

This submission is being made pursuant to 44 U.S.C. § 3507 of the Paperwork Reduction Act of 1995 to extend existing information collection 3060-1120.

SUPPORTING STATEMENT

A. Justification:

1. This submission is being made pursuant to 44 U.S.C. § 3507. On August 31, 2007, the FCC released a Report and Order, *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, 06-120, CC Docket No. 00-175, 22 FCC Rcd 16440 (2007) (*Section 272 Sunset Order*). In this rulemaking, the Commission adopted two new information collection requirements that would apply to AT&T, CenturyLink,¹ and Verizon, (collectively, the Bell Operating Companies or BOCs). The monthly usage information collection has expired, pursuant to the terms of the *Section 272 Sunset Order* and therefore, only the special access performance metric information collection will be extended.

The Commission will require these BOCs, including their independent incumbent local exchange carrier (LEC) affiliates, to report special access performance metrics on a quarterly basis.

The Commission established a new framework to govern the provision of in-region, long distance services that allows the BOCs to provide in-region, interstate, long distance services either directly or through affiliates that are neither section 272 separate affiliates nor rule 64.1903 affiliates. *Section 272 Sunset Order*, WC Docket Nos. 02-112, 06-120, CC Docket No. 00-175, FCC 07-159 .

Because the BOCs are no longer required to comply with the section 272 structural safeguards, the Commission established special access performance metrics reporting requirements, *i.e.*, ordering, provisioning, and repair and maintenance to ensure that the BOCs and their independent incumbent LEC affiliates do not engage in non-price discrimination in the provision of special access services to unaffiliated entities.

The information gleaned from these performance metrics will provide the Commission and other interested parties with reasonable tools to monitor each BOC's performance in providing these special access services to itself and its competitors.

Statutory authority for this information collection is contained in Sections 1, 2, 4(i), 4(j), 201-204, 214, 220(a), 251, 252, 271, 272, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 154(j), 201-204, 214, 220(a), 251, 252, 271, 272, and 303(r).

¹ See *Applications filed by Qwest Communications International, Inc. and CenturyTel, Inc. d/b/a CenturyLink for Consent to Transfer Control*, Memorandum Opinion and Order, WC Docket No. 10-110, 26 FCC Rcd 4194 (2011).

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

2. The Commission adopted special access performance metrics that were approved in the *AT&T and Verizon Merger Orders* (FCC 05-183, 05-184, 06-189),² as well as the *Qwest Section 272 Sunset Forbearance Order* (FCC 07-13)³ to help ensure that the BOCs, and their independent incumbent LEC affiliates, refrain from non-price discrimination in their provision of special access services. Each BOC and each of AT&T's and Verizon's independent incumbent LEC affiliates are now required to implement these metrics to the extent the BOC or independent incumbent LEC provides one or more of the special access services, covered by the *Section 272 Sunset Order*, to itself, to any affiliate, or to third parties.

The BOCs and their independent incumbent LEC affiliates must provide the Commission with their performance measurement results on a quarterly basis. The Commission believes that this reporting requirement should not be burdensome for the BOCs, as they need to track such information in connection with previous Commission orders. The special access performance metrics reporting requirements adopted in the *AT&T and Verizon Merger Orders* will expire 48 months after the merger closing date, whereas the special access performance metrics reporting requirements adopted in the *Section 272 Sunset Order* have no sunset date.

3. The performance metrics reports should be provided in an Excel spreadsheet format to demonstrate the BOCs' and, with regard to AT&T and Verizon, their independent incumbent LEC affiliates', monthly performance in delivering interstate special access services, covered by the *Section 272 Sunset Order*, within each of the states in their respective regions. These data should be reported on an aggregated basis for interstate special access services. The BOCs and their independent incumbent LEC affiliates should provide performance measurement results (broken down on a monthly basis) for each quarter to the Commission by the 45th day after the end of the quarter.

The Commission is committed to minimizing the information collection requirements for the BOCs and their independent incumbent LEC affiliates by offering various options for filing the required performance metric reports. The reports, for example, may be filed electronically or through paper copies.

² *AT&T Inc. and BellSouth Corporation Application for Transfer of Control*, WC Docket No. 06-74, Memorandum Opinion and Order, 22 FCC Rcd 5662, 5807, Appendix F (Special Access) (2007); *SBC Communications Inc. and AT&T Corp. Applications for Approval of Transfer of Control*, WC Docket No. 05-65, Memorandum Opinion and Order, 20 FCC Rcd 18290, 18317-18, para. 51 (2005); *Verizon Communications Inc. and MCI, Inc. Application for Approval of Transfer of Control*, WC Docket No. 05-75, Memorandum Opinion and Order, 20 FCC Rcd 18433, 18459-60, para. 51 (2005). (*Merger Orders*).

³ *Petition of Qwest Communications International Inc. for Forbearance from Enforcement of the Commission's Dominant Carrier Rules As They Apply After Section 272 Sunsets*, WC Docket No. 05-333, Memorandum Opinion and Order, 22 FCC Rcd 5207 (2007) (*Qwest Section 272 Sunset Forbearance Order*).

4. The *AT&T* and *Verizon Merger Orders*, as well as the *Qwest Section 272 Sunset Forbearance Order* require AT&T, Verizon, and CenturyLink to provide special access performance reports. Under the *Section 272 Sunset Order*, the BOCs and their independent incumbent LEC affiliates shall provide the Commission with their performance measurement results on a quarterly basis.
5. Because the special access performance metrics reporting requirement only affect the BOCs and each of AT&T's and Verizon's independent incumbent LEC affiliates, the information collection does not impact any small businesses or other small entities.
6. Because the BOCs are no longer required to comply with the section 272 structural safeguards, the Commission established the special access performance metrics described above to ensure that the BOCs and their independent incumbent LEC affiliates do not engage in non-price discrimination in the provision of special access services to unaffiliated entities.

The frequency of the performance metric filings provides the Commission and other interested parties with reasonable tools to monitor each BOC's performance in providing these special access services to itself and its competitors in light of the regulatory relief granted as part of the *Section 272 Sunset Order*.

7. No special circumstances apply to the information collection requirements.
8. Pursuant to 5 C.F.R. § 1320.8(d), the Commission published a notice in the *Federal Register* to solicit public comment on this reporting requirement on May 16, 2017 (82 FR 22545). The Commission received comments in response to the notice from AT&T. AT&T asserts that "the stand-alone long distance market no longer exists" and therefore the special access performance metrics "have long outlived their original purpose" to address concerns that BOCs would use their dominance in the local and exchange access markets to favor their 272 affiliates in the long-distance market.⁴ Moreover, AT&T argues the Commission's *Business Data Services (BDS) Order* (FCC 17-43) found competition in the BDS market and thus, the underlying concern of the metrics—that the BOCs will use their market power to exert control over bottleneck access facilities—is no longer valid.⁵ In addition, commenters identified the underlying statutory provision for the special access performance metrics, 47 U.S.C. § 272(e) and implementing regulations for repeal in the *2016 Biennial Review of Telecommunications Regulations* (FCC 16-149), as no longer necessary to protect competition in the long distance market.⁶

We recognize, as asserted by AT&T, that these provisions are a decade old, and the long distance marketplace has changed considerably. The Commission is closely reviewing AT&T's comments, as well as the record in the *2016 Biennial Review of Telecommunications Regulations*. Given the timing for renewal of this collection, however, we seek approval of the special access performance metrics information collection, while the Commission undertakes that review and reaches an affirmative determination about whether such metrics continue to be

⁴ AT&T Comments at 5.

⁵ AT&T Comments at 6-7.

⁶ See CenturyLink Comments, WC Docket No. 16-132 at 9; see also USTelecom Comments, WC Docket No.16-132 at Appx.

necessary, consistent with the Commission’s *272 Sunset Order* (where the Commission stated “[t]he BOCs and their independent incumbent LEC affiliates must continue to abide by special access performance metrics until there is an affirmative Commission determination that such metrics no longer are necessary.”).⁷

9. The Commission does not anticipate providing any payment or gift to respondents.
10. The Commission anticipates that the BOCs may request confidentiality protection for the special access performance information submitted by the BOCs and their independent incumbent LEC affiliates.
11. The information collection does not address any matters of a sensitive nature, nor are there any privacy impacts.
12. The following represents the hour burden on the collections of information discussed herein.

(1) Number of respondents: 3

There are three companies that are subject to the filing requirements: AT&T, CenturyLink, and Verizon.

(2) Frequency of response: Quarterly reporting requirements.

(3) Total number of responses annually: 12 responses/year

Quarterly: 3 respondents x 4 responses/year = 12

Total: 12

(3) Annual hour burden per respondent: 25 hours per quarterly requirement.

(4) Total annual hour burden: 300 hours

The Commission estimates that each of the BOCs require approximately 25 hours on a quarterly basis to comply with the metric requirements. This estimate includes estimates for the time needed to identify, compile, and, in some cases, estimate, information at the requested level of detail. We also note that the estimate provided is an average, with some respondents requiring more time to complete the reporting requirement and others requiring less time. Thus:

3 BOCs x 25 hours/quarter x 4 quarters/year = 300 hours.

Total: 300 hours

⁷ *272 Sunset Order*, FCC 07-159, para. 97.

(5) Total estimated “In-House” cost to respondents to comply with the information collection requirements: \$27,908.40

(6) Explanation of the calculation:

The Commission estimates that the BOCs use personnel comparable in pay to a GS 15/5, or approximately \$71.56 per hour, plus 30% for overhead to comply with the information collection requirement.

We estimate that the quarterly information collection requirement will take each BOC respondent approximately 25 hours. We assume that each of the BOCs will use some combination of in-house staff services when preparing the reports. Thus:

3 BOCs x 25 hours/quarter x 4 reports/year x \$71.56/hour = \$21,468.00
30% overhead = \$ 6,440.40

\$27,908.40 Total =

Total Number of Respondents: 3.

Total Number of Responses Annually: 12.

Total Annual Hour Burden: 300 hours.

Total In-House Cost to Respondents (Industry Cost): \$27,908.40

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

(a) Total capital start-up costs component annualized over its expected useful life: \$0.

The collections will not result in additional capital expenditures such as computers or software.

(b) Total operation and maintenance and purchase of services component: \$0.

All respondents will file the reports quarterly, so operation and maintenance costs will be limited to Internet access or postage, ink, and similar costs incurred in the normal course of doing business.

(c) Total annual cost requested: \$0.

14. There will be few, if any, additional costs to the Commission because notice and enforcement requirements are already part of the Commission’s duties. Moreover, there will be minimal cost to the federal government since outside parties administer the mechanisms for the special access performance metrics report.

15. There is no change to the burden estimates.
16. The Commission does not anticipate publishing any of the information collected. Rather, the BOCs' submissions will be available for public review to the extent consistent with the Commission's procedures for protecting confidential information.
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 collection of information will employ statistical methods.