

SUPPORTING STATEMENT

The Commission is requesting OMB approval for an extension of this expiring information collection.

A. Justification:

1. Under section 10 of the Communications Act, telecommunications carriers may petition the Commission to forbear from applying to a telecommunications carrier any statutory provision or Commission regulation. When a carrier petitions the Commission for forbearance, section 10 requires the Commission to make three determinations with regard to the need for the challenged provision or regulation. If the Commission fails to act within one year (extended by three months, if necessary) the petition is “deemed granted” by operation of law. These determinations require complex, fact-intensive analysis, *e.g.*, “whether forbearance from enforcing the provision or regulation will promote competitive market conditions.”

In the *Forbearance Procedures Order*, and specifically in rule 47 C.F.R. § 1.54, the Commission requires that petitions for forbearance must be “complete as filed” and explains in detail what must be included in a section 10 forbearance petition. (In setting forth with all possible clarity the precise “complete as filed” procedures that pertain to forbearance petitions, rule 47 C.F.R. § 1.54 incorporates by reference the Commission’s existing rule 47 C.F.R. § 1.49. 47 C.F.R. § 1.49 sets forth the standard “specifications as to pleadings and documents,” that apply to all pleadings, including all petitions, that are filed at the Commission. Incorporation by reference of the 47 C.F.R. § 1.49 pleading specifications has no bearing on the paperwork burden of a forbearance petitioner.)

Precise filing requirements are necessary because of Section 10’s strict time limit for Commission action. Also, commenters must be able to understand clearly the scope of the petition in order to comment on it. Finally, standard filing procedures inform petitioners precisely what the Commission expects from them in order to make the statutory determinations that the statute requires.

This information collection does not affect individuals or households, and therefore does not implicate the Privacy Act.

Note: This submission is made pursuant to authority in sections 1, 4(i), 4(j), 5(c), 10, 201, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 155(c), 160, 201, and 303(r).

2. Telecommunications carriers may petition for forbearance from procedures and regulations. States, public interest groups, other carriers, and the public use the

information in the petition to comment on it, or as a basis for pleadings regarding the petition. The Commission uses the information in the petition to make the three determinations required by section 10, and, ultimately, either to grant or deny the petition, in whole or in part.

3. Forbearance petitions must be filed by an e-mail to forbearance@fcc.gov. The e-mail will be forwarded automatically to a pre-set group within the Commission. The Commission will post forbearance petitions on a dedicated page of the Commission's website.

All filings, including all data related to a forbearance petition, must be provided in a searchable format. The steps a filer must take to ensure its submission is searchable will vary by context.

In preparing a forbearance petition, a telecommunications carrier may make full use of any information technology at its disposal.

4. There is no duplication of information because each forbearance petition is unique.

5. Small carriers are eligible to file forbearance petitions, but nothing in the record suggests that small carriers are disadvantaged by the filing requirements. Small entities support procedural rules governing consideration of forbearance petitions because they have had to expend significant resources responding to scattershot arguments of much larger entities that have sought forbearance in recent years. In particular, the Small Business Administration filed comments in this proceeding in support of the information requirement that petitions for forbearance must be complete as filed.

6. Not collecting or reducing the amount of information in forbearance petitions would deprive the Commission of sufficient information, early enough in the process, to fulfill its obligation to make the three determinations required by section 10. Less than complete petitions also unfairly tax the resources of interested parties because it is difficult to comment on a vague or moving target.

7. Forbearance petitions are subject to the Commission's rule 47 CFR § 1.49, which states its standard "specifications as to pleadings and documents."

Petitioners may indicate information that requires confidential treatment, and may submit a redacted version. This allows the petitioner to ensure that sensitive information may be considered by the Commission but not made available to the general public. Confidentiality is discussed further at topic 10 below.

8. The Commission published a 60-day notice in the Federal Register on February 5, 2019 (84 FR 1726). No PRA comments were received in response to the notice.

9. The Commission does not anticipate providing any payment or gift to respondents.

10. The Commission's existing rules regarding the submission of confidential information permit it to balance the need for information against the risk of disclosure in individual circumstances. The Commission addresses on a case-by-case basis issues not covered by its existing rules that may arise regarding access to proprietary data.

See 47 C.F.R. § 0.459 (Commission rules governing requests that materials or information submitted to the Commission be withheld from public inspection); 47 C.F.R. § 0.457 (records not routinely available for public inspection); *Petitions of Qwest Corporation for Forbearance Pursuant To 47 U.S.C. § 160(c) in the Denver, Minneapolis-St. Paul, Phoenix, and Seattle Metropolitan Statistical Areas*, First Protective Order, WC Docket No. 07-97, 22 FCC Rcd 10129, para. 2 (WCB 2007) (sample protective order stating that "the term 'document' means all written, recorded, or graphic material, whether produced or created by a party or another person, whether produced pursuant to the Commission's rules, pursuant to subpoena, by agreement, or otherwise").

11. The information collection does not address any matters of a sensitive nature.

12. Respondent Burden:

The entire universe of potential respondents is approximately 3,773 providers or carriers. Based on the staff forecast, the Commission estimated that 11 respondents could possibly file a petition on a yearly basis. In the three years since the previous renewal of this information collection, the Commission has received 6 forbearance petitions. Therefore, the Commission's forecast of petitions-per-year estimate is 2.

- 6 petitions / 3 years = 2 petitions.

1. Number of respondents: 2.
2. Total annual respondents/Total Annual Responses: 2.
3. Percentage of those responses collected electronically: 100%.
4. Annual burden per respondent: 640 hours.
5. Total annual hours requested: 2 respondents x 1 petition per respondent x 640 hours per response = **1,280 total annual hours**.
6. Explanation: The estimated annual in-house cost to respondents is \$90,283.20. A complete as-filed forbearance petition may typically require a team of three in-house attorneys with an hourly wage of \$74.86 (comparable to a GS 15, step 5 government attorney) to work 200 hours each (600 hours), plus approximately 40 hours from in-house support staff with an hourly wage of \$30.54 (comparable to a GS 9 step 5) (40 hours): $(\$74.86 \times 600) + (\$31.23 \times 40) \times 2 = \$92,330.40$.

13. Respondent Costs:

1. No start-up costs are required to file a petition for forbearance.
2. A carrier is usually able to prepare a forbearance petition "in house."

14. Government Costs:

For one proceeding initiated by a forbearance petition, the Commission estimated the time spent to be 2,096 hours, at an estimated personnel cost of **\$156,228 (GS 15, Step 5)**.

The estimated annualized cost to the federal government of processing forbearance petitions is **\$312,456**.

- **\$156,228** per petition x 2 petitions per year = **\$312,456**.

15. The Commission is reporting adjustments/decreases to this information collection. Since the last submission to OMB, the total number of respondents and annual responses decreased by -9, and the total burden hours decreased by -5,760. The decrease in the Commission's estimates are based on the most current available data for this collection, which shows a decline in the number of respondents seeking forbearance from the Commission.

There are no program changes.

16. The Commission publishes grants and denials of forbearance petitions in the FCC Record.

17. The Commission does not intend to seek approval not to display the expiration date for OMB approval of the information collections. 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 of the Commission's rules.

18. There are 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.