Supporting Statement

A. Justification:

1. This information collection is necessary to address the conditional forbearance relief granted by the Federal Communications Commission (FCC) upon the request of the United States Telecom Association (USTelecom), which represents a variety of large and small service providers and suppliers for the telecommunications industry.

Background

On February 6, 2012, USTelecom filed a petition seeking forbearance from seventeen categories of FCC rules, as described below.[1] USTelecom argued that these rules are outdated and unnecessary legacy regulations.

On May 17, 2013, the FCC released the *USTelecom Order*, in which it conditionally granted forbearance to price cap carriers from the Cost Assignment rules, which generally require carriers to assign costs to build and maintain the network, and revenues from services provided, to specific categories.[2] The grant of forbearance from these rules was conditioned on Wireline Competition Bureau (Bureau) approval of a Compliance Plan filed by a carrier electing to take advantage of the forbearance. The Bureau also conditioned the grant of forbearance from the Property Record rule and from filing requirement of Automated Reporting Management Information System (ARMIS) Report 43-01, the "Annual Summary Report," on Bureau approval of the Compliance Plan.[3]

Since the release of the *USTelecom Order*, the Bureau has approved Compliance Plans for eight of nine price cap LECs[4]: CenturyLink; Cincinnati Bell Telephone Company; FairPoint Communications; Frontier Telephone Company; Hawaiian Telephone Company; and Windstream Communications. AT&T, Verizon, and legacy Qwest (now part of CenturyLink) previously obtained forbearance.[5] Puerto Rico Telephone Company may opt to seek forbearance relief.

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[1] Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulations, WC Docket No. 12-61 (filed Feb. 16, 2012) (USTelecom Petition).

[2] *Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Enforcement of Certain Legacy Telecommunications Regulations*, WC Docket No. 12-61, Order, Memorandum Opinion and Order, 28 FCC Rcd 1077 (Wireline Comp. Bur. 2013) (*USTelecom Order*), pet. For rev. denied sub nom. Verizon v. FCC, 770 F.3d 961 (D.C. Cir. 2014).

[3] *USTelecom Order*, 28 FCC Rcd at 7676, para. 108.

[4] The number of price cap LECs covered by conditional forbearance was listed as 11 in the 2014 Supporting Statement. However, there are nine price cap LECs for purposes of the accounting, certification, and recordkeeping of the data involved in this collection.

[5] *See AT&T Broadband Forbearance Order; Qwest Petition for Forbearance Under 47 U.S.C. Section 160 (c) from Title II and Computer Inquiry Rules with Respect to Broadband Services*, 23 FCC Rcd 12260 (2009); *Verizon Telephone Companies' Petition For Forbearance from Title II and Computer Inquiry Rules with Respect to their Broadband Service Is Granted by Operation of Law*, WC Docket No. 04-440, News Release (rel. Mar. 20, 2006).

Conditional Forbearance Relief

In the *USTelecom Order*, the FCC granted conditional forbearance for the following categories of rules:

a) **Cost Assignment Rules:** (47 C.F.R. §§ 32.23, 32.27(a)-(e), 32.5280(b)-(c), 36.1-36.2, 36.3(a)-(d), 36.101-36.102, 36.111, 36.112(a), 36.121-36.124, 36.125(a), (b), (g)-(j), 36.126, 36.141-36.142, 36.151-36.153, 36.154(a)-(c) and (e)-(g), 36.155-157, 36.161-36.162, 36.171, 36.172(a) and (b), 36.181-36.182, 36.191, 36.201-2, 36.211-36.216, 36.221-36.225, 36.301-36.302, 36.310-36.311, 36.321, 36.331, 36.341, 36.351-36.354, 36.361, 36.371-36.382, 36.391-36.392, 36.411-36.412, 36.421, 36.501-36.507; Appendix to Title 47 Part 36; 47 C.F.R. §§ 64.901-64.904, 65.600, 69.301-69.306, 69.307(a), (b), (d); 69.309-69.310, 69.401-69.409, 69.411-69.414, 47 U.S.C. § 220(a)(2) (limited to the extent that this provision contemplates separate accounting of nonregulated costs)).

(1) These rules generally require carriers to assign costs to build and maintain the network and revenues from services provided to specific categories.

(2) USTelecom requested forbearance from these rules for all price cap carriers substantially the same as that already granted by the FCC to AT&T, Qwest, and Verizon.

(3) The FCC granted price cap carriers forbearance from the Cost Assignment Rules similar to the conditional forbearance it previously granted. To receive forbearance relief carriers must:

(a) continue to comply with the Part 32 Uniform System of Accounts rules and provide Part 32 data to the FCC upon its request;

(b) file access imputation plans similar if an independent price cap carrier plans to provide in-region long distance service without a separate affiliate;

(c) certify annually that it has complied with section 254(k) of the Act and maintain and provide any requested cost accounting information necessary to prove such compliance; and

(d) file compliance plans, subject to approval by the FCC's Wireline Competition Bureau, describing how the carriers will continue to fulfill their statutory and regulatory obligations, including meeting the conditions outlined above.

b) **Property Record Rules**: (47 C.F.R §§ 32.2000(e) and (f)) These rules require carriers to maintain certain property records. USTelecom sought forbearance for price cap carriers from these rules.

(1) The FCC granted USTelecom’s request conditioned on a carrier demonstrating in a compliance plan, approved by the FCC’s Wireline Competition Bureau:

(a) how it will maintain the records necessary to track substantial assets and investment in an accurate,

(b) auditable manner that enables the carriers to verify account balances in their Part 32 Uniform System of Accounts,

(c) make such property information available to the FCC upon request, and

(d) ensure maintenance of such data.

(2) This provides carriers with an opportunity to demonstrate precisely how GAAP-compliant financial accounting would be available to provide such records, and will enable carriers to propose in their compliance plans what property constitutes substantial assets and investment and what does not for purposes of keeping records, verifying the accuracy of their Part 32 accounts, and complying with GAAP.

(3) To the extent that carriers propose to rely on requirements in the FCPA, Sarbanes-Oxley, or other accounting requirements, carriers must identify in their plans what specific rules and requirements they propose to replace which specific requirements in section 32.2000(e) and (f).

c) Automated Reporting Management Information System (ARMIS) Report 43-01: (47 C.F.R § 43.21(e)(2)) Under this requirement, carriers that meet a set revenue threshold must annually file with the FCC detailed financial and demand data.

(1) USTelecom requested forbearance for all carriers from this requirement.

(2) The FCC granted forbearance relief subject to conditions. To meet these conditions, a carrier must receive FCC approval of a compliance plan and each carrier’s (in states that do not certify that they regulate pole attachments) continued annual public filing with the FCC of pole attachment cost data. The compliance plan must contain proposed procedures to ensure continued compliance with sections 47 U.S.C §§ 272(e)(3); 254(k) and a description of the carrier’s imputation methodology.

(3) If a carrier obtains relief from the Cost Assignment Rules, the carrier must also:

(a) certify that it will comply with 47 U.S.C § 254(k) and will provide any requested cost accounting information necessary to prove such compliance;

(b) submit a proposal for how the carrier will maintain its accounting procedures and data; and

(c) an explanation of the transition process to move toward the procedures outlined in the compliance plan.

d) Structural Separation Requirements for Independent ILECs: (47 C.F.R § 64.1903) Under this requirement, independent ILECs that provide long distance service over their own facilities must do so through a separate affiliate.

(1) The separate affiliate must maintain separate accounts, may not jointly own facilities, and purchase the independent ILEC's tariffed services.

(2) Independent ILECs that resell service may do so through a separate corporate division rather than a separate affiliate.

(3) USTelecom requested forbearance for all independent ILECs.

(4) The FCC only granted forbearance relief for price cap carriers and subject to conditions.

(5) Price cap carriers seeking to take advantage of this relief must obtain Bureau approval of special access performance metrics.

(6) Price cap carries must also meet cost imputation requirements regarding the charges to access the phone network, including the submission of a plan for approval by the Bureau.

Statutory Authority

The Commission's statutory authority for the collection stems from several parts of the Communications Act of 1934, as amended (Act).

Section 10 of the Act, 47 U.S.C. § 160, requires the FCC to forbear from applying any statutory provision or regulation if it determines that:

(1) enforcement of the provision or regulation is not necessary to ensure that the telecommunications carrier's charges, practices, classifications, or regulations are just, reasonable, and not unjustly or unreasonably discriminatory;

(2) enforcement of the provision or regulation is not necessary to protect consumers; and

(3) forbearance from applying such provision or regulation is consistent with the public interest.

Section 201 of the Act, 47 U.S.C. § 201, requires the agency to ensure that rates, terms, and conditions for communications services are just and reasonable.

Section 202 of the Act, 47 U.S.C. § 202, prohibits unjust or unreasonable discrimination in "charges, practices, classifications, regulations, facilities, or services for or in connection with like communication service."

Section 218 of the Act, 47 U.S.C. § 218, requires the FCC to keep itself informed of the conduct of business of all carriers subject to Title II of the Act, and permits the FCC to obtain from carriers full and complete information necessary to enable the FCC to perform the duties and carry out the objects for which it was created. Thus, the FCC has broad authority under section 218 to obtain data from incumbent LECs.

Section 254(k) of the Act, 47 U.S.C. § 254(k), prohibits a telecommunications provider from using services that are not competitive to subsidize services that are subject to competition. The FCC has authority under section 254(k) to ensure that price cap carriers maintain and provide any requested cost accounting information necessary to prove compliance in the event of an administrative action, investigation, or audit.

Section 272(e)(3), 47 U.S.C.§ 272(e)(3), requires each BOC to charge its section 272 separate affiliates, or impute to itself (if using the access for its provision of its own services), an amount for access to its telephone exchange service and exchange access that is no less than the amount charged to any unaffiliated interexchange carriers for such service. The FCC has authority under section 272(e)(3) to prohibit anticompetitive cross-subsidization.

Here, the FCC reconciles the mandates in section 201, 202, 218, 254(k), and 272(e)(3) with the forbearance requirement in section 10 by granting forbearance relief conditioned on certain requirements that will ensure forbearance is in the public interest.

This information collection does not affect individuals or households, and thus, there are no privacy impacts.

2. As described the carriers granted conditional forbearance can electronically file information the FCC will use to fulfill its statutory mandates.

a) Cost Assignment Rules:

(1) This information will ensure that price cap carriers maintain their accounting procedures and data in a manner that will allow the carriers to provide useable information on a timely basis if requested by the FCC for regulatory purposes, including ensuring just and reasonable rates and protecting consumers and the public interest.

(2) This information will give the FCC the ability to reconstruct data necessary to determine whether improper cost accounting has occurred, should it need to request the accounting data maintained by carriers.

(3) The information also provides requirements that ensure compliance with sections 254(k) and 272(e)(3) of the Act in the absence of the Cost Assignment Rules.

b) Property Record Rules:

(1) This information will ensure that price cap carriers, in the absence of the property record rules, maintain the records necessary to track substantial assets and investment in an accurate, auditable manner that enables the carriers to verify account balances in their Part 32 Uniform System of Accounts and make such property information available to the FCC upon request for regulatory purposes, including ensuring just and reasonable rates and protecting consumers and the public interest.

(2) This information helps ensure that the FCC can determine whether price cap carriers are correctly keeping their accounting books, should the FCC need to do so.

c) Automated Reporting Management Information System (ARMIS) Report 43-01:

(1) This information will allow the FCC and other interested parties to ensure that ILECs are continuing to comply with the cost accounting requirements and that pole attachment rate information will be available to the public.

(2) In addition, the information will show how accounting information the FCC may require will be made available.

d) Structural Separation Requirements for Independent ILECs: This information will allow the FCC and other interested parties to have tools to monitor the independent ILEC's performance and provide transparency regarding whether price cap carriers engage in anticompetitive behavior.

3. The FCC permits and encourages carriers to file the information electronically.

4. The information does not duplicate current information collections.

5. In general the smaller the carrier the lower the burden associated with this information collection. Therefore no special relief for small carriers was needed.

6. Without this information, the FCC would not be able to fulfill its section 10 forbearance requirements, 47 U.S.C. § 160.

7. No other special circumstances will apply to these information collection requirements.

8. Pursuant to 5 CFR Section 1320.8(d), the FCC published notice of this collection in the Federal Register on February 9, 2017 (82 FR 10002). No comments were received.

9. The Commission does not anticipate providing any payments or gifts to respondents.

10. If respondents submit information which respondents believe is confidential, respondents may request confidential treatment of such information pursuant to section 0.459 of the Commission's rules, 47 C.F.R. § 0.459.

11. The information collection does not address any matters of a sensitive nature, nor are there any privacy impacts.

12. Described below are the estimated burden hours associated with each collection of information.

a) **Cost Assignment Rules**:

To meet the four conditions required for conditional forbearance from the Cost Assignment Rules, we estimate that each respondent uses staff equivalent to a GS 14/Step 5 ($60.83/hour, rounded up to $61) federal employee to prepare the relevant section of the Compliance Plan, maintain records, and certify annually that the company is maintaining this data.

Eight out of nine price cap LECs have already prepared Compliance Plans and received conditional forbearance relief from the Cost Assignment Rules. As a condition of forbearance, these LECs must continue to maintain records and certify annually that they will maintain these records.

An additional price cap LEC, Puerto Rico Telephone Company, may opt to seek conditional forbearance from the Cost Assignment rules. If so, it would be required to prepare a Compliance Plan addressing how it will meet the conditions required for forbearance. Upon Bureau approval, Puerto Rico must continue to maintain records and provide an annual certification.

1. Compliance Plan Requirements for Price Cap LEC *without* forbearance relief (Puerto Rico)

Number of respondents: 1.

Frequency of response: One-time reporting requirement, recordkeeping, and annual certification requirement.

Total annual responses: 1.

Estimated time per response: 79 hours.

Total Annual Burden: 1 respondent x 79 hours per response = **79 hours**.

Of this total annual burden, we estimate that the reporting and recordkeeping requirements are:

(a) 90 percent of the time is required for preparing the Compliance Plan

(79 x 0.9 = 71 hours).

(b) 5 percent of the time is required for maintaining the data (79 x .05 = 4 hours).

(c) 25 percent of the time is required for certifying annually that the data is maintained (79 x .05 = 4 hours).

Total estimate of in-house cost to respondents = **$4,819** (1 response per year x $61/hour x 79 hours).

2. Requirements for Price cap LECs *with* Compliance Plan approval

Number of respondents: 8.

Frequency of response: Recordkeeping requirement and annual certification requirement.

Total annual responses: 8.

Estimated time per response: 8 hours.

Total Annual Burden: 8 respondents x 8 hours per response = **64 hours.**

Of this total annual burden, we estimate that the recordkeeping and certification requirements are approximately:

(a) Fifty percent of the time is required for maintaining the data (64 x 0.5 = 32 hours).
(b) Fifty percent of the time is required for certifying annually that the data is maintained (64 x 0.5 =32 hours).

Total estimate of in-house cost to respondents = $3,904 ($61/hour x 64 hours).

b) **<u>Property Record Rules</u>**:

To meet the conditions required for conditional forbearance from the Property Record Rules, we estimate that each respondent uses staff equivalent to a GS 14/Step 5 ($61/hour) federal employee to prepare the relevant section of the Compliance Plan and maintain records.

Eight price cap LECs have already prepared Compliance Plans and received forbearance relief from the Property Record Rules. As a condition of forbearance, these LECs must continue to maintain records.

An additional price cap LEC, Puerto Rico Telephone Company, may opt to seek conditional forbearance from the Property Record rules. If so, it would be required to prepare a Compliance Plan addressing how it will meet the conditions required for forbearance. Upon Bureau approval, Puerto Rico must continue to maintain records.

1. Compliance Plan Requirements for Price Cap LEC *without* forbearance relief (Puerto Rico)

Number of respondents: 1.

Frequency of response: One-time reporting requirement and recordkeeping requirement.

Total annual responses: 1.

Estimated time per response: 40 hours.

Total Annual Burden: 1 respondent x 40 hours per response = **40 hours**.

Of this total annual burden, we estimate that the reporting and recordkeeping requirements are approximately:

(a) 90 percent of the time is required for preparing the Compliance Plan (40 x 0.9 = 36 hours).
(b) 10 percent of the time is required for maintaining the data (40 x 1.0 = 4 hours).

Total estimate of in-house cost to respondents = $2,440 ($61/hour x 40 hours x 1 respondent).

2. Requirements for Price cap LECs *with* Compliance Plan approval

Number of respondents: 8.

Frequency of response: Recordkeeping requirement.

Total annual responses: 8.

Estimated time per response: 4 hours.

Total Annual Burden: 8 respondents x 4 hours per response = **32 hours**.

Total estimate of in-house cost to respondents = $1,952 (32 hours per year x $61/hour).

c) Automated Reporting Management Information System (ARMIS) Report 43-01:

To meet the conditions required for conditional forbearance from the ARMIS reporting requirement, we estimate that each respondent uses staff equivalent to a GS 14/Step 5 ($61/hour) federal employee to prepare the ARMIS section of the Compliance Plan and maintain relevant records.

Eight price cap LECs have already prepared Compliance Plans and received forbearance relief from the ARMIS reporting requirement. As a condition of forbearance, these LECs must continue to maintain records.

An additional price cap LEC, Puerto Rico Telephone Company, may opt to seek conditional forbearance from the ARMIS requirement. If so, it would be required to prepare Compliance Plans addressing how they will meet the conditions required for forbearance. Upon Bureau approval, Puerto Rico must continue to maintain records.

1. Compliance Plan Requirements for Respondent *without* forbearance relief (Puerto Rico)

Number of respondents: 1.

Frequency of response: One-time reporting requirement and recordkeeping requirement.

Total annual responses: 1.

Estimated time per response: 73 hours.

Total Annual Burden: 1 respondent x 73 hours per response = **73 hours**.

Of this total annual burden, we estimate that the reporting and recordkeeping requirements are approximately:

(a) 90 percent of the time is required for preparing the Compliance Plan (73 x 0.9 = approximately 66 hours).
(b) 10 percent of the time is required for recordkeeping (73 x 0.1 = approximately 7 hours).

Total estimate of in-house cost to respondent = $4,453 (73 hours per year x $61/hour x 1 respondent).

2. Requirements for Respondents *with* Compliance Plan approval

Number of respondents: 8.

Frequency of response: Recordkeeping requirement and annual reporting requirement.

Total annual responses: 8.

Estimated time per response: 8 hours.

Total Annual Burden: 8 respondents x 8 hours per response = **64 hours**.

Of this total annual burden, we estimate that the recordkeeping and reporting requirements are approximately:

(a) Fifty percent of the time is required for recordkeeping (64 x .5 = 32 hours).
(b) Fifty percent of the time is required for certifying annually that the data is maintained (64 x .5 =32 hours).

Total estimate of in-house cost to respondents = $3,904 (64 hours per year x $61/hour).

d) Structural Separation Requirement for Independent ILECs:

To meet the conditions required for conditional forbearance from the Structural Separation Requirement, we estimate that each respondent uses staff equivalent to a GS 14/Step 5 ($61/hour) federal employee to prepare the relevant section of the Compliance Plan and to maintain records.

None of the price cap respondents has requested forbearance for the Structural Separation Requirement. Respondents may opt to seek conditional forbearance from the Property Record rules. If so, it would be required to address how they will meet this requirement. Upon Bureau approval, the respondents must continue to maintain records.

Compliance Plan Requirements for Respondents

Number of respondents:	9.
Frequency of response:	One-time reporting requirement and recordkeeping requirement.
Total annual responses:	9.
Estimated time per response:	40 hours.

Total Annual Burden: 9 respondents x 40 hours per response = **360 hours**.

Of this total annual burden, we estimate that the reporting and recordkeeping requirements are approximately:

(a) 90 percent of the time is required for preparing the Compliance Plan (40 x .9 = 36 hours).
(b) 10 percent of the time is required for recordkeeping (40 x .1 = 4 hours).

Total estimate of in-house costs to respondents = **$21,960** ($61/hour x 360 hours).

Summary:

	Respondents	Hours per respondent	Hourly Burden	Annual Cost
a) Cost Assignment	**9**	**79**	**143**	**$8,723** ($4,819 + $3,904)
b) Property Records	**9**	**40**	**72**	**$4,392** ($2,440 + $1,952
c) ARMIS	**9**	**73**	**137**	**$8,357** ($4,453 + $3,904)
d) Structural Separations	**9**	**40**	**360**	**$21,960**
Totals (*in bold*)	**9**	**232**	**712**	**$43,432**

13. We do not anticipate that carriers will expend any capital costs or contract outside workers to produce the information collection.

14. There will no cost to the Federal Government.

15. The Commission is reporting the following adjustments to this information collection:

- The number of price cap LECs has been adjusted to reflect that there are nine price cap LECs for purposes of the accounting, certification, and recordkeeping of the data involved in this collection.

- The eight price cap LECs that have obtained Bureau approval of their Compliance Plans[6] now have only recordkeeping and, with respect to the Cost Assignment Rules, annual certification requirements.

[6] As described in the Justification, eight of the nine price cap LECs have obtained forbearance from the Cost Assignment and Property Records rules, as well as the ARMIS Reporting Requirement. Only one price cap LEC, The Puerto Rico Telephone Company, has not yet submitted a Compliance Plan seeking forbearance relief. None of the carriers has requested or received forbearance approval for Structural Separations.

- As a result of these adjustments, the total annual burden has decreased by -1,384 hours, from 2,096 hours to 712 hours.

- In our last submission OMB, we inadvertently reported the in-house cost to respondents as the total annual costs. Therefore, the total annual costs estimate has been adjusted by - $104,800.

  There are no program changes.

16. The Commission is not planning on publishing the results. Information filed by the respondents will be publicly available.

17. The information collection requirements do not include any forms; therefore, Commission is not seeking approval to not display an OMB expiration date.

18. There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods:

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