

SUPPORTING STATEMENT

Note: This submission is being made pursuant to 44 U.S.C. §§ 3506 and 3507. The Commission seeks to revise FCC Form 477, which was renewed in June 2008, as described below.

A. Justification:

1. The Commission seeks to revise FCC Form 477 with changes designed to implement policy decisions made in two recent Commission Orders.

The Commission initially established a reporting program using FCC Form 477 to collect basic information about two critical areas of the communications industry:

- (1) the deployment of broadband services, and
- (2) the development of local telephone service competition.

The information collected in the FCC Form 477 program enhances the Commission's efforts to collect and assess information regarding the extent of local telephone competition and broadband deployment, which is important to the nation's economic, educational, and social well-being.

On June 12, 2008, the Commission released (1) a Report and Order and Further Notice of Proposed Rulemaking, FCC 08-89 and (2) an Order on Reconsideration in WC Docket No. 07-38, FCC 08-148. (Orders attached.) With these two Orders, the Commission revises the FCC Form 477 data collection to greatly improve the ability of the Commission to understand the extent of broadband deployment and to enable the Commission to continue to develop and maintain appropriate broadband policies, in particular to carry out its obligation under section 706 of the Telecommunications Act of 1996 to "determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion."

In particular, the Report and Order revises Form 477 to require all broadband providers to report the number of broadband connections in service in individual Census Tracts. The Report and Order provides for additional methods to add to the data reported by Form 477 filers, including a voluntary household self-reporting system, and a recommendation to the Census Bureau that the American Community Survey questionnaire be modified to gather information about broadband availability and subscription in households. The Report and Order adopts three additional changes to FCC Form 477. First, it requires providers to report broadband service speed data in conjunction with subscriber counts according to new categories for download and upload speeds. These new speed tiers will better identify

services that support advanced applications. Second, it amends reporting requirements for mobile wireless broadband providers to require them to report the number of subscribers whose data plans allow them to browse the Internet and access the Internet content of their choice. Third, it requires providers of interconnected Voice over Internet Protocol (interconnected VoIP) service to report subscribership information on Form 477. The Order on Reconsideration revises Form 477 to require filers to report the percentage of broadband connections that are residential.

The Telecommunications Act of 1996 directs the Commission to take actions to open all telecommunications markets to competition and to seek to promote innovation and investment by all participants, including new entrants. A central task in creating this framework is the opening of previously monopolized local telecommunications markets.¹ By collecting timely and reliable information about the pace and extent of competition for local telephony service in different geographic areas – including rural areas – we significantly improve our ability to evaluate the effectiveness of actions the Commission and the states are taking to facilitate economic competition in those markets.

Statutory authority for collecting information from carriers and other entities is set out in the following sections of the Communications Act: Sections 4(i), 201, 218-220, 251-252, 271, 303(r), 332, and 403; 47 U.S.C. §§ 4(i), 201, 218-220, 251-252, 271, 303(r), 332, and 403, as well as section 706 of the Telecommunications Act of 1996, 47 U.S.C. § 157nt.

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

2. The information is used by the Commission to prepare reports that help inform consumers and policy makers at the federal and state level of the development of competition in the local telephone service market and the deployment of broadband services. The Commission will continue to use the information to better inform its understanding of broadband deployment in conjunction with its congressionally-mandated section 706 reports. The Commission also uses the data to support its analyses in a variety of rulemaking proceedings under the Communications Act. Absent this information collection the Commission would lack essential data for assisting it in determining the effectiveness of its policies and fulfilling its statutory responsibilities in accordance with the Communications Act of 1934, as amended.²
3. Respondents will use a graphical user interface to submit Form 477 data electronically over the public Internet. The web-based interface will employ HyperText Transfer Protocol over Secure Socket Layer (HTTPS) to secure the submitted information during transmission. The interface consists of a Login “page” (or “screen”) and additional pages (or “parts”) into which the filer will insert the required information. The interface also provides a facility that the filer may choose to use to upload files containing the required Census Tract-level data about broadband connections over specified technologies.

¹ ? See 47 U.S.C. §§ 251, 252, 271.

² ? See 47 U.S.C. §§ 157 nt., 251, 252, 271.

4. To minimize duplication of information collection efforts by ourselves and the states, we maintain our current procedure of sharing state-specific Local Telephone Competition and Broadband Reporting data with those state public utility commissions that can afford equivalent protection against unauthorized release. Without this collection, the information requested in Form 477 would not be otherwise available; in our experience, no nationwide studies of broadband deployment or of local telephone competition are based on a more complete source of data.
5. Because Congress has tasked the Commission with encouraging deployment of broadband to all Americans and promoting competition in local telephony service, the information collection may affect small entities, as well as large entities. To the extent that an entity demonstrates that it would suffer a significant hardship by reporting on a Census-Tract basis, the Commission provides an alternative way of filing whereby this entity would be permitted to file service address locations with the Commission instead.

In conformance with the Paperwork Reduction Act, the Commission has made an effort to minimize the burden on all respondents, regardless of size. Further, the Commission has limited the information requirements to those that it has deemed absolutely necessary for evaluating the status of local competition and deployment of broadband services. These efforts minimize the impact on small entities.

6. These revisions do not alter the Commission's prior conclusion that semi-annual reporting balances the Commission's need for information with the burden imposed on reporting entities.

As discussed in the answer to 2, *supra*, the information on the development of competition in local telephone services and the deployment of broadband services that is collected in Form 477 is essential data for assisting the Commission in determining the effectiveness of its policies, in informing analyses in a variety of Commission rulemaking proceedings, and in understanding broadband deployment in conjunction with congressionally required section 706 reports.

As discussed in the answer to 1, *supra*, the modifications to the collection that were adopted in the Orders provide more granular information to assist the Commission in evaluating broadband and local telephone competition developments as they affect all Americans, including those residing in rural areas. That information would not be otherwise available.

7. As detailed above, respondents are not required to file the information collection with the Commission more often than semi-annually. Provision for confidential treatment of submitted information conforms to authorized Commission procedures, and the Commission took the extra step of allowing reporting entities to indicate that they request confidentiality of some data on the first page of each submission. No other special circumstances apply to this information collection.

8. In a September 24, 2008 notice (73 FR 55080), the Commission solicited comments on this information collection prior to its submission to OMB.³ In response to this notice, the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) and the Rural Independent Competitive Alliance (RICA),⁴ and the Independent Telephone and Telecommunications Alliance's (ITTA) filed comments.⁵ In their comments, OPASTCO and RICA state that all rural incumbent local exchange carriers (LECs) will suffer a burden under this information collection.⁶ As a result, these commenters argue that these small entities should automatically be granted the significant hardship alternative.⁷ In addition, OPASTCO and RICA state that their member entities do not know how to seek relief under the significant hardship alternative. In its comments, ITTA requests that a blanket 120-day extension of the deadline for filing new Form 477 data be granted from the date that this paperwork revision is approved by OMB.⁸ ITTA argues that its members need this additional time in order to build systems to produce the new data required by the amended Form 477.⁹

We decline to permit all rural incumbent local exchange carriers to use the significant hardship alternative without obtaining specific Commission pre-approval, as OPASTCO and RICA request. First, the Commission's June 12, 2008 Report and Order identified all of the new elements of the modified data collection, including the designation of Census-Tract, rather than ZIP Code, data. The Commission notes that there are a variety of vendors and free federal sites where street address data may be translated to a Census-Tract format. By choosing to use a web-based filing format, the Commission has chosen a filing format that is well-established, widely available and cost-efficient to use. Thus, we believe that filing in the prescribed format will be feasible for the majority of filers and that the number of filers for whom this requirement presents significant hardship will be small. Recognizing that those filers who do claim significant hardship will be facing unique circumstances, we do not limit the basis that would justify granting permission to file using the alternate methodology. Nor do we restrict the manner in which parties may request approval. We note, however, that the term "significant" should make clear that hardship alone is not sufficient to warrant approval to file in the alternative manner. OPASTCO and RICA themselves recognize that rural LECs are not homogenous, and that some would find it easier than others to submit data by Census Tract.¹⁰ An individual party seeking approval should provide the Commission with a detailed explanation of why it believes the hardship it will face in filing by Census Tract is "significant" in light of the particular circumstances affecting that party.

The Commission also declines to grant a blanket 120-day extension of the deadline for filing new Form 477 data. As discussed above, we believe that the Report and Order provided

³ See 73 Fed. Reg. 55080-01 (Sept. 24, 2008).

⁴ Paperwork Reduction Act Comments of the Organization for the Promotion and Advancement of Small Telecommunications Companies and the Rural Independent Competitive Alliance, WC Docket 07-38, filed November 24, 2008 (OPASTCO/RICA Comments).

⁵ Comments of the Independent Telephone & Telecommunications Alliance, WC Docket 07-38, filed November 24, 2008 (ITTA Comments).

⁶ See OPASTCO/RICA Comments at p. 2.

⁷ See OPASTCO/RICA Comments at p. 2-3.

⁸ See ITTA Comments at p. 2.

⁹ See ITTA Comments at p. 7.

¹⁰ See OPASTCO/RICA Comments at p. 5.

adequate notice of the elements of the new collection, such that most filers should be able to file in a timely fashion. If an individual filer nevertheless believes it will be unable to file before the deadline, it may seek a waiver of our rules.

9. The Commission has not provided any payment or gift to respondents.
10. We will continue to allow respondents to certify, on the first page of each submission, that some data contained in that submission are privileged or confidential commercial or financial information and that disclosure of such information would likely cause substantial harm to the competitive position of the entity making the submission. If the Commission receives a request for, or proposes to disclose the information, the respondent would be required to make show, pursuant to the Commission's rules for withholding from public inspection information submitted to the Commission, that the information in question is entitled to confidential treatment. We will retain our current policies and procedures regarding the confidential treatment of submitted Form 477 data, including use only of aggregated, non-company specific data in our published reports. We will also continue our current practice of publishing most of the local telephone information reported by the Bell operating companies after consultation with the individual companies.
11. The information collection does not address any matters of a sensitive nature.
12. The following represents the estimated hour burden of the collection of information:

(1) Number of Respondents: approximately 1,610 respondents.

Respondents include facilities-based providers of broadband connections, incumbent and competitive local exchange carriers (LECs), facilities-based mobile telephony service providers, and (with this revision) interconnected VoIP service providers.

Based on past experience with the Form 477 information collection, the Commission estimates there will continue to be approximately 1,400 respondents that are facilities-based providers of broadband connections, incumbent or competitive LECs, or facilities-based mobile telephony service providers. Additionally, based on past experience with the separate FCC Form 499 information collection to which interconnected VoIP service providers have been required to respond since late 2006, the Commission estimates there will be approximately an additional 210 respondents that are interconnected VoIP service providers.

Respondents are required to make a separate individual Form 477 submission (report) for each state in which they provide services subject to this information collection.

Respondents with incumbent LEC operations and other operations in a given state must make separate reports for each type of operations.

(2) Frequency of response: Responses will be made on a semi-annual basis.

(3) Total Number of Responses Annually: approximately **3,220 responses**.

The Commission estimates that each respondent will have two responses annually, to be submitted on a semi-annual basis:

Approximately 1,610 respondents x 2 responses/annum = approximately 3,220 responses.

(4) Estimated annual hour burden: approximately 1,085,140 hours (annual hour burden for *all* respondents).

This estimate was derived by summing estimated annual hour burdens for the several categories of respondents enumerated in the answer to 12(1), *supra* (i.e., facilities-based providers of broadband connections, LECs, facilities-based providers of mobile telephony service, and interconnected VoIP providers).

The annual hour burden estimate for interconnected VoIP providers was derived by reviewing the number of such providers responding to the FCC Form 499 data collection and estimating the burden of completing those particular parts of Form 477 that apply to them. The annual hour burden estimate for each of the other categories of respondents was derived by reviewing the number of Form 477 submissions made by entities in that category and estimating the burden of completing those parts of the revised Form 477 that are applicable to those entities.

As noted in the answer to 12(1), *supra*, respondents are required to make a separate report for each state in which they provide services subject to this information collection, and to make separate reports for incumbent LEC and other operations in a given state. Taking into account these sources of variability among respondents, the Commission estimates that the hour burden, per semi-annual response, for the *average* respondent is 337 hours.

The estimated annual hour burden for *all* respondents is therefore:

Approximately 1,610 respondents x 2 responses/annum x approximately 337 hours/response = approximately **1,085,140 total annual burden hours**.

(5) Estimated average hour burden per respondent per report in a single reporting period.

Some respondents (*e.g.*, small, rural LECs or wireless ISPs) submit only a single report for a single state, while other respondents (*e.g.*, entities that operate in multiple states in which they (or their affiliates) have both incumbent LEC and other operations) submit one or two reports for each of a large number of states.

The Commission estimates that the *average* burden to complete a single (state-specific, incumbent LEC or non-incumbent LEC) report is 72 burden hours.

This estimate was derived by dividing the estimated annual hour burden for *all* respondents (approximately 1,085,140 hours) by the number of reports that we estimate

will be submitted per annum (approximately 7,500 individual reports per semi-annual filing period, or approximately 15,000 individual reports per annum).

As we noted in the answer to 12(4), *supra*, entities within several categories of communications service provider will respond, and will complete particular parts, but not necessarily all, of FCC Form 477.

Respondents also will differ with respect to the number of states for which they report and with respect to whether they have both incumbent LEC operations and other operations in a given state.

Taking these sources of variability into account, the Commission estimates that facilities-based providers of mobile telephony service will have the lowest annual hour burden.

The Commission estimates that LECs will have the largest annual hour burden as a group, reflecting the complexity of the operations of larger entities (*e.g.*, the regional Bell operating companies, and multi-state cable system operators).

Therefore, the Commission has determined that the *average* hour burden per semi-annual response is approximately 337 hours (as noted above).

- (6) Estimated Total Annualized “In House” Cost to Respondents for the hour burdens for collection of information: approximately \$44,588,400 (approximately \$27,695 per respondent).

The Commission estimates that respondents will use staff equivalent to GS 11, Step 5, plus 30% overhead, to comply with the requirement throughout the authorized period (\$41.09 per hour). The annualized cost to respondents for the hour burdens for collection of information is calculated by multiplying the estimated total annual burden for all respondents as a group (*see* the answer to 12(3), *supra*) by \$41.09 per hour.

Estimated 1,085,140 burden hours/annum x \$41.09/hour = \$44,588,400

13. The annual reporting and recordkeeping cost burdens are estimated as follows:

- (1) Total capital and start-up cost component (annualized over its expected useful life): \$0.
Providing the requested information will not require the purchase of additional equipment and/or software.

- (2) Total operation and maintenance and purchase of services component: \$0.

Providing the requested information will not result in additional operating or maintenance expenses or in the purchasing or contracting out of information collection services.

- (3) Total annualized cost requested: \$0.

14. Costs to the Commission: approximately \$156,750 per year.

The Commission assumes administration of the program will require 25% of total activity from each of (3) Commission economists and analysts at GS 15, Step 5 (\$130,694 per year) and 25% of total activity from one (1) Commission analyst at GS 13, Step 2 (\$85,727), as well as 25% total activity from Commission attorneys/managers (one FTE) at GS 15, Step 10 (\$149,000 per year). The program does not envision other costs, *e.g.*, personnel or other resources from other government agencies or from the private sector.

15. The public burden for the information collection requirements contained herein has increased by +956,340 burden hours. This program change is due to:

- (1) requiring broadband providers to report the number of broadband connections in service, and the percentage that are residential, in individual Census Tracts (while eliminating the requirement that they report in which 5-digit ZIP Codes they have any subscribers);
- (2) requiring broadband providers to report broadband service speed data in conjunction with subscriber counts according to new categories for download and upload speeds;
- (3) requiring providers of terrestrial mobile wireless broadband service to report the number of subscribers whose data plans allow them to browse the Internet and access the lawful Internet content of their choice; and
- (4) requiring interconnected VoIP service providers to respond to this information collection; and
- (5) the estimated time per response has increased from 46 hours that was reported in the June 2008 submission to OMB; to 337 average burden per response with this submission to the OMB. This estimate increased the total annual burden hours.

16. Information filed on Form 477 will not be made publicly available by the Commission; in our experience, the preponderance of Form 477 filers assert that some or all filed data are competitively sensitive.

As noted in the answer to 10, *supra*, we will continue our current policy of using only aggregated data in our published reports except that we will continue to publish most of the local telephone information reported by the Bell operating companies after consultation with the individual companies. We will continue our current practice of publishing reports twice each year, within four months of each semi-annual filing.

17. We are requesting a continued waiver of the OMB expiration date. This will alleviate the need to update the OMB expiration date when the information collection is resubmitted to OMB for approval. The Commission publishes the OMB Control Number, OMB expiration date and the title of this information collection in 47 CFR 0.408 of the Commission's rules.

18. There are no exceptions to the certification statement, item 19.

B. Collections of Information Employing Statistical Methods:

The Commission does not anticipate that the collection of information will employ statistical methods.