

## SUPPORTING STATEMENT

This information collection (IC) is being submitted to OMB to revise the existing collection 3060-0400. The Commission has revised the reporting requirements. The change in the Commission's burden estimates are in item 15 of this supporting statement.

### A. **Justification:**

1. Sections 201, 202, and 203 of the Communications Act of 1934, as amended, require common carriers to establish just and reasonable charges, practices and regulations for their interstate telecommunications services provided. See 47 U.S.C. Sections 201, 202 and 203. Section 251(b)(5) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 251(b)(5), requires local exchange carriers to establish reciprocal compensation arrangements for the transport and termination of telecommunications.

For services that are still covered under Section 203, tariff schedules containing charges, rates rules, and regulations must be filed with the FCC. If the FCC takes no action within the notice period, then the filing becomes effective. The Commission is granted broad authority to require the submission of data showing the value of the property used to provide these services, some of which are automatically required by its rules and some of which can be required through individual requests. All filings that become effective are considered legal but only those filed pursuant to Section 204(a)(3) of the Act are deemed lawful.

For services that are detariffed, no tariffs are filed at the FCC and determination of reasonableness and any unreasonable discrimination is generally performed through the complaint process.

Pursuant to its statutory mandate to assure just, reasonable, and non-discriminatory charges for interstate telecommunications services, the FCC has adopted specific rules, applicable to incumbent local exchange carriers (ILECs), regarding the development of rates, terms and conditions for interstate access and end user services. See 47 C.F.R. Parts 61 and 69. Competitive local exchange carriers are not subject to Part 69.

ILECs can make a voluntary tariff filing at anytime, but are required to update rates annually or biennially. See 47 C.F.R. Section 69.3. To minimize the regulatory burden on reporting ILECs, as well as reviewers, the Commission has undertaken many reforms as described in the following paragraphs.

The Commission has developed standardized Tariff Review Plans (TRPs) which set forth the summary material ILECs file to support revisions to the rates in their interstate access service tariffs. The TRPs display basic data on rate development in a consistent manner, thereby facilitating review of the ILEC rate revisions by the Commission and interested parties. The TRPs have served this purpose effectively in past years.

Incentive-based regulation (price caps) was developed by the Commission to simplify the process of determining the reasonableness of rates or rate restructures for those ILECs subject to price caps. Supporting material requirements for price cap ILECs qualifying for pricing flexibility have been eliminated. See 47 C.F.R. sections 69.701-69.711. In addition, ILECs having 50,000 or fewer access lines do not have to file any supporting material unless requested to do so.

Price cap ILECs can elect to be subject to Title I versus Title II of the Act for certain forms of internet access in order to offer their internet access services on a detariffed basis pursuant to private

contracts. Rate-of-return ILECs can choose to change from tariffed to detariffed for the same internet services, but are still subject to Title II regulation.

Through forbearance, the Commission has allowed those ILECs whose petition has been granted to choose mandatory detariffing of certain broadband and packet services. See 47 U.S.C. Section 10(a).

On November 18, 2011, the Commission released a Connect America Fund Order, FCC 11-161, requiring or permitting incumbent and competitive local exchange carriers, as part of transitioning regulation of interstate and intrastate switched access rates and reciprocal compensation rates to bill-and-keep under section 251(b)(5), to file tariffs with state commissions and the FCC. This transition affects different switched access rates at specified timeframes and establishes an Access Recovery Charge by which carriers will be able to assess end users a monthly charge to recover some or all of the revenues they are permitted to recover resulting from reductions in intercarrier compensation rates. Price cap LECs must remove the rate elements in the traffic-sensitive and trunking baskets from price cap regulation on July 1, 2012. The interstate tariff filings will require cost support that generally is encompassed in the existing support burdens. The intrastate tariff filings may, depending on state requirements, may also require supporting materials to be filed.

As of November 2010, there are 92 total incumbent LECs that file interstate tariffs. Of them, there are 39 ILECs that file pursuant to price cap regulations under Section 61.41-61.49 of the Commission's rules. Outside of the National Exchange Carrier Association (NECA), there are 12 ILECs filing their own tariffs pursuant to rate-of-return regulation under Section 61.38 of the Commission's rules. The remaining 40 ILECs file their own tariffs pursuant to Section 61.39 of the Commission's rules. NECA files one TRP for approximately 1,000 Section 61.38 and 61.39 ILECs. Therefore, we estimate  $51 + 40 + 1 \text{ (NECA)} = 92$  filing entities.

We estimate that 330 competitive and incumbent LECs will have to make a one-time interstate tariff filing to permit them to assess access charges on voice over internet protocol calls. We also estimate that 2,840 competitive and incumbent LECs will have to file intrastate tariffs annually which may require supporting materials to be filed. We also estimate that 2,840 competitive and incumbent LECs will have to make a one-time intrastate tariff filing to establish voice over internet protocol rates at interstate rate levels that may require supporting materials to be filed. Finally, we estimate that 1,340 incumbent LECs annually will certify, as part of their tariff filings to the Commission and to the relevant state commission, that they are not seeking duplicative recovery in the state jurisdiction for any Eligible Recovery subject to the recovery mechanism.

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.

The statutory authority for this collection is contained in: The statutory authority for this collection is contained in: 47 U.S.C. Sections 201, 202, 203, and 251(b)(5) of the Communications Act of 1934, as amended, See 47 U.S.C. Sections 201, 202 and 203, and 251(b)(5).

2. For those services still requiring cost support, TRPs assist in determining whether ILEC access charges are just and reasonable as required under the Act.
3. The TRP format is the same for each company required to file such a document with its interstate tariff filing. State requirements for support materials may vary.
4. The price cap TRP is designed not to duplicate data in other reports. The rate-of-return TRP includes some cost data reported in the Commission's current Automated Reporting and Management

Information System (ARMIS). Any duplication is necessary to put the data in a format suitable for rate analysis. ARMIS has been changed to eliminate certain data requirements so duplication is now much less likely and generally has been superseded by Compliance Plans to be approved by the Commission. We do not know the extent to which state tariff support materials may duplicate other data filed with the state commissions.

The Commission updates the rate-of-return TRP every year to eliminate respondents' requirement to file cost and demand data that may be more than two years old and to bring the TRP into conformance with current Commission policies. Without the TRP, except in exceptional cases, similar data would be unavailable to the Commission. The TRPs are designed to provide data to evaluate forecasts of cost and demand for the coming year which would not be available in other FCC required documents. We are unaware of the extent to which individual state commissions update their support requirements.

5. The collection does not involve small businesses as defined by the Regulatory Flexibility Act. However, the Commission recognizes that the ability of the ILECs to provide supporting material varies depending on the ILECs' size. For example, the Commission does not require a TRP from small companies that file pursuant to Section 61.39.

6. Part 69 of the FCC's rules requires the annual or biennial filing of access rates. In 1993, the Commission changed its rules to allow all ILECs, except price cap ILECs, to make biennial filings. Biennial filing for price cap ILECs are impractical, because the inflation index that impacts the price cap indices are required under our rules to be updated annually. State tariff filings will be required each year because revisions in intrastate tariffed access rates that occur each year.

7. ILECs file interstate tariffs and supporting information, including the TRPs, electronically through the Electronic Tariff Filing System (ETFS). We do not know the extent to which state commissions allow electronic filing of intrastate tariffs and the associated supporting materials.

8. The 60 day notice was published in the Federal Register as required by 5 C.F.R. § 1320.8(d) on January 9, 2012 (77 FR 1069). The Commission did not receive any PRA comments.

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

10. Respondents are not being asked to submit confidential information to the Commission. If the Commission requests respondents to submit information which respondents believe is confidential, respondents may request confidential treatment of such information under Section 0.459 of the Commission's rules.

11. There are no questions of a sensitive nature with respect to the information collected.

12. The following represents the estimates of hour burden of the collection of information:

**A. Reporting Requirement of Supporting Materials for Interstate Tariffs**

(1) Number of respondents: 92.

(2) Frequency of response: Annual or biennial reporting requirements.

(3) Total number of responses annually: 92.

92 respondents x an average of 1 response per year = 92 responses.

(4) Annual hour burden per respondent: 53 hours.

(5) Total annual burden: 4,876 hours.

The Commission estimates that ILECs would make 1 filing per year, which would take approximately 53 hours to prepare.

92 respondents x 1 filing/year x 53 hours = **4,876 hours**.

(6) Total estimate of “in house” cost to respondents: \$268,180.

(7) Explanation of calculation:

The Commission estimates that the average in-house cost for respondents is approximately \$55 an hour.

4,876 hours/year x \$55/hour = \$268,180.

**B. Reporting Requirement of Supporting Materials for Interstate Voice over Internet Protocol Tariffs**

(1) Number of respondents: approximately 92 incumbent LECs. The approximate 238 competitive LECs we estimate will file interstate access tariffs for VoIP service are not required to file supporting materials.

(2) Frequency of response: One-time. Any future filing requirements are covered by existing filing requirements.

(3) Total number of responses annually: 92.

92 respondents x an average of 1 response per year = 92 responses.

(4) Annual hour burden per respondent: 20 hours.

(5) Total annual burden: **1,840 hours**.

The Commission estimates that ILECs would make 1 filing per year, which would take approximately 20 hours to prepare.

92 respondents x 1 filing/year x 20 hours = 1,840 hours.

(6) Total estimate of “in house” cost to respondents: \$101,200.

(7) Explanation of calculation:

The Commission estimates that the average in-house cost for respondents is approximately \$55 an hour.

1,840 hours/year x \$55/hour = \$101,200.

### **C. Reporting Requirement of Supporting Materials for Intrastate Tariffs**

(1) Number of respondents: approximately 2,840.

(2) Frequency of response: One time, on occasion and annual reporting requirements.

(3) Total number of responses annually: Approximately 2,840.

(4) Estimated time per response: Approximately 20 hours. Without surveying the states, it is difficult to estimate the support burden for intrastate tariffs because we do not know the specific state requirements, which likely vary widely.

(5) Total annual burden: **56,800 hours.**

The Commission estimates that approximately 2,840 respondents will require 20 hours of reporting time per filing.

2,840 respondents x 20 hours per response x 1 response per year per respondent = 56,800 hours.

(6) Total estimate of “in house” cost to respondents: \$2,556,000.

(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 and Part 51 requirements comparable in pay to the Federal government, we estimate respondent’s cost to be \$45 per hour. Thus,

56,800 hours x \$45 per hour = \$2,556,000.

### **D. Reporting Requirement of Supporting Materials for One-time Voice over Internet Protocol Intrastate Tariff filing**

(1) Number of respondents: Approximately 2,840.

(2) Frequency of response: One time. Any further filings will be encompassed in the normal tariff filing process.

(3) Total number of responses annually: Approximately 2,840.

- (4) Estimated time per response: 20 hours.
- (5) Total annual burden: Approximately **56,800 hours**.

The Commission estimates that approximately 2,840 respondents will require 20 hours of reporting time per filing.

2,840 respondents x 20 hours per response x 1 response per year per respondent = 56,800 hours.

- (6) Total estimate of “in house” cost to respondents: \$2,556,000.
- (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 and Part 51 requirements comparable in pay to the Federal government, we estimate respondent’s cost to be \$45 per hour. Thus,

56,800 hours x \$45 per hour = \$2,556,000.

#### **E. Certification Requirement**

- (1) Number of respondents: Approximately 1,340.
- (2) Frequency of response: Annually.
- (3) Total number of responses annually: Approximately 2,680.
- (4) Estimated time per response: 0.5 hours.
- (5) Total annual burden: Approximately **1,340 hours**.

The Commission estimates that approximately 1,340 respondents will require 0.5 hours of reporting time per filing.

1,340 respondents x 0.5 hours per response x 2 response per year per respondent = 1,340 hours.

- (6) Total estimate of “in house” cost to respondents: \$60,300.
- (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 and Part 51 requirements comparable in pay to the Federal government, we estimate respondent’s cost to be \$45 per hour. Thus,

1,340 hours x \$45 per hour = \$60,300.

Burden Totals:  $4,876 + 1,840 + 56,800 + 56,800 + 1,340 = 121,656$  total annual burden hours.

13. Estimated cost to the Respondent: None at the interstate level. We are unable to estimate what costs there may be for filing with the state commissions.

14. Estimated cost to the Commission: The cost of the certification review is encompassed in our current tariff review costs.

15. The Commission notes the following adjustments to the previous submission:

(a) There is a program change increase in the burden of 117,056 hours from 4,600 hours as a result of the new reporting requirements in the Order.

(b) The total number of respondents is estimated to be 2,840 as a result of these new reporting requirements.

(c) The annual hour burden is estimated to be between .5 hours and 53 hours per response.

16. The Commission does not anticipate that it will publish any of the information proposed to be collected as a result of the TRP.

17. The Commission does not intend to seek approval not to display the OMB expiration date for OMB approval of the information collected.

18. There are no exceptions to the certification statement.

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

This information collection does not employ any statistical methods.