

## SUPPORTING STATEMENT

### A. Justification

1. The Federal Communications Commission (“Commission”) is requesting that the Office of Management and Budget (OMB) approve a three-year extension of OMB Control No. 3060-0944 titled, “Cable Landing License Act – 47 CFR 1.767; 1.768; Executive Order 10530.” There are no changes in the number of respondents, responses, annual burden hours and annual costs.

#### Cable Landing License Application Forms Approved and Pending Development by the Commission

We request continued OMB approval of the Submarine Cable Landing License Application form approved under this collection.

The Commission plans to develop six new cable landing license application 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 all cable landing license application forms is December 30, 2019. The development of the application forms is contingent upon the availability of budget funds, human resources and other factors.

In March 2006, the Commission received blanket approval of all six applications listed below with the following terms of clearance: OMB approves this information collection. However, as applications contained within the supporting statement are developed, a change worksheet should be submitted to OMB. The change worksheet should include the information elements that are to be collected, as well as a copy of the proposed form. This should be submitted before the application goes “live” and OMB reserves the right to make modifications to the forms and information collected as necessary.

Currently, applicants can file letters electronically with the Commission for amendments, modifications and other filings for which there is no existing application form. These information collections are approved under OMB Control No. 3060-0944. On September 30, 2008, the Commission’s International Bureau (IB) launched an e-filing module in the International Bureau Filing System (IBFS) to provide the option of electronic filing for certain filings in lieu of filing through the Commission’s Office of the Secretary. Interested parties have the option to file their applications, pleadings and other filings through the IBFS module or

**OMB Control No. 3060-0944**  
**Cable Landing License Act**  
**47 CFR 1.767; 1.768**  
**Executive Order 10530**  
**December 2017**

submit their filings to the Office of the Secretary. (Please reference Public Notice DA 08-2173 for additional information).

A complete list of cable landing license applications pending development is as follows:

<b>Name of Form</b>	<b>Brief Description</b>	<b>Rule Section</b>
1. Submarine Cable Landing License Amendment	Amendment of an application to correct information required for the processing of the original application.	§1.767(m)(1)
2. Submarine Cable Landing License Assignment	Application to assign a license, or a portion of it, from one entity to another. Following an assignment, the license will usually be held by an entity other than the one to which it was originally granted.	§1.767(a)(11)
3. Submarine Cable Landing License Landing Point Notification	Notification of specific description of the landing stations in the U.S. and the foreign countries where the cable will land.	§1.767(a)(5) §1.767(g)(8)
4. Submarine Cable Landing License Modification	Modification application requesting authority to modify the terms or conditions of a license, such as adding a new licensee or relinquishing an interest in a license; also may be used to update information required to maintain accuracy of the certifications made in the original application.	§1.767(m)(1)
5. Submarine Cable Landing License Special Temporary Authority	Application requesting immediate authority for temporary service or for	§1.767(a)

**OMB Control No. 3060-0944**  
**Cable Landing License Act**  
**47 CFR 1.767; 1.768**  
**Executive Order 10530**  
**December 2017**

	emergency service (Special Temporary Authority).	
6. Submarine Cable Landing License Transfer of Control of License	Application to transfer control of a license. Following the transfer of control, the license remains held by the same entity or entities, but there is a change in the entity or entities that control a license holder.	§1.767(a)(11)

The Commission removed the Submarine Cable Landing License Other Filings and Submarine Cable Landing Notification of Operation Forms from this information collection because the applicants/respondents notify the Commission of miscellaneous items such as name changes, etc., by letter filed electronically in IBFS. Therefore, the Commission is no longer planning on developing these two forms.

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 contained in the Submarine Cable Landing License Act of 1921, 47 U.S.C. 34-39, Executive Order 10530, section 5(a), and the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i)-(j), 155, 303(r), 309, and 403.

2. The information will be used by the Commission staff in carrying out its duties under the Cable Landing License Act. The information collections pertaining to Part 1 of the rules are necessary to determine whether and under what conditions the Commission should grant a license for proposed submarine cables landing in the United States. Pursuant to Executive Order No. 10530, the Commission has been delegated the President's authority under the Cable Landing License Act to grant cable landing licenses, provided that the Commission must obtain the approval of the State Department and seek advice from other government agencies as appropriate.

3. On May 11, 2005, in Report and Order, IB Docket No. 04-226, FCC 05-91, the Commission made electronic filing mandatory for international telecommunications services and other international filings, including submarine cable landing license applications, subject to the availability of electronic forms. As noted above, on September 30, 2008, the Commission's International Bureau (IB) launched an e-filing module in the International Bureau Filing System

**OMB Control No. 3060-0944**  
**Cable Landing License Act**  
**47 CFR 1.767; 1.768**  
**Executive Order 10530**  
**December 2017**

(IBFS) to provide applicants and other interested parties the option of electronic filing for certain filings for which forms are not available in lieu of filing through the Commission's Office of the Secretary. A total of 100 percent of forms are filed electronically in the IBFS.

4. An applicant for a common carrier (but not a non-common carrier) submarine cable landing license must file two electronic applications: (1) a cable landing license application and (2) an international Section 214 application for overseas cable construction. While the applicant may be able to use some of the same information in both applications, the applicant must file two separate applications.

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 been 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 and notifications under Sections 1.767 and 1.768 of the rules will be determined largely by the applicants that seek authority to construct and operate a submarine cable, by licensees that seek authority to assign or transfer control of an interest in an existing cable, or by licensees acquiring an affiliation with a foreign carrier in a destination country of the cable. The exception to this general rule is the requirement in 1.767(l) that certain licensees file quarterly reports. If the collection is not conducted or is conducted less frequently, applicants will not obtain the authorizations necessary to provide telecommunications services and facilities, and the Commission will be unable to carry out its mandate under the Cable Landing License Act and Executive Order 10530. In addition, without the collection, the United States would jeopardize its ability to fulfill the U.S. obligations as negotiated under the World Trade Organization (WTO) Basic Telecom Agreement because certain of these information collection requirements 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.

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

8. On October 10, 2017, the Commission published a 60-day notice in the Federal Register (82 FR 46988) seeking comments on the information collection requirements contained in this

Supporting Statement. The comment period ended on October 11, 2017. No comments were received from the public.

9. Respondents will not receive any payments or gifts.

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. The Commission has determined, however, that maps showing the exact location of submarine cables should not be routinely available for public inspection. 47 C.F.R. § 0.457(c)(1)(i).

11. The collection of information does not include any questions of a sensitive nature.

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 **38**. The respondents consist of: Applicants filing for an initial cable landing license (1 respondent); Applicants filing for consent to transfer control of, or to assign, an interest in a cable landing license (13 respondents, consisting of 8 requesting prior consent to transfer control of, or to assign, an interest in a cable landing license, and 5 filing post-notification of a *pro forma* transfer or assignment); Licensees subject to reporting requirements (7 respondents); Applicants requesting special temporary authority (6 respondents); Licensees relinquishing interest in a license (1 respondent); Licensees filing an application to modify an existing cable system (2 respondents); Licensee notification that cable is operational (1 respondent); Licensees filing prior notification of proposed affiliation with certain foreign carriers (1 respondent); Licensees filing post-transaction notification of affiliation with certain foreign carriers (6 respondents).





**OMB Control No. 3060-0944**  
**Cable Landing License Act**  
**47 CFR 1.767; 1.768**  
**Executive Order 10530**  
**December 2017**

<p><b>47 CFR 1.767(a)(8)(iv)</b></p> <p>For any country that the applicant has listed in response to paragraph (a)(8)(iii) of this section that is not a member of the World Trade Organization, provide a demonstration as to whether the foreign carrier lacks market power with reference to the criteria in section 63.10(a).</p>		<p>possible, additional information request by Commission staff in the event concerns are raised.</p>	
<p><b>47 CFR 1.767(a)(11)(i)-(iii)</b>  <b>ASSIGNMENTS AND TRANSFERS OF CONTROL</b></p> <p>If applying for authority to assign or transfer control of an interest in a cable system, the applicant shall provide the information required in this paragraph, including a narrative of the means by which the transaction will take place; the percentage of voting and ownership interests being transferred or assigned in the cable; and, for the assignee/transferee, the information specified in 1.767(a)(8)-(9).<sup>4</sup> If the transaction also requires the filing of a 1.768 notification, a cross-reference to the notification and filing date. The assignee or transferee must notify the Commission no later than 30 days after either consummation of the assignment or transfer or a decision not to consummate the assignment or transfer.</p>	8	9 Hrs.	72 Hrs.
<p><b>47 CFR 1.767(f)</b>  <b>THIRD PARTY DISCLOSURE</b></p> <p>Applicants shall disclose to any interested member of the public, upon written request,</p>	1	3 Hrs.	3 Hrs.

<sup>4</sup> The Commission estimates that no more than one application annually will require the applicant to respond to the information request in 1.767(a)(8)(iv). The application may be for an initial cable landing license or for consent to assign or transfer an interest in a cable landing license. We have included the one response and the associated 2 hour burden in this chart only once, under 47 CFR 1.767(a)(8)(iv), in order to eliminate double counting the annual hour burden associated with the 1.767(a)(8)(iv) information requirement that is cross-referenced in 1.767(a)(11)(i).



**OMB Control No. 3060-0944**  
**Cable Landing License Act**  
**47 CFR 1.767; 1.768**  
**Executive Order 10530**  
**December 2017**

<p>accurate information concerning the location and timing for the construction of a submarine cable system authorized under this section. The disclosure shall be made within 30 days of receipt of the request.</p>			
<p><b>47 CFR 1.767(g)(7)</b>  <b>PRO FORMA ASSIGNMENTS/TRANSFERS</b></p> <p>A pro forma assignee or person or company that is the subject of a pro forma transfer of control must notify the Commission no later than 30 days after the assignment or transfer of control is consummated. The notification must certify that the assignment or transfer of control was pro forma, as defined in Section 63.24 of this chapter, and together with all previous pro forma transactions, does not result in a change of the licensee's ultimate control. The licensee may file a single notification for an assignment or transfer of control of multiple licenses issued in the name of the licensee if each license is identified by the file number under which it was granted.</p>	5	3 Hrs.	15 Hrs.
<p><b>47 CFR 1.767(g)(8)</b>  <b>CABLE LANDING CONSTRUCTION</b></p> <p>Unless the licensee has notified the Commission of the precise locations of the cable landing points, as required by paragraph 1.767(a)(5), the licensee shall notify the Commission no later than 90 days prior to commencing construction at that landing location.</p>	(See 1.767(a)(5) <sup>5</sup> )	0 Hrs.	0 Hrs.
<p><b>47 CFR 1.767(g)(9)</b>  <b>ENVIRONMENTAL ASSESSMENT</b></p> <p>The Commission may require that the licensee file an environmental assessment should it</p>	1	10 hours	10 hours

<sup>5</sup> The burden is accounted for in the requirement under Section 1.767(a)(5).

**OMB Control No. 3060-0944**  
**Cable Landing License Act**  
**47 CFR 1.767; 1.768**  
**Executive Order 10530**  
**December 2017**

<p><b>47 CFR 1.767(g)(14)</b>  <b>SUBMARINE CABLE LANDING LICENSE</b></p> <p><b>NOTIFICATION OF OPERATION</b>  The licensee must notify the Commission within 30 days of the date the cable is placed into service. The cable landing license shall expire 25 years from the in-service date, unless renewed or extended upon proper application. Upon expiration, all rights granted under the license shall be terminated.</p>	1	1 Hr.	1 Hr.
<p><b>47 CFR 1.767(j), (k)(1)-(3)</b></p> <p><b>REQUEST AND ELIGIBILITY FOR STREAMLINED PROCESSING</b></p> <p>An applicant that seeks streamlined processing must make a request in its application and must provide a copy of the application to the Department of State to initiate approval of the application by the Department of State. The applicant also must demonstrate eligibility in accordance with the provisions of paragraphs (k)(1)-(3).</p>	11 This number consists of requests that may be included in initial applications (1), transfer of control and assignment applications (8), and applications to modify an existing license (2).	6 Hrs.	66 Hrs.
<p><b>47 CFR 1.767(k)(4)</b></p>	3	1 Hr.	3 Hrs.

**OMB Control No. 3060-0944**  
**Cable Landing License Act**  
**47 CFR 1.767; 1.768**  
**Executive Order 10530**  
**December 2017**

<p>Applications for an initial license and applications to modify an existing license shall also include a certification that the applicant is not required to submit a consistency certification with any state pursuant to the Coastal Zone Management Act.</p>			
<p><b>47 CFR 1.767(l)</b></p> <p><b>REPORTING REQUIREMENTS APPLICABLE TO LICENSEES AFFILIATED WITH A CARRIER WITH MARKET POWER IN A CABLE'S WTO DESTINATION MARKET THAT REQUEST STREAMLINED PROCESSING</b></p> <p>Licenses must file, within 90 days from the end of each calendar quarter, (1) reports summarizing the provisioning and maintenance of all network facilities and services procured from the licensee's affiliate in that destination market; and (2) listing its active and idle circuits on the U.S.-destination route by type of transmission facility.</p>	28 <sup>6</sup>	4 Hrs./Report	112 Hrs.
<p><b>47 CFR 1.767(m)(1)</b></p> <p><b>SUBMARINE CABLE LANDING LICENSE AMENDMENTS AND MODIFICATIONS</b></p>	2	2 Hrs.	4 Hrs.
<p><b>47 CFR 1.767(m)(2)</b></p>	1	2 Hrs.	2 Hrs.

<sup>6</sup> The Commission arrived at the annual number of responses of 28 based on the following calculation: 7 respondents x 4 responses (1 response per quarter x 4 quarters).

**OMB Control No. 3060-0944**  
**Cable Landing License Act**  
**47 CFR 1.767; 1.768**  
**Executive Order 10530**  
**December 2017**

<p><b>RELINQUISH INTEREST</b>  Any licensee that seeks to relinquish its interest in a cable landing license shall file an application to modify the license. Such application must include a demonstration that the applicant is not required to be a licensee under paragraph (h) of this section and that the remaining licensee(s) will retain collectively de jure and de facto control of the U.S. portion of the cable system sufficient to comply with the requirements of the Commission's rules and any specific conditions of the license, and must be served on each other licensee of the cable system.</p>			
<p><b>47 CFR.1.767(a)</b>   <b>SUBMARINE CABLE LANDING LICENSE SPECIAL TEMPORARY AUTHORITY</b>   Application requesting immediate authority for temporary service or for emergency service.</p>	6	2 Hrs.	12 Hrs.
<p><b>47 CFR 1.767; 47 CFR 63.18 INTERNATIONAL SECTION 214 APPLICATION FOR OVERSEAS CABLE CONSTRUCTION (FCC FORM 214)</b></p>	0	9 Hrs.	0 Hrs.
<p><b>47 CFR 1.768(a), (e)</b>   <b>NOTIFICATION BY AND PRIOR APPROVAL FOR SUBMARINE CABLE LANDING LICENSEES THAT ARE OR PROPOSE TO BECOME AFFILIATED WITH A FOREIGN CARRIER</b>   Affiliations Requiring Prior Notification: A cable licensee must notify the Commission 45 days before consummating a transaction that results in the licensee, or certain of its affiliates as described in the rule, acquiring a controlling interest in a foreign carrier that is authorized to</p>	1	9 Hrs.	9 Hrs.

operate in a non-WTO market where the cable lands, or that results in the acquisition of greater than 25% of the capital stock, or a controlling interest, in the licensee by a foreign carrier authorized to operate in a non-WTO market where the cable lands, unless the licensee is able to make one of the showings in paragraph (b) of this section. The licensee must provide in its prior notification the information specified in paragraph (e) of this section.

**47 CFR 1.768(b)-(c), (e)**

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**POST-CONSUMMATION NOTIFICATIONS BY  
SUBMARINE CABLE LANDING LICENSEES  
THAT HAVE ACQUIRED AN AFFILIATION  
WITH A FOREIGN CARRIER**

Any licensee that becomes affiliated with a foreign carrier and has not previously notified the Commission pursuant to this section shall notify the Commission within 30 days after consummation. The licensee must provide in its post-notification the information specified in paragraph (e) of this section.

**47 CFR 1.768(d)**

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If the transaction requiring the notification involves a transfer of control or assignment application under 1.767(a)(11), the notification

**OMB Control No. 3060-0944**  
**Cable Landing License Act**  
**47 CFR 1.767; 1.768**  
**Executive Order 10530**  
**December 2017**

<p>shall reference the transfer/assignment application and the filing date.</p>			
<p><b>47 CFR 1.768(f)</b></p>	5	2	10
<p>If the licensee seeks to be excepted from the reporting requirements in 1.787(l) for a newly affiliated route, the notification must include a showing that the licensee is eligible as a non-dominant provider on the route pursuant to the criteria described in 63.10.</p>			
<p><b>47 CFR 1.768(g)(2)</b></p>	1	2 Hrs (if no comments are filed) 8 Hrs (if comments are filed).	8
<p>In the case of a prior notification filed under 1.768(a), the notification must include a showing that it continues to serve the public interest for the licensee to retain its interest in the license for that segment of the cable that lands in the non-WTO destination market. Such a showing shall include a demonstration as to whether the foreign carrier lacks market power in the non-WTO destination market with reference to the criteria in §63.10(a). In addition, upon request of the Commission, the licensee shall provide the information specified in 1.767(a)(8).</p>		This burden includes a possible, additional information request by Commission staff in the event concerns are raised.	
<p><b>47 CFR 1.768(h)</b></p>	7	1	7
<p>Accuracy of contents of notification. Licensees are responsible for continuing accuracy of information in the notification for a period of 45 days after filing. During this period, if information is no longer accurate, the licensee shall file, as promptly as possible and in any event within 10 days, unless good cause is shown, a corrected notification referencing the FCC File No. of the original notification.</p>			
<p><b>47 CFR 1.768(i)</b></p>	1	6	6
<p>A licensee filing a prior notification under 1.768(a) may request confidential treatment</p>			

**OMB Control No. 3060-0944**  
**Cable Landing License Act**  
**47 CFR 1.767; 1.768**  
**Executive Order 10530**  
**December 2017**

under 47 CFR 0.459 for 20 days after filing.			
<b>Totals:</b>	<b>94 Number of Responses</b>	<b>0.5 – 17 Hours</b>	<b>421 Total Annual Burden Hours</b>

In-House Costs – We estimate that in-house staff is paid at an estimated rate of \$40 per hour.

421 hours X \$40 per hour = **\$16,840 Total In-House Costs to Respondents**

13. Annual Burden Cost:

(a) Capital and Start-up Costs: 0

(b) Operation and Maintenance Costs

Outside Legal/Engineering Assistance: We estimate that the respondent will require outside legal and engineering assistance for 50% of the responses (47).<sup>7</sup> The cost of outside legal and engineering assistance is estimated at \$300 per hour. The figure is based on a small survey of local firms in the D.C. area and is considered a conservative estimate.

47 responses x 4 hours per response x \$300 = **\$56,400 Total Outside Legal/Engineering Costs**

Application Filing Fees:

As shown on the chart below, the total of application filing fees is **\$32,105**.

Cable Landing License Application	Number	Application	Total
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<sup>7</sup> The rules and requirements in this collection will not require respondents to maintain any special equipment.

**OMB Control No. 3060-0944**  
**Cable Landing License Act**  
**47 CFR 1.767; 1.768**  
**Executive Order 10530**  
**December 2017**

<b>Filing Fees</b>	<b>of Applicants</b>	<b>Fees</b>	<b>Costs</b>
Cable Landing License (Non-common Carrier)	1	\$17,405	\$17,405
Cable Landing License (Common Carrier)	0	\$1,760	\$0
Overseas Cable Construction (Common Carrier)	0	\$15,645	\$0
Special Temporary Authority	6	\$1,050	\$6,300
Prior Consent to Assignments and Transfers of Control	8	\$1,050	\$8,400
<b>Totals:</b>	<b>15</b>		<b>\$32,105</b>

(c). Total Annual Cost Burden

<b>Description of Estimated Costs to Respondents</b>	<b>Total Costs</b>
Outside Legal/Engineering Assistance	\$56,400
Application Filing Fees	\$32,105
<b>Total Cost to Respondents</b>	<b>\$88,505</b>



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 **\$51,975.50**.

<b>Federal Government Staff</b>	<b>Number of Staff</b>	<b>Salary Per Hour</b>	<b>Annual Burden Hours</b>	<b>Annualized Costs</b>
GS-15/Step 5 Attorney	1	\$71.56	250	\$17,890.00
GS-14/Step 5 Attorney	1	\$60.83	250	\$15,207.50
GS-15/Step 5 Engineers	1	\$71.56	125	\$8,945.00
GS-11/Step 5 Administrative Assistant	1	\$36.12	275	\$9,93.00
	<b>4</b>			<b>\$51,975.50</b>

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

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

17. A waiver of the OMB expiration date is necessary.

18. There are no exceptions to the certification statement.

**Part B. Collections of Information Employing Statistical Methods:**

This collection of information does not anticipate the use of statistical methods.