

This submission is being made pursuant to 44 U.S.C. §3507 of the Paperwork Reduction Act of 1995. The Commission is seeking to extend this existing collection from the Office of Management and Budget (OMB) in order to obtain the full three-year approval.

## SUPPORTING STATEMENT

### **A. Justification:**

1. The Report and Order and Order on Reconsideration (Order), FCC 11-50, adopted rules that relate to implementation of section 224 pole attachment access rules. Specifically, the pole attachment access rules create a series of deadlines or “timeline” by which communications providers (“attachers”) request and receive permission from electric utilities and incumbent LECs (“pole owners” or “utilities”) to attach facilities to utility poles (“access”). A denial (or partial grant) of access by a utility must include all relevant evidence and information, and explain how the evidence and information relate to lack of capacity, safety, reliability or engineering standards. In practice, this requirement causes the utility to survey the requested poles where access is requested and to perform an engineering analysis.

Other paperwork burdens are triggered during the pole-preparation stage of the timeline (“make-ready”). These include sending letters of notification to any known entities with existing attachments and the requesting attacher. Such notification letters are sent when a make-ready schedule is established. If the make-ready period is interrupted; and if a pole owner asserts its right to one 15-day extension of time, notification letters are also required. Pole owners both perform and coordinate make-ready work.

Additionally, the Order adopted a rule requiring utilities to post a list of approved contractors, and required new attachers that use contractors to perform pole attachment surveys or make-ready work in lieu of the utility using its own workers to choose from among approved contractors. If an attacher uses a utility-approved contractor, it must notify the utility, and invite the utility to send a representative to oversee the work.

Finally, the Order also broadens the existing enforcement process by permitting incumbent local exchange carriers (LECs) to file complaints alleging that the attachment rates demanded by electric utilities are unreasonable. The Order also encourages incumbent LECs that benefit from lower pole attachment costs to file data at the Commission that demonstrate that the benefits are being passed on to consumers.

*See item 6 of this Supporting Statement for specific information collection requirements.*

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

Statutory authority for this information collection is contained in 47 U.S.C. section 224.

2. Arranging for access to poles involves requests, responses, and coordination among pole owners, requesting attachers, and parties that own facilities that are already attached to the poles. The Commission adopted regulations that formalize communication among the parties, and thus impose a paperwork burden. Also, incumbent LECs that have lower pole attachment rates as a result of their access to the Commission's pole attachment complaint process must file data at the Commission demonstrating that the benefits of lower pole attachment costs are being passed on to consumers.
3. The use of information technology would depend upon the parties. Much inter-party communication could probably be accomplished by e-mail and web postings, but paper letters and invoices will likely also be used. Any data filed at the Commission would almost certainly be automated, but no new collection of data is required. Some entities may file data that they collect for other purposes, but the only burden triggered by the rules and analyzed below relates to the burden of filing, and not the original collection.
4. Not applicable. Each request for access is unique. There is no similar data available.
5. Small utilities are subject to requests for access to poles, but the paperwork burden is as light as possible consistent with the utility's own record-keeping standards.
6. Each new rule governing access to pole attachments is required to ensure the process is just and reasonable, and consistent with safety, reliability, and sound engineering. The following information collection requirements are adopted:

**Section 1.1420.** The Commission adopted a comprehensive timeline to set standards of timeliness when a telecommunications carrier or cable operator requests access to poles. Attachers trigger the timeline when they present a complete application to attach their facilities. Requests for access to a utility's poles must be in writing. If the utility denies access, or grants access conditioned on preparation of the poles, it must explain the denial or grant of access in writing by the 45th day. The writing must include all relevant evidence and information, and explain how the evidence and information relate to lack of capacity, safety, reliability or engineering standards. In practice, this requirement causes the utility to survey the requested poles where access is requested and to perform an engineering analysis. The survey and analysis are required to accommodate attachers, as the utility must under section 224, and also to preserve the structural integrity of its poles, as required by state law.

In addition to preparing the survey and engineering analysis, utilities must notify other attachers of the new attachment; and may direct the sequence in which existing attachers move their attachments to make room for the new attachment. If the utility deviates from the timeline, it must notify the attacher and all affected entities. If a utility needs more time to complete make-ready, it may take 15 additional days, but the utility must notify the attacher in writing in order to assert this right.

**Section 1.1422.** The Commission requires utilities to make available a list of authorized contractors. If the prospective attacher hires an authorized contractor to complete a survey or preparation of the poles, section 1.1422 requires the prospective attacher to invite a representative of the utility to oversee the contractor's work.

**Section 1.1424.** The Commission broadens the existing enforcement process by permitting incumbent local exchange carriers (LECs) to file complaints alleging that the attachment rates demanded by electric utilities are unreasonable. The Commission also encourages incumbent LECs to file data at the Commission that demonstrate that the benefits of lower pole attachment costs are being passed on to consumers.

The consequences of not adopting a comprehensive set of rules to govern pole attachment access include delays in access that are unfair and unreasonable; failure to protect the legitimate rights and interest of the pole owners, existing attachers, and new attachers; suppression of competition to provide telecommunications or video services; retardation of broadband deployment; or self-help resulting in unauthorized and potentially hazardous attachments to utility infrastructure.

7. No special circumstances will apply to this information collection.

8. Pursuant to 5 CFR § 1320.8, The Commission published a 60 day notice in the *Federal Register* soliciting comments from the public on November 3, 2014 (79 FR 65211). No comments were received from the public.

9. There are no payments or gifts to respondents.

10. No questions of a confidential nature are asked.

11. This collection does not address any private matters or matters of a sensitive nature.

12. We analyze and estimate the hour and cost burdens of the new rules below. As a preliminary matter, we explain the methodology we use to arrive at estimates of entities (respondents) affected by these pole attachment rules. In the context of pole attachment rules, respondents include two groups: those seeking to attach their facilities to utility poles (attachers), and those who own the poles on which attachment is sought (pole owners). When a rule calls for paperwork on both sides the burdens are analyzed separately.

Attachers include telecommunications carriers (a term which, for purposes of pole attachments, includes wireless carriers but excludes incumbent LECs) and cable systems operators. Although the incumbent LECs also attach facilities to utility poles, they typically do so under joint use agreements, and are not considered "attachers" for purposes of the pole attachment access rules. Utility poles that are regulated by the Commission are predominantly owned or controlled jointly by investor-owned electric utilities and incumbent LECs. For present purposes, we count only the incumbent LECs as owners because we believe that pole

owners divide between each other the burden and cost of processing pole attachment requests. Therefore, to include both pole owners would result in double counting. In reality, electric utility owners will in many cases be the respondent as to a particular pole, and the incumbent LEC will not.

We draw our estimates of attachers and incumbent LECs from the Order's Final Regulatory Flexibility Analysis (FRFA). The Commission regulates roughly 49 million of the estimated 135 million utility poles nationwide, which is roughly 35 percent of all poles. (The Commission does not regulate poles that are regulated by 20 states, or are owned by municipalities or cooperatives). Therefore, we multiply FRFA nationwide estimates of affected categories by 35 percent to arrive at a reasonable proxy of the numbers of entities affected by the Commission's new pole attachment rules. Consistent with the estimates for paperwork associated with pole attachment complaints in OMB Control No. 3060-0392, other numbers are based on FCC staff's knowledge and familiarity with the availability of the data required.

Pole Owners; attachers under joint use agreements

- Incumbent LECs: 750 nationwide x .35 = 263 (rounded up) for pole attachments

Attachers under the statutory right of access

- Cable Systems Operators: 660 nationwide x .35 = 231 for pole attachments
- Telecom. Carriers: 940 nationwide x .35 = 329 for pole attachments
- Total 560 for pole attachments

Total number of respondents: 263 Pole Owners + 560 Attachers = 823<sup>1</sup>  
respondents

**47 C.F.R. § 1.1420**

Part 1:

If an attacher requests access, the pole owner must inspect the requested poles and prepare a written answer that includes an engineering analysis. The answer is sometimes called a "survey." Thus, part 1, the paperwork burden associated with surveys, applies to both attachers and pole owners, but not in the same way. Therefore, we estimate the burden on pole owners and attachers separately, and in that order.

Pole Owners:

- (1) Number of respondents: Approximately 263.
- (2) Frequency of response: Approximately 15 per year per utility; 3,945 industry-wide total.
- (3) Annual burden per response: Approximately 40 hours per response.

The total annual hour burden is 600 hours per utility; 157,800 hours industry-wide.

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<sup>1</sup>According to the Commission's latest estimate in its report on Local Telephone Competition (June 2014, Table, 17, [www.fcc.gov/encyclopedia/statistical-reports-telephone-and-broadband-services](http://www.fcc.gov/encyclopedia/statistical-reports-telephone-and-broadband-services)) indicates that there are 754 incumbent LECs and 940 Non-incumbent Local Exchange Carriers (Non-ILECs). This downward trend is attributed to the consolidation of incumbent LECs and we round that number to 750; therefore, the number of respondents has changed. Additionally, there is a decrease in the number of Cable Service Providers which is now 660. This information was obtained from <http://www.ncta.com/industry-data>.

(4) Total estimate of the annualized cost to respondents for the hour burdens for collection of information: Approximately \$13,800 per utility per year; **\$3,629,400** industry-wide.

(5) Explanation of calculation: We estimate the average time it takes to conduct a survey and draft a fully explanatory written answer as approximately 40 hours per response. Thus, we estimate that the total annual hour burden is 15 requests x 40 hours per request = 600 hours per utility. 600 hours x 263 pole owners = 157,800 hours industry-wide.

Surveys likely require moderately experienced engineers. The average hourly wage of an experienced engineer is between \$23 and \$53. Because we estimate that pole attachment surveys requires only moderately experienced engineers, we estimate the hourly rate at the low end of the experienced-engineer range, and estimate that, on average, pole owners pay a \$23-per-hour wage for these projects.

[http://www.payscale.com/research/US/Job=Mechanical\\_Engineer/Hourly\\_Rate](http://www.payscale.com/research/US/Job=Mechanical_Engineer/Hourly_Rate)

\$23 per hour x 600 hours = \$13,800 per utility x 263 pole owners = \$3,629,400 annual cost to pole owners.

Attachers:

(1) Number of respondents: Approximately 560.

(2) Frequency of response: Approximately 6.8 per attacher; roughly 3,808 industry total.

(3) Annual burden per response: Approximately 20 hours per response

The total annual hour burden per attacher is 136 hours; 76,160 hours industry-wide..

(4) Total estimate of the annualized cost to respondents for the hour burdens for collection of information: Approximately **\$1,751,680** per year.

(5) Explanation of calculation:

We start with the number of attachers and the number of requests, which is roughly the same for attachers as for pole owners. That is, for every pole owner's answer there must be a request to attach from an attacher;  $3808/560 =$  approximately 6.8 requests per attacher. We further estimate that preparing each request takes on average 20 hours.

Attachers require an engineer to prepare attachment requests that are sufficiently thorough for performance of a comprehensive field survey by the utility. Therefore, we assume that the skills required for attachers to prepare applications are similar to the skills required by pole owners to process and conduct surveys. For that reason, we assign the same hourly wage to attachers that we do to pole owners: \$23 per hour.  $\$23 \times 20$  hours per request = \$460.  $\$460 \times 3808$  responses = \$1,751,680 per year industry-wide.

Subtotal for part 1: owners: 157,800+ attachers: 76,160 = 233,960 total hours  
owners: \$3,629,400 + attachers: \$1,751,680 = \$5,381,080

Part 2: Letter from utility to existing attachers announcing time and location of work to prepare for a new attachment; setting due date for completion; and identifying a contact at the utility:

(1) Number of respondents: Approximately 263 pole owners.

(2) Frequency of response: Approximately 45 per pole owner per year;  $45 \times 263$  pole owners = **11,835** industry-wide.

(3) Annual burden per response: Approximately 15 requests x 3 letters = 45 hours per pole owner; 45 hours per pole owner x 263 pole owners = **11,835** hours.

(4) Total estimate of the annualized cost to respondents for the hour burdens: **\$15 per letter x 45 letters = \$675 per pole owner. \$675 x 263 pole owners = \$177,525 industry wide.**

(5) Explanation of calculation: The burden hours of letters of notification of a request to attach include identifying the proper recipients (presumably on file) and sending the letters. The letters will probably be mostly pre-drafted forms and some event-specific descriptions.

We estimate that this obligation will generate 3 letters per request: one letter to a cable systems operator, one letter to a competitive LEC, and one letter to the new attacher. We have estimated 15 requests per pole owner times 263 pole owners equals 3,945 requests annually. Each request generates 3 letters of notification, for a total of 11,835 letters annually industry wide. While we do not believe, based on the record, that every request for attachment requires make-ready, we use this number to be conservative. The 11,835 letters will on average take roughly 1 hour each to prepare. Total: 11,835 hours. We estimate that the work will be performed by an administrative office manager. Administrative office manager salary = \$15 per hour. <http://www.payscale.com/research/US/Country=United States/Hourly Rate>  
 $\$15 \times 11,835 = \$177,525$  per year

Subtotal for part 2: 11,835 hours; \$177,525

Part 3: Directing sequence of rearrangement of facilities.

(1) Number of respondents: Approximately 263.

(2) Frequency of response: Approximately **15** per year per utility; industry total **3,945 per year**.

(3) Annual burden per response: **48** hours per request; 48 hours x 3,945 responses = **189,360** hours industry-wide.

(4) Total estimate of the annualized cost to respondents for the hour burdens: **\$3,092,800 per year.**

(5) Explanation of calculation:

The burden hours of directing a sequence of rearrangement of facilities include letters, e-mail, and telephone calls to existing attachers (performed by an administrative office manager) and recordkeeping of modification of poles to accommodate new attachers (performed by engineers). We estimate that this obligation will apply to approximately 3,945 requests per year, and will require 40 hours of administration per request: 40 x 3,945 requests industry-wide = 157,800 total hours of office work. (While we do not believe, based on the record, that every request for attachment requires make-ready, and thus the need to direct rearrangement of facilities, we use the same number to be conservative.)

We estimate that the office work will be performed by an administrative office manager. Administrative office manager salary = \$15 per hour.

<http://www.payscale.com/research/US/Country=United States/Hourly Rate>

Subtotal of office work costs:  $\$15 \times 40$  hours of office work per request = \$600;  $\$600 \times 3,945$  requests industry wide = \$2,367,000 annually.

We estimate the cost of recordkeeping performed by moderately experienced engineers at \$23 per hour.

<http://www.payscale.com/research/US/Job=Mechanical Engineer/Hourly Rate>

$\$23 \times 8$  hours (8 hrs x 3,945 requests = 31,560 hrs) per request = \$184.  $\$184 \times 3,945$  requests per year = \$725,880 subtotal for engineering costs =

$\$2,367,000$  administrative costs +  $\$725,880$  engineering costs =  $\$3,092,880$ .

Subtotal for part 3:

189,360 hours; \$3,092,880

Part 4: Letters from pole owner to new and existing attachers in case of deviation from the timeline, and from pole owner to new attacher if the utility asserts its right for 15 additional days to complete make-ready.

(1) Number of respondents: Approximately 263.

(2) Frequency of response: Approximately 3 letters per request x 3,945 requests annually industry wide = **11,835** industry-wide.

(3) Annual average burden per response: Approximately 11,835 letters at 1 hour each = **11,835** hours industry wide.

(4) Total estimate of the annualized cost to respondents for the hour burdens: **\$177,525**.

(5) Explanation of calculation:

We estimate that letters either announcing a deviation from schedule or asserting the right to 15 additional days will require roughly 3 letters each.  $3 \times 3,945 = 11,835$ . These letters will probably be pre-drafted form letters and require one hour each. We estimate that the work will be performed by an administrative office manager. Administrative office manager salary = \$15 per hour.

[http://www.payscale.com/research/US/Country=United\\_States/Hourly\\_Rate](http://www.payscale.com/research/US/Country=United_States/Hourly_Rate)

Total estimated cost:  $\$15 \times 11,835 = \$177,525$  per year.

Subtotal for part 4:

11,835 hours; \$177,525

In sum:

Subtotal for part 1: 233,960 hours (owners: 157,800 + attachers: 76,160)  
owners: \$3,629,400 + attachers: \$1,751,680 = \$5,381,080

Subtotal for part 2:

11,835 hours; \$177,525

Subtotal for part 3:

189,360 hours; \$3,092,880

Subtotal for part 4:

11,835 hours; \$177,525

Total for Section 1.1420:

$233,960 + 11,835 + 189,360 + 11,835 = 446,990$  hours

$\$5,381,080 + \$177,525 + \$3,092,880 + \$177,525 = \$8,829,010$

### **Section 1.1422:**

Authorized contractors:

Burden on pole owners

Part 1: Posting approved contractors

- (1) Number of respondents: Approximately 263.
- (2) Frequency of response: Approximately **1** per pole owner per year; **263 industry-wide**.
- (3) Annual burden per response: **6** hours for web posting or update of authorized contractors per year. The total annual burden is: **6 hours** per pole owner; **1,578 industry-wide**.
- (4) Total estimate of the annualized cost to respondents for the hour burdens: **\$23,670**.
- (5) Explanation of calculation: The annual burden hours for web posting (both initial post and updates) of authorized contractors are estimated at approximately 6 hours, and will affect 263 pole owners.  $6 \times 263 = 1,578$ . We estimate that the work will be performed by an administrative office manager. Administrative office manager salary = \$15 per hour.  
[http://www.payscale.com/research/US/Country=United\\_States/Hourly\\_Rate](http://www.payscale.com/research/US/Country=United_States/Hourly_Rate)  
 Total estimated cost:  $\$15 \times 1,578 = \$23,670$ .

#### Burden on attachers

Part 2: Invitation to pole owners to accompany contract workers:

- (1) Number of respondents: Approximately 560.
- (2) Frequency of response: Approximately 1 per year per attacher; **560** industry-wide.
- (3) Annual burden per response: 1 hour for sending or receiving and responding to invitations to accompany contract workers:
- (4) Total estimate of the annualized cost to respondents for the hour burdens: **\$8,400**.
- (5) Explanation of calculation: Attachers employ contractors as a remedy if pole owners fail to meet timeline deadlines. We estimate a failure rate of 1 or less per year, or 560 industry-wide. If the attacher uses contractors, it must send a letter to both the electric utility and the incumbent LEC to oversee the quality of the contractor's work. We anticipate that the letters of invitation will be brief form letters, so we estimate .5 hours per letter.  $2 \text{ letters} \times .5 \text{ hours} = 1 \text{ hour per attacher}$ .  $1 \times 560 = 560 \text{ hours industry-wide}$ . We estimate that the work will be performed by an administrative office manager. Administrative office manager salary = \$15 per hour.  
[http://www.payscale.com/research/US/Country=United\\_States/Hourly\\_Rate](http://www.payscale.com/research/US/Country=United_States/Hourly_Rate)  
 Total estimated cost:  $\$15 \times 560 = \$8,400$  industry-wide.

The combined hour burden on both attachers and pole owners of section 1.1422 = 2,138 hours (1,578 for pole owners + 560 for attachers).

The combined cost burden on attachers and pole owners of section 1.1422 = \$32,070 (\$23,670 for pole owners and \$8,400 for attachers).

The combined responses from attachers and pole owners = 823 responses (263 for pole owners + 560 for attachers = 823 responses)

#### **Section 1.1424.**

Part 1. Incumbent LECs entitled to file pole attachment complaints.

Consistent with our estimates of affected incumbent LECs and OMB Control No. 3060-0392, which estimates the burden of filing a pole attachment complaint, we estimate the following additional burden:

- (1) Number of respondents: Approximately 263.
- (2) Frequency of response: Approximately **3** per year. (Industry-wide total; not "per incumbent LEC")



- (3) Annual burden per response: 100 hours per complaint (all aspects) = 300 hours total per year
- (4) Total estimate of the annualized cost to respondents for the hour burdens: 300 hours/year at \$175 (in-house lawyers) = **\$52,500**
- (5) Explanation of calculation: The burden hours for filing a pole attachment complaint are drawn from 3060-0392 (pole attachment complaints) and applied to incumbent LEC industry.

Part 2. This rule provides complaint and enforcement procedures for incumbent LECs to ensure that rates, terms, and conditions of their access to pole attachments are just and reasonable. The Commission will monitor how the outcome of this rule will result in promised consumer benefits and expects “incumbent LECs to provide data to the Commission on an ongoing basis demonstrating the extent to which these benefits are being realized.”

- (1) Number of respondents: Approximately  $263 \times 50\% = 132$  (rounded up).
- (2) Frequency of response: An average of **13** incumbent LECs per year (10% of 132), including those that file complaints or reach negotiated agreements.
- (3) Annual burden per response: 1 hour.
- (4) Total estimate of the annualized cost to respondents for the hour burdens: \$175 (1 hour/year at \$175 per hour (in-house lawyer))  $\times$  13 incumbent LEC per year = **\$2,275** per year.
- (5) Explanation of calculation: Out of 263 possible incumbent LECs, we estimate that 50% of these will be affected by the Commission’s rule permitting incumbent LECs to bring complaints before the Commission to ensure just and reasonable pole attachment rates, terms, and conditions. This includes incumbent LECs that may either bring complaints or negotiate more favorable agreements as a result of the rule’s implementation. In calculating the frequency of response, we estimate that about 10% of the total respondents affected, or 13 incumbent LECs, might file data annually.

The combined estimated hour burden of Section 1.1424 on incumbent LECs =  $(300 + 13) = 313$  hours.

The combined estimated cost burden Section 1.1424 on incumbent LECs =  $(\$52,500 + \$2,275) = \$54,775$  per year.

The combined estimated responses for 1.1424 = 16.

In sum:

**Total Number of Respondents: 823 respondents**

(263 pole owners + 560 attachers = 823 respondents)

**Total Number of Responses Annually: 36,207 responses**

(1.1420: 35,368 responses + 1.1422: 823 responses + 1.1424: 16 responses = 36,207 responses)

**Total Annual Hourly Burden for the Collections: 449,441 hours**

(1.1420: 446,990 hours + 1.1422: 2,138 hours + 1.1424: 313 hours = 449,441 hours)

**Total Annual “In-house” Cost to Respondents: \$8,915,855**

(1.1420: \$8,829,010 + 1.1422: \$32,070: 1.1424: \$54,775 = \$8,915,855)

All estimates exclude any paperwork associated with “customary and usual business practices” including, for example, the generation, review, or payment of invoices, other than for work performed for the benefit of third parties.

13. There are no outside contracting costs to the respondents.

14. There are no annualized costs to the federal government.

15. The Commission is reporting a change in the number of respondents, annual responses and annual burden hours in this submission. We have adjusted the number of respondents from 1,278 to 823 (-455 respondents) which is based on a consolidation of incumbent LECs. They decreased from 1311 to 750 nationwide; there is also a decrease in Non-ILECs from 1439 to 940 nationwide and a decrease in Cable Services Providers from 1076 to 660 nationwide. The annual number of responses has decreased from 54,932 to 36,207 (-18,725 responses) and the annual burden hours decreased from 683,169 to 449,441 (-233,728 burden hours). These adjustments are reflected in the supporting statement.

16. The Commission does not intend to publish any information at this time.

17. The Commission does not intend to seek approval not to display the OMB expiration date for OMB approval of the information collection. The Commission publishes a list of OMB-approved information collections displaying the OMB control number, OMB expiration date and title of each collection in 47 CFR 0.408 of the Commission’s rules.

18. There are no exceptions to the Certification Statement.

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

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