SUPPORTING STATEMENT

A. Justification

1. In 1998, the Commission released a Second Report and Order and Further Notice of Proposed Rulemaking (Section 258 Order) CC Docket No. 94-129, FCC 98-334, which adopted rules to implement Section 258 of the Communications Act of 1934 (Act), as amended by Telecommunications Act of 1996 (1996 Act). Section 258 expanded the Commission's existing authority to deter and punish "slamming," the submission and execution of unauthorized changes in a subscriber's selection of a provider of telephone exchange service or telephone toll service. The practice of slamming enables telecommunications carriers that engage in fraudulent activity to increase their customer and revenue bases at the expense of consumers and law-abiding companies.

   The rules adopted in the *Section 258 Order* modified existing requirements for the authorization and verification of preferred carrier changes and added procedures for handling preferred carrier freezes. In the *Section 258 Order*, the Commission also adopted liability rules designed to take the profit out of slamming. The *Section 258 Order*, however, did not specifically address carrier changes associated with the sale or transfer of a subscriber base from one carrier to another.

   Since the release of the *Section 258 Order*, carriers typically have sought waiver of the carrier change authorization and verification rules to affect the sale or transfer of a subscriber base from one carrier to another. The Commission received numerous waiver petitions every month. Thus, in *the First Report and Order and Fourth Report and Order*,[1] the Commission amended 47 CFR § 64.1120 of its rules, as part of our biennial regulatory review effort,[2] to establish a streamlined self-certification process for the carrier-to-carrier sale or transfer of subscriber bases, thereby eliminating the need to obtain a waiver of Commission rules prior to closing a transaction. This process is designed to ensure that the affected subscribers have adequate information about the carrier change in advance, that they are not financially harmed by the change, and that they will experience a seamless transition of service from their original carrier to the acquiring carrier. This process also provides the Commission with information it needs to fulfill its consumer protection obligations.

   Under the rules, carriers need not obtain individual authorization and verification for carrier changes associated with the carrier-to-carrier sale or transfer of subscriber base, provided that, not later than 30 days before the planned carrier change, the acquiring carrier notifies the Commission, in writing, of its intention to acquire the subscriber base and certifies that it will comply with the required procedures, including the provision of advance written notice to all affected subscribers. These rules reduce regulatory burdens, while providing adequate consumer protection, consistent with Section 258 and our carrier change rules.

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[1] *See 200 Biennial Review – Review of Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers; Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996*, First Report and Order in CC Docket No. 00-257 and Fourth Report and Order in CC Docket No. 94-129, 16 FCC Rcd 15966, 16007 (2001).

[2] Section 11 of the Communications Act of 1934, as amended, requires that the Commission, in every even-numbered year beginning in 1998, review all regulations that apply to the operations and activities of any provider of telecommunications service and determine whether any of these regulations are no longer necessary in the public interest as a result of meaningful economic competition between providers of the service. *See 2000 Biennial Regulatory Review*, CC Docket 00-175, Report, FCC 00-456 (rel. Jan.17, 2001)(agreeing with Commission staff recommendations detailed in the 2000 Biennial Review Updated Staff Report, released concurrently); Updated Staff Report (rel. Jan. 17, 2001), Appendix IV, at 134 (recommending that the Commission proposed and seek comment on expedited procedures for handling the sale or transfer of subscriber bases under the carrier change authorization and verification rules).

The following is a brief synopsis of Section 64.1120(e) of the Commission's rules containing information collection requirements:

a. Section 64.1120(e). Verification of Orders for Telecommunications Service

(1) Section 64.1120(e)(1). Pursuant to Section 64.1120(e)(1), no later than 30 days before the planned transfer of the affected subscribers from the selling or transferring carrier to the acquiring carrier, the acquiring carrier shall file with the Commission's Office of the Secretary a letter notification in CC Docket No. 00-257 providing the names of the parties to the transaction, the types of telecommunications services to be provided to the affected subscribers, and the date of the transfer of the subscriber base to the acquiring carrier.

The acquiring carrier also shall certify compliance with the requirement to provide advance subscriber notice in accordance with section 64.1120(e)(3) of the Commission's rules, with the obligations specified in that notice, and with other statutory and Commission requirements that apply to this streamlined process. In addition, the acquiring carrier shall attach a copy of the notice sent to the affected subscribers.

(2) Section 64.1120(e)(2). Pursuant to Section 64.1120(e)(2), if, subsequent to the filing of the letter notification with the Commission required by Section 64.1120(e)(1), any material changes to the required information should develop, the acquiring carrier shall file written notification of these changes with the Commission no more than 10 days after the transfer date announced in the prior notification. The Commission reserves the right to require the acquiring carrier to send an additional notice to the affected subscribers regarding such material changes.

(3) Section 64.1120(e)(3). Pursuant to Section 64.1120(e)(3), not later than 30 days before the transfer of the affected subscribers from the selling or transferring carrier to the acquiring carrier, the acquiring carrier shall provide written notice to each affected subscriber of the information specified. The acquiring carrier is required to fulfill the obligations set forth in the advance subscriber notice. The advance subscriber notice shall be provided in a manner consistent with 47 U.S.C. § 255 and the Commission's rules regarding accessibility to blind and visually-impaired consumers, 47 CFR §§ 6.3, 6.5.[3]

[3] On July 16, 2004, the Commission released a *First Order on Reconsideration and Fourth Order on Reconsideration, (Reconsideration Order),* CC Docket Nos. 00-257 and 94-129, FCC 04-153, 19 FCC Rcd 13432 (2004). In the *Reconsideration Order,* the Commission addresses issues raised in petitions for reconsideration of the *First Order on Reconsideration* and certain ancillary slamming issues relating to switchless resellers that were raised in the docket but had not yet been resolved. *See Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, Third Report and Order and Second Order on Reconsideration, 15 FCC Rcd 15996, 160007 (2000) (*Third Report and Order*).

Also, the Commission modified rule 47 CFR Section 64.1120(e)(3)(iii). As noted, when subscribers are switched between carriers as a result of a negotiated sale or transfer or the exiting carrier's bankruptcy, the Commission believes the acquiring carrier should generally be responsible for carrier change charges associated with a negotiated sale or transfer. (Negotiated sale or transfers is when a carrier sells a customer base to another carrier.) However, while the Commission maintains this general rule, in the *Reconsideration Order* the Commission clarified that, when an acquiring carrier acquires customers by default – other than through bankruptcy – and state law would require the exiting carrier to pay these costs, the Commission will require the exiting carrier to pay such costs to meet our streamlined slamming rules.

This information collection does not affect individuals or household; thus, there are no impacts under the Privacy Act. This information collection does not contain personally identifiable information (PII) on individuals.

This Commission is requesting an extension of this collection in order to receive the full three-year OMB approval/clearance for this collection.

The statutory authority citation for the information collection requirements is found at 258 [47 U.S.C. 258] Illegal Changes in Subscriber Carrier Selections, Public Law 104-104, 110 Stat. 56 and 201 [47 U.S.C. 201] Service and Charges, 48 Stat. 107; 52 Stat. 588.

2. The information will be used to implement Section 258 of the Act. The information will expedite procedures for handling the sale or transfer of subscribers, while adequately protecting consumers.

3. The rules do not specifically provide for technological collection techniques or other forms of electronic technology. To the extent that carriers wish to utilize such technology, they may do so as long as their actions are consistent with our requirements.

4. The information collection requirements are not duplicative of any currently existing federal regulatory obligation.

5. There will not be a significant impact on a substantial number of small businesses/entities by this information being collected.

6. If rules were not implemented, carriers would continue the process of seeking a waiver of the authorization and verification requirements, a process that is potentially burdensome to carriers seeking to sell or acquire customer accounts.

7. The collection is not conducted in any manner that is inconsistent with the guidelines in 5 CFR 1320.

8. Pursuant to 5 CFR § 1320.8(d), the Commission placed a notice in the *Federal Register* seeking comments on the information collection requirements contained in this collection. *See* 84 FR 2864, published February 8, 2019. No comments were received from the public.

9. The Commission does not anticipate providing any payment or gift to respondents.

10. Confidentiality concerns are not relevant to this proceeding. The Commission is not requesting that respondents submit confidential information.

11. This information collection does not raise any questions or issues of a sensitive nature.

12. Estimates of the hour burden for the collection of information are as follows:

(a). Section 64.1120(e)(1) – (2): Notification and Certification to the Commission

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The change in the rule does not impose any new or modified information collection requirements. The modification to 47 CFR Section 64.1120(e)(3)(iii) does not affect the existing annual hourly burden and cost changes. The modifications and additions adopted in the *Third Order on Reconsideration* will improve the carrier change process for consumers and carriers, while making it more difficult for unscrupulous carriers to perpetrate slams.

Annual Number of Respondents: 50 carriers (respondents)[4]

Annual Number of Responses: 50 notifications + 50 certifications = **100 responses**

Annual Burden Hours: The Commission estimates that there will be approximately 50 acquiring carriers (respondents) will send letter notifications and certifications to the Commission. This process will be done "on occasion" and will require approximately 1 hour per respondent to comply with the requirement.

50 notifications x 1 hour/ respondent = **50 hours**
50 certifications x 1 hour/ respondent = **50 hours**
100 hours

Annual "In-house Cost": The Commission assumes that respondents use "in-house" personnel whose pay is comparable to senior level federal employee (GS-13/5), thus, the Commission estimates respondent's cost to be about $52.66 per hour to comply with the requirement:

100 responses x 1 hour/notification and certification x $52.66 = **$5,266**

(b). Section 64.1120(e)(3): Pre-Transfer Subscriber Notification

Annual Number of Respondents: 50 carriers

Annual Number of Responses: 50 written notices

Annual Burden Hours: The Commission estimates that the same 50 respondents will give each affected subscriber written notice. This process will be done "on occasion" and will require approximately 5 hours per respondent to comply with this requirement.

50 written notices x 5 hours/written notices/carrier = **250 hours**

Annual "In-house Cost": The Commission assumes that respondents use "in-house" personnel whose pay is comparable to senior level federal employee (GS-13/5), thus, the Commission estimates respondent's cost to be about $52.66 per hour to comply with the requirement:

50 written notices x 5 hours/notice/respondent x $52.66 = **$13,165**

Total Number of Respondents: = 50 respondents

Total Number of Responses: 50 notifications + 50 certifications + 50 notices = **150 responses**

Total Annual Burden Hours: 50 hours + 50 hours + 250 hours = **350 hours**

Total Annual "In House" Cost: $5,266 + $13,165= **$18,431**

13. The following represents the Commission's estimate of the annual cost burden to respondents resulting from the collections of information: The Commission believes that carriers will use in-house personnel to notify and certify with the Commission of its sale or transfer of subscriber telecommunication services and prepare written notices to affected subscribers. Thus:

[4] The Commission estimates that there are approximately 50 carriers that will be affected by this collection. These 50 carriers will submit various information collections requirements as noted in this document.

(a) Total annualized capital/start-up costs: **None**

(b) Total annual operational or maintenance cost (O&M): **None**

(c) Total annualized cost requested: **None**

14. Estimated annualized cost to the Federal Government is $7,899. It is expected that it will require 1 hour for a Commission staff person at a GS-13/5 level to review carriers notification and certification documents along with reviewing carriers written notice sent to affected subscribers regarding the transfer or sale of their telecommunication services:

150 responses x 1 hour processing x $53.85 = **$8,077.50**

Total Cost to Federal Government: $8,077.50

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

16. There will be no publication of this information collection.

17. The Commission does not intend to seek approval not to display the expiration date for OMB approval of the information collection.

18. There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods

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