 FR 11632. No comments were received from the public on the reporting requirement.

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

10. The information is not of a confidential nature. Respondents who believe certain information to be of a proprietary nature may solicit confidential treatment in accordance with the procedures described in 47 C.F.R. § 0.459.

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

12. The following represents the estimated number of burden hours for this information collection. We note that the hourly burden imposed by the requirement is very difficult to quantify. The following represents our best estimate.

Reporting Requirement of Tariffs

- (1) Number of respondents: **630**.
- (2) Frequency of response: One time, on occasion and biennial reporting requirements.
- (3) Total number of responses annually: Approximately **1,210**.
- (4) Estimated time per response: 50 hours.
- (5) Total annual burden: **63,000 hours**.

The Commission estimates that approximately 630 respondents will require 50 hours of reporting time per filing.

630 respondents x 50 hours per response x 2 responses per year per respondent = 63,000 hours.

- (6) Total estimate of "in house" cost to respondents: **\$2,835,000**.
- (7) Explanation of calculation:

It is difficult to provide a sound estimate of respondent's cost without conducting a survey. However, assuming that respondents use mid to senior level personnel to comply with Part 61 requirements comparable in pay to the Federal government, we estimate respondent's cost to be \$45 per hour. Thus,

63,000 hours x \$45 per hour = \$2,835,000.

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

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

(2) Total operations and maintenance and purchase of services component: **\$986,150.**

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

1,210 filings x \$815 = **\$986,150.**

(3) Total annualized cost requested: **\$986,150.**

14. Annualized cost to the Federal government to handle all tariffs has been estimated to be approximately \$1,073,406.

The annualized cost to the Federal Government is at a minimum the annual budget of the Pricing Policy Division of the Wireline Competition Bureau. In addition, all other bureaus within the Commission would be affected, some, such as the Enforcement Bureau, to a much greater extent than others.

Activities of other Commission groups outside the Wireline Competition Bureau would also be affected, such as the Dockets and Publication Branches. Since tariff matters involve several organizational units within the Commission, in varying degree, it would be impossible to give a complete meaningful estimation of governmental cost without conducting an in-depth study.

15. The Commission notes the following revisions since the previous submission:

(a) The number of respondents has increased from 580 respondents to 630 respondents, an addition of 50 respondents, to accommodate revised rules that would require a one-time additional reporting requirement by an estimated 50 respondents.

(b) The number of responses has increased from 1,160 responses to 1,210 responses, an increase of 50 responses, to accommodate 50 respondents who would have a one-time, additional reporting requirement pursuant to the revisions to the rules.

(c) The total burden hours has increased from 58,000 hours to 63,000 hours, an increase of 5,000 hours, to accommodate the additional reporting requirement pursuant to the revisions to the rules.

(d) The total annual O&M cost has increased from \$945,400 to \$986,150, an increase of \$40,750, due to an increase in the number of responses pursuant to the revisions to the rules.

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.

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B. Collections of Information Employing Statistical Methods:

This information collection does not employ any statistical methods.