

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

OMB Control Number 3060-0986
FCC Form 481
Paperwork Reduction Act Notice, Request for Comments

Comments of Alexicon Telecommunications Consulting

Alexicon Telecommunications Consulting (Alexicon) hereby provides these comments pursuant to the Federal Communications Commission's (FCC) Paperwork Reduction Act (PRA) Notice requesting comments on certain information collection requirements proposed by the FCC.¹ In this Notice, the FCC is seeking comment on the information collection requirements contained in the new Form 481, and relates to certain information to be provided on an annual basis by Eligible Telecommunications Carriers (ETCs).² These reporting requirements were initially adopted in the FCC's ICC/USF Transformation Order³ and have been revised over time since that order was adopted. The information required to be filed by all ETCs represents a major change from previous rules, and therefore it is vital that the FCC ensure Form 481 is as reasonable, necessary, and places the least amount of burden on reporting carriers as possible.

Alexicon provides professional management, financial and regulatory services to a variety of small rate-of-return Incumbent Local Exchange Carriers (ILECs) who serve diverse geographical areas characterized by rural, insular or Native American Tribal Lands. These ILECs, similar to most other small rate-of-return regulated ILECs, currently provide a wide range of technologically advanced services to their customers. These companies, through participation in various State and Federal high cost funding programs, and with their continued investment in network infrastructure, are providing customers in rural, insular and Tribal areas with services equal to or greater than urban areas, and at comparable pricing. Furthermore, these ILECs have been committed to providing their customers with innovative solutions, by adapting technologies that fit rural America, including Broadband and IP-enabled services.

¹ Published in the Federal Register, Vol. 78, No. 37, February 25, 2013 (Notice)

² See 47 CFR § 54.313

³ Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 10-90, et. al., released November 18, 2011 (FCC 11-161)

I. The Commission's Burden Estimate

The Form 481 estimated annual burden per response is 20 hours.⁴ This estimate includes the time to read the instructions, look through existing records, gather and maintain the required data, and actually complete and review the form or response. Information required to be reported on the Form 481 includes, but is not limited to, five-year investment plans, outages, unfulfilled service requests, complaints, Tribal engagement rules compliance, and certain financial information. Given the sheer amount of information requested, and the nature of the information requested, Alexicon believes the average annual burden is severely underestimated.

The most substantial burden for most companies will be the preparation, review, and submission of the initial five-year build-out plans.⁵ For many state-designated ETCs, this means a completely new reporting requirement that involves company time, outside engineers, and other resources in order to complete. Alexicon believes for most companies, the burden could exceed 20 hours for this requirement alone. For example, even though many ETCs have capital expenditure budgets, fitting these budgets into what the FCC requires for 5 year build out plans⁶ is proving to be a time consuming and costly process.

Other areas of Form 481 present substantial burdens as well, including, but not limited to, the financial reporting requirements.⁷ For some companies, this will entail obtaining a review by a Certified Public Accountant of the financial statements.⁸ Again, this is a time-consuming and expensive process and one which Alexicon does not believe was adequately considered in the average annual burden estimate.

Overall, and based on Alexicon's experience in preparing regulatory compliance filings, the average annual burden is more in the range of 60 hours. This includes the generation of the initial 5-year build out plans, gathering data necessary to report outages, unfulfilled service requests, and the other items required. In addition, the burden estimate must take into account the requirement that this

⁴ Obtained from Draft Form 481 instructions posted on the Universal Service Administrative Company (USAC) website, <http://www.usac.org/hc/tools/news/default.aspx#734> (last visited 4/25/2013)

⁵ Initial 5-year plans are required for all state-designated ETCs, and new plans are required for federally-designated ETCs in order to reflect broadband obligations. See Order (DA 12-147) in WC Docket 10-90 et al., released February 3, 2012 at 6-7; See also Third Order on Reconsideration (FCC 12-52), WC Docket 10-90 et. al., at 10 (revising filing deadline to July 1)

⁶ While the FCC has not established a specific format for the 5-year build out plans, several requirements must be met within the plans: account for broadband obligations (e.g., speed, latency, and capacity) (*ICC/USF Transformation Order* at 92-100), explain criteria that will be used to determine if requests for broadband service are reasonable, and should reflect the cost characteristics of the ETC's service territory and set forth what sort of broadband service build-out is reasonable over the 5 year time period (See March 5, 2013 Order in WC Docket No 10-90 et. al, DA 13-332, at 9-11)

⁷ 47 CFR § 54.313(f)(2)

⁸ Fifth Order on Reconsideration (FCC 12-137), WC Docket No. 10-90 et. al., at 9

information be filed with USAC and the relevant state commission or Tribal governmental entity. Following is a breakdown of Alexicon's average burden estimate:

(1) Initial Five-Year Investment Plans⁹ (32 hours)

- Engineering Assistance: Working with engineers to analyze network
- Internal/Staff Time and Assistance
- Price quotes/vendor assistance
- Review Network Requirements for Broadband Obligations

(2) Other 54.313/Form 481 Requirements¹⁰ (28 - 39 hours)

- Gathering engineering and billing record data for outages (5 hours)
- Gathering data for unfulfilled service requests from billing records (2 hours)
- Gathering data for complaints (separately for voice and broadband) (5 hours)
- Gathering and reporting voice and broadband price offering data (5 hours)
- Gathering, reviewing, and reporting financial information (non-publicly traded ETCs) (1-12 hours)
- Preparing and submitting Form 481 to USAC, State Commissions/Tribal Authorities (2 hours)
- Outside accounting, consulting, and legal assistance (8 hours)

Total = 60 - 71 Hours

In the context of the PRA, "burden" is generally defined to encompass all of the "time, effort, or financial resources expended...to generate, maintain, or provide information to or for a Federal agency."¹¹ In order for the FCC and the Office of Management and Budget (OMB) to properly gauge the impact of a proposed information collection on the reporting entities, the estimate of burden, from both a time and financial perspective, must be properly considered. The above represents a more realistic estimate of the burden that will be placed on a small, RoR-regulated ETC by the proposed information collections contained in the Form 481

⁹ For 2013, ETCs will be filing initial five-year investment plans. In subsequent years, ETCs will provide progress reports on those investment plans. Alexicon does not anticipate a material difference in reporting burden, however.

¹⁰ This does not include Tribal Engagement reporting, which will impact a fewer number of ETCs, and is addressed below

¹¹ 44 U.S.C. § 3502(2)

II. Tribal Engagement Documentation

All ETCs receiving federal support for serving Tribal areas are required to comply with the FCC's Tribal Engagement rules.¹² The FCC's Office of Native Affairs and Policy (ONAP) issued a Public Notice containing further guidance for ETCs to follow when making the certifications required by the Tribal Engagement rules.¹³ According to these rules and the Further Guidance, certain ETCs are to engage with Tribal governments for the purpose of determining how to best meet the communications needs in those areas. Such ETCs are to provide documentation that discussions with Tribal governments occurred that, at a minimum, included (1) a needs assessment and deployment planning with a focus on Tribal community anchor institutions, (2) feasibility and sustainability planning, (3) marketing services in a culturally sensitive manner, (4) rights of way processes, land use permitting, facilities siting, environmental and cultural preservation review processes, and (5) compliance with Tribal business and licensing requirements.

The Form 481 offers little in the way of guidance as to what type of documentation will be acceptable. In order for the information collected by Form 481 to have sufficient practical utility for the FCC's use in determining compliance with Tribal engagement rules, the types of acceptable documentation should be defined. For example, the FCC could require ETCs falling under this rule to provide a summary or minutes of all meetings held with Tribal government representatives to determine the Tribe's communications needs. By better defining documentation necessary and acceptable, the FCC not only would be assisting ETCs with compliance, but would also help Tribal governments in ensuring ETCs are meeting the requirements. While the *Further Guidance* provides a good source of information for compliance with these rules, specifying the information collection requirements on Form 481 is also a necessary step.

As the FCC is aware, some Tribal areas are served by Tribally-owned telecommunications carriers. For these ETCs, Tribal engagement, both as defined by the FCC and in other ways, is a normal part of everyday operations. These companies are typically governed by a Board of Directors consisting of members of the Tribal community, and are oftentimes managed by members of the Tribe. As a result, Tribally-owned carriers should be able to submit a certification of this status in lieu of any further documentation required by the Tribal engagement rules.

¹² 47 CFR § 54.313(a)(9)

¹³ *Office of Native Affairs and Policy, Wireless Telecommunications Bureau, and Wireline Competition Bureau Issue Further Guidance on Tribal Government Engagement Obligations of the Connect America Fund*, Public Notice, DA 12-1165, WC Docket Nos. 10-90, et al (July 19, 2012) (*Further Guidance*)

III. Conclusion

The proposed Form 481, while generally capturing the ETC reporting requirements contained in Section 54.313 of the FCC's rules, will present a substantially larger burden on reporting carriers, from both a time and expense perspective, than the estimate of annual burden shows. A key additional consideration is the expense burden placed on reporting carriers, some of whom will be forced to engage outside experts, such as network engineers and accountants, in order to comply. It must be noted that these additional compliance costs are coming at a time when rural rate-of-return regulated ETCs are facing downward pressure on federal support, through FCC reforms adopted in the ICC/USF Transformation Order¹⁴, and on intercarrier compensation.¹⁵ The FCC should take these factors into consideration before moving forward with Form 481.

Respectfully Submitted,

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¹⁴ For example, FCC reform to cap total support, cap corporate operations expense recoverable through interstate common line support, and the benchmarking rule where total costs are capped based on a quantile regression statistical analysis

¹⁵ The overall revenue requirement recoverable by RoR regulated carriers was frozen and is reduced by 5% every year