

## SUPPORTING STATEMENT

**Part A. Justification:**

1. The Federal Communications Commission ("Commission") is requesting that the Office of Management and Budget (OMB) approve a three-year extension of OMB Control No. 3060-0106 titled, "Part 43 – Reporting Requirements for U.S. Providers of International Telecommunications Services and Affiliates." There are no changes in reporting requirements, respondents, burden hours or costs.

**Rulemaking**

On April 12, 2004, the Federal Communications Commission ("Commission") released a Notice of Proposed Rulemaking (NPRM), "In the Matter of Reporting Requirements for U.S. Providers of International Telecommunications Services; Amendment of Part 43 of the Commission's Rules," IB Docket No. 04-112, FCC 04-70. The Commission sought comments from the public on how to simplify the reporting requirements and to ensure the usefulness of the data collected by the Commission. The proposals sought to further the Commission's goal of protecting U.S. consumers and U.S. carriers from anti-competitive conduct, ensuring that consumers enjoy more choice in telecommunications services and decreasing prices for international calls without imposing unnecessary paperwork burdens on carriers.

(Note: The above referenced NPRM is hereafter referred to as the "Part 43 NPRM").

The Commission proposed to mandate that carriers submit their traffic and revenue data and their circuit-status data to the Commission electronically. The electronic submissions may include either electronic filing of data in the International Bureau Filing System (IBFS) or using a commercial spreadsheet computer program. Currently, the section 43.61 and 43.82 filing manuals direct carriers to submit their traffic and revenue and circuit-status data on diskettes, in ASCII-based record format fields. If mandatory electronic filing is implemented, it would decrease the paperwork burden on carriers since there would be no need to provide hard copies of reports and would expedite the Commission's review of information since it would be readily available in an electronic format. Furthermore, it would facilitate the Commission's analysis and consolidation of the carriers' data submissions into the annual International Telecommunications Data report. The Commission's comprehensive report containing industry-wide totals is disseminated to the public annually.

In November 2004, the OMB approved the information collection requirements listed below with respect to the following areas: (1) Annual Traffic and Revenue Reports, (2) Circuit Status Reports, (3) Consolidation of the Annual Traffic and Revenue Reports and Circuit Status Reports Manuals

into One Consolidated Filing Manual, (4) Reports of Division of Tolls for Telegraph Carriers and (5) Miscellaneous Reports.

Annual Traffic and Revenue Reports – Section 43.61:

Section 43.61 of the Commission's rules contains three separate reporting requirements:

- A. Annual Traffic and Revenue Report – All common carriers providing telecommunications service between the United States (including the 50 states, the District of Columbia and U.S. off-shore points) and any foreign country or point are required to report annual their traffic and revenue for each service they offer to the Commission;
- B. Quarterly Large-Carrier Report – Carriers that meet certain traffic and revenue thresholds are required to report their traffic and revenues to the Commission quarterly;
- C. Quarterly Foreign-Affiliated Carrier Report – Certain U.S. common carriers, except for Commercial Mobile Radio Service (CMRS) carriers, that are affiliated with foreign telecommunications carriers that possess market power on the foreign end of a U.S. international route, must file a quarterly report of their traffic and revenues on the affiliated route with the Commission.

The above referenced reports enable the Commission to analyze the U.S. international telecommunications market, track market developments, and to determine the competitiveness of each service and geographical market. Furthermore, the Commission uses the reports to formulate rules and policies consistent with the public interest, to monitor compliance with those rules and policies, and to gauge the competitive effect of Commission decisions on the international market. Moreover, the reports provide a means by which to determine whether a U.S. carrier's foreign-carrier correspondents are engaging in anti-competitive conduct.

In the NPRM, the Commission proposed to make several changes to the reports in response to the growth and increasingly competitive nature of the international telecommunications market. For instance, the Commission proposed to eliminate the requirement that carriers report as international traffic any traffic between a U.S. domestic point and an off-shore U.S. point as those terms are defined in the current Section 43.61 Filing Manual. Additionally, the Commission proposed to eliminate the requirement that carriers report the number of International Message Telephone Service (IMTS) messages they handle. Carriers already report the number of minutes of telephone traffic to the Commission which is sufficient to achieve the purposes of the traffic and revenue reports. Finally, the Commission proposed changing the filing date for the report from

July 31 to May 1 of every year.

The Commission also proposed to establish a \$5 million revenue threshold for a pure resale carrier to file annual traffic and revenue reports. Under this proposal, pure resale carriers with less than \$5 million in revenue from international service for the preceding year would not have to file their international traffic and revenues with the Commission. If this change is implemented, 51 carriers would file revenue information that would comprise 87 percent of the IMTS resale revenues. Approximately 574 pure resale carriers would be alleviated from having to file traffic and revenue information since they do not meet the \$5 million threshold.

The Commission proposed that all carriers that hold a section 214 authorization should file a one-page summary report stating whether they provided international service the preceding year and providing current contact information. They would be required to certify that the information provided to the Commission is correct. The Commission sought comments from the public on whether such a report should be filed with the Commission and if so, how often should such a report be filed, e.g., every two years.

1a. Circuit Status Reports – Section 43.82

The Commission sought comments from the public on whether carriers should continue to file annual circuit-status information with the Commission. The annual circuit-status report, required by Section 43.82, provides the Commission, the carriers, and others information on how U.S. international carriers use their circuits. The Commission uses the information from the circuit-status reports to ensure that carriers with market power do not use their access to circuit capacity to engage in any anti-competitive behavior. The Commission also uses the reports to implement the requirement in Section 9 of the Communications Act of 1934, as amended, that carriers pay annual regulatory fees for each of the bearer circuits they own. If the Commission retains the annual circuit-status report, the Commission proposed that carriers no longer report circuits they use for service between the continental United States and off-shore U.S. points or between two off-shore U.S. points. The agency also proposed to consolidate the existing Sections 43.61 and 43.82 into one section of the rules. Note: After the Commission adopts a final decision with respect to the annual circuit status reports, the information collection, “Filing Manual for Annual International Circuit Status Reports,” (OMB Control Number 3060-0572) will be revised accordingly.

1b. Consolidation of the Annual Traffic and Revenue Reports and Circuit Status Reports Manuals into One Consolidated Filing Manual – Sections 43.61 and 43.82

The Commission sought comment from the public on its proposal to consolidate the annual traffic and revenue reports and circuit status reports into one consolidated filing manual. The development of a consolidated filing manual would be less confusing and less burdensome for

carriers. Also, consolidating both filing manuals would be the best way to ensure that the definitions and services used in both reports remain consistent over time. Under Section 43.61, the Commission delegated authority to the Chief of the Wireline Competition Bureau (WCB) to prepare a filing manual related to the annual traffic and revenue reports. Under Section 43.82, the Commission delegated authority for preparing a filing manual for the circuit-status report to the Chief of the International Bureau. If the proposal of a consolidated filing manual is implemented, the Chief of the International Bureau will prepare the consolidated filing manual.

1c. Reports of Division of Tolls for Telegraph Carriers – Section 43.53

The Commission proposed to eliminate Section 43.53 of the rules. Section 43.53 requires a carrier that provides international telegraph service to file a report with the Commission within 30 days of the date of any arrangement with its foreign correspondents concerning the division of tolls for such telegraph communication, except for arrangements relating to transiting of telegraph traffic. The Commission adopted section 43.53 under the authority of section 211 of the Communications Act. Because telegraph services have declined greatly over the years, it is not clear that the report required by section 43.53 continues to serve a useful purpose. The volume of telegraph traffic is sufficiently small that any anti-competitive abuses by foreign telegraph carriers are unlikely to have a negative effect on other services such as IMTS. If Section 43.53 is eliminated, it would eliminate a filing requirement for carriers.

1d. Miscellaneous Reports – Section 43.61

The Commission sought comment from the public on whether to establish a \$5 million revenue threshold to determine which miscellaneous services a carrier must report in its annual traffic and revenue reports. Under this proposal, carriers would not report miscellaneous service with less than \$5 million in revenue. This would decrease the burden on carriers significantly. Based on 2001 data, the use of the \$5 million revenue threshold would have resulted in four carriers having the file information on three different services. If this proposal is implemented, a revenue threshold would effectively eliminate the requirement to report many miscellaneous services. Therefore, it would eliminate the paperwork burden for the vast majority of carriers who offer miscellaneous services.

In summary, if the modified reporting requirements are adopted by the Commission, they would simplify the reporting requirements for carriers and ensure the usefulness of the data collected by the Commission.

The Commission has authority for this information collection pursuant Sections 1, 4(i), 4(j) 11, 201-205, 211, 214, 219, 220, 303(r), 309, and 403 of the Communications Act of 1934, as

amended, 47 U.S.C. §§ 151, 154(i), 154(j), 161, 201-205, 211, 214, 219, 220, 303(r), 309 and 403.

As noted on the OMB Form 83-I, this information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

2. The Commission has a responsibility under the Communications Act to make available world-wide communications with adequate facilities at reasonable charges. The Commission's primary goal underlying the reporting requirements for international carriers has been and continues to be the protection of U.S. consumers and carriers from potential harm caused by instances of insufficient competition caused by the exercise of market power by foreign incumbent carriers. The Commission's goals in regulating the U.S.-international marketplace have been (1) to promote effective competition in the global market for communications services; (2) to prevent anticompetitive conduct in the provision of international services or facilities; and, (3) to encourage foreign governments to open their communications markets. The Commission's ability to respond to failures in the U.S.-international market depends upon having adequate information about the market. The Commission uses the information provided by the traffic and revenue reports and the circuit-status report to ensure compliance with its international rules and policies.

3. The Commission proposed the implementation of mandatory electronic filing of annual traffic and revenue reports and circuit-status data for carriers. If the proposal is adopted by the Commission, carriers would have the option of filing data into the International Bureau Filing System (IBFS) or submitting information on a commercially available spreadsheet program. Currently, facilities-based and facilities-resale carriers submit the Section 43.61 data on diskettes that are fully IBM compatible. Pure switched resale carriers have the option of filing the required data on paper. Facilities-based and facilities-resale carriers must also file hard copies of their submission with the agency. This proposal would decrease the paperwork burdens for carriers since they would not have to file hard copies of the submission with the FCC. It would expedite the Commission's review of data and facilitate consolidation into a comprehensive annual International Telecommunications Data report for dissemination to the public. This Supporting Statement reflects that 100 percent of responses are collected electronically.

4. This information collection requirement is not duplicated elsewhere in the Commission's rules.

5. The NPRM proposed to simplify the information that the carriers, both small and large, must submit for any traffic and revenue reports. First, the NPRM proposed to eliminate the requirement that carriers provide information on the number of messages that they carried the previous year. Second, the NPRM proposed to eliminate the requirement that carriers use the

billing codes set out in the section 43.61 Filing Manual and the Public Notices. Currently, carriers report international telephone traffic under 12 different billing codes, and the various billing codes have presented recurring problems for carriers filing the reports as well as those who review the reports. Third, the NPRM proposed a set of schedules for the reporting of the traffic and revenue and circuit-status information in lieu of the two filing manuals that are currently used. The Notice proposed to streamline some of the reporting categories, which will reduce the reporting requirements on both small and large entities.

The NPRM proposed to consolidate sections 43.61 (traffic and revenue reporting requirement) and 43.82 (circuit-status reporting requirement) into one rule. Consolidating the rules will eliminate the requirement that carriers file two separate reports – one for traffic and revenue data and one for circuit-status data. The Notice proposed that one filing manual be developed that will satisfy the reporting requirements of the new rule. One consolidated filing manual for both reports would be less confusing and less time-consuming for both small and large carriers.

The NPRM seeks comment on whether it would significantly speed and facilitate the submission of data if the Commission were to encourage or mandate carriers to submit their data electronically. Electronic filing would lessen the burden of filing the reports for both small and large carriers. Because carriers maintain the data electronically, it would be practicable for carriers to submit the data in the same format rather than convert the data into a different format. In summary, the proposals discussed in the NPRM would minimize the economic impact on small entities to the greatest extent possible.

6. If the information collection was not conducted or was conducted less frequently, the Commission would not be able to ensure compliance with its international rules and policies. Furthermore, the Commission would not have sufficient information to take measures to prevent anticompetitive conduct in the provision of international communications services. The Commission would not have adequate information to respond to failures in the U.S.-international market. The Commission would not be able to promote effective competition in the global market for communications services. The lack of effective competition would adversely affect the U.S. revenues in the telecommunications industry. The agency would not be able to comply with the international regulations stated in the World Trade Organization (WTO) Basic Telecom Agreement. Carriers and other entities outside the Commission, such as other government agencies, international organizations, and academia, use the information to analyze industry trends. Other government agencies use the information in merger analyses and negotiations with foreign countries. If the information collection was not conducted, carriers, government agencies and other entities would not have accurate industry data available in order to conduct analyses.

7. Currently, facilities-based and facilities-resale carriers are required to file three paper copies and two diskettes containing the required data. The paper copies must contain data that is identical to

the data filed on the diskettes. Two copies (one copy of the paper submission and one of the disk) are used by the Commission's copy contractor. Carriers that provide only pure switched resale services are not required to file data on diskettes. However, the implementation of mandatory electronic filing would eliminate the paper burden on the carrier since paper copies would no longer be required by the Commission.

8. On February 7, 2007, the Commission published a notice in the Federal Register (72 FR 5713). The comment period ended on April 9, 2007. The Commission did not receive any comments from the public. A copy of the 60 day notice is included in this submission to the OMB.

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

10. Pursuant to Section 43.61(b), carriers file their quarterly traffic and revenue reports with the Commission on a confidential basis. Except for the quarterly reports under sections 43.61(b) and 43.61(c), the Commission generally treated the information submitted pursuant to Section 43.61 as non-confidential. However, the Commission allowed carriers to request proprietary treatment for specific pieces of information, such as information on transit traffic. The Commission has granted carriers confidential treatment for circuit-status information submitted under section 43.82. The Commission proposed to continue its policy of making the carriers' annual traffic and revenue data available to the public. In the interest of public access to information, even where the Commission grants a request to keep a particular piece of information confidential, the agency proposed to include that information in the industry-wide totals it compiles in the annual International Telecommunications Data Reports.

The Commission sought comment on whether the circuit-status information the carriers submit under section 43.82 continues to be competitively sensitive or whether the carriers' circuit-status information could also be made available to the public. Carriers that want continued confidential treatment for this information should address why the information is competitively sensitive. It is possible that information that is competitively sensitive when it is submitted would not continue to be sensitive after time has passed. The agency is requesting that carriers comment on whether the circuit-status information could be released after one year or after two years.

Carriers that seek to protect the confidentiality of particular data elements may request such treatment under section 0.459 of the Commission's rules. That rule requires such a carrier to justify fully its request for confidentiality by providing enough information for the Commission to determine the need for confidential treatment. The rule requires a carrier requesting confidentiality to submit an unredacted version of its data, as well as a redacted version to be made publicly available. Should the Commission decide to grant a request for confidential treatment of information that does not fall within a specific exemption pursuant to the Freedom of Information Act (FOIA), that Act requires the Commission to disclose publicly the

information upon an appropriate request. The Commission may grant requests for confidential treatment either conditionally or unconditionally. As such, the Commission has the discretion to release on public interest grounds information that does fall within the scope of a FOIA exemption. The Commission is requesting public comment on the granting of confidential treatment for particular pieces of data in the annual traffic and revenue or circuit-status reports.

11. There are no questions of a sensitive nature with respect to the information that is being collected from the public.

12. The estimate of the total annual cost burden is as follows:

$$134 \text{ respondents} \times 18 \text{ hours} = 2,412 \text{ annual burden hours}$$

13. The estimate of costs for the respondents is as follows:

Description	Annual Burden Hours	Costs	Total
Start-up costs – Waivers	N/A	\$70,400 last submission – 70% reduction	\$49,280 (Start-up)
In-house costs (85% of 2,412 annual burden hours = 2,050)	2,050	\$46.27 per hour (Equivalent GS-14/Step 5 Fed. Gov’t Employee)	\$94,854 (O&M)
Outside counsel (15% of annual burden hours = 362)	362	\$200 per hour (Based on industry survey)	\$72,400 (O&M)
Total Annual Burden Hours:	2,412	Total Cost:	\$216,534

14. The annualized costs to the Federal government are as follows:

<b>Government Staff</b>	<b>Annual Burden Hours</b>	<b>Costs</b>
GS-15/Step 5 Hourly Rate: \$54.43	10% of 2,412 annual burden hours = 241 annual burden hours	\$13,118
GS-13/Step 5 Hourly Rate: \$39.16	90% of 2,412 annual burden hours = 2,171 annual burden hours	\$85,016
Total Processing Costs (Subtotal):		\$98,134
Overhead:	30% of \$98,134 Total Processing Costs	\$29,440
Total Cost to Fed. Government:		\$127,574 (Rounded to \$128,000)

15. There are no program changes or adjustments in this Supporting Statement.

16. The collected information is reviewed, consolidated and released by the Federal Communications Commission to the public.

17. The Commission is requesting a waiver to not display the OMB control number and expiration date on the Section 43.61 manual used by carriers in submitting the information. This will alleviate the Commission from having to update the OMB expiration date on the 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.

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

This information collection does not employ statistical methods.