

SUPPORTING STATEMENT

A. Justification:

The Federal Communications Commission (“the Commission”) is seeking approval from the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) for this new information collection. We are submitting this collection to the OMB to obtain the full three-year clearance.

1. *Circumstances that make the collection necessary.* On November 18, 2011, the Commission released the *USF/ICC Transformation Order and Further Notice of Proposed Rulemaking*, WC Docket No. 10-90 et al., FCC 11-161 (*USF/ICC Transformation Order and/or FNPRM*), which comprehensively reformed and modernized the high-cost program within the universal service fund to focus support on networks capable of providing voice and broadband services. Among other things, the Commission created the Connect America Fund (CAF) and concluded that support in price cap areas would be provided through a combination of “a new forward-looking model of the cost of constructing modern multi-purpose networks” and a competitive bidding process (the Connect America Fund Phase II auction or Phase II auction or Auction 903). The Commission also sought comment in the accompanying *USF/ICC Transformation FNPRM* on proposed rules governing the Phase II auction, including basic auction design and the application process.

In the Phase II auction, service providers will compete to receive support of up to \$1.98 billion over 10 years to offer voice and broadband service in unserved high-cost areas. The information collection requirements reported under this new collection are the result of several Commission decisions to implement the reform adopted in the *USF/ICC Transformation Order* and move forward with conducting the Phase II auction. In the *April 2014 Connect America Order*, WC Docket No. 10-90 et al., FCC 14-54, the Commission adopted various rules regarding participation in the Phase II auction, the term of support, and the eligible telecommunications carrier (ETC) designation process. In the *Phase II Auction Order*, WC Docket No. 10-90 et al., FCC 16-64, the Commission adopted rules to govern the Phase II auction, including the adoption of a two-stage application process, which includes a pre-auction short-form application to be submitted by parties interested in bidding in the Phase II auction and a post-auction long-form

application that must be submitted by winning bidders seeking to become authorized to receive Phase II auction support. The Commission concluded, based on its experience with auctions and consistent with the record, that this two-stage application process balances the need to collect information essential to conducting a successful auction and authorizing Phase II support with administrative efficiency.

On January 30, 2018, the Commission adopted a public notice that established the final procedures for the Phase II auction, including the long-form application disclosure and certification requirements for winning bidders seeking to become authorized to receive Phase II auction support. See *Phase II Auction Procedures Public Notice*, WC Docket No. 17-182 et al., FCC 18-6. The Commission also adopted the *Phase II Auction Order on Reconsideration*, WC Docket No. 10-90 et al., FCC 18-5, which modified the Commission's letter of credit rules to provide some additional relief for Phase II auction support recipients by reducing the costs of maintaining a letter of credit.

The Commission is seeking approval from the OMB for the collection on FCC Form 683 of the disclosures and certifications adopted by the Commission that must be made by Phase II auction winning bidders seeking to become authorized for Phase II support. The Commission received approval under the OMB control number 3060-1252 for the information collection requirements for the short-form application to participate in the Phase II auction (FCC Form 183). The Commission plans to submit at a later date additional revisions or new collections for OMB review to address other reforms adopted in the above-referenced Orders.

The decision to participate in a Commission auction rests exclusively with those seeking to participate. For this reason, it is difficult to know the number of entities that will apply to participate in the Phase II auction, become qualified to bid, and ultimately be selected as winning bidders. However, the Commission estimates that approximately 400 parties will be selected as winning bidders from the Phase II auction and may submit a long-form application to become authorized to receive Phase II support. The number of long-form applicants will vary depending on the number of winning bidders.

The following are the information collection requirements under this new collection that will be used to determine the recipients of Phase II auction support:

- a. *Application by Winning Bidders for Phase II Auction Support – Application Contents (FCC Form 683)*. Section 54.315(b) & (c) of the Commission's rules states the specific requirements for the information that will be collected in applications submitted by winning bidders or their designated operating companies to be authorized to receive Phase II auction support, 47 CFR § 54.315(b), (c). Specifically, each long-form applicant must submit the following in its application within 10 business days after release of the *Auction 903 Closing Public Notice* (unless otherwise provided by public notice) or by the deadline noted below:

- 1) The identification of the party seeking the support, including ownership information as set forth in section 1.2112(a) of the Commission's rules, 47 CFR §§ 1.2112(a), 54.315(b)(2)(i).

- 2) A certification that the long-form applicant is financially and technically qualified to meet the public interest obligations for each performance tier and latency combination and in each area for which it seeks to be authorized to receive support, 47 CFR §§ 54.310(e)(1), 54.315(b)(2)(ii).
- 3) A certification that the long-form applicant will meet the relevant public interest obligations for each relevant performance tier and latency combination, including the requirement that it will offer service at rates that are equal or lower to the Commission's reasonable comparability benchmarks for fixed services offered in urban areas, 47 CFR § 54.315(b)(2)(iii).
- 4) A description of the technology and system design the long-form applicant intends to use to deliver voice and broadband service, including a network diagram which must be certified by a professional engineer. The professional engineer must certify that the network is capable of delivering, to at least 95 percent of the required number of locations in each relevant state, voice and broadband service that meets the requisite performance requirements. 47 CFR § 54.315(b)(2)(iv). A long-form applicant must submit a high-level overview of its intended technology and system design for each state in which winning bids were made within 10 business days after release of the *Auction 903 Closing Public Notice*, and must submit a more detailed description and the network diagram within 60 days after release of the *Auction 903 Closing Public Notice*.
- 5) A certification that the long-form applicant will have available funds for all project costs that exceed the amount of support to be received from the Phase II auction for the first two years of its support term and that the long-form applicant will comply with all program requirements, including service milestones, 47 CFR § 54.315(b)(2)(v).
- 6) A description of how the required construction will be funded, including financial projections that demonstrate the applicant can cover the necessary debt service payments over the life of the loan, if any, 47 CFR § 54.315(b)(2)(vi).
- 7) A certification that the party submitting the application is authorized to do so on behalf of the long-form applicant, 47 CFR § 54.315(b)(2)(vii).
- 8) A certification and documentation, including the relevant ETC designation order, demonstrating that the long-form applicant has in fact obtained the necessary ETC designation in the relevant areas (must be submitted within 180 days after the release of the *Auction 903 Closing Public Notice*). 47 CFR § 54.315(b)(5). Before a long-form applicant can be authorized to receive Phase II auction support, it will be required to obtain designation as an ETC from the relevant state commission or the Federal Communications Commission, as applicable, in the areas where it will be receiving the support. See 47 U.S.C. § 214(e)(2), (6). Approval for the information collection associated with obtaining an ETC designation from the Federal Communications Commission can be found under OMB control number 3060-1081.
- 9) Audited financial statements from the prior fiscal year that are audited by an independent certified public accountant (must be submitted within 180 days after

the release of the *Auction 903 Closing Public Notice*; required only of long-form applicants that have provided voice, broadband, and/or electric transmission or distribution service for at least two years that did not submit audited financial statements with the short-form application). 47 CFR § 54.315 (a)(7)(i), (b)(4).

10) A letter of credit commitment letter from an eligible bank committing to issue an irrevocable stand by letter of credit that, at a minimum, provides the dollar amount of the letter of credit and the issuing bank's agreement to follow the terms and conditions of the Commission's model letter of credit (must be submitted within 60 days after the release of the *Auction 903 Closing Public Notice*). 47 CFR § 54.315(b)(3).

11) An irrevocable stand-by letter(s) of credit acceptable to the Commission from an eligible bank that covers the first year of Connect America Fund Phase II support, at a minimum, and a letter of credit opinion letter from legal counsel meeting the Commission's requirements (must be obtained before a long-form applicant will be authorized to receive support). 47 CFR § 54.315(c).

12) Such additional information as the Commission may require, 47 CFR § 54.315(b)(2)(viii).

- b. *Annual Submission of Letter of Credit.* Before a support recipient can receive its next year's Phase II auction support, it must modify, renew, or obtain a new letter of credit to ensure that it is valued, at a minimum, at the total amount of support that has already been disbursed plus the amount of support that is going to be provided in the next year, subject to modest adjustments in value once the support recipient has substantially met its service obligations. The support recipient will be required to maintain an open letter of credit until it has certified that its buildout is complete and the Universal Service Administrative Company (USAC) has verified buildout. Any support recipient that obtains a new letter of credit, rather than renewing or amending an existing letter of credit, will also need to obtain a new attorney opinion letter accompanying the new letter of credit. 47 CFR § 54.315(c).
- c. *Timely and Sufficient Application.* Section 1.21004(a) of the Commission's rules creates a binding obligation for a winning bidder to apply for support by the applicable deadline, 47 CFR § 1.21004(a). Approval for the information collection requirement in 1.21004(a) can be found under OMB control number 3060-1168.

Statutory authority for this information collection is contained in 47 U.S.C. 154, 214, 254, and 303(r).

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

2. *Use of Information.* The Commission needs to use the information collected to determine whether the long-form applicant is qualified to receive Phase II auction support. After the auction has concluded, a winning bidder or its designated operating

company will be required to file the FCC Form 683 to qualify for and receive support. Those applications will be subject to a review of the long-form applicant's eligibility and qualifications to receive support. Commission staff will review the information collected and will determine whether a long-form applicant is authorized to receive support. Without such information, the Commission could not determine whether to provide the support to the long-form applicant.

3. *Technological collection techniques.* Pursuant to the Commission's rules, a long-form applicant is required to complete and submit its FCC Form 683 electronically through the Commission's Auction Application System. The Commission has developed a centralized electronic system for collecting the information to reduce both public and agency administrative burden.

4. *Efforts to identify duplication.* Each long-form application submitted will be for a new project and for new purposes. The information sought is therefore unique to each respondent in the context of its winning bids for Phase II support and is not already available to the Commission. There is no similar data available under another information collection. Although some of the ownership information required to be provided under this collection may be collected in other filings required for obtaining Commission benefits, to reduce the burden for long-form applicants, the Commission's Auction Application System will automatically populate certain ownership information in FCC Form 683 that is currently on file with the Commission. A long-form applicant will be allowed to update the information as needed for this filing.

5. *Impact on small entities.* The collection of information may affect small entities as well as large entities. In conformance with the Paperwork Reduction Act of 1995, the Commission is making an effort to minimize the burden on all respondents regardless of size. The Commission has limited the information requirements under this collection to that which is necessary for evaluating and processing the application and to deter possible abuses of the Commission's processes.

6. *Consequences if information is not collected.* The Commission needs to use the information collected to determine whether long-form applicants are legally, technically, and financially qualified to receive Phase II auction support. Without the requested information, the Commission would be unable to determine whether the long-form applicant is eligible to receive the support. Thus, the information is being collected to meet the objectives of the Universal Service Fund program.

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

8. *Notice required by 5 CFR 1320.8(d).* The Commission published a notice in the Federal Register on March 21, 2018 (83 FR 12389). No PRA comments were received as a result of this notice.

9. *Payments or gifts to respondents.* Respondents will not receive any payments or gifts.

10. *Assurance of confidentiality.* Although most information collected in FCC Form 683 will be made available for public inspection, the Commission will withhold certain information collected in FCC Form 683 from routine public inspection. Specifically, the Commission will treat certain financial and technical information submitted in FCC Form 683 as confidential. In addition, an applicant may use the abbreviated process under 47 CFR § 0.459(a)(4) to request confidential treatment of the audited financial statements that are submitted during the post-selection review process. However, if a request for public inspection for this technical or financial information is made under 47 CFR § 0.461, and the applicant has any objections to disclosure, the applicant will be notified and will be required to justify continued confidential treatment. To the extent that a long-form applicant seeks to have other information collected in FCC Form 683 or during the post-selection review process withheld from public inspection, the long-form applicant may request confidential treatment pursuant to 47 CFR § 0.459.

11. *Questions of a sensitive nature.* This information collection does not address any private matters of a sensitive nature.

12. *Estimates of the hour burden of the collection to respondents.*

(a) Long-Form Application Requirements (FCC Form 683)

(1) Number of respondents: Approximately 400 applicants/respondents.

(2) Frequency of response: On-occasion reporting requirement.

(3) Total number of responses annually: 1.

(4) Estimated time per response: on average 12 hours.

(5) Total annual hour burden: 4,800 hours.

12 hours per respondent for approximately 400 applicants/respondents each filing once. Total annual hour burden is calculated as follows:

400 applicants/respondents x 1 submission = 400 responses x 12 hours = **4,800 total annual hours.**

(6) Total estimate of in-house cost to respondents: \$298,704 (4,800 hours x \$62.23/hour).

(7) Explanation of calculation: The Commission estimates that applicants will use staff equivalent to a GS-14/Step 5 (\$62.23/hour) Federal employee to complete and submit the application.

400 (responses) x 12 (hours to compile and submit documentation) x \$62.23/hour = \$298,704.

(b) Annual Submission of Letter of Credit

(1) Number of respondents: Approximately 400. Each recipient of Phase II auction support will need to submit a renewed or obtain a new letter of credit annually until it has certified that its buildout is complete and the Universal Service Administrative Company has verified the buildout. Recipients that obtain a new letter of credit, rather than renewing or amending an existing letter of credit, will also need to submit a new attorney opinion letter accompanying the new letter of credit.

(2) Frequency of response: Annually.

(3) Total number of responses annually: Approximately 1.

(4) Estimated time per response: on average 2 hours.

(5) Total annual hour burden: 800 hours.

2 hours per respondent for approximately 400 support recipients filing annually.
Total annual hour burden is calculated as follows:

400 recipients x 1 submission = 400 responses x 2 hours= **800 total annual hours.**

(6) Total estimate of in-house cost to respondents: \$49,784 (800 hours x \$62.23/hour).

(7) Explanation of calculation: The Commission estimates that support recipients will use staff equivalent to a GS-14/Step 5 (\$62.23/hour) Federal employee to obtain, compile, and submit the required documentation to the Commission.

400 (responses) x 2 (hours to obtain, compile, and submit documentation) x \$62.23/hour = \$49,784.

TOTAL NUMBER OF RESPONDENTS: 400.

TOTAL NUMBER OF ANNUAL RESPONSES: 800.

TOTAL ANNUAL BURDEN HOURS: 5,600 HOURS.

TOTAL ANNUAL “IN-HOUSE” COST to RESPONDENTS: \$348,488

13. *Estimates of the cost burden of the collection to respondents.* There are no outside costs to the respondents. Applicants should not incur capital and start-up costs or

operation and maintenance of purchase of services in connection with responding to the information collection in FCC Form 683. The information collected in FCC Form 683 should be collected and maintained as part of the customary and usual business or private practice of the applicant.

TOTAL CAPITAL AND START-UP COSTS or OPERATION AND MAINTENANCE (O&M) = \$0.

14. *Estimates of the cost burden to the Commission.* There will be few, if any, costs to the Commission beyond normal labor costs because ensuring proper use of Universal Service Fund support is already part of Commission duties.

15. *Program changes or adjustment.* This is a new information collection resulting in program change increases of 400 total respondents, 800 total annual responses, and 5,600 total annual burden hours.

16. *Collections of information whose results will be published.* The information collection will not be published for statistical use. As discussed above, the Commission will make any non-proprietary information publicly available as the Commission deems appropriate.

17. *Display of expiration date for OMB approval of information collection.* The Commission seeks approval to not display the OMB expiration date on FCC Form 683. This will prevent the Commission from having to change the expiration date whenever we re-submit this information collection for approval. The Commission will use an edition date on the form instead of the OMB expiration date. The Commission will publish the OMB control number and OMB expiration date in the Code of Federal Regulations. See 47 CFR § 0.408.

18. *Exception to the certification statement for Paperwork Reduction Act submission.* There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods:

No statistical methods are employed.