

From: Omar Torres [REDACTED]
Sent: Wednesday, September 08, 2021 1:45 AM
To: Comments
Subject: [EXTERNAL MESSAGE] September 2, 2021 - Agency Information Collection Activities: Submission for OMB Review of Information Collection Reinstatement; Comment Request (OMB 3064-0203)
Attachments: Supporting Statement OMB 3060-0686 (add 63.22) (2017)(FCC 17-136).docx

SUPPORTING STATEMENT

A. Justification:

1. The Federal Communications Commission (“Commission”) is requesting that the Office of Management and Budget (OMB) approve a revision of OMB Control No. 3060-0686 titled, “International Section 214 Authorization Process and Tariff Requirements – 47 CFR Sections 63.10, 63.11, 63.13, 63.18, 63.19, 63.21, 63.24, 63.25 and 1.1311.” The purpose of this revision is to obtain OMB approval for the reporting requirements under newly adopted 47 CFR 63.22(h), which requires facilities-based international service providers electronically to submit, and maintain, a list of routes on which they have direct termination arrangements with a foreign carrier. In addition, this list maybe used to initiate targeted data collections regarding those routes. Finally, we remove from this collection the requirements related to 47 U.S.C. 310(b) which are now included in the collection under OMB Control No. 3060-1163.

The current title of OMB Control No. 3060-0686 is “International Section 214 Process and Tariff Requirements – 47 CFR Sections 63.10, 63.11, 63.13, 63.18, 63.19, 63.21, 63.24, 63.25 and 1.1311”. The Commission would like to change the title to “International Section 214 Process and Tariff Requirements – 47 CFR Sections 63.10, 63.11, 63.13, 63.18, 63.19, 63.21, 63.22, 63.24, 63.25 and 1.1311” to reflect the addition of 47 CFR 63.22(h) to the information collection.

Background Information

On October 24, 2017, the Commission adopted the *Section 43.62 Reporting Requirements for U.S. Providers of International Services; 2016 Biennial Review of Telecommunications Regulations*, Report and Order, IB Docket Nos. 17-55, 16-131; FCC 17-136 (rel. Oct. 24, 2017) (*2017 Part 43 Report and Order*). The Report and Order eliminates the requirement that U.S.-international service providers file annual international traffic and revenue reports. (The information collection associated with the annual traffic and revenue report, previously set out in 47 CFR 43.62(b), is covered in OMB Control No. 3060-1156.) In its place the Commission will rely on commercial sources of information and targeted data requests. To ensure that the process for the targeted data requests is efficient the Commission found that it needs a list of which international service providers have termination arrangements with a foreign carrier on a U.S.-international route so that it will know from which carriers to request data. Consequently, the Commission adopted 47 CFR 63.22(h) which will require international facilities-based service providers to submit and maintain a list of routes on which they have direct termination arrangements with a foreign carrier. The lists are to be filed electronically. The Commission

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will treat the lists as not routinely available for public inspection.

The Commission anticipates that that it can meet its statutory obligations using information provided by applicants or petitioners along with commercially available data. In those few situations where the Commission needs additional data for issues such as merger review analysis or monitoring and enforcement of its benchmarks settlement rate policy, the Commission will use the list to determine which service providers from which to request additional data. Such information requests will be targeted for specific situations and could include any information previously required by the annual traffic and revenue reports, including minutes completed on foreign networks, settlement payouts for call completion of foreign networks, foreign-billed minutes, and foreign-billed settlement receipts.

Section 63.22(h) reads as follows:

(h) A carrier shall file with the Commission a list of U.S.-international routes for which it has an arrangement with a foreign carrier for direct termination in the foreign destination. The carrier shall notify the Commission within 30 days after it adds a termination arrangement for a new foreign destination or discontinues arrangements with a previously listed destination. The list shall be filed electronically in accordance with instructions from the International Bureau.

The Commission also amended 47 CFR 63.10(c) to remove the reference to the annual traffic and revenue reporting requirements and the Filing Manual used for those reports. In its place the Commission now lists in in 47 CFR 63.10(c) the specific data to be provided in the quarterly traffic and revenue data to be filed by carriers classified as dominant a U.S.-international route. This amendment to the rule does not change the data that the carrier is required to file and thus the burden placed on the carrier in filing its quarterly traffic and revenue reports has not changed.

Section 63.10(c) reads as follows:

(2) File quarterly reports on traffic and revenue within 90 days from the end of each calendar quarter. Such reports shall include the minutes completed on foreign networks; settlement payouts for call completion on foreign networks; foreign-billed minutes; and foreign-billed settlement receipts.

Section 214-Related Application Forms Approved and Developed by the Commission

The Commission also requests continued approval of the following Section 214-related forms which have been developed:

1. International Section 214 Application (FCC Form 214) (47 CFR 63.18)
2. International Section 214 Authorizations for Assignment or Transfer of Control (FCC Form 214TC) (47 CFR 63.24)
3. International Section 214 Special Temporary Authority Application (FCC Form 214STA) (47 CFR 63.25)
4. International Section 214 Foreign Carrier Affiliations Notification (FCC Form 214FCN) (47 CFR 63.11)

Section 214-Related Application Forms Approved and Pending Development

On January 28, 2014, the Office of Management and Budget approved the continuance of previous terms of clearance of Section 214, 47 U.S.C. 214, related FCC Forms which are pending development. See ICR Reference Number: 201311-3060-017. The Commission plans to develop two such forms that impact this information collection. We do not know the specific time frame for the development of each application form. However, we estimate that the new projected completion date for both forms is December 30, 2018. The development of application forms is contingent upon the availability of budget funds, human resources and other factors.

In February, 2006, the Commission received blanket approval of the two application forms listed below with the following terms of clearance: As applications contained within the supporting statement are developed, a change worksheet should be submitted to OMB at least 60 days prior to deployment to allow sufficient review time. The change worksheets should include the specific information collection elements requested, as well as the associated burden hours.

“ITC-Other Filings” has been removed from the pending development section in this information collection because the applicants/respondents notify the Commission of miscellaneous items such as name changes, etc., by letter filed electronically in the Commission’s IBFS system. That is, there is a “Letter” form that can be accessed through IBFS quick search that serves as a general filing category, thereby eliminating the need for a duplicative category such as “Other Filings.” Therefore, the Commission is no longer considering development of this form.

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The following Section 214-related applications are pending development:

1. International Section 214 – Amendment (47 CFR 63.50)
2. International Section 214 – Modification

This information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

The statutory authority for this information collection is as follows: Sections 1, 4(i), 4(j), 10, 11, 201-205, 208, 211, 214, 218, 219, 220, 303(r), 309, 310, 403 and 571 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 154(j), 160, 161, 201-205, 208, 211, 214, 218, 219, 220, 303(r), 309, 310, 403 and 571.

2. The information will be used by the Commission staff in carrying out its duties under the Communications Act. The information collections pertaining to Part 63 are necessary largely to determine the qualifications of applicants to provide common carrier international telecommunications service under Section 214 of the Communications Act, 47 U.S.C. 214, including applicants that are, or are affiliated with, foreign carriers, and to determine whether and under what conditions the authorizations are in the public interest, convenience, and necessity. The information collections are also necessary to maintain effective oversight of U.S. international carriers generally.

3. In December 2006, the Commission received OMB approval of mandatory electronic filing of all section 214-related applications and notifications under OMB Control No. 3060-0686.¹ A total of 100 percent of Section 214 authorizations are filed electronically in the International Bureau Filing System (IBFS).

4. The information that is collected under the rules is not available elsewhere.

5. In order to reduce the costs and burdens on carriers, including small entities, in the *2017 Part 43 Report and Order* the Commission reformed its international reporting requirements. It

¹ The International E-Filing R&O (FCC 05-91) eliminated paper filings by requiring applicants to file electronically all applications and other filings related to international telecommunications services via the user-friendly, Internet-based electronic filing system called the International Bureau Filing System (IBFS). We would like to maintain OMB approval for mandatory electronic filing of all Section 214-related applications and filings pursuant to 47 CFR Sections 1.1000 through 1.0018, 63.11(j), 63.18(q), 63.19(d), 63.20, 63.21(j) and 63.53, including currently existing applications and applications that are pending development by the Commission.

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eliminated the traffic and revenue reports. In its place the Commission will rely on commercial sources of information and targeted data requests. To ensure that the process for the targeted data requests is efficient the Commission found that it needs a list of which international service providers have termination arrangements with a foreign carrier on a U.S.-international route so that it will know from which carriers to request data. Only facilities-based international service providers will be required to provide a list of routes. Overall, with the adoption of these changes to the international reporting requirements the Commission will minimize the economic impact on carriers, including small entities, by eliminating unnecessary data collections and retaining information collection requirements for only the data necessary to serve the public interest.

6. The frequency of filing applications pursuant to Sections 214 will be determined largely by the applicant seeking to provide U.S international common carrier service under Section 214 of the Communications Act, 47 U.S.C. 214. Carriers will also determine largely the frequency of filing under the other rules included in this collection, with the exception of the quarterly reports required of certain carriers under 47 CFR 63.10(c) and the list of routes for which a facilities-based international service provider must make a one-time filing and update as necessary under 47 CFR 63.22(h). If the collections are not conducted or are conducted less frequently, applicants will not obtain the authorizations necessary to provide telecommunications services, and the Commission will be unable to carry out its mandate under the Communications Act of 1934. In addition, without the information collections, the United States would jeopardize its ability to fulfill the U.S. obligations as negotiated under the World Telecommunications Organization (WTO) Basic Telecom Agreement because these collections are imperative to detecting and deterring anticompetitive conduct. They are also necessary to preserve the Executive Branch agencies' and the Commission's ability to review foreign investments for national security, law enforcement, foreign policy, and trade concerns. Regarding 47 CFR 63.11, carriers determine largely when to notify the Commission of planned investments by or in foreign carriers. If the information is not collected by the Commission, we will not be able to prevent carriers that control bottleneck facilities in foreign countries from using those bottlenecks to discriminate against unaffiliated U.S. carriers.

7. There are no special circumstances associated with this collection of information.

8. On December 12, 2017, the Commission published a 60-day notice in the Federal Register (82 FR 58394) seeking comments on the information collection requirements contained in this Supporting Statement. The comment period ended on February 12, 2018. No comments were received from the public as a result of the published notice.

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

10. The Commission has not granted assurances of confidentiality to those parties submitting

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the information, except for the list or routes required under 47 CFR 63.22(h) which the Commission will treat as not routinely available for public inspection. In all the other cases where a respondent believes information requires confidentiality, the respondent can request confidential treatment under Section 0.459 of the Commission’s rules, 47 CFR 0.459.

11. This collection does not include any questions of a sensitive nature.
12. The information collection requirements are summarized in the chart below. Based on the average number of filings for 2014, 2015 and 2016, and an estimation of the filings under the newly adopted 47 CFR 63.22(h), we estimate the total number of respondents, on an annualized basis, for this information collection is approximately 528.²

Rule Section and Explanation of Burden Estimate³	Number of Responses	Frequency of Response	Time Per Response (in hours)	Total Annual Hour Burden
47 CFR 63.10(a)(4) Notification filed by a carrier classified as non-dominant under this provision of the initiation of services through the resale of an affiliated U.S. facilities-based carrier’s international switched services.	1	1	1	1

² Of the following rule categories and respondents within those categories, over 50 percent of the total respondents are either filing for an initial section 214 authorization or for a transfer of control or assignment of a section 214 authorization: Section 63.10(a)(4) notifications (1); Section 63.10(c) reports (20); Section 63.11 notifications (10); Section 63.13 requests (5); Section 63.18 applications for facilities-based, resale and other 214 authority) (140); Section 63.19 notifications (21); Section 63.21(a) notifications (1); Section 63.21(e), (f) third party disclosures (20); Section 63.21(h) subsidiary notifications (20); Section 63.21(i) name change notifications (25); Section 63.22(h) list or routes (55); Section 63.24(e)(1), (e)(2) substantial transfers of control and assignments (80); Section 63.24(f)(2) pro forma transfers of control and assignments (110); and Section 63.25 requests for temporary authority (20).

³ For all applications, records must be maintained by respondents and the time for maintaining these records are included in the estimated time per response.

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<p>47 CFR 63.10(c) Reports and other requirements of carriers classified as dominant. Any carrier classified as dominant for the provision of services on a particular route is required to provide service through a separate affiliate and (1) file quarterly traffic and revenue reports pursuant to section 43.61, (2) file quarterly provisioning and maintenance reports of network facilities and services procured from its foreign carrier affiliate, and (3) file quarterly circuit status reports set out in the section 43.82 manual.</p>	240 ⁴	Quarterly	1	240
<p>47 CFR 63.11(a), (e) Foreign carrier affiliation notifications. An authorized U.S. carrier must notify the Commission 45 days before consummation of (1) a transaction that results in the acquisition by the U.S. carrier, or certain of its affiliates as described in the rule, of a controlling interest in a foreign carrier that is authorized to operate in a market that the U.S. carrier is authorized to serve, or (2) a transaction that results in acquisition of greater than 25 percent of the capital stock, or of a controlling interest, in the authorized U.S. carrier by a foreign carrier that is authorized to operate in a market that the U.S. carrier is authorized to serve, unless the U.S. carrier is able to make one of the showings in paragraph (b) of this section. The U.S. carrier must provide</p>	1	1	6	6

⁴ The Commission arrived at the annual number of responses of 240 based on the following calculation: 20 respondents x 12 responses (3 responses per quarter x 4 quarters).

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<p>in its prior notification the information specified in 63.11(e) and certify that the contents of the notification are true.</p>				
<p>47 CFR 63.11(b)-(c), (e)</p> <p>Foreign carrier affiliation notification after consummation of a transaction. An authorized U.S. carrier that becomes affiliated with a foreign carrier and has not previously notified the Commission shall notify the Commission within 30 days after consummation of the acquisition. The U.S. carrier must provide the information specified in 63.11(e) and certify that the contents of the notification are true.</p>	<p>10</p>	<p>1</p>	<p>6</p>	<p>60</p>
<p>47 CFR 63.11(f)</p> <p>In order to retain non-dominant status on a newly affiliated route, the U.S. carrier must include in its notification a showing of eligibility pursuant to the criteria described in 63.10.</p>	<p>10</p>	<p>1</p>	<p>1</p>	<p>10</p>
<p>47 CFR 63.11(g)(2)</p> <p>In the case of a prior notification filed under §63.11(a), the U.S. authorized carrier must demonstrate that it continues to serve the public interest for it to operate on the route for which it proposes to acquire an affiliation with the foreign carrier authorized to operate in the non-WTO country. Such a showing shall include a demonstration as to whether the foreign carrier lacks market power in the non-WTO country with reference</p>	<p>1</p>	<p>1</p>	<p>2 hours (if no comments are filed) 8 hours (if comments are filed). This burden includes a possible, additional information request by Commission staff in the event</p>	<p>8</p>

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<p>to the criteria in §63.10(a). If the U.S. authorized carrier is unable to make the required showing in §63.10(a), the U.S. authorized carrier shall agree to comply with the dominant carrier safeguards contained in section 63.10(c), effective upon the acquisition of the affiliation. If the U.S. authorized carrier is notified by the Commission that the affiliation may otherwise harm the public interest pursuant to the Commission's policies and rules, then the Commission may impose conditions necessary to address any public interest harms or may proceed to an immediate authorization revocation hearing.</p>			<p>concerns are raised.</p>	
<p>47 CFR 63.11(h) Accuracy of contents of notification and certifications. All carriers are required to file corrected notification information within 45 days after filing, except that the carrier shall immediately notify the Commission of representations of certifications that are no longer true.</p>	<p>10</p>	<p>1</p>	<p>1</p>	<p>10</p>
<p>47 CFR 63.13 A U.S. international carrier modifying its regulatory status from dominant to non-dominant for the provision of services on a particular route must demonstrate in its application that it qualifies for non-dominant classification pursuant to section 63.10.</p>	<p>5</p>	<p>1</p>	<p>2</p>	<p>10</p>

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<p>47 CFR 63.18</p> <p>Contents of applications for international common carriers for facilities-based (63.18(e)(1)) and/or resale authority (63.18(e)(2))</p> <p>Application (FCC Form 214) includes information demonstrating how grant of the application will serve the public interest, convenience and necessity pursuant to section 214 of the Communications Act of 1934. The specific information and certifications are included in sections 63.18(a) through (j), and sections 63.18(n) through (p). Applicants must also certify to comply with conditions in sections 63.21 and 63.22 of the rules.</p>	140	1	9	1,260
<p>47 CFR 63.18(e)(3)</p> <p>Section 214 based authority to provide services not covered by 63.18(e)(1) and 63.18(e)(2). See FCC's exclusion list at http://www.fcc.gov/ib. Applicant must certify that it will comply with conditions in 63.21 and 63.22. If applying for facilities-based authorization, must also certify that environmental assessment is not required under 47 CFR 1.1306. See 63.18(g).</p>	1	1	9	9
<p>47 CFR 63.18(k)</p> <p>For any country that the applicant has listed in response to 63.18(j) of this section that is not a Member of the World Trade Organization, the applicant shall make a demonstration as to whether the foreign carrier has market power, or lacks market power, with reference to the criteria in section</p>	1	1	2 hours (if no comments filed) 8 hours (if comments filed). This burden includes a possible, additional information	8

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63.10(a) of this chapter.			request by Commission staff in the event concerns are raised.	
47 CFR 63.18(m) Carrier must provide information in its application to demonstrate that it qualifies for non-dominant classification pursuant to 63.10.	10	1	2 This burden includes a possible, additional information request by Commission staff in the event concerns are raised.	20
47 CFR 63.19(a)(1) and (a)(2) Any international carrier that seeks to discontinue, reduce or impair service, including the retiring of international facilities, dismantling, or removing of international trunk lines shall notify affected customers at least 30 days prior to planned action and file a copy of notification with the FCC.	20	1	2	40
47 CFR 63.19(b) If a carrier classified as dominant discontinues, reduces or impairs the dominant service, or retires facilities that	1	1	4	4

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impair or reduce the service, the carrier shall file an application pursuant to sections 63.62 and 63.500.				
47 CFR 63.21(a) Conditions applicable to all common carriers. Each carrier is responsible for accuracy of certifications in its section 214 application. Each carrier is responsible for filing a corrected certification within 30 days with a reference to the original FCC file number. The information may be used by the Commission to determine whether a change in regulatory status is warranted under section 63.10. See also section 63.11.	1	1	1	1
47 CFR 63.21(e) and (f) Third party disclosure requirement. A carrier may not access or use customer proprietary network information derived from a foreign network unless the carrier obtains approval from the customer. Authorized carriers may not receive proprietary or confidential information pertaining to a competing U.S. carrier, obtained by the foreign carrier unless the competing U.S. carrier provides its permission in writing.	20	1	1	20
47 CFR 63.21(h) Provision of service through wholly-owned direct or indirect subsidiaries. An authorized carrier must provide a notification to the Commission within 30 days after the subsidiary begins providing service. The carrier must provide its FCC file number and identify the subsidiary's name and place of legal organization.	20	1	1	20

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<p>47 CFR 63.21(i) An authorized carrier or a subsidiary operating pursuant to 63.21(h) must notify the Commission within 30 days of a name change and reference FCC file numbers under which the carrier's authorizations were granted.</p>	25	1	1	25
<p>47 CFR 63.22(h) A facilities-based carrier shall file and maintain a list of U.S.-international routes for which it has an arrangement with a foreign carrier for direct termination in the foreign destination (A carrier will make a one-time filing and update as needed)</p>	55	1	2	110
<p>The Commission may issue a targeted data request based on the list of routes filed by the facilities-based carriers.</p>	10	1	20	200
<p>47 CFR 63.24 (e)(1), (e)(2) Assignments and Transfers of Control for substantial transactions. Applications for substantial transactions. Under 63.24(a), a carrier must apply to the Commission prior to assigning or transferring its international section 214 authorization to another party, whether voluntarily or involuntarily, directly or indirectly. The application shall include a narrative of the proposed transfer or assignment and information contained in certain sections of 63.18, as specified in 63.24(e)(2). The assignee or transferee must notify the Commission no later than 30 days after consummation of the proposed assignment or transfer of control.</p>	80	1	9	720

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<p>47 CFR 63.24(f)(1), (f)(2)</p> <p>Assignments and Transfers for non-substantial, or pro forma transactions.</p> <p>Notifications for pro forma transactions. A carrier that is subject to a pro forma assignment or transfer of control is not required to seek prior Commission approval before assigning or transferring its section 214 authorization, but must file a notification with the Commission no later than 30 days after the assignment or transfer is completed. The notification must include a certification that the transfer of control was pro forma and does not result in a change in the actual controlling party. The notification must also include information contained in certain sections of 63.18, as specified in 63.24(f)(2)(i).</p>	<p>110</p>	<p>1</p>	<p>3</p>	<p>330</p>
<p>47 CFR 63.25</p> <p>Request for special temporary authority or emergency service.</p> <p>Applicants must file a request with the Commission stating why temporary authority or emergency service is required, along with the type of facilities proposed to be used, and the services to be provided. Temporary service shall mean service for a period not exceeding 6 months.</p> <p>A carrier may request continuing authority to provide temporary or emergency service by the construction or installation of facilities where the costs do not exceed \$35,000 or an annual rental of not more than \$7,000. If granted, the carrier shall, not later than the 30th day following the end of</p>	<p>20</p>	<p>1</p>	<p>2</p>	<p>40</p>

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each 6-month period covered by such authority, file a statement setting forth the type of facility, the cost and the dates of commencement of the project.				
Totals:	792 Number of Responses		1 – 20 hours Per Response	3,152 Total Annual Burden Hours

In-House Cost to Respondents: We estimate that in-house staff is paid at an estimated rate of \$35 per hour.

$$3,152 \text{ hours} \times \$35 \text{ per hour} = \mathbf{\$110,320 \text{ Total In-House Costs to Respondents}}$$

13. Annual Burden Cost:

(a). **Capital and Start-Up Costs: 0**

(b). **Operations and Maintenance Costs**

Outside Legal Assistance: We estimate that the respondent will require outside legal assistance for 50% (396) of the total number of responses.⁵ The cost of outside legal assistance is estimated at \$300 per hour. This figure is based on a small survey of local firms in the D.C. area and is considered a conservative estimate.

$$396 \text{ responses} \times \$300 \text{ per hour} \times 4 \text{ hours per response} = \mathbf{\$475,200 \text{ Total Outside Legal Costs}}$$

⁵ The rules and requirements in this collection will not require respondents to maintain any special equipment.

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Application Filing Fees: Part 214-related application fees are \$1,155. The annualized application fees collected by the FCC, based on the average number of applications filed in 2014, 2105 and 2016, are the following: 140 responses (Section 214 applications) + 80 responses (substantial assignments and transfers of control applications) + 20 responses (request for special temporary authority applications) = 240 applicants.

A total of 240 respondents/applicants x \$1,155/application = **\$277,200 Total Application Fees**

(c). Total Annual Cost Burden:

Description of Estimated Costs to Respondents	Total Costs
Outside Legal Assistance	\$475,200
Application Filing Fees	\$277,200
Total Cost to Respondents	\$752,400

14. Estimates of Annualized Cost to the Federal Government:

The estimates of annualized cost to the Federal government are summarized in the chart below. As shown in the chart, the annualized costs to the Federal government are \$267,750.

Federal Government Staff	Number of Staff	Salary Per Hour	Annual Burden Hours	Annualized Costs
GS-15/Step 5 Attorney	2	\$73.20	1,000 each	\$146,400
GS-14/Step 5 Attorney	1	\$62.23	1,000	\$62,230
GS-11/Step 5	1	\$36.95	1,600	\$59,120

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Administrative
Support

4

\$267,750

15. The Commission has the following program changes which are due to the information collection requirements adopted in FCC 17-136 and the removal of the burdens and cost associated with 47 U.S.C. 310(b): +33 to the number of respondents (from 495 respondents to 528 respondents), +44 responses (from 748 responses to 792 responses), -134 burden hours (from 3,286 hours to 3,152), -\$3,000 (from \$755,400 to \$752,400).

There are no adjustments to this collection.

16. The Commission does not plan to publish the information for statistical use.

17. No waiver of the OMB expiration date is necessary.

18. There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods:

This information collection does not employ statistical sampling.