

This submission is being made pursuant to 44 U.S.C. § 3507 of the Paperwork Reduction Act of 1995 to revise this collection.

## SUPPORTING STATEMENT

### A. Justification:

1. Sections 201, 202, 203, 204 and 205 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 201, 202, 203, 204 and 205, require that common carriers establish just and reasonable charges, practices and regulations that must be filed with the Commission, which is authorized to determine whether such schedules are just, reasonable and not unduly discriminatory. Section 251(b)(5) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 251(b)(5), requires local exchange carriers to establish reciprocal compensation arrangements for the transport and termination of telecommunications.

Part 61 of the Commission's rules establishes the procedures for filing interstate tariffs which contain the charges, practices and regulations of the common carriers, supporting economic data and other related documents. The supporting data must also conform to other parts of the rules such as Parts 36 and 69. Part 61 prescribes the framework for the initial establishment of and subsequent revisions to tariffs. Any issuing carrier that is an incumbent local exchange carrier, and chooses to establish an Internet web site, must make its tariffs available on that website, in addition to the Commission's website. See 47 C.F.R. § 61.72(c).

Part 51 of the Commission's rules requires certain local exchange carriers to file interstate and/or intrastate tariffs to transition certain interstate and intrastate switched access and reciprocal compensation rates to bill-and-keep. This subpart uses the tariffing procedures of Part 61 to govern the interstate tariff filings required by Part 51. Tariffs that are required by Part 51 to be filed with state commissions are to use the relevant state procedures.

On April 27, 2001, the Commission released the *CLEC Access Order*,<sup>1</sup> which limited the application of the Commission's tariff rules to interstate access services provided by nondominant local exchange carriers (*i.e.*, competitive LECs). Pursuant to this order, competitive LEC access rates that are at or below a benchmark set by the Commission will be presumed to be just and reasonable and may be imposed by tariff. Above the benchmark, competitive LEC access services were mandatorily detariffed.

On September 23, 2005, the Commission released the *Wireline Broadband Internet Access Services Order*, which permits facilities-based providers to offer broadband Internet access transmission arrangements for wireline broadband Internet access services on a common carrier basis or a non-common carrier basis.<sup>2</sup> If the provider decides to offer broadband Internet access transmission service on

<sup>1</sup> *Access Charge Reform, Reform of Access Charges Imposed by Competitive Local Exchange Carriers*, CC Docket No. 96-262, Order, 16 FCC Rcd 3832 (2001) (*CLEC Access Order*).

<sup>2</sup> *Appropriate Framework for Broadband Access to the Internet Over Wireline Facilities; Universal Service Obligations of Broadband Providers; Review of Regulatory Requirements for Incumbent LEC Broadband Telecommunications Services, Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review – Review of Computer III and ONA Safeguards and Requirements; Conditional Petition of the Verizon Telephone Companies for Forbearance Under 47 U.S.C. § 160(c) with Regard to Broadband Services Provided Via Fiber to the Premises; Petition of the Verizon Telephone Companies for Declaratory Ruling or, Alternatively, for Interim Waiver with Regard to Broadband Services Provided Via Fiber to the Premises; Consumer Protection in the Broadband Era*, CC Docket Nos. 02-33, 01-337, 95-20, 98-10, WC Docket Nos. 04-242, 05-271, Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd

a common carrier basis, the Commission allows them to do so on a permissive detariffed basis.

On August 31, 2007, the Commission released the *Section 272 Sunset Order*, which found the Bell Operating Companies (BOCs) to be nondominant in the provision of in-region, interstate and international, long distance services, whether they provide these services directly or through affiliates that are neither section 272 nor rule 64.1903 affiliates.<sup>3</sup> Under that Order, AT&T, the legacy Qwest portions of CenturyLink, Verizon, Hawaiian Telcom, and the legacy Verizon portions of FairPoint and Frontier are barred from filing tariffs for in-region, interstate and international, long distance services pursuant to section 203 of the Act and sections 61.31-61.38 and 61.43 of the Commission's rules.

On November 18, 2011, the Commission released the *USF/ICC Transformation Order*,<sup>4</sup> which requires or permits incumbent and competitive local exchange carriers as part of transitioning regulation of interstate and intrastate switched access rates and reciprocal compensation rates to bill-and-keep under section 251(b)(5) to file tariffs with state commissions and the FCC. This transition affects different switched access rates at specified timeframes and establishes an Access Recovery Charge by which carriers will be able to assess end users a monthly charge to recover some or all of the revenues they are permitted to recover resulting from reductions in intercarrier compensation rates.

On March 23, 2016, the Commission adopted the *Rate-of Return Order*,<sup>5</sup> which reformed universal service for rate-of-return LECs. The Commission allowed carriers to elect the new Alternative Connect America Model (A-CAM), which provides a set amount of monthly support over 10 years, or remain with a reformed version of legacy support mechanisms with Connect America Fund Broadband Support (CAF-BLS) and High Cost Loop Support (HCLS).

On April 28, 2017, the Commission released the *Business Data Services Order*,<sup>6</sup> which establishes a new regulatory framework for business data services. Under this framework, price cap incumbent LECs are no longer subject to price cap regulation of their: (a) packet-based business data services; (b) time division multiplexing (TDM) transport business data services; (c) TDM business data services with bandwidth in excess of a DS3; and (d) DS1 and DS3 end user channel terminations, and other lower bandwidth TDM business data services, to the extent a price cap incumbent LEC provides them in counties deemed competitive under the Commission's competitive market test or in counties for which the price cap incumbent LEC had obtained Phase II pricing flexibility under the Commission's prior regulatory regime. The *Business Data Services Order* required that, within 36 months of its effective date (*i.e.*, by August 1, 2020), price cap incumbent LECs must remove all business data services that are no longer subject to price cap regulation from their interstate tariffs. The Order also required that, by that same deadline, competitive LECs must remove all business data services from their interstate

14853 (2005) (*Wireline Broadband Internet Access Services Order*).

<sup>3</sup> *Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements; 2000 Biennial Regulatory Review Separate Affiliate Requirements of Section 64.1903 of the Commission's Rules; Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) with Regard to Certain Dominant Carrier Regulations for In-Region, Interexchange Services*, WC Docket Nos. 02-112 and 06-120, CC Docket No. 00-175, Report and Order and Memorandum Opinion and Order, 22 FCC Rcd 16440 (2007) (*Section 272 Sunset Order*).

<sup>4</sup> *Connect America Fund et al.*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (*USF/ICC Transformation Order*).

<sup>5</sup> *Connect America Fund et al.*, WC Docket Nos. 10-90 and 14-58, CC Docket No. 01-92, Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 16-33 (adopted May 23, 2016) (*Rate-of-Return Order*).

<sup>6</sup> *Business Data Services in an Internet Protocol Environment*, WC Docket 16-143 et al., Report and Order, 32 FCC Rcd 3459 (2017) (*Business Data Services Order*).

tariffs.

On October 24, 2018, the Commission released the *Rate-of-Return Business Data Services Report and Order*,<sup>7</sup> allowing rate-of-return carriers currently receiving model-based or other forms of fixed high-cost universal service support to voluntarily elect to transition their business data service offerings from rate-of-return to incentive regulation.

On September 27, 2019, the Commission released the *Access Arbitrage Report and Order*,<sup>8</sup> making access-stimulating local exchange carriers (LECs) financially responsible for the terminating tandem switching and transport service access charges associated with the delivery of traffic from an interexchange carrier (IXC) to the access-stimulating LEC end office or its functional equivalent. The *Access Arbitrage Order* required that, within 45 days of its effective date, access-stimulating LECs remove any existing tariff provisions for terminating tandem switching or terminating tandem switched transport access charges. Affected intermediate access providers have the same time period to prepare any tariff revisions which they may see fit to file. The *Access Arbitrage Order* also required that access-stimulating LECs provide notice of their assumption of that financial responsibility to the Commission by filing a record of their access-stimulating status and acceptance of financial responsibility in the Commission's *Access Arbitrage* docket, and to provide notice to any affected IXCs and intermediate access providers of the same, within 45 days of approval by the Office of Management and Budget (OMB). If, after approval of this requirement by OMB, access-stimulating LECs no longer engage in access stimulation, they must also file notice of that change in status with the Commission and with any affected IXCs and intermediate access providers.

On October 9, 2020, the Commission released the 8YY (toll free) Access Charge Reform Order, FCC 20-143, that transitions intercarrier compensation for toll free services either to lower, uniform rate caps or to bill-and-keep over approximately three years as a means of curtailing abuse of the 8YY intercarrier compensation regime. The Order requires price cap and rate-of-return carriers to establish separate rate elements for certain interstate and intrastate toll free and non-toll free services. Carriers are also required to lower their 8YY database query charges over three years and are prohibited from charging for more than one query per call. Competitive LECs assessing a tariffed intrastate or interstate Toll Free Database Query Charge must cap such charges and revise their tariffs to ensure that those charges do not exceed the rates charged by the competing incumbent LEC.

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 sections 1-5, 201-205, 208, 251-271, 403, 502, and 503 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-155, 201-205, 208, 251-271, 403, 502, and 503.

2. The Commission and state commissions use the information collected through a carrier's tariff, as well as any supporting documentation carriers submit, whether a carrier's services are offered in a just and reasonable manner.

3. Beginning January 18, 2012, all carriers, both domestic and international, were required to file interstate and international tariffs (where still mandated or permitted) electronically using the

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<sup>7</sup> *Business Data Services for Rate-of-Return Local Exchange Carriers*, WC Docket No. 16-143 et al., Report and Order, 33 FCC Rcd 10403 (2018) (*Rate-of-Return Business Data Services Order*).

<sup>8</sup> *Updating the Intercarrier Compensation Regime to Eliminate Access Arbitrage*, WC Docket No. 18-155, Report and Order and Modification of Section 214 Authorizations (rel. Sept. 27, 2019) (*Access Arbitrage Order*)

Commission's Electronic Tariff Filing System.<sup>9</sup> We are unable to estimate the number of filings with state commissions that can be made electronically, or how many will need to be filed by paper.

4. No similar information is available elsewhere.

5. As discussed in prior OMB filings, small incumbent local exchange carriers are not considered by the Commission to constitute "small entities" within the meaning of the Regulatory Flexibility Act, since they are dominant in the provision of local exchange and access services. The Commission, nevertheless, is committed to reducing the regulatory burdens on small incumbent local exchange carriers whenever possible, consistent with the Commission's other public interest responsibilities. Nondominant local exchange carriers are permitted, but not required, to file tariffs for services that are not mandatorily detariffed. Some nondominant local exchange carriers may qualify as small businesses under the Regulatory Flexibility Act. See *CLEC Access Order*, paras. 115-116.

6. The tariff reporting requirements are necessary to allow the Commission and state commissions to become aware of unjust or unreasonable charges to the public in a timely manner. Without these reporting requirements, the Commission would not be able to minimize any adverse effects on the public.

7. Sections 51.907 and 51.909 of the Commission's rules, among other things, require incumbent local exchange carriers to file tariffs with state commissions. We do not know the extent to which any state commission may require that more than an original and two copies of a tariff be filed. If that is the case, we believe that state commissions has determined that multiple copies are needed to perform its functions.

8. The Commission published a 60-day notice in the Federal Register seeking public comment on January 21, 2021 (86 FR 6326). The Commission received no comments from the public.

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

10. The information is not of a confidential nature. Respondents who believe certain information to be of a proprietary nature may solicit confidential treatment in accordance with the procedures described in 47 C.F.R. § 0.459.

11. There are no questions of a sensitive nature with respect to this information collection.

12. The following represents the estimated number of burden hours for this information collection. We note that the hourly burden imposed by the requirement is very difficult to quantify. The following represents our best estimate.

**A. Reporting Requirement of Interstate Tariffs**

(1) Number of respondents: Approximately 825.

(2) Frequency of response: One-time, on occasion, annual, and biennial reporting requirements.

(3) Total number of responses annually: Approximately 1,650.

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<sup>9</sup> *Electronic Tariff Filing System (EFTS)*, WC Docket No. 10-141, Report and Order, 26 FCC Rcd 8884 (2011).

(4) Estimated time per response: 50 hours.

(5) Total annual burden: **82,500 hours**.

The Commission estimates that approximately 825 respondents will require 50 hours of reporting time per filing.

825 respondents x 50 hours per response x 2 responses per year per respondent = 82,500 hours.

(6) Total estimate of “in-house” cost to respondents: **\$3,906,375**.

(7) Explanation of calculation:

The Commission estimates that respondents will use personnel comparable in pay to a GS 12/Step 5 employee earning \$47.35 per hour. Thus:

82,500 hours x \$47.35 per hour = \$3,906,375.

**B. Reporting Requirement of Intrastate Tariffs**

(1) Number of respondents: Approximately 2,925.

(2) Frequency of response: One-time, on occasion and annual reporting requirements.

(3) Total number of responses annually: Approximately 2,925.

(4) Estimated time per response: 30 hours.

(5) Total annual burden: **87,750 hours**.

The Commission estimates that approximately 2,925 respondents will require 30 hours of reporting time per filing.

2,925 respondents x 30 hours per response x 1 response per year per respondent = 87,750 hours.

(6) Total estimate of “in-house” cost to respondents: **\$4,154,962.50**.

(7) Explanation of calculation:

The Commission estimates that respondents will use personnel comparable in pay to a GS 12/Step 5 employee earning \$47.35 per hour. Thus:

87,750 hours x \$47.35 per hour = \$4,154,962.50.

**C. Reporting Requirement: Detariffing of Price Cap Incumbent Local Exchange Carriers**

(1) Number of respondents: 13.

- (2) Frequency of response: On occasion reporting requirement as needed by filer.
- (3) Total number of responses annually: Approximately 13.
- (4) Estimated time per response: Approximately 30 hours per filing.
- (5) Total annual burden: **390 hours.**

The Commission estimates that approximately 13 entities will require approximately 30 hours of reporting time per filing.

13 respondents x 30 hours per response x 1 response per year per respondent = 390 hours.

- (6) Total estimate of “in-house” cost to respondents: **\$18,466.50.**
- (7) Explanation of calculation:

The Commission estimates that respondents will use personnel comparable in pay to a GS 12/Step 5 employee earning \$47.35 per hour. Thus:

390 hours x \$47.35 per hour = \$18,466.50.

**D. Reporting Requirement: Detariffing of Competitive Local Exchange Carriers**

- (1) Number of respondents: 1,210.
- (2) Frequency of response: On occasion reporting requirement as needed by filer.
- (3) Total number of responses annually: 1,210.
- (4) Estimated time per response: 30 hours.
- (5) Total annual burden: **36,300 hours.**

The Commission estimates that approximately 1,210 entities will require approximately 30 hours of reporting time per filing.

1,210 respondents x 30 hours per response x 1 response per year per respondent = 36,300 hours.

- (6) Total estimate of “in-house” cost to respondents: **\$1,718,805.**
- (7) Explanation of calculation:

The Commission estimates that respondents will use personnel comparable in pay to a GS 12/Step 5 employee earning \$47.35 per hour. Thus:

36,300 hours x \$47.35 hour = \$1,718,805.

**E. Reporting Requirement: Notice Provided by Access-Stimulating Local Exchange Carriers**

- (1) Number of respondents: Approximately 25.
- (2) Frequency of response: On occasion reporting requirement as needed by filer.
- (3) Total number of responses annually: Approximately 25.
- (4) Estimated time per response: 1 hour.
- (5) Total annual burden: **25 hours.**

The Commission estimates that approximately 25 entities will require approximately 1 hour of reporting time per filing.

25 respondents x 1 hour per response x 1 response per year per respondent = 25 hours.

- (6) Total estimate of “in-house” cost to respondents: **\$1,183.75.**
- (7) Explanation of calculation:

The Commission estimates that respondents will use personnel comparable in pay to a GS 12/Step 5 employee earning \$47.35 per hour. Thus:

25 hours x \$47.35 hour = \$1,183.75.

**F. Reporting Requirement: Notice Provided When Local Exchange Carrier is No Longer Engaged in Access Stimulation**

- (1) Number of respondents: Approximately 12.
- (2) Frequency of response: On occasion reporting requirement as needed by filer.
- (3) Total number of responses annually: Approximately 12.
- (4) Estimated time per response: 1 hour.
- (5) Total annual burden: **12 hours.**

The Commission estimates that approximately 12 entities will require approximately 1 hour of reporting time per filing.

12 respondents x 1 hour per response x 1 response per year per respondent = 12 hours.

- (6) Total estimate of “in-house” cost to respondents: **\$568.20.**
- (7) Explanation of calculation:

The Commission estimates that respondents will use personnel comparable in pay to a GS 12/Step 5 employee earning \$47.35 per hour. Thus:

12 hours x \$47.35/hour = \$568.20.

**G. Reporting Requirement for Establishing Separate Toll Free and Non-Toll Free Interstate rates, Including Toll Free and Non-Toll Free End Office, Transport, and Tandem Switching Rates and Toll Free Database Query Rates**

- (1) Number of respondents: Approximately 825.
- (2) Frequency of response: One-time. Further filings will be encompassed by the normal tariff filing process.
- (3) Total number of responses annually: Approximately 825.
- (4) Estimated time per response: **Approximately 10 hours.**
- (5) Total annual burden: **Approximately 8,250 hours.**

The Commission estimates that approximately 825 entities will require approximately 10 hour(s) of reporting time per filing.

825 respondents x 10 hours per response x 1 response per year per respondent = **8,250** hours.

- (6) Total estimate of “in-house” cost to respondents: **\$390,637.50.**
- (7) Explanation of calculation:

The Commission estimates that respondents will use personnel comparable in pay to a GS 12/Step 5 employee earning \$47.35 per hour. Thus:

**8,250** hours x \$47.35 = **\$390,637.50.**

**H. Reporting Requirement for Establishing Separate Toll Free and Non-Toll Free Intrastate rates, Including Toll Free and Non-Toll Free End Office, Transport, and Tandem Switching Rates and Toll Free Database Query Rates**

- (1) Number of respondents: Approximately 2,925.
- (2) Frequency of response: One-time. Further filings will be encompassed by the normal tariff filing process.
- (3) Total number of responses annually: Approximately 2,925.
- (4) Estimated time per response: **Approximately 10 hours.**
- (5) Total annual burden: -- **Approximately 29,250 hours.**



The Commission estimates that approximately **2,925** entities will require approximately **10** hour(s) of reporting time per filing.

**2,925** respondents x **10** hours per response x 1 response per year per respondent = **29,250** hours.

(6) Total estimate of “in-house” cost to respondents: **\$1,384,987.50.**

(7) Explanation of calculation:

The Commission estimates that respondents will use personnel comparable in pay to a GS 12/Step 5 employee earning \$47.35 per hour. Thus:

**29,250** hours x \$47.35 = **\$1,384,987.50.**

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**Total respondents: Approximately 2,925.**

**Total responses: 1,650 + 2,925 + 13 + 1,210 + 25 + 12 + 825 + 2,925 = 9,585.**

**Total annual burden: 82,500 + 87,750 + 390 + 36,300 + 25 + 12 + 8,250 + 29,250 = 244,477 hours.**

**Total In-House Costs to the Respondent:**

A. \$3,906,375

B. \$4,154,962.50

C. \$18,466.50

D. \$1,718,805

E. \$1,183.75

F. \$568.20

G. \$390,637.50

H. \$1,384,987.50

**Total: \$11,575,985.95.**

13. The following represents the Commission’s estimate of the annual cost burden for respondents resulting from the information collection:

(1) Total capital and start-up cost component (annualized over its expected useful life): \$0.

(2) Total operations and maintenance and purchase of services: \$1,608,000.

Respondents are subject to a \$960 filing fee, for all interstate tariff submissions, not just the increase in filings addressed herein. We are unable to estimate what, if any, intrastate filing fees there may be. Thus:

1,675 filings x \$960 = \$1,608,000.

(3) **Total annualized cost requested: \$1,608,000.**

14. Annualized cost to the Federal government to handle all tariffs has been estimated to be approximately \$988,000, although this figure is not based on an in-depth survey. Without conducting a

survey, we are likewise unable to estimate the cost to state commissions of reviewing the tariff filings that will be made with them.

15. The Commission is reporting program changes to this information collection to reflect the addition of two one-time reporting requirements to implement the *8YY Order* and the removal of a one-time reporting requirement from the previous submission, which has been fulfilled. The two one-time requirements to implement *8YY Order* resulted in a program change/increase of +825 and + 2,925 for a total increase of +3,750 annual reporting. There is an additional program change/decrease of -25 responses as a result of the completion of the one-time requirement of the detariffing of Access-Stimulating local exchange carriers. Therefore, the total program change/increase is + 3,725 annual responses. The two one-time requirements to implement *8YY Order* resulted in a program change/increase in burden hours of +8,250 and +29,250 for a total increase of +37,500 burden hours. There is an additional program change/decrease of -750 burden hours as a result of the completion of the one-time requirement of the detariffing of Access-Stimulating local exchange carriers. This results in a total program change/increase of +36,750 burden hours.

In addition, there are adjustment/increases to this information collection due to the changes in the marketplace. Accordingly, the number of carriers filing interstate tariffs has increased from 740 to 825 (+85). This increase includes competitive LECS that may not have been included in previous submissions. In addition, the number of carriers filing intrastate tariffs has increased from 2,840 to 2,925 (+85). This change in the marketplace results in an adjustment/increase of +255 annual responses and +11,050 burden hours.

As a result of the above changes, the total number of responses has increased from 5,605 to 9,585 (+3,980) and the total annual burden hours have increased from 196,677 to 244,477 (+47,800). The total annualized cost has adjusted/increased from \$1,444,800 to \$1,608,000 (+ \$163,200) due to an increase in the number of tariff filings from 1,505 to 1,675 (+170).

16. The Commission does not anticipate that it will publish any of the information collected.

17. The Commission does not seek approval not to display the expiration date for OMB approval of the information collection.

18. The Commission inadvertently stated the total annual costs as \$1,584,000 in the 60/30-day notices which were published in the Federal Register on January 21, 2021 and March 31, 2021, respectively (86 FR 6326 and 86 16723). The correct total annual costs should have been stated as \$1,608,000 and is included in this submission to OMB.

There are no other exceptions to the certification statement.

**B. Collections of Information Employing Statistical Methods:**

This information collection does not employ any statistical methods.