

Sections 68.105 and 1.4000, Promotion of Competitive Networks in Local Telecommunications Markets Multiple Tenant Environments (MTEs)

SUPPORTING STATEMENT

Introduction: The Commission seeks an extension of this information collection from the Office of Management and Budget (OMB) for a period of three years.

A. Justification:

1. In an October 2001 Order, FCC 00-366,¹ the Commission adopted the following: 1) prohibited carriers from entering into contracts that restrict or effectively restrict a property owner's ability to permit entry by competing carriers; 2) established procedures to facilitate moving the demarcation point to the minimum point of entry ("MPOE") at the building owner's request, and required incumbent local exchange carriers ("LECs") to timely disclose the location of existing demarcation points where they are not located at the MPOE; 3) determined that, under Section 224 of the Communications Act, utilities, including LECs, must afford telecommunications carriers and cable service providers reasonable and nondiscriminatory access to conduits and rights-of-way located in customer buildings and campuses, to the extent such conduits and rights-of-way are owned or controlled by the utility; and 4) extended to antennas that receive and transmit fixed wireless signals the existing prohibition of restrictions that impair the installation, maintenance or use of certain antennas on property within the exclusive use or control of the antenna user, where the user has a direct or indirect ownership or leasehold interest in the property.

a. The demarcation point burden consists of two components: (1) at the time of installation, the LEC shall fully inform the premises owner of its options and rights regarding the placement of the demarcation point or points (options information); and (2) the LEC shall make available information on the location of the demarcation point within ten business days of a request from the premises owner (location information). These information requirements are codified in 47 CFR § 68.105.

b. The Over-the-Air Reception Device (OTARD) portion of this information collection relates to the revisions of the Commission's rules regarding "OTARDS", 47 CFR § 1.4000. Under these revisions, as a condition of invoking protection under 47 CFR § 1.4000 from government, landlord, and association restrictions, a licensee must ensure that subscriber antennas are labeled to give notice of potential radio frequency safety hazards of these antennas. Labeling information should include minimum separation distances required between users and radiating antennas to

¹ *Promotion of Competitive Networks in Local Telecommunications Market et al.*, First Report and Order and Further Notice of Proposed Rulemaking in WT Docket No. 99-217, Fifth Report and Order and Memorandum Opinion and Order in CC Docket No. 96-98, and Fourth Report and Order and Memorandum Opinion and Order in CC Docket No. 88-57, 15 FCC Rcd 22983 (2000) ("the Order"). This Order endeavored to foster competition in local communications markets by implementing measures to ensure that competing telecommunications providers are able to provide services to customers in multiple tenant environments ("MTE").

meet the Commission's radio frequency exposure guidelines. Labels should also include reference to the Commission's applicable radio frequency exposure guidelines and should use the ANSI-specified warning symbol for radio frequency exposure. In addition, the instruction manuals and other information accompanying subscriber transceivers should include a full explanation of the labels, as well as a reference to the applicable Commission radiofrequency exposure guidelines. *See* para. 118 of Order.

The availability of this information will give notice to the public - particularly to purchasers of OTARD dishes - of potential radiofrequency safety hazards of OTARD antennas used for service. Thus, this information will help to ensure that these antennas comply with the Commission's limits on radio frequency exposure.

In 2013, we revised the title of OMB Control No. 3060-0975 from “Sections 68.3 and 1.4000, Promotion of Competitive Networks in Local Telecommunications Markets Multiple Tenant Environments (MTEs)” to “Sections 68.105 and 1.4000, Promotion of Competitive Networks in Local Telecommunications Markets Multiple Tenant Environments (MTEs).”²

Statutory authority for this information collection is contained in the Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56 codified at 47 U.S.C. § 151 *et seq.* (1996 Act).

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

2. This information will facilitate efficient interaction between premises owners and LECs regarding the placement of the demarcation point, which marks the end of wiring under control of the LEC and the beginning of wiring under the control of the premises owner or subscriber. The demarcation point is a critical point of interconnection where competitive LECs can gain access to the inside wiring of the building to provide service to customers in the building. This collection will also help ensure that antennas covered by the OTARD rule will comply with the Commission's limits on radiofrequency exposure, and it will provide the Commission with information on the state of the market. In short, this information will be used to foster competition in local telecommunications markets by ensuring that competing telecommunications providers are able to provide services to customers in multiple tenant environments.

3. Prior to finalizing rulemakings, the Wireless Telecommunications Bureau conducts an analysis to ensure that improved information technology cannot be used to reduce the burden on the public. This analysis considers the possibility of obtaining and/or computer-generating the required data from existing data bases in the Commission or other federal agencies.

4. The Commission does not impose a similar information collection on the respondents. There are no similar data available.

² Although Section 68.3 defines the demarcation point, the information requirements on carriers regarding the location of the demarcation point are located in Section 68.105.

5. 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 to those absolutely necessary for evaluating and processing applications and to deter against possible abuse.
6. Each component of the demarcation point information collection is required only once for each premises served, upon request of the premise's owner or at the time the wiring is installed. The OTARD information collection is required once for each antenna, at the time of installation. The market data information collection is also required only once, in connection with the Commission's rulemaking process. Accordingly, less frequent collection of the information is not possible.
7. As described in paragraph 1a. of the supporting statement, at the time of installation, the LEC shall fully inform the premises owner of its options and rights regarding the placement of the demarcation point or points (options information); LECs are also required to make available information on the location of the demarcation point within 10 business days of a request from the premises owner (location information).
8. The FCC initiated a 60-day notice public comment period which was published in the Federal Register on February 28, 2022 (87 FR 11073). No PRA comments were received.
9. Respondents will not receive any payments or gifts associated with this collection of information.
10. There is no need for confidentiality associated with this information collection.
11. This collection does not address any private matters of a sensitive nature.
12. Annual Burden: For the purpose of this supporting statement, the Commission estimates the number of respondent burden hours for each of the rule sections. We will outline the number of respondents, time per response, and total annual burden hours for each collection, to include the number of respondents and responses. This collection consists of two rule sections – Demarcation Point and OTARD.

a. Demarcation Point Hour Burden (47 CFR § 68.105):

i. Number of respondents

According to the Commission's Trends in Telephone Service Year 2010 study,³ 1,297 incumbent carriers reported that they were engaged in the provision of local exchange service.⁴ Although the demarcation point obligations could apply to competitive LECs as well (and probably will

³ Trends in Telephone Service, Wireline Competition, Federal Communications Commission, Web site: <https://www.fcc.gov/general/trends-telephone-service>.

⁴ Number of Local Competitors, Table 8.9, National Local Service Revenues and New Competitors' Share, Trends in Telephone Service, Wireline Competition, Federal Communications Commission, Web site: <https://www.fcc.gov/general/trends-telephone-service>, pg. 8-13.

have more application in the future), at this time the demarcation point obligations primarily apply to incumbent LECs, since incumbent LECs are far more likely to control inside wiring in MTEs. Therefore, for this subpart, there are 1,297 respondents.

ii. Burden Hours

1. Options information: LECs must explain a landlord's options with regard to location of the demarcation point at the time of installation of the wiring. Thus, the obligation would only apply in new or rewired buildings. At the time of the initial PRA submission on May 4, 2001,⁵ we estimated the total number of MTEs to be 1,750,000. We estimate that the number of new or rewired MTEs in any year will equal ten percent of the number of existing MTEs, or 175,000.⁶ Therefore, for this subpart, we estimate 175,000 responses. We anticipate that each response will take 0.5 hours to present options.

175,000 responses x 0.5 hours per response = **87,500 hours.**

2. Location information: LECs shall make available to the premise owner information on the location of the demarcation point within ten business days of a request. We predict that the number of buildings where landlords seek location information will reduce by a percentage per each PRA renewal. At the time of the initial PRA submission in 2001, we estimated the total number of MTEs to be 1,750,000 and predicted that 50 percent of buildings' landlords will seek location information; therefore, we estimated that 875,000 landlords sought information.⁷ We use this formula to calculate the number of responses from buildings where landlords seek location information. In 2004, we lowered the percentage of landlords that would seek location information from 50 to 25 percent, to account for our expectation that the number requests would decrease over time.⁸ For 2022, we estimate 155,731 remaining buildings where landlords lack location information, and that 25 percent of landlords in those buildings would seek location information, resulting in 38,933 responses.⁹

38,933 responses x 0.5 hours per response = **19,467 hours.**

Total Annual Burden Hours: 87,500 (options information) + 19,467 (location information) = **106,967 hours.**

3. Number of Responses

⁵ Retrieve Notice of Action - 2001; OMB CONTROL NUMBER: 3060-0975; Inventory of Currently Approved Information Collections; Office of Information and Regulatory Affairs; Web site: <http://www.reginfo.gov/public/do/PRAMain;jsessionid=EFD60E024F4BB4DD0996CE27875C8996>.

⁶ See Supporting Statement, Appendix A, Table for 3060-0975 burden hours. Ten percent of 1,750,000, which is 175,000, is the standard number of responses for each PRA.

⁷ See Supporting Statement, Appendix A, for further explanation.

⁸ *Id.*

⁹ We estimate for 2022 that the remaining number of buildings where landlords lack location information is 155,731, which should be used as the starting point for determining the number of responses for subsequent location information collections (*i.e.*, 25 percent of 155,731).

The number of responses include the premise owner/landlords referred to in:

47 CFR § 68.105 Demarcation Point, Options Information	175,000
47 CFR § 68.105 Demarcation Point, Location Information	<u>38,933</u>
Total Number of Responses	213,933

In-house Administrative Staff Cost:

We continue to estimate that a respondent carrier's in-house administrative staff will be able to explain the option locations for the demarcation point or points in a new or rewired building, or to tell an MTE landlord where the demarcation point is currently located. From 2001-2015, we have estimated the approximate wage for in-house administrative staff at \$20 per hour.¹⁰ Taking inflation into account, in 2016 we revised our in-house labor estimate to \$28, and in 2019 it was increased again to \$30. For this collection, and taking inflation into account once again, we are revising our in-house labor estimate to \$32 per hour.

Respondents' Total Demarcation Point Information In-House Cost:

106,967 hours at \$32 per hour = **\$3,422,944.**

b. OTARD Hour Burden (47 CFR § 1.4000):

We estimate that there will be **3,725 respondents** for this subpart. Respondents include Point-to-Multipoint (PTMP)¹¹, 3650 MHz, VSAT, DBS, and fixed microwave services. We estimate that ten percent of licensees of fixed microwave systems are designed to use antennas covered by the OTARD rule. The total estimated number of licensees with fixed microwave systems is 8,274¹²; thus, ten percent of these licensees (that is, the approximate number of licensees with systems designed to use antennas covered by the OTARD rule) is 827 (round from 827.4).

1,742 (PTMP) + 805 (3650 MHz) + 349 (VSAT) + 2 (DBS) + 827 (Fixed Microwave) = **3,725 respondents.**¹³

We estimate that each respondent will respond once per year for a total of **3,725 responses** and the tasks described above will take each respondent 10 hours to complete. We assume that each respondent will provide service through a large number of antennas covered by the OTARD rule but will be able to centralize the production of labels and instruction manual inserts, thus taking advantage of economies of scale.

3,725 respondents x 1 response x 10 hours per response = **37,250 hours.**

¹⁰ Web site: <http://www.westegg.com/inflation/infl.cgi> (estimating \$20 in 2001 to be slightly less than \$30 in 2019).

¹¹ The number of PTMP system licensees includes licensees in the Broadband Radio (BRS), Educational Broadband (EBS), Local Multipoint Distribution (LMDS), and Multipoint Video and Data Distribution (MVDDS) services.

¹² The number of fixed microwave systems' licensees includes licensees in the Common Carrier Point to Point, Private Operational Fixed Point to Point, Aviation Microwave, Marine Microwave, Radiolocation Microwave, and 39 GHz services (now converted to Upper Millimeterwave Flexible Use Service), which are all point-to-point services.

¹³ Numbers based on current internal FCC data.

Respondents Total OTARD Tasks In-House Cost:
37,250 hours (hours) x \$32 per hour = **\$1,192,000.**

Summary of Totals:

Total Number of Respondents:

47 CFR § 68.105 Demarcation Point Burden	1,297 respondents
47 CFR § 1.4000 OTARD Burden	<u>3,725 respondents</u>
	5,022 respondents

Total Number of Responses:

47 CFR § 68.105 Demarcation Point	213,933 responses
47 CFR § 1.4000 OTARD	<u>3,725 responses</u>
	217,658 responses

Total Annual Burden Hours:

47 CFR § 68.105 Demarcation Point	106,967 hours
47 CFR § 1.4000 OTARD	<u>37,250 hours</u>
	144,217 hours

Total In-house Cost Burden:

47 CFR § 68.105 Demarcation Point	\$3,422,944 cost
47 CFR § 1.4000 OTARD	<u>\$1,192,000 cost</u>
	\$4,614,944 cost

13. There is no annual cost associated with this collection. Therefore, there is neither a capital and start-up cost, nor an operation, maintenance, and purchase of services cost.

14. There is no cost to the Federal Government.

15. There are no program changes to this collection. However, there are a number of adjustments which are due to the Commission reevaluating its calculations and numbers for this collection. The adjustments are as follows: -1,548 to the number of respondents (from 6,570 to 5,022), -14,525 to the annual number of responses (from 232,183 to 217,658 responses) and -21,968 hours to the annual burden hours (from 166,185 to 144,217). The annual cost for this collection remains at \$0.

16. The data will not be published for statistical use.

17. The Commission is not requesting OMB approval to not display the OMB expiration date. These requirements are contained in rules and therefore display is not appropriate. However, the Commission “displays” all OMB-approved information collections, along with their appropriate OMB control number, OMB expiration date and title(s) in 47 CFR 0.408 of the Commission’s rules.

18. There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods:

No statistical methods are employed.

Appendix A

Calculation for Q12a, ii. Burden Hours, 2. Location information:

See Table below for 3060-0975 burden hours calculation history:

History:

At the time of the initial PRA submission on May 4, 2001, we estimated the total number of MTEs to be 1,750,000. We also estimated that requests for location information would be made in approximately half of the buildings, or 875,000, and that each respondent would require half an hour to acquire information on location of the demarcation point. Thus, 875,000 buildings x 0.5 hours = 437,500 hours. We anticipated that this annual burden would decrease over time because requests for location information would have already been made at most buildings.

At the time of renewal in 2004, we estimated that one quarter of the 875,000 buildings would request assistance, or 218,750 buildings would seek location information, leaving 656,250 buildings where landlords still lack location information. These 218,750 requests would require approximately 0.5 burden hours per request which overall would require 109,375 burden hours. For 2007, we estimated that the request would be made at one quarter of the remaining 656,250 buildings, or 164,063 buildings. Therefore, the burden would be 164,063 x 0.5 burden hours per request equaling 82,032 total burden hours. For 2010, we estimated that the requests would be made at one quarter of the remaining 492,187 buildings, or 123,047 buildings. Thus, the predicted burden hours were 123,047 x 0.5 burden hours per request equaling 61,524 total burden hours. For 2013, we estimated that the requests would be made at one quarter of the remaining 369,140 buildings, or 92,285 buildings. Thus, the predicted burden hours were 92,285 x 0.5 burden hours per request equaling 46,143 total burden hours. For 2016, we estimated that a quarter of the remaining 276,855 buildings would seek location information, equating to 69,214 buildings requesting assistance. Thus, the predicted burden hours were 69,214 requests x 0.5 burden hours per request equaling 34,607 total burden hours. For 2019, we estimated that a quarter of the remaining 207,641 buildings would seek location information, equating to 51,910 buildings requesting assistance. Thus, the predicted burden hours were 51,910 requests x 0.5 burden hours per request equaling 25,955 total burden hours.

Table for 3060-0975 burden hours

3060-0975: Inquiries regarding location of the demarcation point.	Approx. number of buildings where landlords lack location information.	Predicted percentage of buildings where landlords will seek location information.	Predicted number of buildings where landlords will seek location information.	Remaining number of buildings where landlords will lack location information.
2001	1,750,000	50 percent	875,000	875,000
2004	875,000	25 percent	218,750	656,250
2007	656,250	25 percent	164,063	492,187
2010	492,187	25 percent	123,047	369,140

2013	369,140	25 percent	92,285	276,855
2016	276,855	25 percent	69,214	207,641
2019	207,641	25 percent	51,910	155,731
2022	155,731	25 percent	38,933	116,798

For 2022:

Approx. number of buildings where landlords lack location information: 155,731
 Predicted percentage of buildings where landlords will seek location information: x 0.25
 Predicted number of buildings where landlords will seek location information: = 38,933

This leaves 116,798 buildings still requiring location information.

Therefore, in 2022, this part of the collection will require 19,467 burden hours.
 (38,933 responses x 0.5 hours per response = 19,467 burden hours).