



FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0411; FR ID 342420]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: 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.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you

should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email PRA@fcc.gov and to nicole.ongele@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418-2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-0411.

Title: Procedures for Formal Complaints.

Form Number: FCC Form 485.

Type of Review: Extension of a currently-approved collection.

Respondents: Individuals or Households, Business or other for-Profit Entities, Not-for-Profit institutions, Federal Government, and State, Local, or Tribal governments.

Number of Respondents and Responses: 2 respondents; 6 responses.

Estimated Time per Response: 1- 68 hours.

Frequency of Response: Recordkeeping requirement, on-occasion reporting requirement, and third-party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151, 154(i), 154(j), 206, 207, 208, 209, 301, 303, 304, 309, 316, 332, and 1302.

Total Annual Burden: 151 hours.

Total Annual Cost: \$39,600.

Needs and Uses: Sections 206-209 of the Communications Act of 1934, as amended (the “Act”), provide the statutory framework for adjudicating formal complaints against common carriers. To resolve complaints between providers regarding compliance with data roaming obligations, Commission Rule 20.12(e) adopts by reference the procedures already in place for resolving Section 208 formal complaints against common carriers, except that the remedy of damages, is not available for complaints against commercial mobile data service providers. Commission Rule 64.6217(c) adopts the procedures already in place for resolving Section 208 formal complaints for the purpose of resolving complaints against programs certified under the National Deaf-Blind Equipment Distribution Program (“NDBEDP”).

Section 208(a) authorizes complaints by any person “complaining of anything done or omitted to be done by any common carrier” subject to the provisions of the Act.

Section 208(a) states that if a carrier does not satisfy a complaint or there appears to be any reasonable ground for investigating the complaint, the Commission shall “investigate the matters complained of in such manner and by such means as it shall deem proper.” Certain categories of complaints are subject to a statutory deadline for resolution. See, e.g., 47 U.S.C. 208(b)(1) (imposing a five-month deadline for complaints challenging the “lawfulness of a charge, classification, regulation, or practice”); 47 U.S.C. 271(d)(6) (imposing a 90-day deadline for complaints alleging that a Bell Operating Company has ceased to meet conditions imposed in connection with approval to provide in-region interLATA services).

Formal complaint proceedings before the Commission are similar to civil litigation in federal district court. In fact, under section 207 of the Act, a party claiming to be damaged by a common carrier may file its complaint with the Commission or in any district court of the United States, “but such person shall not have the right to pursue both such remedies” (47 U.S.C. 207). The Commission has promulgated rules (Formal Complaint Rules) to govern its formal complaint proceedings that are similar in many respects to the Federal Rules of Civil Procedure. See 47 CFR 1.720-1.736. These rules require the submission of information from the parties necessary to create a record on which the Commission can decide complex

legal and factual issues. As described in section 1.720 of the rules, the Commission resolves formal complaint proceedings on a written record consisting of a complaint, answer or response, and joint statement of stipulated facts, disputed facts and key legal issues, along with all associated affidavits, exhibits and other attachments.

This collection of information includes the process for electronically submitting a formal complaint against a common carrier. The Commission uses this information to determine the sufficiency of complaints and to resolve the merits of disputes between the parties. The Commission bases its orders in formal complaint proceedings upon evidence and argument produced by the parties in accordance with the Formal Complaint Rules. If the information were not collected, the Commission would not be able to resolve common carrier-related complaint proceedings, as required by section 208 of the Act.

In addition, the Commission has adopted most of this formal complaint process to govern data roaming complaints. Specifically, the Commission has extended, as applicable, the procedural rules in the Commission's Part I, Subpart E rules, 47 CFR 1.716-1.718, 1.720, 1.721, and 1.723-1.735, to disputes arising out of the data roaming rule contained in 47 CFR 20.12(e).

Further, the Commission has adopted this formal complaint process to govern complaint proceedings against programs certified under the National Deaf-Blind Equipment Distribution Program ("NDBEDP") as authorized by 47 CFR § 64.6217(c).

Therefore, in addition to being necessary to resolve common carrier-related complaint proceedings, this collection of information is also necessary to resolve data roaming-related complaint proceedings.

FEDERAL COMMUNICATIONS COMMISSION.

Marlene Dortch,
Secretary.
Office of the Secretary

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