

## SUPPORTING STATEMENT

**Note:** This submission is being made pursuant to 44 U.S.C. §§ 3506 and 3507. The Commission seeks OMB approval to extend FCC Form 477 for three years. The Commission is reporting a 50,520 hour reduction adjustment (see item 15 of this Supporting Statement for a full explanation.)

### **A. Justification:**

1. The Commission 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.

This collection improves the Commission's understanding of the extent of broadband deployment, facilitating the development of appropriate broadband policies and improving the Commission's ability to carry out its obligation under section 706 of the Telecommunications Act of 1996, as amended, to "determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion."<sup>1</sup> In addition, 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.<sup>2</sup> By collecting timely and reliable information about the pace and extent of competition for local telephony service in different geographic areas, including rural areas, the Commission significantly improves the ability to evaluate the effectiveness of actions the Commission and the states are taking to facilitate economic competition in those areas.

In addition, the Broadband Data Improvement Act (BDIA),<sup>3</sup> requires that the Commission provide information collected on Form 477 in aggregated form to "eligible entities," as defined by that Act.<sup>4</sup> "Eligible entities" are the sole entity designated by each state to receive funding for activities related to broadband data.<sup>5</sup> The Commission must continue the Form 477 data collection in order to provide updated information to these entities going forward.<sup>6</sup>

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<sup>1</sup> See 47 U.S.C. § 1302.

<sup>2</sup> See 47 U.S.C. §§ 251, 252, 271.

<sup>3</sup> Broadband Data Improvement Act of 2008, Pub. L. No. 110-385, 122 Stat. 4097 (codified at 47 U.S.C. §§ 1301-04).

<sup>4</sup> *Id.* at § 1304(h).

<sup>5</sup> See BDIA at § 1304(e).

<sup>6</sup> BDIA at § 1304(i)(2).

Statutory authority for collecting information from carriers and other entities is set out in sections 4(i), 201, 218-220, 251-252, 271, 303(r), 332, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 4(i), 201, 218-220, 251-252, 271, 303(r), 332, and 403, and in section 706 of the Telecommunications Act of 1996, as amended, codified in section 1302 of the Broadband Data Improvement Act, 47 U.S.C. § 1302.

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.<sup>7</sup>

The Government Accountability Office (GAO) reports that existing Form 477 data on broadband service levels will be used by the Department of Commerce's National Telecommunications and Information Administration (NTIA) to help determine whether proposed service areas for American Recovery and Reinvestment Act (Recovery Act) broadband deployment and adoption grants meet the requirements for priority as unserved and underserved areas.<sup>8</sup>

Additionally, as discussed above, state-designated "eligible entities" will use aggregate Form 477 data to carry out broadband-data-related activities funded under the BDIA.

3. Respondents use a graphical user interface to submit Form 477 data electronically over the public Internet. The web-based interface employs 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 inserts 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, files containing all the required state-level data in a submission, or both.
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

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<sup>7</sup> ? See 47 U.S.C. §§ 251, 252, 271, 1302.

<sup>8</sup> ? See GAO, *Recovery Act: Agencies Are dressing Broadband Program Challenges, but Actions Are Needed to Improve Implementation*, GAO-10-80 (Washington, D.C.: November 16, 2009), at 13.

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. We believe that, following the initial period of acclimation, the implementation of the electronic filing interface has resulted in a substantially easier filing process as compared with the prior process of submitting Excel spreadsheets *via* email. The Commission has received unsolicited, positive feedback on the new filing system from a number of filers of all sizes. As intended, the electronic interface has made the filing process easier for all providers, even with the additional data requirements associated with the revised collection. 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. The Commission concludes 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. The granular information collected in this data collection, including information about rural areas, 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 November 30, 2009 notice (74 FR 62570), the Commission solicited comments on this information collection prior to its submission to OMB. No parties filed comments in response to this notice.

During the two filings required during OMB's one year approval of the data collection on a pilot basis, the Commission has been flexible with and assisted respondents who had difficulty in submitting information in the new required format. The Wireline Competition Bureau extended the first of the two filing deadlines from March 2, 2009 to March 16, 2009. Commission staff monitored online tutorials conducted by trade associations on request. Staff developed, and posted at <http://www.fcc.gov/form477/>, a suite of materials to assist filers. These materials included a Form 477 Tutorial, a Form 477 System Guide, and a set of Form 477 FAQs. The Form 477 FAQs were regularly updated to incorporate solutions to particular problems with the online filing system as filers encountered them. The Form 477 System Guide was updated as system functionalities (such as the bulk-upload options for entering data into individual submissions) were improved.

Commission staff provided direct filer support in response to approximately 550 emails and 1,100 phone calls about the March 2009 filing. Staff updated the suite of materials developed to assist filers to reflect lessons learned in that filing and continued to provide support, by email and phone, to individual filers during the September 2009 filing. The number of requests for direct filing assistance was substantially reduced in the September filing, to about 120 emails and fewer than 100 phone calls.

The two filings made during the one year approval on a pilot basis have substantially increased respondents' familiarity with the new, online filing procedures and with the changes to their own systems (including matching subscriber information with individual census tracts) that were necessary to comply with the information collection. The two successful filings demonstrate that filing in the prescribed format is feasible. Recognizing, nevertheless, that those filers who do claim significant hardship will be facing unique circumstances, the Commission notes that an individual party seeking approval to use the significant hardship alternative to reporting information at the census tract level of detail should provide the Commission with a detailed explanation of why it believes the hardship it will face is "significant" in light of the particular circumstances affecting that party.

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 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 of aggregated, non-company specific data in our published reports.
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 **1,790 respondents**.

Based on past experience with the Form 477 information collection, the Commission estimates there will be approximately 1,790 respondents. Respondents include facilities-based providers of broadband connections, incumbent and competitive local exchange carriers (LECs), interconnected VoIP service providers, and facilities-based providers of mobile telephony service.

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 **3,580 responses**.

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

Approximately 1,790 respondents x 2 responses/annum = approximately 3,580 responses.

(4) Estimated annual hour burden: approximately 1,034,620 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, incumbent and competitive local exchange carriers (LECs), interconnected VoIP service providers, and facilities-based providers of mobile telephony service).

The annual hour burden estimate for each of these 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 289 hours.

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

Approximately 1,790 respondents x 2 responses/annum x approximately 289 hours/response = approximately **1,034,620 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 65 burden hours.

This estimate was derived by dividing the estimated annual hour burden for *all* respondents (approximately 1,034,620 hours) by the number of reports that we estimate will be submitted per annum (approximately 7,970 individual reports per semi-annual filing period, or approximately 15,940 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 that provide local telephone service).

Therefore, the Commission has determined that the *average* hour burden per semi-annual response is approximately 289 hours (as noted above).

- (6) Estimated Total Annualized “In House” Cost to Respondents for the hour burdens for collection of information: approximately \$44,550,740 (approximately \$24,890 per respondent).

The Commission estimates that respondents will use staff equivalent to Commission headquarters staff at GS 11, Step 5, plus 30% overhead, to comply with the requirement throughout the authorized period (\$43.06 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 \$43.06 per hour.

Estimated 1,034,620 burden hours/annum x \$43.06/hour = \$44,550,740

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 \$175,000 per year.

The program is administered by economists and analysts at several GS levels with the assistance of senior managers and attorneys. Based on its extensive experience with this particular data collection, the Commission estimates that the program costs it \$175,000 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 decreased by -50,520 burden hours. The Commission has reduced the estimated time per response from 337 hours to 289 hours. This adjustment is due to respondents' increased familiarity with the new, online filing procedures and with the changes to their own systems that were necessary to comply with this information collection, which respondents have gained during the two filings required during OMB's one year approval of the data collection on a pilot basis.

The Commission proposes to add the requirement to report the filer's website at which the filer advertises prices or features of broadband connections reported in this data collection. The Commission estimates that this minimal change will not affect the estimated hour burden. Where such websites are in use they are customary and usual business practices. The new requirement would not apply to filers who have no broadband connections to report or to filers who report broadband connections but do not have a website.

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 aggregated data in our published reports. 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 three year extension of the data collection. 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.