

This submission is being made pursuant to 44 U.S.C. § 3507 of the Paperwork Reduction Act of 1995 to revise 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 27, 2001, the Commission released the *CLEC Access Order*¹ 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). Pursuant to this order, 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.

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.² If the provider decides to offer broadband Internet access transmission service on

¹ *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*).

² *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,

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 distance services, whether they provide these services directly or through affiliates that are neither section 272 nor rule 64.1903 affiliates.³ 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.

In a Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking (*FNPRM*), FCC 11-13, released on February 9, 2011,⁴ 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 11-161,⁵ in which the Commission adopted substantially equivalent rules to those proposed in the *FNPRM*, which did not alter the earlier burden estimates.

The *USF/ICC Transformation Order* 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.

In the *Open Internet Order*, FCC 15-24,⁶ 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.

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*).

³ *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*).

⁴ *Connect America Fund et al.*, WC Docket Nos. 10-90, 07-135, 05-337, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 4554 (2011) (*FNPRM*).

⁵ *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*).

⁶ *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).

On March 23, 2016, the Commission adopted the *Rate-of Return Order*, FCC 16-33,⁷ which reformed universal service for rate-of-return LECs. The 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 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. Subsequent filings are covered by existing PRA approvals.

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.⁸ 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 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 51.909 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.

⁷ *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*).

⁸ *Electronic Tariff Filing System (EFTS)*, WC Docket No. 10-141, Report and Order, 26 FCC Rcd 8884 (2011).

8. The Commission published a 60 day notice in the Federal Register seeking public comment on May 19, 2016 (81 FR 31634). No comments were received from the public as a result of this 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, annually, 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 Rate-of-Return Reform in Incumbent LEC Interstate Tariffs

- (1) Number of Respondents: Approximately 96, including NECA.
- (2) Frequency of response: One-time for 95 carriers and twice for NECA.

- (3) Total number of responses annually: Approximately 97.
- (4) Estimated time per response: 40 hours.
- (5) Total annual burden: **3,880 hours**.

The Commission estimates that approximately 96 respondents will require 40 hours of reporting time for this one-time filing requirement.

95 respondents x 40 hours per response x 1 response per year per respondent = 3,800 hours.

1 respondent (NECA) x 40 hours per response x 2 responses per year per respondent = 80 hours.

- (6) Total estimate of “in-house” cost to respondents: Approximately \$174,600.
- (7) Explanation of calculation:

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

3,880 hours per year x \$45 per hour = \$174,600.

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.

Total respondents: 2,840 (incumbent LECs and CLECs)

Total responses: 1,340 + 97 + 2,840 = 4,277

Total annual burden: 67,000 + 3,880 + 85,200 = 156,080

Total In-House Costs to the Respondent:

A. \$3,015,000

B. \$ 174,600

C. \$ 3,834,000

Total: \$7,023,600

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: \$1,307,670

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:

$(1,340 + 97) \text{ filings} \times \$910 = \$1,307,670$

(3) **Total annualized cost requested: \$ 1,307,670.**

14. Annualized cost to the Federal government to handle all tariffs has been estimated to be approximately \$ 987,206. 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 is reporting program changes/decreases to this information collection as a result of removing the reporting requirement for interstate and intrastate VoIP rates and the addition of the tariff filing requirements to implement the *Rate-of-Return Report and Order*. Therefore the total number of respondents decreased from 3,840 to 3,606 (-244), the total number of responses decreased from 10,190 to 4,277 (-5,913), the total annual burden hours decreased from 272,400 hours to 156,080 hours (-116,320) and the total annual costs decreased from \$1,519,700 to \$1,307,670 (-\$212,030).

There are no adjustments.

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.