

SUPPORTING STATEMENT

This submission is being made as an extension to an existing information collection pursuant to 44 U.S.C. § 3507.

A. Justification:

1. In the *Order on Reconsideration* (FCC 04-251), the Commission considered four petitions for reconsideration of our *Report and Order*. The *Report and Order* (FCC 03-235) established detailed rules (Payphone Compensation Rules) ensuring that payphone service providers or PSPs are “fairly compensated” for each and every completed payphone-originated call pursuant to section 276 of the Communications Act, as amended (the Act). The Payphone Compensation Rules satisfy section 276 by identifying the party liable for compensation and establishing a mechanism for PSPs to be paid. The Payphone Compensation Rules:
 - Place liability to compensate PSPs for payphone-originated calls on the facilities-based long distance carriers or a switch-based resellers (SBR) from whose switches such calls are completed.
 - Define these responsible carriers as “Completing Carriers” and require them to develop their own system of tracking calls to completion, the accuracy of which must be confirmed and attested to by a third-party auditor.
 - Require Completing Carriers to file with PSPs a quarterly report and must also submit an attestation by the chief financial officer (CFO) that the payment amount for that quarter is accurate and is based on 100% of all completed calls.
 - Require quarterly reporting obligations for other facilities-based long distance carriers in the call path, if any, and define these carriers as “Intermediate Carriers.”
 - Give parties flexibility to agree to alternative compensation arrangements (ACA) so that small Completing Carriers may avoid the expense of instituting a tracking system and undergoing an audit.

The *Order on Reconsideration* did not change this compensation framework, but rather refined and built upon its approach. While the Commission increased the time carriers must retain certain data and added burden in that regard, the Commission also removed potentially burdensome paperwork requirements by encouraging carriers to comply with the reporting requirements through electronic means.¹ We believe that the clarifications adopted in the *Order on Reconsideration* significantly decreased the paperwork burden on carriers.

¹ OMB’s approval on Wednesday, May 5, 2004 for the Payphone Compensation Rules adopted in the *Report and Order* requested the Commission to: (1) clarify that there are alternatives to the third party audit requirement; and (2) clarify the accountability notification from the CFO and allow the CFO to sign a blanket statement covering all entities for whom they are being held accountable.

Specifically, the *Order on Reconsideration* established the following new collections of information to implement section 276 of the Act:

- a. Clarified alternative arrangements for small businesses. A Completing Carrier must give the PSP adequate notice of an ACA:
- (1) prior to its effective date with sufficient time for the PSP to object to an ACA; and
 - (2) prior to the termination of an ACA.

Also, in a complaint proceeding under the Payphone Compensation Rules, a Completing Carrier may assert as an affirmative defense that the PSP's objection to an ACA was unreasonable.

Such an agreement made pursuant to 47 C.F.R. § 64.1310(a) relieves a Completing Carrier of 47 C.F.R. § 64.1320's obligation to undergo an audit. (47 U.S.C. § 276(b)(1)(A)).

- b. Clarified any paperwork burdens imposed on carriers. A Completing Carrier may give PSPs adequate notice of ACAs by placing the notice on a clearinghouse website. A Completing Carrier's CFO may issue a single, blanket certification covering all PSPs and provide the certification to PSPs by posting it on the carrier's website or through any other electronic method. A Completing Carrier may post its "System Audit Report" and section 64.1320(e) statement setting forth its dispute resolution contact information on its website or a clearinghouse website. (47 U.S.C. § 276(b)(1)(A)).
- c. Completing Carrier and Intermediate Carrier quarterly reports. Completing Carriers are required to report only completed calls in their quarterly reports. Completing Carriers and Intermediate Carriers should also follow industry standard formats for their quarterly reports. (47 U.S.C. § 276(b)(1)(A)).
- d. Retention of data extended. The time period that Completing Carriers and Intermediate Carriers must retain certain payphone records, for dispute resolution purposes, is extended from 18 to 27 months. (47 U.S.C. § 276(b)(1)(A)).

This submission is made pursuant to 44 U.S.C. § 3507 and 5 C.F.R. § 1320.13, and for which we seek extension of this currently approved collection. The statutory authority for this collection is contained in sections 1, 4, and 276 of the Act, 47 U.S.C. §§ 151, 154, and 276.

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

2. For the final rules, the information collected under Completing Carrier filing of quarterly reports and Intermediate Carrier filing of quarterly reports must be provided to third parties. The information collected under Completing Carrier establishment of call tracking system

must be provided to third parties and submitted to the Commission. The information collected annually under Completing Carrier establishment of call tracking system, Completing Carrier filing of quarterly reports, and Intermediate Carrier filing of quarterly reports would be used to ensure that Completing Carriers comply with their obligations under section 276.

3. Generally, there is no improved technology identified by the Commission to reduce the burden of these collections. However, the Commission in the *Order on Reconsideration* does encourage the use of improved technology where appropriate. The Commission took into account critical factors such as the time it will take before appropriate technological ability can be achieved, and who has the available information/data, before requiring these collections. Accordingly, the Commission provides for transition flexibility and choice of arrangements, which the Commission believes will substantially reduce the burden of this collection.
4. There will be no duplication of information. In most instances, the information sought is unique to each respondent.
5. The collections of information may have some impact on small businesses or other small entities. The Commission considered many alternatives before choosing the least burdensome methods to accomplish the objectives of section 276. Wherever possible, the Commission has provided for flexibility, such as permitting electronic submissions where appropriate and permitting certain functions to be contracted out to third parties. Although the calculations in question 12 below are based on an estimated 230 Completing Carriers, the final rules permit Completing Carriers to contract around these paperwork requirements. Based on the record in the proceeding, the Commission estimates that the vast majority of Completing Carriers will not need to comply with these paperwork requirements because many Completing Carriers will opt out of the rules and reach ACAs with PSPs.
6. Failing to collect the information, or collecting it less frequently, would violate the language and/or intent of section 276 to “establish a per call compensation plan to ensure that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call,” and “promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public.” (47 U.S.C. § 276(b)).
7. Commission requirements do not impose any obligations that would require parties to report information to the Commission more often than quarterly, nor will these requirements impose any other special circumstances. In some instances, a respondent might need to make a showing or filing more often than quarterly due to actions by private parties.
8. The Commission placed a notice in the *Federal Register* pursuant to 5 C.F.R. § 1320.8. See 82 Fed. Reg. 16036, dated March 31, 2017, a copy of which is attached. The United States Telecom Association (USTelecom) filed comments on May 30, 2017 asking that the Commission not renew this collection in its current form but rather eliminate the requirement

that the Completing Carrier include with its quarterly compensation payment to PSPs a sworn statement from the carrier's chief financial officer that "the payment amount for that quarter is accurate and is based on 100% of all completed calls that originated from that payphone service provider's payphones." Because the requirement USTelecom seeks to eliminate is codified in the Commission's rules, 47 CFR § 64.1310(a)(3), USTelecom seeks a rule change rather than a revision to an information collection. On June 1, 2017, the Commission opened a rulemaking docket addressing payphone compensation compliance procedures.² The Commission will consider USTelecom's comments in the context of that proceeding.

USTelecom also asserts in its comments that "the Commission has not considered performing an updated cost-benefit analysis to continue requiring the obligations listed in the information collection." It further asserts that the 60-day notice "does not mention any practical utility that [the information collection] will provide to the Commission or the public." The quarterly CFO sworn statement ensures that the quarterly tracking report Completing Carriers must provide to PSPs is accurate, thus ensuring that PSPs are compensated for 100% of all coinless access code and subscriber toll-free calls originating from their payphones. This information collection renewal sets forth an updated analysis of the burden hours and associated costs based on the Commission's understanding of the number of potential respondents. The practical utility of the quarterly certification has not changed since the requirement was adopted. Whether the amount of compensation paid since that time has changed to the point where the balance has tipped is more appropriately addressed in the context of a rulemaking proceeding, and the relative costs and benefits of retaining this rule will be considered therein.

9. Respondents will not receive any payments or gifts.
10. The Commission is not requesting that the respondents submit confidential information. Respondents may, however, request confidential treatment for information that they believe to be confidential under 47 C.F.R. § 0.459 of the Commission's rules.
11. There are no questions of a sensitive nature with respect to the information collected, nor are there any impacts related to the Privacy Act of 1974.
12. The following represents the estimates of hour burden of the collections of information. We note that the hour burden imposed by the following requirements is very difficult to quantify. The following represents our best high estimate concerning the final rules.
 - a. Completing Carrier establishment of Call Tracking System and Annual Requirement. (47 U.S.C § 276(b)(1)(A)).
 - 1) Number of Respondents: 230

² See *Modernization of Payphone Compensation Rules*, WC Docket No. 17-141, Public Notice, DA 17-531 (WCB rel. June 1, 2017).

As of February 4, 2014, the number of Completing Carriers is estimated to be 230, which was obtained from the FCC Form 499 Filer Database, available at <http://apps.fcc.gov/cgb/form499/499a.cfm>. The number of Operator Service Providers (16) plus active Prepaid Calling Card providers (214) is 230 (16 + 214 = 230).

2) Frequency of Response: One time and annual reporting requirements; third party disclosure.

3) Total Number of Responses Annually: 460

12 one time reports

12 third party disclosures

218 annual reports

218 third party disclosures

Total: $12 + 12 + 218 + 218 = 460$ responses

4) Annual burden per respondent: 24 hours (average).

5) Total Annual Hour Burden: 5,560 hours.

The Commission estimates that approximately 5% of the Completing Carriers, approximately 12 respondents, will file the initial audit report (one time reporting requirement) to give the PSP notice.

The other 95% of the Completing Carriers, approximately 218 respondents, will file the annual PSP notice. ($12 + 218 = 230$)

First Time Completing Carriers

Initial Audit Report. The Commission estimates that respondents require approximately 99.5 hours to file this one-time report:

$12 \text{ respondents} \times 1 \text{ response (one time)} \times 99.5 \text{ hours/response} = 1,194 \text{ hours}$

Third Party Disclosure. The Commission estimates that respondents require approximately 0.5 hours (30 minutes) to comply with the third party disclosure requirement:

$12 \text{ respondents} \times 0.5 \text{ hours/third party response/annum} = 6 \text{ hours}$

Annual Completing Carriers

Annual Audit Report. The Commission estimates that respondents require approximately 19.5 hours to file the annual audit report:

$218 \text{ respondents} \times 1 \text{ response/annum} \times 19.5 \text{ hours/response} = 4,251 \text{ hours}$

Third Party Disclosure. The Commission estimates that respondents require approximately 0.5 hours (30 minutes) to comply with the third party disclosure requirement:

$218 \text{ respondents} \times 0.5 \text{ hours/third party disclosure} = 109 \text{ hours}$

Total Hours: $1,194 + 6 + 4,251 + 109 = 5,560 \text{ hours}$

b. Completing Carrier Filing of a Quarterly Report. (47 U.S.C. § 276(b)(1)(A)).

- 1) Number of Respondents: 230 (This estimate was obtained by reference to the FCC Form 499 Filer Database, available at <http://apps.fcc.gov/cgb/form499/499a.cfm>.)
- 2) Frequency of Response: Quarterly reporting requirements and third-party disclosure.
- 3) Total Number of Responses Annually: 1,840 responses
Two responses per respondent—one for the quarterly report and the second for the third party disclosure
 $230 \text{ respondents} \times 1 \text{ responses} \times 4 \text{ times/annum} = 920 \text{ (quarterly reports)}$
 $230 \text{ respondents} \times 1 \text{ responses} \times 4 \text{ times/annum} = 920 \text{ (third party disclosure)}$
Total: $920 + 920 = 1,840 \text{ responses}$
- 4) Annual burden per respondent: 200 hours (average).
- 5) Total Annual Hour Burden: 46,000 hours.

The Commission estimates that respondents require approximately 49.5 hours to file the quarterly report:

$230 \text{ respondents} \times 4 \text{ responses/annum} \times 49.5 \text{ hours/response} = 45,540 \text{ hours}$

The Commission estimates that respondents require approximately 0.5 hours (30 minutes) to comply with the third party disclosure requirement:

$230 \text{ respondents} \times 4 \text{ responses/annum} \times 0.5 \text{ hours/third party response} = 460 \text{ hours}$

Total Hours: $45,540 + 460 = 46,000 \text{ hours}$

c. Intermediate Carrier Filing of a Quarterly Report. (47 U.S.C. § 276(b)(1)(A)).

1) Number of Respondents: 239

As of February 4, 2014, the number of Intermediate Carriers is estimated to be 239, which was obtained by reference to the FCC Form 499 Filer Database, available at <http://apps.fcc.gov/cgb/form499/499a.cfm>.

This requirement only applies to the Intermediate Carriers and reflects quarterly reporting by those carriers.

2) Frequency of Response: Quarterly reporting requirements.

3) Total Number of Responses Annually: 956.

$239 \text{ respondents} \times 4 \text{ responses /annum} = 956$

4) Annual Burden per Respondent: 80 hours (average).

5) Total Annual Hour Burden: 19,120 hours.

The Commission estimates that respondents require approximately 20 hours to file the quarterly report:

$239 \text{ respondents} \times 4 \text{ responses/annum} \times 20 \text{ hours/response} = 19,120 \text{ hours}$

d. Retention of Data Extended from 18 to 27 Months. (47 U.S.C. § 276(b)(1)(A)).

1) Number of Respondents: 469.

Total Number of Respondents: Completing Carriers (230) plus Intermediate Carriers (239) = 469 ($230 + 239 = 469$).

This requirement applies to Completing Carriers and Intermediate Carriers.

2) Frequency of Response: Recordkeeping requirement.

3) Total Number of Responses Annually: 469.

$230 \text{ respondents} \times 1 \text{ recordkeeping requirement/annum} = 230 \text{ responses}$

$239 \text{ respondents} \times 1 \text{ recordkeeping requirement/annum} = 239 \text{ responses}$

Total: $230 + 239 = 469 \text{ responses}$

4) Annual Burden per Respondent: 6 hours.

5) Total Annual Hour Burden: 2,814 hours.

230 respondents x 1 recordkeeping requirement/annum x 6 hours = 1,380 hours

239 respondents x 1 recordkeeping requirement/annum x 6 hours = 1,434 hours

Total: 1,380 + 1,434 = 2,814 hours

Summary of Burden Calculations:

Total Number of Respondents: 230 + 239 = 469 respondents.

Total Number of Responses Annually: 460 + 1,840 + 956 + 469 = 3,725 responses.

Total Annual Burden Hours: 5,560 + 46,000 + 19,120 + 2,814 = 73,494 hours.

Total In-House Costs: None.

13. The following represents the Commission's estimate of the annual cost burden to respondents or record keepers resulting from the collection of information:

(a) Total capital and start-up cost component: \$0.00;

(b) Total operation and maintenance and purchase of services: \$0.00.

(c) Total annualized cost requested: \$0.00.

14. There is an annual cost of \$133.85 to the Federal government.

A federal employee being paid \$51.48 per hour at the GS-13, Step 5 level in Washington, DC as of January 2017, plus 30% overhead, will review the report in about 2 hours:

1 FCC employee x 2 hours/review x \$51.48 = \$102.96

30% overhead = 30.89

Total Cost to the Federal Government: \$133.85

15. There are no adjustments or program changes to this information collection.

16. The Commission does not anticipate that it will publish the results of these collections of information.

17. The Commission does not intend to seek approval not to display the expiration date for OMB approval of the information collections since the information collection requirements do not include any forms, etc.

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.