

## SUPPORTING STATEMENT

### **A. Justification:**

1. Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, requires that a carrier first obtain FCC authorization either to (1) construct, operate, or engage in transmission over a line of communication, or (2) discontinue, reduce, or impair service over a line of communication. Part 63 of Title 47 of the CFR implements Section 214. Part 63 also implements provisions of the Cable Communications Policy Act of 1984 pertaining to video approved under OMB control number 3060-0149.

**On July 14, 2016, the Federal Communications Commission (Commission or FCC) adopted a Declaratory Ruling, Second Report and Order, and Order on Reconsideration (2016 Technology Transitions Order), FCC 16-90, that modifies recordkeeping or recording requirements identified below that relate to the obligations of carriers seeking to discontinue a service. At this time, the FCC seeks approval for only certain of the 2016 rule revisions adopted in the 2016 Technology Transitions Order, as detailed below. Three of the four 2016 rules for which we seek approval either reduce the burdens or streamline the regulatory process for discontinuing carriers. All other requirements described below were previously approved by the Office of Management and Budget (OMB) and have not been modified.**

### **History**

In the *Report and Order* for Implementation of Section 402(b)(2)(A) of the Telecommunications Act of 1996 (*214 Streamlining Order*), released on June 30, 1999, the Commission modified Part 63 to eliminate information submission requirements entirely for some categories of communications carriers and to reduce the submission requirements for other categories. As part of the *214 Streamlining Order*, the Commission created a streamlined process to allow carriers' affected customers to object to the proposed discontinuance, and, in the absence of sufficient grounds for denial, to automatically grant an application to discontinue service thirty-one (31) days after the Commission releases public notice of an application for non-dominant carriers, and sixty (60) days after release of public notice of an application for dominant carriers. Grounds for denial include if customers or other end users would be unable to receive service or a reasonable substitute from another carrier, or if the public convenience and necessity would be otherwise adversely affected. Whether or not there are filed objections, the rules provide for an application to be granted automatically unless the Commission finds sufficient grounds for denial and notifies the applicant. In 2009, the Commission extended to providers of interconnected Voice over Internet Protocol (VoIP) service the discontinuance obligations that apply to domestic non-dominant telecommunications carriers under Section 214 of the Communications Act of 1934, as amended.

**The 2016 Technology Transitions Order adopted rules addressing many of the issues raised in a 2015 Further Notice of Proposed Rulemaking regarding the discontinuance process, only some of which, described below, are covered by this approval request. Specifically, to reduce burdens on carriers, the 2016 Technology Transitions Order revised the rules governing the section 214(a) discontinuance process to: (1) allow carriers to provide notice of a planned discontinuance to their customers via email; (2) make a competitive LEC's application for discontinuance deemed granted on the effective date of any copper retirement that made the discontinuance unavoidable; (3) provide streamlined treatment for applications to discontinue a service for which the requesting carrier has had no customers or reasonable requests for service during the 180-day period immediately**

**preceding submission of the application; and (4) require applicants to provide notice of discontinuance applications to federally-recognized Tribal Nations.**

**Information Collection Requirements**

(a) Email notice. Carriers now have the flexibility of providing notice of planned discontinuances via email and alternative forms of notifications to those customers who have previously agreed to receive notice from the carrier by that method, reducing the burdens associated with mandatory mailed paper notices.

(b) Discontinuance resulting from copper retirement. If a competitive LEC files a section 214(a) discontinuance application based on an incumbent local exchange carrier's (LEC) copper retirement notice without an accompanying discontinuance of TDM-based service, the competitive LEC's application will be automatically granted on the effective date of the copper retirement as long as (1) the competitive LEC submits its discontinuance application to the Commission at least 40 days before the incumbent LEC's copper retirement effective date, and (2) the competitive LEC's discontinuance application contains a certification that the basis for the application is the incumbent LEC's planned copper retirement.

(c) Discontinuing service with no customers. If a carrier files an application to discontinue, reduce, or impair a service for which it has had no customers or reasonable requests for service during the 180-day period immediately preceding submission of the application, that application will be automatically granted on the 31st day after its filing with the Commission, absent Commission notice to the contrary.

(d) Notice to Tribal Governments. All applicants must provide notice of discontinuance applications to any federally-recognized Tribal Nations with authority over the Tribal lands in which the discontinuance, reduction, or impairment of service is proposed, in addition to the notice already required to state PUCs, state Governors, and the Department of Defense.

Statutory authority for this collection of information is contained in 47 U.S.C. sections 214 and 402 of the Communications Act of 1934, as amended.

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

2. The Commission will use the information to determine if affected respondents are in compliance with its rules and the requirements of section 214 of the Communications Act of 1934, as amended.
3. In an effort to reduce any burden created by these information collections, the Commission will permit all respondents to file responses using automated, electronic, mechanical, or other technological collection techniques where feasible. It will allow applicants to provide notice via email and alternative forms of notifications previously accepted by customers. Affording carriers greater flexibility in providing notice makes the discontinuance process more manageable for small businesses.
4. Additionally, permitting streamlined treatment of section 214(a) discontinuance applications for services for which the carrier has had no customers and no reasonable requests for service in the previous 180 days reduces the burden on carriers who might otherwise be required to continue incurring any costs associated with maintaining that service and any supporting equipment or systems for a longer period of time.
5. The revisions allow a competitive LEC's application for discontinuance to be deemed granted on the effective date of any copper retirement that made the discontinuance unavoidable reduces the compliance burdens and economic impact on competitive LECs.

6. The rules adopted pursuant to the *2016 Technology Transitions Order* eased certain previous requirements, and thus promoted Federal programs and policies. The rules adopted in the *2016 Technology Transitions Order* further promote Federal programs and policies by ensuring that Tribal Nations receive notice of planned discontinuance, reduction, or impairment of service to consumers residing on Tribal lands so they can engage in outreach to those consumers in connection with the planned discontinuance, reduction, or impairment of their service.
7. The collections are not being conducted in any manner inconsistent with the guideline of 5 CFR Section 1320(d)(2).
8. The Commission published a notice in the *Federal Register* to solicit public comment as required by 5 CFR §1320.8. See 81 FR 75054, October 28, 2016. No PRA comments were received from the notice.
9. The Commission does not presently provide and does not plan to provide any payment or gifts to the respondents.
10. Information filed in section 214 applications has generally been non-confidential. Requests from parties seeking confidentiality are considered by Commission staff pursuant to agency rules. See 47 CFR § 0.459.
11. There are no questions of a sensitive nature involved, nor are there any privacy issues.
12. The new estimates listed here take into account only the four rule revisions outlined above and do not relate to the rules pertaining to streamlined treatment of discontinuance applications for legacy voice service as part of a technology transition or outreach requirements for such transitions that will be addressed separately.

The Commission has calculated the average number of 214 applications received from October 1, 2015 to September 30, 2016, and from October 1, 2016 to September 30, 2017, taking into account respondents included as a result of the application of these rules to interconnected VoIP providers. The Commission estimates the hour burden for the Part 63 collections to be as follows:

- (1) Total Number of Respondents: Approximately 60 respondents.
- (2) Total Number of Responses Annually: 60 responses—one response per respondent.
- (3) Frequency of Response: On occasion reporting requirements.
- (4) Annual Hour Burden Per Respondent: 6 hours.
- (5) Total Annual Hour Burden: 360 hours.

60 respondents x 6 hours/response = **360 hours.**

- (6) Total estimate of in-house cost to respondents for the hour burdens for collection of information: \$72,000.
- (7) Explanation of calculation: A number of variables must be considered. Complex section 214 applications generally are prepared by high level in-house staff attorneys of applicants supported

by lower categories of staff; basic section 214 applications of firms are prepared by staff specialists supported primarily by administrative staff.

We estimate preparation costs of 60 respondents x an average hourly salary for all staff categories of \$200 x 6 hours per respondent.

Thus, the total estimated cost to the industry is approximately \$72,000.

60 carriers x \$200/hour x 6 hours/respondent = \$72,000.

	No. of Respondents	Total Annual Responses =	Total Hour Burden
Current Estimates	60	60	360
In OMB's inventory:	60	60	300
Change in estimates:	0	0	60

13. Estimates of annualized costs to respondents for the hour burdens for providing these applications: None.
14. Estimated annual cost to the Federal government is **\$333,803.60** based on the current requirements and is as follows:

Federal Government:		
Processing Costs		
- Average staff years to process all filings made pursuant to the affected rules in Part 63 in a 12-month period	2	
- Average grade of employees, (1) GS-13/5; (2) 15/5 (includes locality pay)	=	<u>\$128,386</u>
- Subtotal (2 x \$128,386)		\$ 256,772.00
- Overhead Cost (30% x \$256,772)		<u>\$ 77,031.60</u>
<b>Total Government Cost</b>		<b>\$ 333,803.60</b>

This is based on the Commission's rules.

15. The Commission is reporting program changes/increases to the number of burden hours with this revised collection. The total annual burden hours increased from 300 to 360 (60). These program changes/increases are due to the Commission adopting the rule revisions in the *2016 Technology Transitions Order*.
16. No information is proposed to be published.
17. Approval to not display the expiration date for OMB approval is not sought since this information collection does not include any forms, etc.
18. The Commission's estimates of the total number of respondents, annual responses, and total annual burden hours associated with this collection stated in the 30-day notice differ from the estimates in the 60-

day notice published in the Federal Register on October 28, 2016 (81 FR 75054). These revised estimates are the result of the Commission seeking OMB approval of only four revisions to the section 214 discontinuance rules adopted in the *2016 Technology Transitions Order*. It does not yet seek OMB approval of the remaining *2016 Technology Transitions Order* rule revisions.

There are no other 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.