

SUPPORTING STATEMENT

A. Justification:

1. The Federal Communications Commission (Commission) is requesting that the Office of Management and Budget (OMB) issue the final approval for a non-rule requirement information collection. Specifically, the Commission seeks to put into effect the \$5 million reporting thresholds for the reporting of international message telephone service (IMTS) resale service and international miscellaneous services for which the Commission received pre-approval from OMB in 2011.

On May 12, 2011, the Commission adopted a First Report and Order and Further Notice of Proposed Rulemaking 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, FCC 11-76 (rel. May 13, 2011) (*Part 43 Review Order*). The Further Notice of Proposed Rulemaking portion of the *Part 43 Review Order* (FNPRM), proposed to modify both the international traffic and revenue report and the circuit-status report to streamline them and improve the usefulness of the information the entities filing the reports will submit. The FNPRM also proposed to remove the current sections 43.61 and 43.82 and to consolidate the revised annual traffic and revenue and annual circuit-status reports into a new section 43.62. The FNPRM further proposed to replace the existing filing manuals for each report with one new, consolidated filing manual covering both reports. Among the specific non-rule changes proposed, was the establishment of \$5 million revenue threshold below which a reseller would not need to file traffic and revenue for IMTS. Similarly the Commission proposed a \$5 million revenue threshold for the reporting of each international miscellaneous service.

On July 19, 2011, the Commission published the FNPRM in the Federal Register, and sought comment on the proposed new or modified information collection requirements. See 76 FR 42613. No comments were filed regarding the information collection requirements. OMB pre-approved the proposed information collection requirements and assigned OMB control 3060-1156 to the requirements on September 7, 2011.

On January 9, 2013, the Commission adopted a Second Report and Order 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, FCC 13-6 (rel. Jan. 15, 2013) (*Second Report and Order*). The *Second Report and Order* modified both the traffic and revenue report and the circuit-status report to streamline them and improve the usefulness of the information the entities filing the reports will submit. That order modified both the traffic and revenue report and the circuit-status report to streamline them and improve the usefulness of the information the entities filing the reports will submit. The *Second Report and Order* removed the current sections 43.61 and 43.82 and consolidated the revised annual traffic and revenue and annual circuit-status reports into a new section 43.62. Among the specific non-rule changes adopted were the \$5 million

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revenue threshold for reporting IMTS resale traffic and revenues and the \$5 million revenue threshold for the reporting of each international miscellaneous service, as proposed in the FNPRM. **(These are the requirements that the Commission is seeking final OMB approval with this submission. The requirements were adopted as proposed.)**

At this time the Commission is not able to put Section 43.62 into effect or to implement most of the changes adopted in the *Second Report and Order* due to the need to develop software to allow the filing of the data required under the new reporting requirements. The Commission, however, would like to put in effect the non-rule requirements regarding the reporting \$5 million revenue reporting threshold for IMTS resale and international miscellaneous services since those changes do not require the development and deployment of the software. Implementation of the IMTS resale revenue threshold will eliminate the need for over a thousand small carriers to file traffic and revenue data. Specifically, in 2012, 1,230 carriers filed IMTS resale data. Of those 1,153 had less than \$5 million in revenue and would not have to file traffic and revenue data once the revenue threshold is effective. In 2012 six international miscellaneous services were reported. Of those five were for less than \$5 million and would not have to be reported once the revenue threshold is effective.

The Commission has authority for this information collection under 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, 403.

This information collection does not impact individuals. Therefore, there are no impacts under the Privacy Act.

2. IMTS resale has become a major part of the retail IMTS market and represents a significant and growing portion of the IMTS provided to residential and business end users, and thus the Commission needs information on IMTS resale to protect the interests of U.S. consumers. The IMTS resale market segment has also become important to traditional IMTS carriers, who sell large volumes of wholesale facilities-based IMTS minutes of international telephone calls to IMTS resale carriers. In addition, most facilities-based carriers also engage in extensive resale of IMTS through various subsidiaries. In the *Second Report and Order*, the Commission found that it cannot fully understand the IMTS market without information about resale. The Commission determined that a \$5 million revenue threshold strikes the appropriate balance between capturing a sufficient amount of IMTS resale data useful for analytical purposes and eliminating non-essential reporting requirements for smaller providers who only provide IMTS on a resale basis and whose traffic and revenues comprise a small amount of the total IMTS resale market. In order for the Commission to know which carriers provided international service, a carrier would file with the Commission a statement that it provided resale IMTS but had revenues of \$5 million or less.

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In the *Second Report and Order*, the Commission found that there is continued value in receiving data for international miscellaneous services. Such data can signal the emergence, growth, or decline of miscellaneous services in the international markets, and can provide a mechanism by which filing entities can account for all of their revenues from international telecommunications services. The Commission determined that a \$5 million revenue threshold for reporting international miscellaneous services strikes the appropriate balance between reducing the amount of information filing entities would be required to file and ensuring that we have an accurate view of the market. The revenue threshold would ensure that new services with significant growth would automatically become subject to the reporting requirement when the revenues for that service exceed \$5 million and that declining services would no longer be reported when the revenues fall below the threshold.

3. An IMTS resale carrier that falls under the \$5 million threshold would file a letter with the Commission stating that it provided IMTS resale service but that its IMTS resale revenues were \$5 million or less. A carrier that provided an international miscellaneous service with revenue of \$5 million or less would not file any information regarding that service.

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

5. The revenue thresholds adopted in the *Second Report and Order* continue the overall review of the Commission's international reporting requirements that the Commission initiated in 2004 with a Notice of Proposed Rulemaking (NPRM) (FCC 04-70). In the NPRM, the Commission had proposed a number of ways to simplify the information that the carriers, both small and large, must submit for any traffic and revenue reports. In the First Report and Order portion of the *Part 43 Review Order*, the Commission retained the annual traffic and revenue report, with a few modifications. The *Second Report and Order* further streamlined and modernized the international reporting requirements, including the establishment of the revenue thresholds. These minimize the economic impact on small entities to the greatest extent possible, while ensuring that the Commission gets the complete information it needs to discharge its regulatory obligations.

6. If the information collection were not conducted or were 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

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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. There are no special circumstances that would prevent the Commission from following all guidelines regarding the information collection.

8. The Commission published a 60 day notice in the *Federal Register* pursuant to 5 CFR § 1320.8(d) for the Further Notice of Proposed Rulemaking. See 76 FR 42613, dated July 19, 2011, seeking comments from the public on the information collection requirements contained in this supporting statement. No comments were received from the public.

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

10. The Commission has generally treated the IMTS resale and international miscellaneous data submitted pursuant to Section 43.61 as non-confidential. However, the Commission allows carriers to request proprietary treatment for specific pieces of information under exceptions to the Freedom of Information Act. See 47 CFR 0.459. At this time, the Commission will continue its policy of generally making the carriers’ IMTS resale and international miscellaneous service data available to the public.

11. The Commission does not propose to collect information from the public, only from telecommunications common carriers. As a result, there are no personal questions of a sensitive nature proposed to be from the public.

12. Estimate of Burden Hours for Information Collection:

The following represents the estimated hour burden of the information collections for the 1,153 IMTS resale service and international miscellaneous service providers with \$5 million or less in revenue:

| Estimate of Burden Hours: | | | | |
|-----------------------------------|---------------------|---------------------|---------------------|---------------------|
| Explanation | Number | Frequency | Time | Annual |
| of Burden Estimate | Of Responses | of Responses | Per Response | Burden Hours |
| IMTS Resale letter filings | 1,153 | Annual | 1 Hour | 1,153 Hours |

| | | | | |
|---------------|--------------|--|--|------------------------|
| Totals | 1,153 | | | 1,153 Hours |
|---------------|--------------|--|--|------------------------|

In-House Costs: In house staff paid at \$35/hour will fulfill the requirements. Therefore, the in-house costs are as follows: 1,153 hours x \$35/hour = **\$40,355**.

13. Estimated Annual Cost Burden to Respondents to Comply with Information Collection is as follows:

- (a) Total Capital and Start-up Costs: **Zero**.
- (b) Total Operation and Maintenance and Purchase of Services: **Zero**.

Resale IMTS providers are not likely to require review of their filings by outside legal counsel.

(c) Total Annual Costs: Zero.

- 14. There is no cost to the Federal Government for this collection of information.
- 15. This information collection once approved by OMB will add to OMB’s inventory the following: 1,153 respondents, 1,153 responses and 1,153 burden hours.
- 16. The Federal Communications Commission reviews, consolidates and releases the collected traffic and revenue information and the collected circuit-status information to the public.
- 17. OMB approval of the expiration date of the information collection will be displayed at 47 C.F.R. Section 0.408.
- 18. There are no other 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.