

SUPPORTING STATEMENT**A. Justification:**

1. The rules and regulations contained in 47 CFR Part 1 Subpart J provide complaint and enforcement procedures to ensure that telecommunications carriers and cable system operators have nondiscriminatory access to utility poles, ducts, conduits, and rights-of-way on rates, terms and conditions that are just and reasonable. They also provide complaint and enforcement procedures for incumbent local exchange carriers (ILECs, as defined in 47 U.S.C. 251(h)) to ensure that, to the extent ILECs have attachment rights by contract, the rates, terms, and conditions of their pole attachments are just and reasonable.

Existing Information Collection Requirements:

Section 1.1403(b) requires that requests for access to a utility's poles, ducts, conduits or rights-of-way by a telecommunications carrier or cable operator be in writing. If access is not granted within 45 days of the request for access, the utility must explain the denial of access in writing by the 45th day.

Section 1.1403(c) requires a utility to provide a cable television system operator or telecommunications carrier no less than 60 days written notice prior to removal of facilities, termination of any services to those facilities, increase in pole attachment rates, or modification of facilities.

Section 1.1403(d) allows a cable television system operator or telecommunications carrier to file a "Petition for Temporary Stay" of the action contained in a notice received pursuant to Section 1.1403(c) within 15 days of receipt of such notice. The "Petition for Temporary Stay" must contain, in concise terms, the relief sought, the reasons for such relief, including a showing of irreparable harm and likely cessation of cable television service or telecommunications service, a copy of the notice, and a certificate of service. The named respondent may file an answer within 7 days of the date the Petition was filed.

Section 1.1403(e) requires cable operators to notify pole owners upon offering telecommunications services.

Section 1.1404 specifies the information that must be included in a pole attachment complaint.

Section 1.1405 requires states that wish to regulate the rates, terms and conditions for pole attachments (rather than states that elect to have federal regulation of such rates, terms and conditions) to file a certification with the FCC.

Section 1.1413 states that the procedures for handling pole attachment, including pole access, complaints filed by incumbent local exchange carriers are the same as the procedures for handling other pole attachment complaints.

History:

In the February 2022 PRA Supporting Statement, we reported a number of ministerial changes to the collection as well as a downward adjustment of burden hours to reflect the FCC's overall review regarding the nature of the collection as well as FCC experience with this collection during the prior three year reporting period. See PRA Supporting Statement for 2022 Revision to 3060-0392, dated February 2022 (hereinafter, "February 2022 Supporting Statement").

In particular, in the February 2022 Supporting Statement, we combined the reporting of two types of complaints (Section 1.1404 and Section 1.1413 (formerly 1.1424) because each type entails the same procedures to prepare a complaint filing prior to the assignment of an FCC case number (called Docket Number). Rule 1.1413 burdens were formerly reported in OMB Control No. 3060-1151. In the February 2022 Supporting Statement, we reported a downward adjustment for Rule 1.1413 based on the prior three years of experience.

In addition, in the February 2022 Supporting Statement, the overall reporting of hours for this collection included a further adjustment to no longer report hours exempted from the PRA because these hours were associated either with information gathered after a Docket Number was assigned or, pertained to a rule that does not involve an information collection burden on the public, i.e., Rule 1.1406 (formerly designated as Rule 1.1409) and Rule 1.1409 (formerly designated as Rule 1.1417).

Finally, as noted in the February 2022 Supporting Statement, the Commission renumbered sections within this collection in 2018. See Amendment of Procedural Rules Governing Formal Complaint Proceedings Delegated to the Enforcement Bureau, EB Docket No. 17-245, Report and Order, FCC 18-96, Appx. A (Consolidation Order) (July 18, 2018). The February 2022 Supporting Statement reflected those changes.

The Commission is requesting OMB approval for an additional three years of this information collection.

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

Statutory authority for this collection of information is contained in Sections 1, 4(i) and 224 of the Communications Act of 1934, as amended.

2. This information will be used by the FCC to hear and resolve petitions for stay and complaints as mandated by Section 224 of the Communications Act of 1934, as amended. Information filed is used to determine the merits of the petitions and complaints. Additionally, state certifications are used to make public notice of the states' authority to regulate rates, terms and conditions for pole attachments, and to determine the scope of the FCC's jurisdiction.
3. Complainants and respondents filing Section 224 pole attachment complaints and subsequent pleadings are required to file each document electronically through the Internet unless a filing is confidential in which case the materials are to be hand-delivered. All standard, non-confidential filings should be submitted through the Commission's Electronic Comment Filing System, which can be accessed at <http://apps.fcc.gov/ecfs/>.
4. The information is not available elsewhere. It was created specifically to meet the requirements in Section 224. The information requested is either in the sole possession of the entity from whom it is requested or the entity that is in the best position to have the most updated information.

5. This collection may have an impact on a substantial number of small entities. In compliance with the Paperwork Reduction Act of 1995, FCC is making the effort to minimize the burden on all respondents, regardless of size. The FCC has limited the notification requirement to that which is absolutely necessary to provide a written record, or to determine the merits of a dispute or calculated rate formula.
6. No specific interval for the filing of disputes is set. If the filings were ordered to be made at specific intervals, the FCC would not become aware of unjust or unreasonable rates, terms of access, and conditions in a timely manner. The result would be an inability to minimize any adverse effects. Moreover, if these collections of information were not conducted, the Commission would not be able to adequately comply with the Congressional mandate that the Commission ensure that the rates, terms of access, and conditions under which cable television operators, providers of telecommunications services, and ILECs attach their hardware to utility poles are just and reasonable.
7. A cable television system operator or telecommunications carrier may file a Petition for Temporary Stay of the action contained in a notice within 15 days of receipt of such notice, which may be more frequent than quarterly. The last Petition for Stay was filed in 2014.
8. The Commission published a notice in the *Federal Register* initiating a 60-day comment period on this delegated collection on January 15, 2025 (90 FR 3864). No comments were received. A copy of the notice is included in the submission to OMB.
9. No gifts or payments will be given to respondents for this collection.
10. This information collection does not require respondents to submit any confidential information, nor is the Commission requesting that respondents submit confidential information to the Commission. If the Commission requests respondents to submit information which respondents believe is confidential, respondents may request confidential treatment of such information pursuant to section 0.459 of the Commission’s rules, 47 C.F.R. Section 0.459.
11. This collection does not address any private matters of a sensitive nature nor are there any privacy impacts, as noted in Question 1.
12. Estimates of hour burden are as follows. These estimates are based on FCC staff’s knowledge and familiarity with the availability of the data required.

Estimates	Calculation	Burden Hours
Section 1.1403(b) – The Commission estimates that 500 requests for access are requested annually. We estimate that each request will take 2 hours.	500 requests x 2 hours	1,000 hours
Section 1.1403(c) - The Commission estimates that 248 notices will be sent annually for the purpose of notifying a cable operator or telecommunications carrier of service, rate, or facilities changes listed in section 1.1403(c). Utilities will undergo an average burden of 2 hours per notice.	248 notices x 2 hours	496 hours
Section 1.1403(d) – The Commission estimates that 1 Petition for Stay will be filed with the Commission annually. The average burden for this Petition is 12 hours for the petitioner.	1 petition x 12 hours	12 hours

Section 1.1403(e) The Commission estimates that 1,000 notices will be made annually by cable operators who will undergo a burden of 0.5 hours per notice.	1,000 x 0.5 hours	500 hours
Sections 1.1404, 1.1409 (formerly Section 1.1417), and 1.1413 (formerly 1.1424). The Commission estimates that 10 complaint cases will be filed annually. The average burden is 70 hours which reflects burdens associated with the complaint <i>filing</i> process. The Commission estimates that 100% of parties that undergo the complaint process will use the services of outside counsel. Parties that use outside counsel are estimated to undergo an average burden of 4-5 hours to coordinate information with outside counsel.	10 cases x 70 hours Same 10 cases x 5 hours (coordinating with outside counsel)	700 hours 50 hours
Section 1.1405 The Commission estimates that one certification will be filed with the Commission each year with an average burden of 1 hour per certification.	1 certification x 1 hour	1 hour
Cumulative Totals	1,760 respondents	2,759 hours

Total Number of Respondents and Responses: 1,760

The Commission estimates that it requires approximately 2,759 hours to perform these various complaint, notification, and enforcement procedures:

Total Annual Hourly Burden: 2,759 hours

We assume that in-house attorneys and legal assistants will be used in approximate equal measures in undergoing the various information collection requirements. These employees are estimated to be paid in a range of \$150 to \$200 per hour, for an average wage of \$175 per hour.

2,759 hours x \$175/hour = \$482,825

Total Annualized “In-House” Cost to Respondents: \$482,825

13. Annual Cost Burden to Respondents:

We estimate that these parties in these various complaint procedures will use outside legal counsel paid at a rate of \$300 per hour to perform approximately 50 additional hours of the legal work in these various complaint and enforcement procedures.

50 hours x \$300/hour= \$15,000 Total Annual Costs

14. Cost to the Federal Government:

1 Petition for Stay x 2 hours x \$91.02 per hour	= \$ 182.04
10 cases x 10 hours x \$91.02 per hour	= \$ 9,102.00
1 certification x 1 hour x \$91.02 per hour	= <u>\$ 91.02</u>
Total Cost to the Federal Government	= \$9,375.06

15. There are no program changes or adjustments to this information collection.

16. The Commission occasionally publishes a listing of states, which have provided certification.

17. The Commission is seeking not to display the OMB expiration date. OMB approval of the expiration date of the information collection will be displayed on OMB’s website.

18. There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods:

This information collection does not employ any statistical methods.