

**Before the
OFFICE OF MANAGEMENT AND BUDGET
And the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

Notice of Information Collection Being
Reviewed by the Federal Communications
Commission, and Request for Comments

FR Doc. 2019-25772

Information Collection Regarding Notice
Provisions in *Access Arbitrage Order*, WC
Docket No. 18-155 (47 C.F.R. § 51.914)

OMB Control No. 3060-0298

**COMMENTS OF AT&T SERVICES, INC.
IN SUPPORT OF FCC INFORMATION COLLECTION**

AT&T Services, Inc. (“AT&T”) submits these comments in support of the notice provisions adopted in the FCC’s *Access Arbitrage Order*.¹ Specifically, the *Order* requires local exchange carriers (“LECs”) to self-identify as access stimulators, and to notify the Commission, as well as intermediate providers and interexchange carriers (“IXCs”), that they have assumed financial responsibility for terminating tandem switching and transport charges. *See Order* ¶¶ 75, 83; 47 C.F.R. § 51.914(b). Because these notice provisions call for the collection of information, the Commission has requested comment concerning the following:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

¹ Report & Order, *Updating the Intercarrier Compensation Regime to Eliminate Access Arbitrage*, 34 FCC Rcd. 9035 (2019) (“*Order*” or “*Access Arbitrage Order*”), *stay denied*, WC Docket No. 18-155, DA No. 19-1093 (Oct. 25, 2019), *pets. for review pending*, Nos. 19-1233 & 19-1244 (D.C. Cir.).

See Notice and Request for Comments, 84 Fed. Reg. 65392 (Nov. 27, 2019). As discussed below, the notice provisions impose a minimal burden on access stimulating LECs, and they are an important step forward toward the Commission’s goal of eliminating access arbitrage.

1. The Notice Requirement Will Help Eliminate the Cross-Subsidization of “Free” Conferencing Services

The notice provisions require transparency from access stimulators and will help the Commission “attack[] this form of cross-subsidization.” *Order* ¶ 20. Despite previous efforts by the Commission to curtail access stimulation schemes, the volume of access stimulation traffic has not dropped since the 2011 *Transformation Order*.² Indeed, there is “wide agreement” that the “vast majority” of access stimulation traffic is directed to LECs in remote areas, who have exploited remaining loopholes in the Commission’s intercarrier compensation regime to charge inflated tandem switching and transport charges. See *Order* ¶¶ 3, 15, 24.³ These schemes have forced long distance and wireless carriers—and their customers—to “cross-subsidize” free or low cost calling services, at a cost of tens of millions of dollars per year. *Id.* ¶¶ 9, 20; *All Am. v. FCC*, 867 F.3d 81, 85 (D.C. Cir. 2017) (access stimulation schemes are “a ‘win-win’ for the local carrier and its phone call-generating partner,” but “the losing end” consists of “the public and the interexchange carriers” that foot the bill for “artificially inflated and distorted access charges”) (quotation omitted).

² See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (“*Transformation Order*”), *aff’d*, *In re FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014).

³ See *Order*, ¶ 15 (“there is wide agreement that the vast majority of access-stimulation traffic is currently bound for LECs that subtend Aureon or SDN”).

2. The Notice Provisions Will Reduce Call Blocking and Assist in the Orderly Transition of Financial Responsibility

The Commission has found that access stimulation schemes result in call blocking, dropped calls, and other network problems. *See Order* ¶ 3. These problems result, in part, from sudden and unexpected shifts in traffic to access-stimulating LECs, who have not historically provided any notice that they were engaging in access stimulation. As a result, the access stimulation schemes have led to call blocking, dropped calls, and reduced access to emergency services. *See Order* ¶ 3. The notice provisions will help avoid these problems in the future.

The notice provisions will also assist in the orderly transition of financial responsibility for access stimulation traffic. The *Order* requires access stimulating LECs to “clearly and publicly manifest their status and intent” within 45 days of PRA approval, or within 45 days from the time they meet the definition of an access stimulating LEC. *See Order* ¶¶ 74-75, 84. These provisions give access stimulating LECs and their calling service partners sufficient time to find alternative revenue sources and intermediate transport options. Concomitantly, the notice provided by access stimulating LECs affords IXC and intermediate providers sufficient time to implement changes in their billing systems to transition away financial responsibility for access stimulation traffic. Absent such notice, access stimulating LECs could continue to operate undetected, and this would inevitably lead to intercarrier disputes. *See, e.g., Order* ¶ 86 (“We expect that the new requirements for such carriers to self-identify will prevent the vast majority of potential disputes between IXCs and intermediate access providers concerning whether the LEC to which traffic is bound is engaged in access stimulation.”).

3. The Notice Provisions Imposes a Minimal Burden on Access-Stimulating LECs

Should LECs choose to engage in access stimulation, the notice provisions are straightforward—they only require that LECs: (1) self-identify as access stimulators; (2) designate

an intermediate access provider; and (3) acknowledge their responsibility to pay for all terminating tandem switching and transport charges on a going-forward basis. *See Order* ¶ 75; 47 C.F.R. § 51.914(b). That is all. The *Order* also affords LECs 45 days to provide this notice. *See supra*. Further, as the Commission indicated in the *Order*, the notice provisions will affect only a “small number of access-stimulating LECs,” *Order* ¶ 116, and at least four of those LECs have already filed notices indicating their exit from the access stimulation business.⁴ In short, the burden imposed by the notice provisions is minimal.

Respectfully submitted,

/s/
Michael J. Hunseder

Keith M. Krom
Gary L. Phillips
David L. Lawson
AT&T Services, Inc.
1120 20th Street NW
Washington, DC 20036
(202) 463-4148

Michael J. Hunseder
Spencer D. Driscoll
SIDLEY AUSTIN LLP
1501 K Street NW
Washington, DC 20005
(202) 736-8000
(202) 736-8711 (fax)

Dated: January 27, 2020

Counsel for AT&T Services, Inc.

⁴ *See* Tekstar Communications, Inc. d/b/a Arvig, Notice of Cease of Access Stimulation (Dec. 11, 2019); Letter from R. Foor, Louisa Communications, to M. Dortch, FCC, WC Docket No. 18-155 (Dec. 27, 2019); Letter from J. Johnson, Goldfield Access Network, to M. Dortch, FCC, WC Docket No. 18-155 (Dec. 26, 2019); Letter from J. Roiland, BTC, Inc. to M. Dortch, FCC, WC Docket No. 18-155 (Dec. 26, 2019).