

SUPPORTING STATEMENT

This submission is being made pursuant to 44 U.S.C. § 3507 of the Paperwork Reduction Act of 1995 to revise the existing approval and obtain the full three-year clearance.

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 (CLECs) 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) that 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. ILECs having 50,000 or fewer access lines do not have to file any supporting material unless requested to do so.

In the *Open Internet Order* (FCC 15-24),<sup>1</sup> the Commission adopted rules that, among other things, reclassify broadband Internet access service as a telecommunications service under Title II. Providers of retail mass market broadband Internet access services must offer the service as a Title II telecommunications service. Rate-of-return ILECs that have elected to offer retail mass market broadband Internet access services as a Title II (without forbearance) prior to the *Open Internet Order* may continue to do so. Alternatively, they can opt into the Open Internet framework specified in the Order after notifying the Wireline Competition Bureau.

Through forbearance, the Commission has allowed those ILECs whose petitions have 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 the *USF/ICC Transformation Order*, FCC 11-161,<sup>2</sup> 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 incumbent LECs will be able to assess end users a monthly charge to recover some or all of the revenues were permitted to recover resulting from reductions in intercarrier compensation rates.

There are approximately 96 incumbent LECs that file interstate tariffs, including ILECs that file pursuant to price cap regulations under Section 61.41-61.49 of the Commission's rules and ILECs that file their own tariffs pursuant to rate-of-return regulation under Section 61.38 of the Commission's rules. Forty ILECs file their own tariffs pursuant to Section 61.39 of the Commission's rules. National Exchange Carrier Association (NECA) files one TRP for approximately 1,000 Section 61.38 and 61.39 ILECs.

We estimated that 2,840 competitive and incumbent LECs would have to file intrastate tariffs annually which may require supporting materials to be filed. We also estimated that 1,340 incumbent LECs annually would certify, as part of their tariff filings to the Commission and to the relevant state commissions, that they are entitled to recovery amounts indicated in their filings and that they are not seeking duplicative recovery in the state jurisdiction for any Eligible Recovery subject to the recovery mechanism.

On March 23, 2016, the Commission adopted the *Rate-of-Return Order*,<sup>3</sup> reforming universal service for rate-of-return LECs. These reforms require rate-of-return LECs to make tariff filings with the necessary support materials outside the normal annual filing period. We estimate that 95 carriers will

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<sup>1</sup> *Protecting and Promoting the Open Internet*, GN Docket No. 14-28, Report and Order on Remand, Declaratory Ruling and Order, 30 FCC Rcd 5601 (2015) (*Open Internet Order*).

<sup>2</sup> *Connect America Fund et al.*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (*USF/ICC Transformation Order*).

<sup>3</sup> *Connect America Fund et al.*, WC Docket Nos. 10-90 and 14-58, CC Docket No. 01-92, Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 16-33 (adopted May 23, 2016) (*Rate-of-Return Order*).

have to make a one-time filing to implement the requirements of the Order, and that NECA will have to make two tariff filings to implement the Order. These filings will include supporting materials and a certification of the data by an officer of the company. Subsequent filings are covered by existing PRA approvals.

We estimate that 1,064 incumbent LECs will on a one-time basis certify, as part of their tariff filings to the Commission and the relevant state commissions, that they are entitled to recovery amounts indicated in their filings and they are not seeking duplicate recovery in the state jurisdiction for any Eligible Recovery subject to the recovery mechanism.

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: 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. ILECs file interstate tariffs and supporting information, including the TRPs, electronically through the Commission's 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.
4. The Commission updates the price cap and 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. The collections are not being conducted in any manner inconsistent with the guidelines of 5 C.F.R. Section 1320.5(d)(l).
8. The 60 day notice was published in the Federal Register as required by 5 C.F.R. § 1320.8(d) on May 19, 2016 (81 FR 31635). 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: Approximately 95 incumbent LECs plus NECA.

(2) Frequency of response: Annual reporting requirement.

(3) Total number of responses annually: 96.

96 respondents x an average of 1 response per year = 96 responses.

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

(5) Total annual burden: 5,088 hours.

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

96 respondents x 1 filing/year x 53 hours = **5,088 hours**.

(6) Total estimate of "in-house" cost to respondents: **\$279,840**.

(7) Explanation of calculation:

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

5,088 hours/year x \$55/hour = \$279,840.

**B. Reporting Requirement of Supporting Materials for Establishing Interstate Consumer Broadband-Only Loop Tariffs**

(1) Number of respondents: Approximately 95 incumbent LECs and twice for NECA.

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

(3) Total number of responses annually: 97.

97 respondents x an average of 1 response per year = 97 responses.

(4) Annual hour burden per respondent: 30 hours

(5) Total annual burden:

The Commission estimates that ILECs would make 1 filing per year, and NECA would make two filings per year that would take approximately 30 hours to prepare.

97 respondents x 1 filing/year x 30 hours = **2,910 hours**.

(6) Total estimate of “in-house” cost to respondents: Approximately **\$160,050**.

2,910 hours/year x \$55/hour = \$160,500

(7) Explanation of calculation:

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

2,910 hours/year x \$55/hour = \$160,050.

**C. One-Time Certification Requirement**

(1) Number of respondents: Approximately 1,064.

(2) Frequency of response: One-time.

(3) Total number of responses annually: Approximately 1,064.

(4) Annual hour burden per respondent: 0.5 hours.

(5) Total annual burden: Approximately 532 hours.

The Commission estimates approximately 1,064 respondents will require 0.5 hours of reporting time per filing.

1,064 respondents x 0.5 hours per response x 1 per year respondent = 532 hours

(6) Total estimate of “in-house” cost to respondents: Approximately \$23,940

(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,

532 hours x \$45/hour = \$23,940

**D. 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, the Commission estimates that the average in-house cost for respondents is approximately \$45 an hour.

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 1,340.

(4) Estimated time per response: 0.5 hours.

(5) Total annual burden: Approximately **670 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 1 response per year per respondent = 670 hours.

(6) Total estimate of “in-house” cost to respondents: **\$30,150**.

(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,

670 hours x \$45 per hour = \$30,150.

**Total respondents: 2,840 (includes ILECs and CLECs).**

**Total Annual Responses: 96 + 97 + 1,064 + 2,840 + 1,340 = 5,437 responses.**

**Total Annual Burden Hours: 5,088 + 2,910 + 532 + 56,800 + 670 = 66,000 hours.**

**Total "in-house" cost to Respondents: \$279,840 + \$160,050 + \$23,940 + \$2,556,000 + \$30,150 = \$3,049,980.**

13. Estimated cost to the Respondent: There are no TRP filing costs to the respondents.

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

15. To reflect the removal of the reporting requirement for intrastate VoIP rates and the addition of the tariff filing requirements to implement the *Rate-of-Return Report and Order*, the Commission is reporting program changes/decreases since the last submission to OMB. There is no change in the total number of respondents, the total number of annual responses decreased by -1,767 and the total burden hours decreased by -54,986 hours.

Also, the Commission is reporting adjustments/decreases to this submission since it was last approved by OMB. The number of responses in part E. (Certification Requirement) was miscalculated based on two filings per year, rather than on an annual filing. Therefore, the number of responses is now 1,340, and the burden for that requirement is now 670 hours. We are making a correction to these figures and they are now reflected in our submission to OMB.

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.