

SUPPORTING STATEMENT

A. Justification:

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

On November 16, 2017, the Federal Communications Commission (Commission or FCC) adopted a Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking, FCC 17-154 (2017 Wireline Infrastructure Order), that modified certain recordkeeping or reporting requirements identified below that relate to the obligations of carriers seeking Commission authorization to discontinue, reduce, or impair service.

History:

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

To reduce burdens on carriers, the *2016 Technology Transitions Order* revised the rules governing the section 214(a) discontinuance process to provide streamlined treatment for applications to discontinue a service for which the requesting carrier has had no customers or reasonable requests for service during the 180-day period immediately preceding submission of the application.

On November 16, 2017, the Commission adopted the *2017 Wireline Infrastructure Order*, which modified certain recordkeeping or recording requirements identified below that relate to the obligations of carriers seeking to discontinue a service. Paragraphs (a)-(c) below specifically identify the requirements that the *2017 Wireline Infrastructure Order* modified, all of which either reduce the burdens or streamline the regulatory process for discontinuing carriers. Otherwise, all requirements contained in the rules listed in Attachment A were previously approved by the Office of Management and Budget (OMB) and have not been modified.

Revised Information Collection Requirements Which Require OMB Approval:

(a) Expediting applications that “grandfather” low speed legacy services for existing customers. All carriers, whether dominant or non-dominant, who seek approval to grandfather low speed legacy services (i.e., services below 1.544 Mbps) are now subject to a uniform reduced public comment period of 10 days and an automatic grant period of 25 days. A carrier grandfathers a service when it maintains the provision of that service to existing customers while ceasing to offer such service to new customers.

(b) Expediting applications to discontinue previously grandfathered legacy data services. All carriers, whether dominant or non-dominant, seeking authorization to discontinue legacy data services (i.e., services below 1.544 Mbps) that have previously been grandfathered for a period of at least 180 days are subject to a uniform reduced public comment period of 10 days and an auto-grant period of 31 days, provided they submit a certification as part of their discontinuance application that they have received Commission authority to grandfather the services at issue at least 180 days prior to the filing of the discontinuance application. This certification must reference the file number of the prior Commission authorization to grandfather the services the carrier now seeks to permanently discontinue.

(c) Discontinuing service with no customers. If a carrier files an application to discontinue, reduce, or impair a legacy voice or data service below 1.544 Mbps for which it has had no customers and no request for service for at least a 30-day period immediately preceding submission of the application, that application will be automatically granted on the 15th day after its filing with the Commission, absent Commission notice to the contrary.

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

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

2. The Commission will use the information to determine if affected respondents are in compliance with its rules and the requirements of section 214 of the Communications Act of 1934, as amended.
3. In an effort to reduce any burden created by these information collections, the Commission will permit all respondents to file responses using automated, electronic, mechanical, or other technological collection techniques where feasible. Additionally, permitting streamlined treatment of section 214(a) discontinuance applications for the types of services outlined above reduces the burden on carriers who might otherwise be required to continue incurring any costs associated with maintaining that service and any supporting equipment or systems for a longer period of time.
4. There will be no duplication of information. The information sought is unique to each carrier, and similar information is not already available from other sources.
5. The collections of information may affect small entities as well as large entities. However, in each instance these requirements were designed to minimize or even reduce the regulatory burden on such entities. In addition, for small entities that qualify as rural telephone companies, the 1996 Act provides for the exemption, suspension, or modification of certain requirements. (47 U.S.C. § 251(f)).

6. Failing to collect the information, or collecting it less frequently, would prevent the Commission from implementing Section 214 of the 1996 Act and reducing the compliance burdens and economic impact of the Commission's discontinuance requirements on carriers.
7. The collections are not being conducted in any manner inconsistent with the guideline of 5 CFR Section 1320(d)(2).
8. The Commission published a notice in the *Federal Register* initiating a 60-day comment period on this revised collection on January 12, 2018 (83 Fed. Reg. 1613). No comments on the notice were received. A copy of the notice is included in the submission to OMB.
9. No gifts or payments will be given to potential respondents for this collection.
10. Information filed in section 214 applications has generally been non-confidential. Requests from parties seeking confidentiality are considered by Commission staff pursuant to agency rules. See 47 CFR § 0.459.
11. There are no questions of a sensitive nature involved, nor are there any privacy issues.
12. The new estimates listed here take into account only the rule revisions outlined above and do not relate to the rules adopted in the *2016 Technology Transitions Order* pertaining to streamlined treatment of discontinuance applications for legacy voice service as part of a technology transition or outreach requirements for such transitions that will be addressed separately. Estimates of the additional annual hourly burdens for this collection are as follows. These estimates are based on Commission staff's knowledge and familiarity with the availability of the data required.

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

- (1) Total Number of Respondents: Approximately 58 respondents.¹
- (2) Total Number of Responses Annually: 58 responses—one response per respondent.
- (3) Frequency of Response: On occasion reporting requirements.
- (4) Annual Hour Burden Per Respondent: 6 hours.
- (5) Total Annual Hour Burden: 348 hours.

58 respondents x 6 hours/response = **348 hours.**

¹ The *2017 Wireline Infrastructure Order* eliminated the section 214(a) discontinuance requirements for solely wholesale services. Prior to this, the Commission interpreted section 214(a) such that a carrier was required to seek approval from the Commission pursuant to Section 214(a) of the Act to discontinue, reduce, or impair a service even when such a change in the service directly affected only carrier-customers. See *Technology Transitions et al.*, 30 FCC Rcd 9372, 9428, para. 102 (2015) (*2015 Technology Transitions Order*). The interpretation in the *2015 Technology Transitions Order* was not subject to OMB approval, so such approval is not needed to revise that interpretation.

	No. of Respondents	Total Annual Responses = Total Hour Burden	
Current Estimates	58	58	348
In OMB's inventory:	60	60	360
Change in estimates:	0	0	12

Total estimate of in-house cost to respondents for the hour burdens for collection of information: \$69,600.

Explanation of calculation: A number of variables must be considered. Complex section 214 applications generally are prepared by high level in-house staff attorneys of applicants supported by lower categories of staff; basic section 214 applications of firms are prepared by staff specialists supported primarily by administrative staff.

We estimate preparation costs of 58 respondents x an average hourly salary for all staff categories of \$200 x 6 hours per respondent.

Thus, the total estimated cost to the industry is approximately \$69,600.

58 carriers x \$200/hour x 6 hours/respondent = \$69,600.

13. The following represents the Commission's estimate of the annual cost burden to respondents from the collection of information: None.

(a) Total annualized capital/startup costs: \$0.00

(b) Total annualized costs (O&M): \$0.00

(c) Total annualized cost requested: \$0.00

14. Estimated annual cost to the Federal government is **\$341,458.00** based on the current requirements and is as follows:

Federal Government:		
Processing Costs		
-Average staff years to process all filings made pursuant to the affected rules in Part 63 in a 12-month period	2	
- Average grade of employees, (1) GS-13/5; (2) 15/5 (includes locality pay)	=	<u>\$131,330</u>
- Subtotal (2 x \$131,330)		\$ 262,660.00
- Overhead Cost (30% x \$262,660)		<u>\$ 78,798.00</u>
Total Government Cost		\$ 341,458.00

This is based on the Commission's rules.

15. The Commission is reporting program changes/decreases to the total number of respondents, total annual responses and total annual burden hours with this revised collection. The total number of respondents and total annual responses decreased from 60 to 58 (-2) and the total annual burden hours decreased from 360 to 348 (-12). These program changes/decreases are due to the Commission estimates that it will receive fewer discontinuance applications pursuant to Section 214(a) in light of the Commission's reversal of the *2015 Technology Transition Order's* interpretation of Section 214(a) with respect to discontinuance, reduction, or impairment of service that directly affects only carrier-customers.

No adjustments are being reported to this information collection.

16. No information is proposed to be published.

17. Approval to not display the expiration date for OMB approval is not sought since this information collection does not include any forms, etc.

18. There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods:

This information collection does not employ any statistical methods.

Attachment A

Listing of collections currently in force in Part 63 under OMB Control Number 3060-0149 and which have not been modified other than as described above.

- Section 63.01 – Authority for all domestic common carriers.
- Section 63.02 – Exemptions for extensions of lines and for systems for the delivery of video programming.
- Section 63.50 – Amendment of applications.
- Section 63.51 – Additional information.
- Section 63.52 – Copies required; fees; and filing periods for domestic authorizations.
- Section 63.53 – Form.
- Section 63.60 – Definitions.
- Section 63.61 – Applicability.
- Section 63.62 – Type of discontinuance, reduction, or impairment of telephone or telegraph service requiring formal application.
- Section 63.63 – Emergency discontinuance, reduction or impairment of service.
- Section 63.65 – Closure of public toll station where another toll station of applicant in the community will continue service.
- Section 63.66 – Closure of or reduction of hours of service at telephone exchanges at military establishments.
- Section 63.71 – Procedures for discontinuance, reduction or impairment of service by domestic carriers.
- Section 63.90 – Publication and posting of notices.
- Section 63.100 – Notification of service outage. Approved under OMB control number 3060-0484.
- Section 63.500 – Contents of applications to dismantle or remove a trunk line.
- Section 63.501 – Contents of applications to sever physical connection or to terminate or suspend interchange of traffic with another carrier.
- Section 63.504 – Contents of applications to close a public toll station where no other such toll station of the applicant in the community will continue service and where telephone toll service is not otherwise available to the public through a telephone exchange connected with the toll lines of a carrier.
- Section 63.505 – Contents of applications for any type of discontinuance, reduction, or impairment of telephone service not specifically provided for in this part.
- Section 63.601 – Contents of applications for authority to reduce the hours of service of public coast stations under the conditions specified in Section 63.70.