

SUPPORTING STATEMENT

A. Justification:

1. The Federal Communications Commission (“Commission”) is requesting that the Office of Management and Budget (OMB) approve an extension of OMB Control No. 3060-0686 titled, “International Section 214 Authorization Process and Tariff Requirements – 47 CFR Sections 63.10, 63.11, 63.13, 63.18, 63.19, 63.21, 63.24, 63.25 and 1.1311.” There are no changes in the number of responses, respondents, annual burden hours and annual costs.

Section 214-Related Application Forms Approved and Developed by the Commission

The Commission requests continued approval of the following Section 214-related forms which have been developed:

1. International Section 214 Application (FCC Form 214) (47 CFR 63.18)
2. International Section 214 Authorizations for Assignment or Transfer of Control (FCC Form 214TC) (47 CFR 63.24)
3. International Section 214 Special Temporary Authority Application (FCC Form 214STA) (47 CFR 63.25)
4. International Section 214 Foreign Carrier Affiliations Notification (FCC Form 214FCN) (47 CFR 63.11)

Section 214-Related Application Forms Approved and Pending Development

On January 28, 2014, the Office of Management and Budget approved the continuance of previous terms of clearance of Section 214 related FCC Forms which are pending development. See ICR Reference Number: 201311-3060-017. The Commission plans to develop two such forms that impact this information collection. We do not know the specific time frame for the development of each application form. However, we estimate that the new projected completion date for both forms is December 30, 2018. The development of application forms is contingent upon the availability of budget funds, human resources and other factors.

In February, 2006, the Commission received blanket approval of the two application forms listed below with the following terms of clearance: As applications contained within the supporting

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statement are developed, a change worksheet should be submitted to OMB at least 60 days prior to deployment to allow sufficient review time. The change worksheets should include the specific information collection elements requested, as well as the associated burden hours.

“TTC-Other Filings” has been removed from the pending development section in this information collection because the applicants/respondents notify the Commission of miscellaneous items such as name changes, etc., by letter filed electronically in the Commission’s IBFS system. That is, there is a “Letter” form that can be accessed through IBFS quick search that serves as a general filing category, thereby eliminating the need for a duplicative category such as “Other Filings.” Therefore, the Commission is no longer considering development of this form.

The following Section 214-related applications are pending development:

1. International Section 214 – Amendment (47 CFR 63.50)
2. International Section 214 – Modification

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

The statutory authority for this information collection is as follows: Sections 1, 4(i), 4(j), 11, 201-205, 208, 211, 214, 219, 220, 303(r), 309, 310 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 161, 201-205, 208, 211, 214, 219, 220, 303(r), 309, 310 and 403.

2. The information will be used by the Commission staff in carrying out its duties under the Communications Act. The information collections pertaining to Part 63 are necessary largely to determine the qualifications of applicants to provide common carrier international telecommunications service, including applicants that are, or are affiliated with, foreign carriers, and to determine whether and under what conditions the authorizations are in the public interest, convenience, and necessity. The information collections are also necessary to maintain effective oversight of U.S. international carriers generally.

3. In December 2006, the Commission received OMB approval of mandatory electronic filing of all section 214-related applications and notifications under OMB Control No. 3060-0686.¹

¹ The International E-Filing R&O (FCC 05-91) eliminated paper filings by requiring applicants to file electronically all applications and other filings related to international telecommunications services via the user-friendly, Internet-based electronic filing system called the International Bureau Filing System (IBFS). We would like to maintain OMB approval for mandatory electronic filing of all Section 214-related applications and filings pursuant to 47 CFR Sections 1.1000 through 1.0018, 63.11(j), 63.18(q), 63.19(d), 63.20, 63.21(j) and 63.53, including currently existing applications and applications that are pending development by the Commission.

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A total of 100 percent of Section 214 authorizations are filed electronically in the International Bureau Filing System (IBFS).

4. To the extent that information collection requirements contained in Section 310(b)(4) are similar to those in Section 214, the Commission does not require the filing of duplicative information by carriers filing under both Sections 310 and 214. The information that is collected under the rules is not available elsewhere.

5. In developing this collection, the Commission considered the impact of our information collection requirements on small businesses and other small entities. While we cannot project exactly how many foreign carriers or affiliates of foreign carriers from non-WTO Member countries may in the future seek entry into the U.S. telecommunications market, there is nothing in the record to suggest that there will be significantly more such carriers than there have in the past. Therefore, the Commission certifies that the requirements of this Report and Order will not have a significant economic impact on a substantial number of small entities.

6. The frequency of filing applications pursuant to Sections 214 and 310(b)(4) will be determined largely by the applicant seeking to provide U.S. international common carrier service under Section 214, and/or to exceed the parameters of an existing Section 310(b)(4) foreign ownership ruling issued by the Commission prior to August 9, 2013. Carriers will also determine largely the frequency of filing under the other rules included in this collection, with the exception of the quarterly reports required of certain carriers under Section 63.10(c). If the collections are not conducted or are conducted less frequently, applicants will not obtain the authorizations necessary to provide telecommunications services, and the Commission will be unable to carry out its mandate under the Communications Act of 1934. In addition, without the information collections, the United States would jeopardize its ability to fulfill the U.S. obligations as negotiated under the WTO Basic Telecom Agreement because these collections are imperative to detecting and deterring anticompetitive conduct. They are also necessary to preserve the Executive Branch agencies' and the Commission's ability to review foreign investments for national security, law enforcement, foreign policy, and trade concerns.

Regarding Section 63.11, carriers determine largely when to notify the Commission of planned investments by or in foreign carriers. If the information is not collected by the Commission, we will not be able to prevent carriers that control bottleneck facilities in foreign countries from using those bottlenecks to discriminate against unaffiliated U.S. carriers.

7. There are no special circumstances associated with this collection of information.

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8. On September 26, 2017, the Commission published a 60-day notice in the Federal Register (82 FR 44788) seeking comments on the information collection requirements contained in this Supporting Statement. The comment period ended on November 27, 2017. No comments were received from the public as a result of the published notice.
9. The Commission does not provide any payment or gift to respondents.
10. The Commission has not granted assurances of confidentiality to those parties submitting the information. In those cases where a respondent believes information requires confidentiality, the respondent can request confidential treatment under Section 0.459 of the Commission's rules, 47 C.F.R. § 0.459.
11. This collection does not include any questions of a sensitive nature.

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12. The information collection requirements are summarized in the chart below. The total number of respondents, on an annualized basis, for this information collection is approximately 495.²

Rule Section and Explanation of Burden Estimate³	Number of Responses	Frequency of Response	Time Per Response (in hours)	Total Annual Hour Burden
Section 310(b) of the Communications Act of 1934, as amended, PETITIONS FOR DECLARATORY RULING To exceed the limits of a ruling issued before August 9, 2013	10	1	15	150
47 CFR 63.10(a)(4)	1	1	1	1

² Of the following rule categories and respondents within those categories, over 50 percent of the total respondents are either filing for an initial section 214 authorization or for a transfer of control or assignment of a section 214 authorization: Section 310(b) petitions (10); Section 63.10(a)(4) notifications (1); Section 63.10(c) reports (20); Section 63.11 notifications (9); Section 63.13 requests (3); Section 63.18 applications for facilities-based, resale and other 214 authority) (180); Section 63.19 notifications (7); Section 63.21(a) notifications (1); Section 63.21(e), (f) third party disclosures (20); Section 63.21(h) subsidiary notifications (20); Section 63.21(i) name change notifications (25); Section 63.24(e)(1), (e)(2) substantial transfers of control and assignments (83); Section 63.24(f) (2) pro forma transfers of control and assignments (87); and Section 63.25 requests for temporary authority (29). The number of respondents reported in the 2013 Supporting Statement is 1,670 respondents. Since the 2013 Supporting Statement is based on the same fiscal period as this statement, and the data recorded in the IBFS database for those years has remained the same, IB staff believes that the annualized number of respondents reported in the 2013 Supporting Statement is erroneous and not based on actual data.

³ For all applications, records must be maintained by respondents and the time for maintaining these records are included in the estimated time per response.

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<p>Notification filed by a carrier classified as non-dominant under this provision of the initiation of services through the resale of an affiliated U.S. facilities-based carrier's international switched services.</p>				
<p>47 CFR 63.10(c) Reports and other requirements of carriers classified as dominant. Any carrier classified as dominant for the provision of services on a particular route is required to provide service through a separate affiliate and (1) file quarterly traffic and revenue reports pursuant to section 43.61, (2) file quarterly provisioning and maintenance reports of network facilities and services procured from its foreign carrier affiliate, and (3) file quarterly circuit status reports set out in the section 43.82 manual.</p>	240 ⁴	Quarterly	1	240
<p>47 CFR 63.11(a), (e) Foreign carrier affiliation notifications. An authorized U.S. carrier must notify the Commission 45 days before consummation of (1) a transaction that results in the acquisition by the U.S. carrier, or certain of its affiliates as described in the rule, of a controlling interest in a foreign carrier that is authorized to operate in a market that the U.S. carrier is authorized to serve, or (2) a transaction that results in acquisition of greater than 25 percent of the capital stock, or of a controlling interest, in the authorized U.S. carrier by a foreign carrier that is authorized to operate in a market that the U.S. carrier</p>	1	1	6	6

⁴ The Commission arrived at the annual number of responses of 240 based on the following calculation: 20 respondents x 12 responses (3 responses per quarter x 4 quarters).

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<p>is authorized to serve, unless the U.S. carrier is able to make one of the showings in paragraph (b) of this section. The U.S. carrier must provide in its prior notification the information specified in 63.11(e) and certify that the contents of the notification are true.</p>				
<p>47 CFR 63.11(b)-(c), (e)</p> <p>Foreign carrier affiliation notification after consummation of a transaction. An authorized U.S. carrier that becomes affiliated with a foreign carrier and has not previously notified the Commission shall notify the Commission within 30 days after consummation of the acquisition. The U.S. carrier must provide the information specified in 63.11(e) and certify that the contents of the notification are true.</p>	8	1	6	48
<p>47 CFR 63.11(f)</p> <p>In order to retain non-dominant status on a newly affiliated route, the U.S. carrier must include in its notification a showing of eligibility pursuant to the criteria described in 63.10.</p>	9	1	1	9
<p>47 CFR 63.11(g)(2)</p> <p>In the case of a prior notification filed under §63.11(a), the U.S. authorized carrier must demonstrate that it continues to serve the public interest for it to operate on the route for which it proposes to acquire an affiliation with the foreign carrier authorized to operate in the non-WTO country. Such a showing shall include a demonstration as to whether the foreign carrier lacks market power in the non-WTO country</p>	1	1	2 hours (if no comments are filed) 8 hours (if comments are filed). This burden includes a possible, additional information	8

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<p>with reference to the criteria in §63.10(a). If the U.S. authorized carrier is unable to make the required showing in §63.10(a), the U.S. authorized carrier shall agree to comply with the dominant carrier safeguards contained in section 63.10(c), effective upon the acquisition of the affiliation. If the U.S. authorized carrier is notified by the Commission that the affiliation may otherwise harm the public interest pursuant to the Commission's policies and rules, then the Commission may impose conditions necessary to address any public interest harms or may proceed to an immediate authorization revocation hearing.</p>			<p>request by Commission staff in the event concerns are raised.</p>	
<p>47 CFR 63.11(h) Accuracy of contents of notification and certifications. All carriers are required to file corrected notification information within 45 days after filing, except that the carrier shall immediately notify the Commission of representations of certifications that are no longer true.</p>	<p>9</p>	<p>1</p>	<p>1</p>	<p>9</p>
<p>47 CFR 63.13 A U.S. international carrier modifying its regulatory status from dominant to non-dominant for the provision of services on a particular route must demonstrate in its application that it qualifies for non-dominant classification pursuant to section 63.10.</p>	<p>3</p>	<p>1</p>	<p>2</p>	<p>6</p>

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<p>47 CFR 63.18</p> <p>Contents of applications for international common carriers for facilities-based (63.18(e)(1)) and/or resale authority (63.18(e)(2))</p> <p>Application (FCC Form 214) includes information demonstrating how grant of the application will serve the public interest, convenience and necessity pursuant to section 214 of the Communications Act of 1934. The specific information and certifications are included in sections 63.18(a) through (j), and sections 63.18(n) through (p). Applicants must also certify to comply with conditions in sections 63.21 and 63.22 of the rules.</p>	180	1	9	1,620
<p>47 CFR 63.18(e)(3)</p> <p>Section 214 based authority to provide services not covered by 63.18(e)(1) and 63.18(e)(2). See FCC's exclusion list at http://www.fcc.gov/ib. Applicant must certify that it will comply with conditions in 63.21 and 63.22. If applying for facilities-based authorization, must also certify that environmental assessment is not required under 47 CFR 1.1306. See 63.18(g).</p>	1	1	9	9
<p>47 CFR 63.18(k)</p> <p>For any country that the applicant has listed in response to 63.18(j) of this section that is not a Member of the World Trade Organization, the applicant</p>	1	1	2 hours (if no comments filed) 8 hours (if comments filed). This burden	8

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<p>shall make a demonstration as to whether the foreign carrier has market power, or lacks market power, with reference to the criteria in section 63.10(a) of this chapter.</p>			<p>includes a possible, additional information request by Commission staff in the event concerns are raised.</p>	
<p>47 CFR 63.18(m) Carrier must provide information in its application to demonstrate that it qualifies for non-dominant classification pursuant to 63.10.</p>	<p>12</p>	<p>1</p>	<p>2 This burden includes a possible, additional information request by Commission staff in the event concerns are raised.</p>	<p>24</p>
<p>47 CFR 63.19(a)(1) and (a)(2) Any international carrier that seeks to discontinue, reduce or impair service, including the retiring of international facilities, dismantling, or removing of international trunk lines shall notify affected customers at least 30 days prior to planned action and file a copy of notification with the FCC.</p>	<p>6</p>	<p>1</p>	<p>2</p>	<p>12</p>
<p>47 CFR 63.19(b)</p>	<p>1</p>	<p>1</p>	<p>4</p>	<p>4</p>

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<p>If a carrier classified as dominant discontinues, reduces or impairs the dominant service, or retires facilities that impair or reduce the service, the carrier shall file an application pursuant to sections 63.62 and 63.500.</p>				
<p>47 CFR 63.21(a)</p> <p>Conditions applicable to all common carriers. Each carrier is responsible for accuracy of certifications in its section 214 application. Each carrier is responsible for filing a corrected certification within 30 days with a reference to the original FCC file number. The information may be used by the Commission to determine whether a change in regulatory status is warranted under section 63.10. See also section 63.11.</p>	1	1	.5	.5
<p>47 CFR 63.21(e) and (f)</p> <p>Third party disclosure requirement. A carrier may not access or use customer proprietary network information derived from a foreign network unless the carrier obtains approval from the customer. Authorized carriers may not receive proprietary or confidential information pertaining to a competing U.S. carrier, obtained by the foreign carrier unless the competing U.S. carrier provides its permission in writing.</p>	20	1	1	20
<p>47 CFR 63.21(h)</p> <p>Provision of service through wholly-owned direct or indirect subsidiaries. An authorized carrier must provide a notification to the Commission within 30 days after the subsidiary begins providing service. The carrier must</p>	20	1	1	20

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provide its FCC file number and identify the subsidiary's name and place of legal organization.				
47 CFR 63.21(i) An authorized carrier or a subsidiary operating pursuant to 63.21(h) must notify the Commission within 30 days of a name change and reference FCC file numbers under which the carrier's authorizations were granted.	25	1	1	25
47 CFR 63.24 (e)(1), (e)(2) Assignments and Transfers of Control for substantial transactions. Applications for substantial transactions. Under 63.24(a), a carrier must apply to the Commission prior to assigning or transferring its international section 214 authorization to another party, whether voluntarily or involuntarily, directly or indirectly. The application shall include a narrative of the proposed transfer or assignment and information contained in certain sections of 63.18, as specified in 63.24(e)(2). The assignee or transferee must notify the Commission no later than 30 days after consummation of the proposed assignment or transfer of control.	83	1	9	747
47 CFR 63.24(f)(1), (f)(2) Assignments and Transfers for non-substantial, or pro forma transactions. Notifications for pro forma transactions. A carrier that is subject to a pro forma assignment or transfer of control is not required to seek prior Commission approval before assigning or transferring	87	1	3	261

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<p>its section 214 authorization, but must file a notification with the Commission no later than 30 days after the assignment or transfer is completed. The notification must include a certification that the transfer of control was pro forma and does not result in a change in the actual controlling party. The notification must also include information contained in certain sections of 63.18, as specified in 63.24(f)(2)(i).</p>				
<p>47 CFR 63.25</p> <p>Request for special temporary authority or emergency service.</p> <p>Applicants must file a request with the Commission stating why temporary authority or emergency service is required, along with the type of facilities proposed to be used, and the services to be provided. Temporary service shall mean service for a period not exceeding 6 months.</p> <p>A carrier may request continuing authority to provide temporary or emergency service by the construction or installation of facilities where the costs do not exceed \$35,000 or an annual rental of not more than \$7,000. If granted, the carrier shall, not later than the 30th day following the end of each 6-month period covered by such authority, file a statement setting forth the type of facility, the cost and the dates of commencement of the project.</p>	<p>29</p>	<p>1</p>	<p>2</p>	<p>58</p>
<p>Totals:</p>	<p>748 Number of Responses</p>		<p>0.50 – 15 hours Per</p>	<p>3,285.5 rounded 3,286</p>

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			Response	Total Annual Burden Hours

In-House Cost to Respondents: We estimate that in-house staff is paid at an estimated rate of \$40 per hour.

$$3,286 \text{ hours} \times \$40 \text{ per hour} = \mathbf{\$131,440 \text{ Total In-House Costs to Respondents}}$$

13. Annual Burden Cost:

(a). **Capital and Start-Up Costs: 0**

(b). **Operations and Maintenance Costs**

Outside Legal Assistance: We estimate that the respondent will require outside legal assistance for 50% (374) of the total number of responses.⁵ The cost of outside legal assistance is estimated at \$300 per hour. This figure is based on a small survey of local firms in the D.C. area and is considered a conservative estimate.

$$374 \text{ responses} \times \$300 \text{ per hour} \times 4 \text{ hours per response} = \mathbf{\$448,800 \text{ Total Outside Legal Costs}}$$

Application Filing Fees: Part 214-related application fees are \$1,050. The annualized application fees collected by the FCC for FY2011, 2012 and 2013 are the following: 180 responses (Section 214 applications) + 83 responses (substantial assignments and transfers of control applications) + 29 responses (request for special temporary authority applications) = 292 applicants.

$$\text{A total of 292 respondents/applicants} \times \$1,050/\text{application} = \mathbf{\$306,600 \text{ Total}}$$

Application Fees

⁵ The rules and requirements in this collection will not require respondents to maintain any special equipment.

(c). Total Annual Cost Burden:

Description of Estimated Costs to Respondents	Total Costs
Outside Legal Assistance	\$448,800
Application Filing Fees	\$306,600
Total Cost to Respondents	\$755,400

14. Estimates of Annualized Cost to the Federal Government:

The estimates of annualized cost to the Federal government are summarized in the chart below. As shown in the chart, the annualized costs to the Federal government are \$429,912.

Federal Government Staff	Number of Staff	Salary Per Hour	Annual Burden Hours	Annualized Costs
GS-15/Step 5 Attorney	3	\$71.56	1,000	\$214,680
GS-14/Step 5 Attorney	2	\$60.83	1,000	\$121,660
GS-15/Step 5 Engineers	1	\$71.56	500	\$35,780
GS-11/Step 5 Administrative Support	1	\$36.12	1,600	\$57,792
	7			\$429,912

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

16. The Commission does not plan to publish the information for statistical use.

17. No waiver of the OMB expiration date is necessary.

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18. There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods:

This information collection does not employ statistical sampling.