

This submission is being made pursuant to 44 U.S.C. § 3507 of the Paperwork Reduction Act of 1995. The Commission is seeking to extend this existing collection from the Office of Management and Budget (OMB) in order to obtain the full three-year approval.

**SUPPORTING STATEMENT**

**A. Justification:**

1. In *Implementation of Section 224 of the Act, A National Broadband Plan for Our Future*, WC Docket No. 07-245, GN Docket No. 09-51, Report and Order and Order on Reconsideration, FCC 11-50 (Order), the Commission adopted rules that implement the pole attachment requirements in section 224 of the Communications Act of 1934, as amended. Pursuant to section 224, utilities must provide cable television systems and telecommunications carriers (collectively, “attachers”) with non-discriminatory access to attach facilities to poles, ducts, conduits, or rights-of-way owned or controlled by the utilities (collectively, “pole attachments”). However, utilities may deny in writing those pole attachment applications where there is insufficient capacity on a pole, or for reasons of safety, reliability, and generally applicable engineering purposes.

In the Order, the Commission established a timeline by which attachers gain access to poles for their attachments. The first stage of the timeline requires utilities to survey the poles where access is requested and to perform an engineering analysis. Utilities notify attachers when they have completed their surveys of the affected poles. With regard to the second stage of the timeline, utilities must present to attachers an estimate of charges for preparing a pole for a new attachment (“make-ready” work). With regard to the make-ready stage of the timeline, utilities are required to send notices of impending make-ready work to entities with existing attachments on the pole. Such notification letters are sent after a make-ready schedule is established. If the make-ready period is interrupted, or if the utility asserts its right to a 15-day extension of time to perform make-ready work, then the utility must give notice to the new attacher.

Additionally, the Order adopted a rule requiring utilities to make available and keep up-to-date a reasonably sufficient list of approved contractors to perform surveys and make-ready work in the communications space of a utility pole. If an attacher uses a utility-approved contractor, then it must notify the utility and invite the utility to send a representative to oversee the work.

Finally, the Order also broadened the existing enforcement process by permitting incumbent local exchange carriers (LECs) to file complaints alleging that the pole attachment rates, terms, or conditions demanded by utilities are unjust or unreasonable. If an incumbent LEC can demonstrate that it is similarly situated to an attacher that is a telecommunications carrier or a cable television system (through relevant evidence, including pole attachment agreements), then it can gain comparable pole attachment rates, terms, and conditions as the similarly-situated carrier. The Order also encourages incumbent LECs that benefit from lower pole attachment

costs to file data at the Commission that demonstrate that the benefits are being passed on to consumers.

*See item 6 of this Supporting Statement for specific information collection requirements.*

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

Statutory authority for this information collection is contained in 47 U.S.C. § 224.

2. Gaining access to poles involves requests, responses, notices, and coordination among utilities, requesting attachers, and existing attachers on the poles. In the Order, the Commission adopted regulations that formalize communications among the parties, and thus imposes a paperwork burden. Also, incumbent LECs that gain lower pole attachment rates as a result of their access to the Commission's pole attachment complaint process must file data at the Commission demonstrating that the benefits of lower pole attachment costs are being passed on to consumers.

3. The use of information technology depends on the parties to the pole attachment process. Much of the pole attachment communications required by the Order can be accomplished by e-mail and web postings, but paper letters and invoices are still used. Data required by the Order to be filed at the Commission is automated, although paper filings are still accepted.

4. Not applicable. Each request for pole access is unique. There is no similar data available.

5. Small utilities are subject to requests for access to their poles, ducts, conduits, and rights-of-way, but the paperwork burden is as light as possible consistent with the utility's own record-keeping standards.

6. The rules governing access to poles are meant to ensure that the pole attachment process is just and reasonable and consistent with safety, reliability, and sound engineering practices. The following information collection requirements are part of the pole attachment process:

**Section 1.1420.** In the Order, the Commission adopted a comprehensive timeline to ensure timeliness when a telecommunications carrier or cable operator requests access to utility poles. Attachers trigger the timeline when they present a complete application to a utility to attach their facilities to a utility pole. Requests for access to a utility's poles must be in writing. If the utility denies access, or grants access conditioned on preparation of the poles, it must explain the denial or grant of access in writing by the 45<sup>th</sup> day after receiving the complete pole attachment application (or by the 60<sup>th</sup> day in the case of a large number of requests). A utility's denial of an attachment request must include all relevant evidence and information and explain how the evidence and information relate to lack of capacity, safety, reliability, or sound engineering standards. In practice, this requirement causes the utility to survey the requested poles where access is requested and to perform an engineering analysis. The survey and analysis are required to accommodate attachers and to preserve the structural integrity of utility poles.

In addition to preparing the survey and engineering analyses, utilities must notify other attachers of new attachments and may direct the sequence in which existing attachers move their attachments to make room for a new attachment. If the utility deviates from the timeline, it must notify the attacher and all affected entities. If a utility needs more time to complete make-ready work, it may take 15 additional days, but the utility must notify the new attacher in writing in order to assert this right.

**Section 1.1422.** The Commission requires utilities to make available, and keep up-to-date, a reasonably sufficient list of contractors that they authorize to perform surveys and make-ready work in the communications space of a pole. If the prospective attacher hires an authorized contractor to complete a survey or preparation of the poles, then section 1.1422 requires the prospective attacher to invite a representative of the utility to oversee the contractor's work.

**Section 1.1424.** The Commission broadened the existing enforcement process by permitting incumbent local exchange carriers (LECs) to file complaints alleging that the pole attachment rates, terms, and conditions demanded by the utilities are not just and reasonable. Where an incumbent LEC claims that it is similarly situated to an attacher that is a telecommunications carrier or a cable television system for purposes of obtaining comparable pole attachment rates, terms, or conditions, the incumbent LEC bears the burden of demonstrating that it is similarly situated by reference to any relevant evidence, including pole attachment agreements.

The consequences of not adopting a comprehensive set of rules to govern pole attachments include delays in pole access that are unfair and unreasonable; failure to protect the legitimate rights and interest of the pole owners, existing attachers, and new attachers; suppression of competition to provide telecommunications or video services; stifling of broadband deployment; and attacher self-help resulting in unauthorized and potentially hazardous attachments to utility infrastructure.

7. No special circumstances will apply to this information collection.
8. Pursuant to 5 CFR § 1320.8, The Commission published a 60-day notice in the *Federal Register* soliciting comments from the public on December 22, 2017 (82 FR 60723). No comments were received from the public.
9. There are no payments or gifts to respondents.
10. No questions of a confidential nature are asked.
11. This collection does not address any private matters or matters of a sensitive nature.
12. We analyze and estimate the hour and cost burdens of the new rules below. As a preliminary matter, we explain the methodology we use to arrive at estimates of entities (respondents) affected by these pole attachment rules. In the context of the pole attachment rules, respondents include two groups: those seeking to attach their facilities to utility poles (attachers) and those who own the poles on which attachment is sought (utility pole owners). When a rule calls for paperwork for both groups, the burdens are analyzed separately.

Attachers include telecommunications carriers (a term which, for purposes of pole attachments, includes wireless carriers but excludes incumbent LECs) and cable systems operators. Although incumbent LECs also attach facilities to utility poles, they typically do so under joint use agreements and do not have mandatory access to utility-owned poles (they are, however, permitted to file pole attachment complaints against utilities if, once granted access, the rates, terms, and conditions of their pole attachments are not just and reasonable). To the extent that utility poles are owned or controlled jointly by utilities and incumbent LECs, we count only the incumbent LECs as owners because to include both utilities and incumbent LECs as joint pole owners would result in a double counting of the paperwork burdens.

The Commission regulates approximately 49 million of the estimated 135 million utility poles nationwide, which is about 35 percent of all poles (the Commission does not regulate poles that are regulated by 20 states or are owned by municipalities or cooperatives). Therefore, we multiply the nationwide estimates of affected categories by 35 percent to arrive at a reasonable proxy of the numbers of entities affected by the Commission's pole attachment rules. Consistent with the estimates for paperwork associated with pole attachment complaints in OMB Control No. 3060-0392, other numbers are based on Commission staff's knowledge and familiarity with the availability of the data required.

Pole owners under joint use agreements

- Incumbent LECs: 750 nationwide x .35 = 263 for pole attachments

Attachers under the statutory right of access

- Cable Systems Operators: 489 nationwide x .35 = 171 for pole attachments
- Telecom. Carriers: 940 nationwide x .35 = 329 for pole attachments
- Total 500 for pole attachments

Total number of respondents: 263 Pole Owners + 500 Attachers = 763 respondents<sup>1</sup>

**47 C.F.R. § 1.1420**

**Part 1:** If an attacher requests access, then the pole owner must survey the requested poles and prepare a written answer that includes an engineering analysis. The paperwork burden associated with surveys applies to both attachers and pole owners, but not in the same way. Therefore, we estimate the burden on pole owners and attachers separately.

Pole Owners:

(1) Number of respondents: Approximately 263 pole owners.

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<sup>1</sup>According to the Commission's 2014 report on local telephone competition, there are 754 incumbent LECs and 940 non-incumbent local exchange carriers. See FCC, IATD, WCB, Local Telephone Competition Status as of December 31, 2013 (Oct. 2014), [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-329975A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-329975A1.pdf). There is a downward trend in the number of incumbent LECs that can be attributed to industry consolidation, so we round the number of incumbent LECs down to 750 for this PRA collection renewal. According to SNL Kagan, as of the second quarter of 2017, there were 489 cable operators.

(2) Frequency of response: Approximately 15 per year per pole owner; 3,945 total industry-wide.

(3) Annual burden per response: Approximately 40 hours per response. The total annual hour burden is 600 hours per pole owner; 157,800 hours industry-wide.

(4) Estimate of the total annual (in-house) cost to pole owners of information collection: Approximately \$15,000 per pole owner per year; \$3,945,000 industry-wide.

(5) Explanation of calculation: We estimate the average time it takes a pole owner to conduct a survey and draft a full written answer as approximately 40 hours per response. Thus, we estimate that the total annual hour burden is 15 requests x 40 hours per request = 600 hours per year per pole owner. 600 hours x 263 pole owners = 157,800 hours industry-wide.

Surveys likely require moderately-experienced engineers. The average hourly wage of an experienced engineer is between \$23 and \$53. Because we estimate that pole attachment surveys require only moderately-experienced engineers, we estimate the hourly rate at the low end of the experienced-engineer range and estimate that, on average, pole owners pay a \$25 (rounded up) per-hour wage for these projects.<sup>2</sup>

\$25 (rounded up) per hour x 600 hours = \$15,000 per pole owner x 263 pole owners = \$3,945,000 annual cost to pole owners.

Attachers:

(1) Number of respondents: Approximately 500 attachers.

(2) Frequency of response: Approximately 7.6 per attacher; 3,800 responses total.

(3) Annual burden per response: Approximately 20 hours per response. The total annual hour burden per attacher is 152 hours; 76,000 hours industry-wide.

(4) Estimate of the total annual (in-house) cost to attachers for the collection of information: \$1,904,000 per year.

(5) Explanation of calculation:

We start with the number of attachers and the number of requests, which is approximately the same for attachers as for pole owners. That is, for every pole owner's answer there must be a request from an attacher – 3,800 requests/500 attachers = approximately 7.6 requests per attacher. We further estimate that preparing each request takes on average 20 hours.

Attachers require an engineer to prepare attachment requests that are sufficiently thorough for performance of a comprehensive field survey by the pole owner. Therefore, we assume that the

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<sup>2</sup> This hourly wage is equivalent to the pay of a federal government worker at the GS-7, step 5 level. See Office of Personnel Management, 2018 General Schedule (GS) Locality Pay Tables (last visited Jan.17, 2018), [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2018/DCB\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2018/DCB_h.pdf).

skills required for attachers to prepare applications are similar to the skills required by pole owners to process and conduct surveys. For that reason, we assign the same hourly wage to attachers that we do to pole owners: \$25 (rounded up) per hour.  $\$25 \times 20$  hours per request = \$500.  $\$500 \times 3,800$  responses = \$1,904,000 per year industry-wide.

Subtotal for part 1: owners: 157,800 hours + attachers: 76,0060 hours = 233,800 total hours  
owners: \$3,945,000 + attachers: \$1,904,000 = \$5,849,000

**Part 2:** Letter from pole owner to existing attachers announcing time and location of work to prepare for a new attachment, setting due date for work completion, and identifying a pole owner contact:

(1) Number of respondents: Approximately 263 pole owners.

(2) Frequency of response: Approximately 45 letters per pole owner per year;  $45 \times 263$  pole owners = 11,835 industry-wide.

(3) Annual burden per response: Approximately 15 pole attachment requests  $\times$  3 letters per request = 45 hours per pole owner; 45 hours per pole owner  $\times$  263 pole owners = 11,835 hours.

(4) Estimate of the total annual (in-house) cost to pole owners of information collection: \$16 per letter  $\times$  45 letters = \$720 per pole owner.  $\$720 \times 263$  pole owners = \$189,360 industry wide.

(5) Explanation of calculation: The burdens associated with letters notifying existing attachers of a new attachment request include identifying the proper recipients (presumably on file) and sending the letters. We assume that the letters will be mostly pre-drafted forms with some event-specific descriptions.

We estimate that this obligation will generate three letters per request: one letter to a cable system operator, one letter to a competitive LEC, and one letter to the new attacher. We have estimated 15 requests per pole owner times 263 pole owners equals 3,945 letters annually. Each request generates three letters of notification, for a total of 11,835 letters annually industry-wide. While we do not believe that every request for attachment requires make-ready on a pole, we use this number to be conservative. The 11,835 letters will on average take roughly one hour each to prepare. Total: 11,835 hours. We estimate that the work will be performed by an administrative office manager. Administrative office manager salary = \$16 per hour.<sup>3</sup>  $\$16 \times 11,835 = \$189,360$  per year.

Subtotal for part 2: 11,835 hours; \$189,360.

**Part 3:** Directing sequence of rearrangement of facilities.

(1) Number of respondents: Approximately 263 pole owners.

<sup>3</sup> This hourly wage is equivalent to the pay of a federal government worker at the GS-3, step 5 level. See Office of Personnel Management, 2018 General Schedule (GS) Locality Pay Tables (last visited Jan. 17, 2018), [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2018/DCB\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2018/DCB_h.pdf).

(2) Frequency of response: Approximately 15 per year per pole owner; industry total = 3,945 per year.

(3) Annual burden per response: 48 hours per request; 48 hours x 3,945 responses = 189,360 hours industry-wide.

(4) Estimate of the total annual (in-house) cost to pole owners: \$3,313,800 per year.

(5) Explanation of calculation:

The burdens of pole owners directing a sequence for make-ready work on a pole include letters, e-mail, and telephone calls to existing attachers (performed by an administrative office manager) and overseeing the modification of poles to accommodate new attachers (performed by engineers). We estimate that this obligation will apply to approximately 3,945 requests per year, and will require 40 hours of administration per request: 40 x 3,945 requests industry-wide = 157,800 total hours of office work. While we do not believe that every request for attachment requires make-ready, and thus the need to direct rearrangement of facilities, we use the same number to be conservative.

We estimate that the office work will be performed by an administrative office manager.

Administrative office manager salary = \$16 per hour.

Subtotal of office work costs: \$16 x 40 hours of office work per request = \$640; \$640 x 3,945 requests industry wide = \$2,524,800 annually.

We estimate the cost of recordkeeping performed by moderately experienced engineers at \$25 (rounded up) per hour.

\$25 (rounded up) x 8 hours per request = \$200. \$200 x 3,945 requests per year = \$789,000 subtotal for engineering costs.

\$2,524,800 administrative costs + \$789,000 engineering costs = \$3,313,800.

Subtotal for part 3: 189,360 hours; \$3,313,800 per year.

**Part 4:** Letters from pole owners to new and existing attachers in case of deviation from the pole attachment timeline and from pole owners to new attachers if the pole owner asserts its right for 15 additional days to complete make-ready work on the pole.

(1) Number of respondents: Approximately 263 pole owners.

(2) Frequency of response: Approximately 3 letters per request x 3,945 requests annually industry wide = 11,835 industry-wide.

(3) Annual average burden per response: Approximately 11,835 letters at 1 hour each = 11,835 hours industry wide.

(4) Estimate of total annual (in-house) cost to pole owners: \$189,360

(5) Explanation of calculation:

We estimate that letters either announcing a deviation from schedule or asserting the right to 15 additional days will require roughly three letters each.  $3 \times 3,945 = 11,835$ . These letters will probably be pre-drafted form letters and require one hour each. We estimate that the work will be performed by an administrative office manager. Administrative office manager salary = \$16 per hour. Total estimated cost:  $\$16 \times 11,835 = \$189,360$  per year.

Subtotal for part 4: 11,835 hours; \$189,360

In sum:

Subtotal for part 1: 233,800 hours (owners: 157,800 + attachers: 76,000)  
owners: \$3,945,000 + attachers: \$1,904,000 = \$5,849,000 total

Subtotal for part 2:  
11,835 hours; \$189,360

Subtotal for part 3:  
189,360 hours; \$3,313,800

Subtotal for part 4:  
11,835 hours; \$189,360

Total for Section 1.1420:

$233,800 + 11,835 + 189,360 + 11,835 = 446,830$  hours

$\$5,849,000 + \$189,360 + \$3,313,800 + \$189,360 = \$9,541,520$

### **Section 1.1422:**

Burden on pole owners:

**Part 1:** Making available and keeping up-to-date a reasonably sufficient list of approved contractors qualified to work in the communications space on poles.

(1) Number of respondents: Approximately 263 pole owners.

(2) Frequency of response: Approximately 1 per pole owner per year; 263 industry-wide.

(3) Annual burden per response: 6 hours for web posting or an update of authorized contractors per year. The total annual burden is 6 hours per pole owner; 1,578 industry-wide.

(4) Total estimate of the annualized (in-house) cost to respondents for the hour burdens:  
\$25,248.

(5) Explanation of calculation: The annual burden hours for web posting (both initial post and any updates) of authorized contractors are estimated at approximately six hours and will affect 263 pole owners.  $6 \times 263 = 1,578$ . We estimate that the work will be performed by an administrative office manager. Administrative office manager salary = \$16 per hour. Total estimated cost:  $\$16 \times 1,578 = \$25,248$ .

Burden on attachers:



**Part 2:** Invitation to pole owners to accompany contract workers that perform make-ready work:

- (1) Number of respondents: Approximately 500.
- (2) Frequency of response: Approximately 1 per year per attacher; 500 industry-wide.
- (3) Annual burden per response: 1 hour for sending or receiving and responding to invitations to accompany contract workers:
- (4) Total estimate of the annualized (in-house) cost to respondents for the hour burdens: \$8,000.
- (5) Explanation of calculation: Attachers can employ contractors as a remedy if pole owners fail to meet pole attachment timeline deadlines. We estimate a failure rate of one or less per year, or 500 industry-wide. If the attacher uses utility-approved contractors, then it must send a letter to the utility and provide it with the reasonable opportunity to accompany and consult with the contractor and attacher to oversee the quality of the work. We anticipate that the attacher letters will be brief form letters, so we estimate a burden of 0.5 hours per letter. 2 letters x 0.5 hours = 1 hour per attacher. 1 x 500 = 500 hours industry-wide. We estimate that the work will be performed by an administrative office manager. Administrative office manager salary = \$16 per hour.

Total estimated cost:  $\$16 \times 500 = \$8,000$  industry-wide.

The combined hour burden on both attachers and pole owners of section 1.1422 = 2,078 hours (1,578 for pole owners + 500 for attachers).

The combined cost burden on attachers and pole owners of section 1.1422 = \$33,248 (\$25,248 for pole owners and \$8,000 for attachers).

The combined responses from attachers and pole owners = 763 responses (263 for pole owners + 500 for attachers = 763 responses)

#### **Section 1.1424.**

Section 1.1424 provides complaint and enforcement procedures for incumbent LECs to ensure that the rates, terms, and conditions of their access to pole attachments are just and reasonable. The paperwork burden for this provision is captured in OMB Collection No. 3060-0392. The Commission monitors how this rule results in promised consumer benefits and expects “incumbent LECs to provide data to the Commission on an ongoing basis demonstrating the extent to which these benefits are being realized.”

- (1) Number of respondents: Approximately  $263 \times 50\% = 132$ .
- (2) Frequency of response: An average of 13 incumbent LEC responses per year (10% of 132), including those that file complaints or reach negotiated agreements.
- (3) Annual burden per response: 1 hour.

(4) Total estimate of the annual (in-house) cost to incumbent LEC respondents for the hour burdens: \$175 (1 hour/year at \$175 per hour (for an in-house lawyer)) x 13 incumbent LEC responses per year = \$2,275 per year.

(5) Explanation of calculation: Out of 263 possible incumbent LECs, we estimate that 50 percent will be affected by the Commission's rule permitting incumbent LECs to bring complaints before the Commission to ensure just and reasonable pole attachment rates, terms, and conditions. This includes incumbent LECs that may either bring complaints or negotiate more favorable agreements as a result of the rule's implementation. In calculating the frequency of response, we estimate that about 10 percent of the total respondents affected, or 13 incumbent LECs, might file data annually.

The estimated hour burden of section 1.1424 on incumbent LECs = 13 hours.

The estimated cost burden section 1.1424 on incumbent LECs = \$2,275 per year.

The estimated responses for section 1.1424 = 13.

In sum:

**Total Number of Respondents: 763 respondents**

(263 pole owners + 500 attachers = 763 respondents)

**Total Number of Responses Annually: 36,136 responses**

(1.1420: 35,360 responses + 1.1422: 763 responses + 1.1424: 13 responses = 36,136 responses)

**Total Annual Hourly Burden for the Collections: 448,921 hours**

(1.1420: 446,830 hours + 1.1422: 2,078 hours + 1.1424: 13 hours = 448,921 hours)

**Total Annual "In-house" Cost to Respondents: \$9,577,043**

(1.1420: \$9,541,520 + 1.1422: \$33,248 + 1.1424: \$2,275 = \$9,577,043)

All estimates exclude any paperwork associated with "customary and usual business practices" including, for example, the generation, review, or payment of invoices, other than for work performed for the benefit of third parties.

13. There are no outside contracting costs to the respondents.

14. There are no annualized costs to the federal government.

15. The Commission is reporting adjustments/decreases in the number of respondents, annual responses, and annual burden hours in this submission to OMB. The changes result mainly from the decrease over the last three years in the number of attacher respondents that are cable service providers (from 660 in the last renewal of this collection to now 489 nationwide). The decrease is attributable to smaller cable system providers going out of business and to consolidation in the cable industry. In addition, there was a change in the estimate of the paperwork burden for section 1.1424 resulting from the deletion in this collection of the burdens on incumbent LECs that file pole attachment complaints. The complaint-related burdens for incumbent LECs already

are reflected in OMB Collection No. 3060-0392. These adjustments are reflected in this supporting statement.

16. The Commission does not intend to publish any information at this time.

17. The Commission does not intend to seek approval not to display the OMB expiration date for OMB approval of the information collection. The Commission publishes a list of OMB-approved information collections displaying the OMB control number, OMB expiration date, and title of each collection in 47 CFR § 0.408.

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.