

Part 61, Tariffs (Other than the Tariff Review Plan)

This submission is being made pursuant to 44 U.S.C. § 3507 of the Paperwork Reduction Act of 1995 to extend this collection.

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. 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.

Part 61 of the Commission's rules establishes the procedures for filing interstate 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.

Part 51 of the Commission's rules requires certain local exchange carriers to file interstate and/or intrastate tariffs to transition certain interstate and intrastate switched access and reciprocal compensation rates to bill-and-keep. This subpart uses the tariffing procedures of Part 61 to govern the interstate tariff filings required by Part 51. Tariffs that are required by Part 51 to be filed with state commissions are to use the relevant state procedures.

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

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*).

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.

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.

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*).

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*).

In a Further Notice of Proposed Rulemaking (FNPRM) 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. OMB pre-approved the modified burden estimates for this proposed revision on April 19, 2011. On November 18, 2011, the Commission released the *USF/ICC Transformation Order*, FCC 11-161, published at 76 FR 73830, November 29, 2011, in which the Commission adopted substantially equivalent rules to those proposed in the FNPRM that would not alter the earlier burden estimates.

On November 18, 2011, the Commission adopted the *USF/ICC Transformation Order*, FCC 11-161, that requires or permits 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.

On April 25, 2012, the Commission adopted a Second Order on Reconsideration FCC 12-47, that modifies our rules to permit LECs, prospectively, to tariff a rate equal to their intrastate originating access rates when they originate intrastate toll VoIP traffic until June 30, 2014. We estimate that 2,840 competitive and incumbent local exchange carriers will have to make a one-time intrastate tariff filing to establish VoIP rates at intrastate rate levels until June 30, 2014.

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 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 and State Commissions 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. Beginning January 18, 2012, all carriers, both domestic and international, are required to file interstate and international tariffs (where still mandated or permitted) electronically using the Commission's Electronic Tariff Filing System.⁹ We are unable to estimate the number of filings with state commissions that can be made electronically, or how many will need to be filed by paper.

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

⁹ *Electronic Tariff Filing System (EFTS)*, WC Docket No. 10-141, Report and Order, 26 FCC Rcd 8884 (2011).

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 and state commissions 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.

7. Sections 51.907 and 909 of the Commission's rules, among other things, require incumbent local exchange carriers to file tariffs with state commissions. We do not know the extent to which any state commission may require that more than an original and two copies of a tariff filing be filed. If that is the case, we believe that state commissions have determined that multiple copies are needed for it to perform its functions.

8. The Commission published a 60 day notice in the Federal Register initiating a 60-Day comment period on February 2, 2015 (80 FR 5529). No PRA comments were received as a result of the notice.

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. There are no questions of a sensitive nature with respect to this information collection.

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.

A. Reporting Requirement of Interstate Tariffs

- (1) Number of respondents: Approximately 670.
- (2) Frequency of response: One-time, on occasion and biennial reporting requirements.
- (3) Total number of responses annually: Approximately 1,340.
- (4) Estimated time per response: 50 hours.
- (5) Total annual burden: **67,000 hours.**

The Commission estimates that approximately 670 respondents will require 50 hours of reporting time per filing.

670 respondents x 50 hours per response x 2 responses per year per respondent = 67,000 hours.

- (6) Total estimate of "in-house" cost to respondents: \$3,015,000.

- (7) Explanation of calculation:

It is difficult to provide a sound estimate of respondent's cost without conducting a survey. However, the Commission estimates that the average in-house cost for respondents is approximately \$45 per hour. Thus,

67,000 hours x \$45 per hour = \$3,015,000.

B. Reporting Requirement for One-time Filing to Incorporate Voice over Internet Protocol in Competitive and Incumbent LEC Interstate Tariffs

(1) Number of respondents: Approximately 330, although the number is difficult to estimate because the number of competitive LECs that use VoIP is unknown.

(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 330.

(4) Estimated time per response: 20 hours.

(5) Total annual burden: **6,600 hours**.

The Commission estimates that approximately 330 respondents will require 20 hours of reporting time per filing.

330 respondents x 20 hours per response x 1 response per respondent = 6,600 hours.

(6) Total estimate of "in-house" cost to respondents: \$297,000.

(7) Explanation of calculation:

It is difficult to provide a sound estimate of respondent's cost without conducting a survey. However, the Commission estimates that the average in-house cost for respondents is approximately \$45 per hour. Thus,

6,600 hours x \$45 per hour = \$297,000.

C. Reporting Requirement of 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: 30 hours.

(5) Total annual burden: **85,200 hours**.

The Commission estimates that approximately 2,840 respondents will require 30 hours of reporting time per filing.

2,840 respondents x 30 hours per response x 1 response per year per respondent = 85,200 hours.

(6) Total estimate of “in-house” cost to respondents: \$3,834,000.

(7) Explanation of calculation:

It is difficult to provide a sound estimate of respondent’s cost without conducting a survey. However, the Commission estimates that the average in-house cost for respondents is approximately \$45 an hour. Thus,

85,200 hours x \$45 per hour = \$3,834,000.

D. Reporting Requirement of Voice over Internet Protocol Intrastate Tariff filings by Competitive and Incumbent LECs

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

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

(3) Total number of responses annually: Approximately 5,680.

(4) Estimated time per response: 20 hours.

(5) Total annual burden: **113,600 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 2 response per year per respondent = 113,600 hours.

(6) Total estimate of “in-house” cost to respondents: \$5,112,000.

(7) Explanation of calculation:

It is difficult to provide a sound estimate of respondent’s cost without conducting a survey. However, the Commission estimates that the average in-house cost for respondents is approximately \$45 per hour. Thus,

113,600 hours x \$45 per hour = \$5,112,000.

Total respondents: 670 + 330 + 2,840 = 3,840

Total responses: 1,340 + 330 + 2,840 + 5,680 = 10,190

Total annual burden: 67,000 + 6,600 + 85,200 + 113,600 = 272,400 hours

Total Annual In-House Costs:

- A. \$3,015,000
- B. \$ 297,000
- C. \$3,834,000
- D. \$5,112,000

Total: \$12,258,000

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: \$1,519,700.

Respondents are subject to a \$910 filing fee, for all interstate tariff submissions, not just the increase in filings addressed herein. We are unable to estimate what, if any, intrastate filing fees there may be. Thus:

$$(1,340 + 330) \text{ filings} \times \$910 = \$1,519,700.$$

- (3) **Total annualized cost requested: \$1,519,700.**

14. Annualized cost to the Federal government to handle all tariffs has been estimated to be approximately \$1,073,406. Without conducting a survey, we are unable to estimate the cost to state commissions of reviewing the tariff filings that will be made with them.

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 Agenda and Publications Group. 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 updates from the previous submission:

- (a.) The tariff filing fee has increased from \$845 to \$910 and the total O&M cost is now \$1,519,700. The O&M cost was miscalculated in the 2012 Supporting Statement and there is now a \$2,012,400 decrease in the total annualized cost (from \$3,532,100 to \$1,519,700).
- (b.) The number of respondents was miscalculated in the 2012 Supporting Statement and should be 3,840 rather than 3,140.
- (c.) With this submission, the Commission is correcting the estimates to the number of respondents and total annualized costs which are now reflected in the supporting statement.

There are no program changes.

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.

B. Collections of Information Employing Statistical Methods:

This information collection does not employ any statistical methods.