

SUPPORTING STATEMENT

New Collection Titled: Connect America Challenge Process and Certifications. This new collection is being submitted as part of the *Connect America Fund et al.*, WC Docket No. 10-90 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC 17663 (2011) to obtain OMB approval for new information collection requirements as a result of a recent Commission order explained below.

A. Justification:

Circumstances that make the collection necessary. The Federal Communications Commission seeks emergency processing under the Paperwork Reduction Act (PRA), 5 C.F.R. § 1320.13. The Commission is requesting OMB approval for this new information collection by July 8, 2013. Under this information collection, the Commission proposes to collect information to determine what areas should be eligible for Phase II of Connect America Fund and to ensure that Connect America Fund Phase I deployments occur in areas that are eligible for support. To aid in collecting this information regarding the Phase II challenge process in a uniform fashion, the Commission has created the proposed FCC Form 505, which parties should use in filing their Phase II challenges and responses with the Commission. This information will be used to determine the amount of, and eligibility for, high-cost universal service support received by incumbent and competitive eligible telecommunications carriers under the Connect America Fund.

The Communications Act of 1934, as amended requires the “preservation and advancement of universal service.” The information collection requirements reported under this new collection are the result of various Commission actions to promote the Act’s universal service goals, while minimizing waste, fraud, and abuse.

In November 2011, the Commission adopted an order reforming its high-cost universal service support mechanisms. *Connect America Fund; A National Broadband Plan for Our Future; Establish Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51; CC Docket Nos. 01-92, 96-45; WT Docket No. 10-208, Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (*USF/ICC Transformation Order*). This new information collection addresses requirements to carry out the programs the Commission committed itself to in the *USF/ICC Transformation Order*.

There will be a new form added to this information collection (FCC Form 505).

New requirements being proposed to this information collection:

Connect America Fund Phase I Certifications Information Collection

Phase I of the Connect America Fund provides a substantial amount of support to price cap carriers in exchange for a commitment to deploy broadband-capable infrastructure to areas currently lacking broadband. To prevent waste, fraud, and abuse in the program, carriers are required to certify in various ways that the funds they received are spent only in areas eligible for funding. In the Commission's recent Report and Order implementing a second round of Phase I support, carriers are required to make several certifications related to their public interest obligations. *Connect America Fund*, WC Docket 10-90, Report and Order, FCC 13-73 (May 22, 2013).

The following certifications apply only to Phase I funds accepted in 2013 or later. They do not apply to Phase I funding accepted in 2012.

All Phase I recipients must certify: 1) that the locations to be served are not shown as already served by either 768 kbps /200 kbps Internet service or 3 Mbps/768 kbps Internet service; 2) that to the best of the carrier's knowledge, the locations are in fact unserved by 768 kbps /200 kbps Internet service or 3 Mbps/768 kbps Internet service, as appropriate; 3) the carrier's current capital improvement plan did not already include plans to complete broadband deployment within the next three years to the locations to be counted to satisfy the deployment obligation; 4) incremental support will not be used to satisfy any merger commitment or similar regulatory obligation; and 5) the carrier has undertaken due diligence to determine the locations in question are not within the service area of either Broadband Initiatives Program or the Broadband Technology Opportunities Program projects that will provide Internet access with speeds of at least 3 Mbps downstream and 768 upstream.

Any Phase I recipient that wish to satisfy its Phase I deployment obligations by building in census blocks that are or will receive funding through the Broadband Initiatives Program (BIP) or the Broadband Technology Opportunities Program (BTOP) must certify to the Commission that the particular locations its plans to serve will not receive funding under BIP or BTOP.

Any Phase I recipient that wishes to satisfy its Phase I deployment obligations by building to locations in its own service territory shown on the National Broadband Map as served by 3 Mbps/768 kbps must specify those particular locations and certify to the Commission that those locations are currently served from a copper-fed digital subscriber line access multiplexer (DSLAM) and the carrier is the only entity offering 3 Mbps/768 kbps or better service to that location.

Any Phase I recipient that wishes to satisfy its Phase I deployment obligations by building to locations shown as served by 768 kbps/200 kbps Internet service but unserved by 3 Mbps/768 kbps Internet service must certify that it has accepted funding for all projects or routes to locations unserved by 768 kbps/200 kbps Internet service that can be economically reached using \$775 in Connect America funding plus an equal amount of non-Connect

America carrier capital expenditure funding. To the extent a carrier has multiple routes for which it would be economic to extend service with a one-for-one match of Connect America funding, it must certify that it has prioritized routes so as to maximize the number of newly served locations that are currently unserved by 768 kbps/200 kbps Internet service. Such carriers must also identify the number of locations they intend to build to that are unserved by 768 kbps/200 kbps and the number of locations they intend to build to that are served by 768 kbps/200 kbps but unserved by 3 Mbps/768 kbps. Carriers must also submit a list of census blocks unserved by 3 Mbps/768 kbps or 768 kbps/200 kbps, as appropriate, where they intend to deploy to meet their buildout obligation.

Connect America Fund Phase II Challenge Process Information Collection

The Wireline Competition Bureau of the Commission recently released an order setting forth a challenge process by which carriers could contest the status of census blocks as shown on the National Broadband Map. *Connect America Fund*, WC Docket No. 10-90, Order, DA 13-1113, at paras. 4-22 (Wireline Comp. Bur. rel. May 16, 2013).

All parties wishing to raise a challenge or respond to a challenge must file their challenge with the Bureau. The FCC has generated forms for the collection of information related to these challenges (proposed Form 505). Parties must submit their name, FCC Registration number (if applicable), the name, mailing address, e-mail address, and phone number of the person filling out the challenge form. Parties must also submit a certification that all information in the form is correct to the best of their knowledge, and include the name, e-mail address, and phone number of the person making that certification.

Parties challenging that a census block shown as served is in fact unserved must submit the Federal Information Processing Standard (FIPS) code for the block, the state the block is located in, the name of any provider shown as providing disqualifying service to that block, an indication of what criteria of service the challenger believes is not being met, an indication of what type of evidence supports the challenge, and any additional comments believed to be necessary. Parties must also certify that they engaged in due diligence to verify their claims and submit as attachments any evidence supporting the challenge. Parties must also submit as attachments any evidence supporting the challenge.

Parties challenging that a census block that is shown as unserved is in fact served must submit the FIPS code for the block, the state the block is located in, the name of the entity that provides service, the FCC Registration Number of the party filing the challenge (if the party filing the challenge is also the entity providing service), a certification that the census block is served by unsubsidized broadband and voice services meeting the Commission's performance and pricing criteria, an indication of what type of evidence supports the challenge, and any additional comments believed to be necessary. Parties must also submit as attachments any evidence supporting the challenge.

Parties making a challenge would also be required to serve a copy of their challenge on the challenged party, or certify that such service was completed or that a good faith effort was made to provide such service.

Parties responding to a challenge must submit the FIPS code for the block, the state the block is located in, the name of the entity that made the initial challenge and its FCC Registration Number (if provided), an indication as to what performance or pricing criteria is at issue, an indication of what type of evidence supports the challenge, and any additional comments believed to be necessary. Parties must also submit as attachments any evidence supporting the response.

Statutory authority for this information collection is contained in 47 U.S.C. sections 151, 154(i)–(j), 155, 201(b), 214, 218-220, 254, and 1302 of the Communications Act of 1934, as amended.

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

2. *Use of information.* The Commission will use the information requirements to ensure that Connect America Phase I funds are distributed in accordance with the governing rules and to determine what areas should be eligible for Phase II support.
3. *Technological collection techniques.* In an effort to reduce any burden created by these information collection requirements, the Commission shall permit all respondents to file responses using automated, electronic, mechanical or other technological collection techniques where feasible.
4. *Efforts to identify duplication.* There will be no duplication of information. The information sought is unique to each carrier or party and similar information is not already available. The Commission is using already established reporting and recordkeeping requirements to satisfy certain statutory directives and eligibility criteria.
5. *Impact on small entities.* The certifications called for in Phase I will not impact any small entities; only price cap carriers are subject to those certification requirements, and no price cap carriers currently qualify as small entities. The Phase II challenge process may impact small entities; however, the impact will likely not be substantial nor will it affect a significant number of small entities. The process has been designed as far as possible to limit the burden on small entities. In addition to various substantive provisions in the rules for the challenge process, forms are made available to assist small entities in understanding what type of information should be submitted.
6. *Consequences if information is not collected.* The information collected is used to ensure compliance with the deployment requirements of Phase I and to determine what areas are eligible for Phase II support. Without the Phase I certifications, Phase I funds could be used to deploy to areas that are not eligible for funding, resulting in a waste of federal funds. Without the Phase II challenge process information, funding may be allocated to areas that

already have an unsubsidized competitor, resulting in a waste of federal funds, or funding might be incorrectly withheld from an area based on an erroneous belief that the area is already served, frustrating the Commission's goal of deploying broadband-capable networks to unserved areas.

7. *Special circumstances.* We do not foresee any special circumstances that would cause an information collection to be conducted under extraordinary circumstances.
8. *Federal Register notice; efforts to consult with persons outside the Commission.* Emergency approval is being sought for this information collection, and the Commission seeks waiver of the 60-day notice requirement due to the emergency nature of this request under 5 C.F.R. § 1320.8(d). However, the Commission has prepared and will publish a 30-day notice, announcing submission of this emergency request.

The Commission will conduct all the regular OMB clearance processes and procedures upon approval of the emergency request. We will publish the necessary notice(s) in the Federal Register when seeking regular OMB approval.

The Commission has met with parties likely to make submission to seek their input on submissions related to the challenge process. On two occasions, the Commission held a joint meeting between representatives of the wireless Internet service providers, cable companies, and price cap carriers. Parties discussed specifics, such as the columns that should be included on Form 505, as well as general matters regarding submission and review of challenges. Parties were generally supportive of a challenge process. As a result of these meetings, the Commission implemented several suggestions of the parties, including allowing a certification of good faith effort to notify a party of a challenge, rather than requiring actual notice.

9. *Payments or gifts to respondents.* The Commission does not anticipate providing any payment or gifts to respondents.
10. *Assurances of confidentiality.* The Commission is not requesting that respondents submit confidential information to the Commission. However, respondents may request materials or information submitted to the Commission or to the Administrator be withheld from public inspection under 47 C.F.R. § 0.459 of the FCC's rules. We note that USAC must preserve the confidentiality of all data obtained from respondents; must not use the data except for purposes of administering the universal service programs; and must not disclose data in company-specific form unless directed to do so by the Commission.
11. *Questions of a sensitive nature.* There are no questions of a sensitive nature with respect to the information collections described herein.

12. *Estimates of the hour burden of the collection to respondents.* The following represents the hour burden on the collections of information:

a. Connect America Phase I Certifications:

- (1) Number of respondents: Approximately 13. Only price cap carriers that elect to receive Phase I funding must complete these certifications.
- (2) Frequency of response: Occasionally. Each price cap carrier accepting funding must file the appropriate certifications in connection to its acceptance of Phase I funding. A carrier would only make the certification once (at the time of acceptance), except in circumstances where a carrier may need to update or amend its certifications.
- (3) Annual hour burden per respondent: 20 hours per respondent for 13 carriers filing on an occasional basis. Total annual hour burden is calculated as follows: 13 respondents x 1 certification per respondent = 13 responses x 20 hours, = **260 total annual hours**. The hour burden may vary depending on which types of deployment a carrier undertakes (i.e., whether it chooses to deploy to BIP/BTOP census blocks, locations already served by 768/200 kbps but not 3 Mbps/768 kbps, and/or locations already served by 3 Mbps/768 kbps through a copper fed DSLAM). Different types of deployment will require additional certifications.
- (4) Total estimate of annualized cost to respondents for the hour burden: \$10,400. (260 hours x \$40/hr.).
- (5) Explanation of calculation: We estimate that each Phase I funding recipient will take 20 hours to analyze and certify to the necessary information and submit those certifications to the Commission. 13 (number of respondents) x 20 (hours to prepare certifications) x \$40/hr. (attorney, administrative staff time and overhead) = \$10,400.

b. Connect America Phase II Challenges and Responses (FCC Form 505):

- (1) Number of respondents: Approximately 100 respondents. We anticipate that 100 parties will file challenges or responses to challenges in connection with the Phase II challenge process. When the Commission previously sought comment on updates to the National Broadband Map for purposes of determining unserved areas for Phase I of Connect America, approximately 60 comments and replies were received. The Commission expects some growth as compared to this figure due to the higher amount of funding available in Phase II and due to the fact that more criteria are used in determining whether an area is served under Phase II than in Phase I.
- (2) Frequency of response: Occasionally. The Phase II challenge process is a one-time event. Some parties may file more than once, serving as both a challenger and as a respondent.

(3) Annual hour burden per respondent: 10 hours. Total annual hour burden is: 10 hours x 100 respondents = **1,000 hours**.

(4) Total estimate of annualized cost to respondents for the hour burden: \$40,000. (100 hours x \$40/hr.).

(5) Explanation of calculation. We estimate that each party will take 10 hours preparing and submitting its challenge or response. 100 (number of respondents) x 10 (hours to prepare certification letter) x \$40/hr. (attorney, administrative staff time and overhead) = \$40,000.

The estimated respondents and responses and burden hours are listed below:

Information Collection Requirements	Number of Respondents	Number of Responses Per Year	Estimated Time per Response (hours)	Total Burden Hours	In-house Office and Overhead Costs
<u>a. Connect America Phase I Certifications</u>	13	1	20	260	\$10,400.00
<u>b. Connect America Phase II Challenges and Responses</u>	100	1	10	1,000	\$40,000.00
TOTALS:	113	N/A	10-20	1,260	\$50,400.00

Total Number of Respondents: 113.

Total Number of Responses Annually: 113.

Total Annual Hourly Burden for requirements: 1,260 hours.

Total Annual “In House” Costs: \$50,400.

13. *Estimates for the cost burden of the collection to respondents.* There are no outside contracting costs for this information collection. See the last column in the chart in item 12 above for the estimated in-house costs.
14. *Estimates of the cost burden to the Commission.* There will be few, if any, costs to the Commission because ensuring proper use of universal service support is already part of Commission duties. Furthermore, no new systems or programs will be acquired or developed to process the information collection.
15. *Program changes or adjustments.* This is a new collection resulting in a program change increase of 1,260 total annual burden hours.

The program burden hour increase was due to the new requirements proposed by this information collection to determine what areas should be eligible for Phase II of Connect America Fund and to ensure that Connect America Fund Phase I deployments occur in areas that are eligible for support. This information will be used to determine the amount of, and eligibility for, high-cost universal service support received by incumbent and competitive eligible telecommunications carriers under the Connect America Fund.

16. *Collections of information whose results will be published.* Phase I certifications will be made public, either through the Commission's Electronic Comment Filing System or through release by the Commission. The Commission plans to make Phase II challenge process information public through the issuing of .csv files.
17. *Display of expiration date for OMB approval of information collection.* The Commission seeks an exemption from the requirement to display the OMB expiration date on the form related to this information collection. The Commission will use an edition date on the form in lieu of the OMB expiration date. This will prevent the Commission from having to constantly update the expiration date on the electronic and paper forms each time this collection is submitted to OMB for review and approval. The Commission publishes a list of all OMB-approved information collections in 47 C.F.R. 0.408 of the Commission's rules.
18. *Exceptions to certification statement for Paperwork Reduction Act submissions (Item 19 of OMB Form 83-I).* There are exceptions to item 19 of the OMB 83i certification. The Commission is seeking a waiver of the 60-day notice requirement under 5 C.F.R. §1320.8(d). Due to the emergency nature of this request the Commission did not publish a 60-day notice. However, the Commission will publish a 30-day notice in the Federal Register soliciting public comment on the emergency approval request. The Commission has requested an approval date of July 8, 2013.

B. Collections of Information Employing Statistical Methods:

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