

SUPPORTING STATEMENT

A. Justification

The Federal Communications Commission (Commission) is requesting that the Office of Management and Budget (OMB) approve an extension of the delegated authority information collection titled, “Recognized Private Operating Agency (RPOA) – 47 CFR 63.701” under OMB Control No. 3060-0357.

Background Information:

1. At the request of the U.S. Department of State (State Department), the Commission adopted a voluntary program by which companies that provide enhanced services could seek designation as a recognized private operating agency (RPOA). The term RPOA was used in the International Telecommunication Convention, the international agreement that created the International Telecommunication Union (ITU), to refer to private-sector providers of international telecommunication services that had been “recognized” either by the government of the country in which they had been incorporated, or the country where they operated.

Most providers of international telecommunications services to or from the United States hold either an authorization under section 214 of the Communications Act or a radio license under section 301 of the Act. The issuance of such authorizations or licenses is public evidence that the U.S. government “recognizes” the entities to which they are issued. However, providers of enhanced services are not licensed or authorized.¹ They are permitted to begin operations without any formal applications or notifications. It is not, therefore, immediately apparent to foreign governments that a U.S. enhanced service provider has been “recognized” within the meaning of the ITU Convention. As a consequence, such entities have sometimes found foreign governments unwilling to let them operate in those countries. As a result, providers requested that the Commission and State Department develop a program whereby enhanced service providers could be formally designated as RPOAs.

The program that was developed allows entities wishing to obtain an RPOA designation to submit an application to the Commission. The entity will submit information about the provider and the services it proposes to provide and a pledge by the provider that it would abide by all international obligations to which the United States is a signatory. The Commission places the application on public notice and allows interested parties to comment on the application. The Commission then makes a recommendation, based on the application and comments, to the State Department either to grant or deny the request. The State Department then acts on the recommendation and notifies the ITU of any applications that it grants. RPOA designation is voluntary. If an enhanced service provider does not find such designation necessary, it is not required to file an application.

To implement this program, the Commission adopted section 63.701 of the Commission’s rules

¹ Enhanced services are defined in section 64.702(a) of the Commission’s rules and are not regulated under title II of the Communications Act. 47 CFR § 64.702(a).

identifying the information that must be contained in an application for designation as an RPOA.² RPOA designations do not have expiration dates and continue indefinitely, unless revoked for cause. RPOAs are not required to file any reports or other information with the Commission throughout their indefinite period of designation.

Any party requesting designation as an RPOA within the meaning of the ITU Convention must file a request for such designation with the Commission. This filing includes a statement of the nature of the services to be provided and a statement that the applicant is aware that it is obligated under Article 6 of the ITU Constitution to obey the mandatory provisions thereof, and all regulations promulgated there under, and a pledge that it will engage in no conduct or operations that contravene such mandatory provisions and that it will otherwise obey the Convention and regulations in all respects. The applicant must also include a statement that it is aware that failure to comply will result in an order from the Commission to cease and desist from future violations of an ITU regulation and may result in revocation of its RPOA status by the State Department.

Previously, we reported that the Commission plans to develop a new request titled, “Recognized Operating Agency (ROA) – Other Filings” that will impact this information collection in the future. In addition, the Commission plans to develop a modernized electronic filing system for all International Bureau applications (IBFS), including ROA applications. We do not know the specific time frame for completing development of modernized IBFS. However, we estimate that the projected completion date will be December 2023. The development of the application forms is contingent upon the availability of budget funds, human resources and other factors. When the new forms and IBFS modernization are closer to completion, we will submit to OMB a request to revise the OMB Control No. 3060-0357 collection.

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

The Commission has authority for this collection pursuant to sections 4(i), 4(j), 201-205, 214 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(j), 201-25, 214 and 403.

2. Use of the Information

The Commission requests this information to make recommendations to the State Department for granting RPOA status to requesting entities. The Commission does not require entities to request RPOA status. Rather, this is a voluntary application process for use by companies to persuade foreign governments to allow them to conduct business abroad. RPOA status also permits companies to join the ITU’s Telecommunication Standardization Sector (ITU-T), which is the

standards-setting body of the ITU. The information furnished in RPOA requests is collected

² See 47 CFR § 63.701; *International Communications Policies Governing Designation of Recognized Private Operating Agencies, Grants of IRUs in International Facilities and Assignment of Data Network Identification Codes*, CC Docket No. 83–1230, Report and Order, 104 F.C.C.2d 208 (1986).

pursuant to section 63.701 of the Commission rules.³

3. **Use of Information Technology**

As a result of the *International E-Filing R&O*, the Commission requires mandatory electronic filing of RPOA applications.⁴ Therefore, this information collection reflects that all RPOA applications are filed with the Commission electronically in the International Bureau Filing System (IBFS).

4. **Non-Duplication**

This information that is collected in these applications is not duplicated elsewhere. Similar information is not available.

5. **Burden on Small Business**

This collection of information does not have a significant impact on small entities. Entities requesting designation as RPOAs traditionally are large entities. Also, the number of applications the Commission received annually is minimal, and the paperwork burden per application is minimal.

6. **Critical Nature of Collection**

Entities submit these applications on a voluntary basis. The collection of information is a one-time collection for each respondent. Without this information collection, the Commission's policies and objectives for assisting unregulated providers of enhanced services to enter the market for international enhanced services would be thwarted.

7. **Special Circumstances**

There are no special circumstances associated with this collection of information.

8. **Federal Register of the Agency's Notice**

On August 30, 2022 the Commission published in the Federal Register (87 FR 52969) to request comments from the public on the information collection requirements contained in this collection. No comments were received from the public.

9. **Gifts or Payment**

³ 47 CFR § 63.701.

⁴ *Mandatory Electronic Filing for International Telecommunications Services and Other International Filings*, IB Docket No. 04-426, Report and Order, 20 FCC Rcd. 9292 (2005)

The Commission will not provide any payment or gift to respondents.

10. **Confidentiality**

Persons who believe that the collection contains confidential information may request confidential treatment under the Commission’s rules.⁵

11. **Sensitive Questions**

The collection does not contain questions of a sensitive nature.

12. **Respondent Cost: Burden, and its Labor Costs (Estimated)**

The Commission receives no more than **five applications** on an annual basis.⁶ We estimate that half of the respondents file these with the use of their in-house staff and undergo an average paperwork burden of five hours to prepare and file each application. We estimate that the other half of the respondents still rely on outside legal assistance to file their applications. These respondents undergo a paperwork burden of two hours to coordinate with outside legal assistance who then prepare and file the application. The annual paperwork burden for this collection is therefore:

3 respondents using in-house staff	x 5 hrs.(preparing applications)	= 15 hrs.
2 respondents using outside legal assistance	x 2 hrs. (consulting)	= <u>4 hrs.</u>
Total annual paperwork burden		= 19 hrs.

Respondents’ In-House Costs: We estimate that the loaded hourly rate for in-house staff at respondents’ companies to prepare and file the applications and to consult with outside consultants will be \$40.

$$19 \text{ hrs.} \times \$40 \text{ per hr.} = \$760 \text{ (In House Costs)}$$

13. **Estimate of the Total Annual Cost Burden to Respondents or Recordkeepers**

(a). Total Capital and Start-up Cost. None.

(b). Total operation and maintenance costs: For this collection, we estimate that half of the respondents will use outside legal assistance to prepare and file their applications. We estimate that respondents pay outside legal assistance approximately \$300 per hour for their assistance. The paperwork burden for each application is 5 hours. Therefore, 2 applications x 5 hrs. each x

⁵ See 47 CFR 0.459.

⁶ Although our records show only one ROA application filed between 2019-2021, our longer historical records show that the number of ROA filings is likely to fluctuate from year to year.

\$300 per hr. = \$3,000.

The Commission adopted a new schedule of application fees in 2020.⁷ The filing of each of these applications also entails a \$1,145 application fee.⁸ We estimate that five applications are filed annually (3 by in-house staff, and 2 with outside legal assistance). Therefore, 5 applications x \$1,145 = \$5,725.

(c). Total annual costs = \$3,000 + \$5,725 = **\$8,725**

14. **Estimates of Annualized Cost to the Federal Government**

The cost-based application fees that the Commission adopted for ROA applications are provided in item 13 above. The fee indicated is a reflection of the cost incurred by the Commission for review of that application. As the Commission stated in the *2020 Application Fees Notice* and adopted in the *2020 Application Fees Report and Order*, review of all ROA applications includes industry analyst processing and review, staff attorney review, and supervisory review.⁹ The Commission's resources to process a typical new ROA application consist of the following (generally): industry analyst processing and review (GS-11/Step 5 employee), staff attorney review (GS-14/Step 5 employee), and supervisory review (GS-15/Step 5 employee).

Federal Government Staff	No. of Responses	Burden Hours	Total Hours	Salary per/hour	Total costs
GS-15/	5	3	15	\$80.63	\$1,209.45

⁷ See *Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.1109 of the Commission's Rules*, MD Docket No. 20-270, Report and Order, 35 FCC Rcd 15089 (2020); Erratum, October 25, 2021, FCC 21-110 (*2020 Application Fees Report and Order*). The new and revised application fees apply to a broad spectrum of filings processed by the Commission, including applications for ROAs. The application fees are based on the Commission's costs associated with processing those applications.

⁸ *Id.* at [x].

⁹ *Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.1109 of the Commission's Rules*, MD Docket No. 20-270, Notice of Proposed Rulemaking, 36 FCC Rcd 1618, para. 160 (2020) (*2020 Application Fees Notice*); *2020 Application Fees Report and Order*, 35 FCC Rcd 15089, paras. 148-149.

Step 5 Attorney (1)					
GS-14/ Step 5 Attorney (1)	5	6	30	\$68.55	\$2,056.50
GS-11/ Step 5 Administrative Assistant (1)	5	2.5	12.5	\$40.70	\$508.75

The combined cost to the Federal Government is **\$1,209.45 + \$2,056.50 + \$508.75 = \$3,774.70**

15. **Reasons for Change in Burden**

There are no program changes to this collection. There are adjustments as follows: -5 to the number of respondents, -5 to the annual number of responses, -16 to the annual burden hours and -\$10,725 to the cost burden. These adjustments are due to re-evaluation of the figures for this collection.

16. **Publication of Results**

This information will not be tabulated for statistical use. The data will be used only to act on individual applications. The Commission does not publish the information but it does make the individual application files available for public inspection.

17. **Non-Display of OMB Expiration**

No waiver is necessary. The Commission is not seeking approval to not display the expiration date for OMB approval of this information collection.

18. **Exceptions to “Certification for Paperwork Reduction Submissions”**

There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods.

The Commission does not employ statistical methods.