

**Title: 47 CFR 43.82, Annual International Circuit Capacity Reports**

**SUPPORTING STATEMENT**

**A. Justification:**

1. The Federal Communications Commission (Commission) is requesting that the Office of Management and Budget (OMB) approve a revision of an existing information collection, titled “47 CFR 43.62, Annual Reporting Requirements for U.S. Providers of International Services and Circuits.” The purpose of the revision is to obtain OMB approval of the annual reporting requirements under the newly adopted 47 CFR 43.82 which will require that entities holding capacity on submarine cables file electronically annual circuit capacity reports, in a format set out in a Filing Manual.

The Commission is requesting a revision of OMB Control No. 3060-1156 in order to obtain final approval for the requirements in 47 CFR 43.82, the filing manual, and the electronic filing of the data.

Previously, U.S. providers of international services were required to file annual traffic and revenue reports and circuit capacity reports as required by 47 CFR 43.62. The Commission has adopted rules changes that eliminate the traffic and revenue reports and further streamline the circuit capacity reports. Upon OMB approval of this collection, 47 CFR 43.62 will be eliminated and replaced with 47 CFR 43.82 for the filing of circuit capacity reports.

The current title of OMB Control No. 3060-1156 is “47 CFR 43.62, Annual Reporting Requirements for U.S. Providers of International Services and Circuits.” The Commission would like to change the title to “47 CFR 43.82, Annual International Circuit Capacity Reports” in order to more accurately describe the information collection requirements under 47 CFR Section 43.82.

**Background Information**

On October 24, 2017, the Commission adopted the *Section 43.62 Reporting Requirements for U.S. Providers of International Services; 2016 Biennial Review of Telecommunications Regulations*, Report and Order, IB Docket Nos. 17-55, 16-131; FCC 17-136 (rel. Oct. 24, 2017) (*2017 Part 43 Report and Order*). The Report and Order eliminates the annual international traffic and revenue reports. Additionally, the *2017 Part 43 Report and Order* further streamlines the circuit capacity reports by eliminating the reporting of terrestrial and satellite circuits; submarine cable licensees and common carriers that hold capacity on submarine cables will continue to report submarine cable capacity data. To implement these changes, the *2017 Part 43 Report and Order* eliminates 47 CFR 43.62, and places the remaining annual circuit capacity reporting requirements in 47 CFR 43.82.

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Section 43.82 reads as follows:

**§ 43.82 Circuit Capacity Reports.**

(a) *International Submarine Cable Capacity*. Not later than March 31 of each year:

(1) The licensee(s) of a submarine cable between the United States and any foreign point shall file a report showing the capacity of the submarine cable as of December 31 of the preceding calendar year. The licensee(s) shall also file a report showing the planned capacity of the submarine cable (the intended capacity of the submarine cable two years from December 31 of the preceding calendar year).

(2) Each cable landing licensee and common carrier shall file a report showing its capacity on submarine cables between the United States and any foreign point as of December 31 of the preceding calendar year.

Note to Paragraph (a): United States is defined in Section 3 of the Communications Act of 1934, as amended, 47 U.S.C. 153.

(b) A Registration Form, containing information about the filer, such as address, phone number, email address, etc., shall be filed with each report. The Registration Form shall include a certification enabling the filer to check a box to indicate that the filer requests that its circuit capacity data be treated as confidential consistent with Section 0.459(a)(4) of the Commission's rules.

(c) Filing Manual. Authority is delegated to the Chief of the International Bureau to prepare instructions and reporting requirements for the filing of these reports prepared and published as a Filing Manual. The information required under this Section shall be filed electronically in conformance with the instructions and reporting requirements in the Filing Manual.

**Authority for the revised information collections:**

The Commission's statutory authority for this information collection under Sections 1, 4(i), 4(j), 11, 201-205, 214, 219-220, 303(r), 309, and 403 of the Communications Act as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 161, 201-205, 214, 219-220, 303(r), 309, and 403, the Cable Landing License Act of 1921, 47 U.S.C. §§ 34-39, and 3 U.S.C. § 301.

This information collection does not impact individuals. Therefore, there are no impacts under the Privacy Act.

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2. The uses to which the Commission puts the information from the annual circuit capacity report, and the Registration Form are as follows:

(a) Annual Circuit Capacity Reports [Section 43.82 (a)]

The circuit capacity reports are comprised of two parts. First, licensees of a submarine cable extending between the United States and a foreign point as of December 31 of the reporting period report the available capacity and planned capacity of the cable – the cable operators report. Second, each cable landing licensee and common carrier that holds capacity on the U.S. end of a submarine cable extending between the United States and a foreign point as of December 31 of the reporting period (“capacity holders”) reports its available capacity on the U.S. end of every submarine cable between the United States and any foreign point on which it holds capacity as of that date – the capacity holders report. A holding of capacity is an interest in the U.S. end of an international submarine cable through cable ownership, an indefeasible right of use (IRU), or an inter-carrier lease (ICL).

The Commission uses the circuit capacity data for such purposes as analyzing international transport markets in merger reviews. More importantly, these data are essential for our national security and public safety responsibilities in regulating communications, an important linchpin of the Commission’s statutory authority. Submarine cables are critical infrastructure and the circuit capacity data are important for the Commission’s contributions to the national security and defense of the United States. The Commission uses the data, for example, to have a complete understanding of the ownership and use of submarine cable capacity and to assist in the protection, restoration, and resiliency of the infrastructure during national security or public safety emergencies, such as hurricanes. The Department of Homeland Security (DHS) filed comments stating that it also finds this information to be critical to its national and homeland security functions, and states that this information, when combined with other data sources, is used to protect and preserve national security and for its emergency response purposes.

There are no alternative reliable third party commercial sources for the reported data. Although some sources collect general capacity information from cable owners, neither the FCC nor DHS has found any alternative sources for capacity holder data. Commercial source data may include capacity information, but the data are not verified by company officials and do not include capacity holder data. Although the Commission obtains the ownership and location of individual cables through the licensing process, distribution of a cable’s capacity among providers is not required to be reported under our current submarine cable licensing rules and is provided only annually through the Circuit Capacity Reports. Further, the Commission’s licensing rules do not require an applicant to include the entities that have acquired capacity on the cable through an IRU or ICL.

(b) Registration Form [Section 43.82 (b)]

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The Registration Form provides basic information about the filing and about the entity itself – such as address, phone number, email address, and the international Section 214 authorizations and cable landing licenses held by the filer. This information will assist in keeping track of who holds international circuit capacity and how to contact them. The Registration Form also includes a certification by the filing entity to certify the accuracy and completeness of its report. The Registration Form provides the means by which the filing entity may request confidential treatment of the data filed in the report.

(c) Filing Manual [Section 43.82(c)]

The Filing Manual sets forth instructions on how to file the reports.

3. The Commission has a web-based system for filing entities to submit their reports. Filing entities access the filing system via a portal on the FCC web-site. The specific data is reported using a spreadsheet that the Filing Entity downloads, fills-in off-line and then submits via the portal. All of information is filed with the Commission electronically.

4. This information collection requirement is not duplicated elsewhere in the Commission's rules.

5. In order to reduce the costs and burdens on carriers, including small entities, the Commission reformed the international reporting requirements. It removed the traffic and revenue reports and retains the circuit capacity reports for the submarine cable data, but reduces the burdens of the circuit capacity reports by eliminating the reporting of terrestrial and satellite circuits. Overall, with the adoption of these changes to the international reporting requirements the Commission will minimize the economic impact on carriers, including small entities, by eliminating unnecessary data collections and retaining annual reporting requirements for only those collections necessary to serve the public interest.

6. If the information collection were not conducted or were conducted less frequently, the Commission would not be able to ensure compliance with its international rules and policies. The Commission currently uses the circuit capacity data for such purposes as analyzing international transport markets in merger reviews. More importantly, these data are essential for our national security and public safety responsibilities in regulating communications, an important linchpin of the Commission's statutory authority. Submarine cables are used for critical government and business operations, communications, financial transactions, logistics, and transportation. Threats to submarine cables include deliberate attacks, accidents and natural disasters. To maintain the integrity of this critical part of our communications infrastructure, information about capacity holdings, which are not static but change over time, is central to fulfilling the Commission's responsibilities. DHS also finds this information to be critical to its national and homeland security functions.

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7. There are no special circumstances that would prevent the Commission from following all guidelines regarding the information collection.
8. On December 5, 2017, a 60-day notice was published in the Federal Register (82 FR 57444) to solicit public comments on this information collection. The 60-day comment period ended on February 5, 2018. No comments were received from the public in response to the notice.
9. The Commission will not provide any payment or gift to respondents.
10. The Commission has an abbreviated means for the submitter of the data to seek confidential treatment. Specifically, a checkbox is provided in the Registration Form enabling the filing entity to indicate that the data is confidential and deferring the need to provide justification for confidential treatment until another party requests access to the data. The Commission's rules currently contemplate allowing parties seeking confidential treatment to defer providing justification for such treatment until another party seeks access to the data. Upon receipt of a request for inspection of the data, the Commission will notify the filing entity of the request and the filing entity will be required to justify continued confidential treatment pursuant to our rules. At this time, the Commission has not established a time limit for confidential treatment.
11. The Commission does not plan to collect information from the public, only from entities holding international circuit capacity – telecommunications common carriers and cable landing licensees. As a result, there are no personal questions of a sensitive nature that will be collected from the public.

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**12. Estimate of Burden Hours for Information Collection:**

The following represents the estimated hour burden of the various information collections included in section 43.82. (We note that the burden hour estimates are our best estimate based on our overall experience with the earlier forms of the information collections covered by this collection):

<b>Estimate of Burden Hours:<sup>1</sup></b>				
<b>Explanation Of Burden Estimate</b>	<b>Number Of Response s</b>	<b>Frequency Of Responses</b>	<b>Time Per Response</b>	<b>Annual Burden Hours</b>
<b>Section 43.82 (a)</b>				
Annual Circuit	55*	Annual	2 hours	110 Hours
Capacity Reports	65**	Annual	14 hours	910 Hours
				<b>1020 Hours</b>
<b>47 CFR 43.82 (b)****</b>	65****	Annual#	1 Hour	<b>65 Hours</b>
Registration Form				
<b>Totals</b>	<b>185</b>			<b>1,085 Hours</b>

\* Cable landing licensees that file data on the capacity of the international submarine cable – cable operators report.

\*\* Cable landing licensees and common carriers that file data on their capacity on international submarine cables – capacity holders report.

\*\*\* Each filing entity must file a registration form with its report(s).

\*\*\*\* Cable landing licensees that file cable operators reports also have to file capacity holders reports.

<sup>1</sup> There are no burdens attached to § 43.82(c) for the filing manual.

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**In-House Costs:** In house staff paid at \$35/hour will fulfill the requirements. Therefore, the in-house costs are as follows: 1,085 hours x \$35/hour = \$37,975.

**Total Number of Respondents: 65**

**Total Number of Annual Responses: 185**

**Total Annual Burden Hours: 1,085 hours**

**13. Estimated Annual Cost Burden to Respondents to Comply with Information Collection is as follows:**

(a) Total Capital and Start-up Costs: **Zero**

(a) Total Operation and Maintenance and Purchase of Services: **\$2,400**  
 Compliance with the Circuit Capacity Report will not require respondents to maintain any special equipment. Compliance may require respondents to hire outside attorneys, calculated as follows:

Description	Annual Responses	Costs per Hour	Hourly Processing per Response	Total
Outside Legal Counsel	8	\$300 per Hour (Based on industry survey)	1 Hour/Response	<b>\$2,400</b> (O&M)

(c) Total Annual Costs: **\$2,400**

**14. Estimated Annual Costs to the Federal Government for the information collection requirements are as follows:**

Government Staff	Annual Burden Hours	Costs
<b>Section 43.82(a) Annual Circuit Capacity Reports</b>		
GS-15/Step 5 Telecommunications Specialist @ \$73.20 per hour	120 reports for submarine cable capacity X 3 hours of work per response received = 360 hours for staff	\$26,352.00

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<b>Section 43.82(c) Registration Form</b>		
GS-13/Step 5 Hourly Rate: \$52.66	Review and Process 100 % of the filings =65 filings (@ 1 hour/filing) = 65 hours for staff	\$3,422.90
<b>Total Costs to the Federal Government:</b>		<b>\$29,774.90</b>

15. This information collection reflects a program change from 2,328 to 65 (-2,263) respondents, 2,328 to 185 (-2,143) responses, and 14,606 to 1,085 (-13,521) annual burden hours. The program changes are the result of information collection requirements associated with 47 CFR 43.82 that was adopted in the *Section 43.62 Reporting Requirements for U.S. Providers of International Services Report and Order; 2016 Biennial Review of Telecommunications Regulations*, FCC 17-136.

There are no adjustments to this information collection.

16. The Federal Communications Commission will maintain the circuit capacity reports data and publicly release aggregated data.

17. The Commission is requesting a waiver to not display the OMB control number and expiration date on the new, filing manual that filing entities will use in submitting their circuit-status information. This will relieve the Commission from having to update the OMB expiration date on the section 43.82 filing manual whenever it is resubmitted to OMB. The Commission will use an edition date in lieu of the OMB expiration date. Finally, all OMB-approved information collections (including this one) will be published in 47 CFR 0.408 that “displays” the title, OMB control number and OMB expiration date.

18. There are no exceptions to the certification statement.

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

There are no statistical methods employed with this collection of information.