

SUPPORTING STATEMENT

A. Justification:

1. The Federal Communications Commission (Commission) is requesting that the Office of Management and Budget (OMB) approve a three-year extension of the information collection, titled “47 CFR 43.82, Annual International Circuit Capacity Reports.” Pursuant to 47 CFR § 43.82, cable landing licensees and entities holding capacity on submarine cables file electronically annual circuit capacity reports, in a format set out in a Filing Manual.

The number of responses, respondents, and annual costs were updated to reflect an increase in the number of licensed U.S.-international submarine cables and a corresponding increase in the number of filing entities.

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) **Registration Form.** 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

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the Filing Manual.

Authority for the information collection:

The Commission has 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.

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, the licensee(s) of a submarine cable that extends between the United States and a foreign point as of December 31 of the reporting period reports the available capacity and planned capacity of that cable in the Cable Operator Report. Second, each cable landing licensee and common carrier that holds capacity on the U.S. end of any submarine cable extending between the United States and a foreign point as of December 31 of the reporting period (capacity holder) reports in the Capacity Holder Report 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. 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 lynchpin 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) stated that it also finds this information to be critical to its national and homeland security functions, and that this information, when combined with other data sources, is used to protect and preserve national security and for its emergency response purposes.

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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 Commission 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)]

The Registration Form provides basic information about the filing and about the Filing Entity itself – such as address, phone number, email address, and the international section 214 authorizations and/or cable landing licenses held by the Filing Entity. This information assists in keeping track of who holds international circuit capacity and how to contact the Filing Entity. 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 website. The specific data are reported using a spreadsheet or spreadsheets that the Filing Entity downloads, fills-in off-line, and then submits via the portal. All of the 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 reporting requirements are limited to only those collections necessary to serve the public interest, emergency planning and national security.
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

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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.

7. There are no special circumstances that would prevent the Commission from following all guidelines regarding the information collection.
8. On October 15, 2020, a 60-day notice was published in the Federal Register (85 FR 65402) to solicit comments from the public with regard to this information collection. 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 are 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 the Commission's 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.

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):

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Estimate of Burden Hours: ¹				
Explanation Of Burden Estimate	Number Of Response s	Frequency Of Responses	Time Per Response	Annual Burden Hours
Section 43.82(a) Annual Circuit Capacity Reports	37*	Annual	2 hours	74 Hours
	86**	Annual	14 hours	1,204 Hours
				1,278 Hours
47 CFR 43.82(b)*** Registration Form	90	Annual	1 Hour	90 Hours
Totals	213			1,368 Hours

* Cable landing licensees that file data on the capacity of the U.S.-international submarine cable – Cable Operator Report.

** Cable landing licensees and common carriers that file data on their capacity on U.S.-international submarine cables – Capacity Holder Report.

*** Each Filing Entity must file a Registration Form with its report(s).

In-House Costs: In house staff paid at an average of \$30/hour will fulfill the requirements. Therefore, the in-house costs are as follows: 1,368 hours x \$30/hour = \$41,040.

Total Number of Respondents: 90

Total Number of Annual Responses: 213

Total Annual Burden Hours: 1,368 hours

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

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

¹ There are no burdens attached to § 43.82(c) for the Filing Manual.

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(b) Total Operation and Maintenance and Purchase of Services: \$10,200

Compliance with the Circuit Capacity Report will not require respondents to maintain any special equipment. Compliance may require approximately 34 respondents to hire outside attorneys, calculated as follows:

Description	Annual Responses	Costs per Hour	Hourly Processing per Response	Total
Outside Legal Counsel	34	\$300 per Hour (Based on industry survey)	1 Hour/Response	\$10,200 (O&M)

(c) Total Annual Costs: \$10,200

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

Government Staff	Annual Burden Hours	Costs
Section 43.82(a) Annual Circuit Capacity Reports		
GS-15/Step 5 Telecommunications Specialist @ \$77.49 per hour	123 reports for submarine cable capacity X 3 hours of work per response received = 369 hours for staff	\$28,593.81
Section 43.82(c) Registration Form		
GS-13/Step 5 Hourly Rate: \$55.75	Review and Process 100 % of the filings = 90 filings (@ 1 hour/filing) = 90 hours for staff	\$ 5,017.50
Total Costs to the Federal Government:		\$33,611.31

15. This information collection reflects adjustments/increases for this collection as follows: from 65 to 90 (+ 25) respondents, 185 to 213 (+ 28) responses, 1,085 to 1,368 (+ 283) annual burden hours. Additionally, this information collection reflects an increase in

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annual costs from \$2,400 to \$10,200 (+\$7,800). The adjustments are the result of an increase in the number of licensed U.S.-international submarine cables and a corresponding increase in the number of filing entities.

There are no program changes to this information collection.

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

17. The Commission is requesting a waiver to not display the OMB control number and expiration date on the Filing Manual that filing entities will use in submitting their circuit capacity data. 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.