

Federal Communications Commission.

**Marlene H. Dortch,**

Secretary.

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BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

April 19, 2004.

**SUMMARY:** The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law No. 104-13. An agency 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 Paperwork Reduction Act that does not display a valid control number. Comments are requested concerning (a) 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; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) 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.

**DATES:** Written Paperwork Reduction Act (PRA) comments should be submitted on or before June 29, 2004. 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 Paperwork Reduction Act (PRA) comments to Judith B. Herman, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to [Judith-B.Herman@fcc.gov](mailto:Judith-B.Herman@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection(s), contact Judith

B. Herman at 202-418-0214 or via the Internet at [Judith-B.Herman@fcc.gov](mailto:Judith-B.Herman@fcc.gov).

#### SUPPLEMENTARY INFORMATION:

*OMB Control No.:* 3060-0654.

*Title:* Application for a Multipoint Distribution Service Authorization.

*Form No.:* FCC Form 304.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for-profit.

*Number of Respondents:* 200.

*Estimated Time Per Response:* 1 hour.

*Frequency of Response:* On occasion reporting requirement, third party disclosure requirement and recordkeeping requirement.

*Total Annual Burden:* 200 hours.

*Total Annual Cost:* \$604,000.

*Privacy Act Impact Assessment:* Not applicable.

*Needs and Uses:* FCC Form 304 is used by existing Multipoint Distribution (MDS) operators to modify their stations or to add a signal booster station. It is also used by some winning bidders in the competitive bidding process to propose facilities to provide wireless cable service over any usable MDS channels within their Basic Trading Area (BTA). This collection of information also includes the burden for the technical rules involving the interference or engineering analysis and service requirements under Sections 21.902, 21.913, and 21.938. These analyses will not be submitted with the application but will be retained by the operator and must be made available to the Commission upon request. The data is used by FCC staff to ensure that the applicant is legally, technically and otherwise qualified to become a Commission licensee. MDS/ITFS applicants/licensees will need this information to perform the necessary analyses of the potential for harmful interference to their facility.

The Commission is now revising this form to request additional information to complete the Universal Licensing Service (ULS) data elements since MDS/ITFS has been implemented into ULS. Additional information such as the licensee's email address, fax number, type of applicant, contact's email address and fax number will be added to this form. The Commission is also clarifying data elements, instructions and correction of mailing addresses and Web sites. The increase in the annual cost burden is due to hourly wage and fees within the past three years.

*OMB Control No.:* 3060-0664.

*Title:* Certification of Completion of Construction for Multipoint Distribution Service (MDS) Station.

*Form No.:* FCC Form 304A.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for-profit.

*Number of Respondents:* 200.

*Estimated Time Per Response:* .50 hours.

*Frequency of Response:* On occasion reporting requirement.

*Total Annual Burden:* 100 hours.

*Total Annual Cost:* Not applicable.

*Privacy Act Impact Assessment:* Not applicable.

*Needs and Uses:* FCC Form 304A is used to certify that the facilities authorized in the FCC Form 304 have been completed and that the station is now operational and ready to provide service to the public. Each licensee must specify as a condition that upon the completion of construction, the licensee file with the Commission a FCC Form 304A, certifying that the facilities as authorized have been completed, the station is operational, and ready to provide service to the public. The conditional license shall be automatically forfeited upon the expiration of the construction period specified in the license within five days after the date an FCC Form 304A has been filed with the Commission.

The Commission is now revising FCC Form 304A to request additional information to complete the Universal Licensing System (ULS) data elements since MDS/ITFS has been implemented into ULS. Additional information such as the licensee's email address, fax number, type of applicant, contact's email address and fax number will be added to this collection. The Commission is also clarifying data elements, instructions, and corrections of mailing addresses and Web sites. The decrease in burden hours and costs are due to the decrease in the number of applications estimated to be filed with the Commission.

*OMB Control No.:* 3060-0774.

*Title:* Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Sections 36.611 and 36.612, and Part 54.

*Form No.:* Not applicable.

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

*Respondents:* Business or other for-profit, not for-profit institutions, and state, local or tribal government.

*Number of Respondents:* 5,554,651.

*Estimated Time Per Response:* 20 minutes average response time.

*Frequency of Response:* On occasion, annual, quarterly, and every five year reporting requirements, recordkeeping requirement and third party disclosure requirement.

*Total Annual Burden:* 1,852,590 hours.

*Total Annual Cost:* Not applicable.  
*Privacy Act Impact Assessment:* Not applicable.

*Needs and Uses:* Congress directed the Commission to implement a new set of universal service support mechanisms that are explicit and sufficient to advance the universal service principles enumerated in 47 U.S.C. 254 and other such principles as the Commission believes are necessary and appropriate for the protection of the public interest, convenience and necessity, and are consistent with the Act. Part 54 promulgates the rules and requirements to preserve and advance universal service. The Commission will be submitting this information collection to the OMB as an extension (no change in requirements) in order to obtain the full three year clearance.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

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## FEDERAL COMMUNICATIONS COMMISSION

[CCB/CPD File No. 98-30; DA 04-943]

### Parties Asked To Update Record Regarding Petition for Declaratory Ruling on Interexchange Carrier "Rounding-Up" Practices

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice; solicitation of comments.

**SUMMARY:** In this document, the Commission invites interested parties to update the record pertaining to the petition for declaratory ruling filed by Connie L. Smith (Petitioner) on March 30, 1998. Because the district court has dismissed the underlying litigation, it appears that there no longer is any need for the Commission to respond to the primary jurisdiction referral. The Commission's Wireline Competition Bureau requests, therefore, that interested parties now file a supplemental notice indicating if there are issues that they still wish to be considered. To the extent parties do not indicate an intent to pursue the issues delineated in the petition for declaratory ruling, the Commission will deem the petition withdrawn and will dismiss it.

**DATES:** Comments are due on or before June 1, 2004, and reply comments are due on or before June 14, 2004.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. See

**SUPPLEMENTARY INFORMATION** for filing instructions.

**FOR FURTHER INFORMATION CONTACT:** David Hu, Attorney-Advisor, Wireline Competition Bureau, Pricing Policy Division, (202) 418-1520 or via the Internet at [david.hu@fcc.gov](mailto:david.hu@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Public Notice, CCB/CPD File No. 98-30, released on April 2, 2004. This is a non-docketed proceeding. Therefore, interested parties must file pleadings by paper because electronic filing on the Commission's Electronic Comment Filing System (ECFS) is not available in non-docketed proceedings. When filing comments and reply comments, parties should reference CCB/CPD File No. 98-30, and conform to the filing procedures contained in the Notice. Parties must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Suite TW-A325, Washington, DC 20554. Two (2) copies of the comments and reply comments should also be sent to Steve Morris, Deputy Division Chief, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, SW., Room 5-A121, Washington, DC 20554. Parties shall also serve one copy with Quallex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, (202) 863-2893, or via e-mail to [qualexint@aol.com](mailto:qualexint@aol.com). The original petition for declaratory ruling filed in CCB/CPD File No. 98-30 is available for public inspection and copying during business hours at the FCC Reference

Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The document may also be purchased from Quallex International, telephone (202) 863-2893, facsimile (202) 863-2898.

### Synopsis

1. The Petitioner asked for a declaratory ruling that Sprint Communications Company, L.P. (Sprint) violated the Communications Act by failing to expressly disclose its alleged "rounding-up" practices in its tariff filed with this Commission and/or that Sprint has otherwise failed to adequately disclose its billing practices. The petition stems from a federal district court class action brought by Petitioner against Sprint on June 5, 1996 in the United States District Court for the Northern District of California. Petitioner's complaint in the court proceeding accused Sprint of rounding-up the length of telephone calls to the next full minute, thus billing its customers for an entire minute even when only a fraction of a minute is actually used, without disclosing this practice in its marketing materials, advertisements, phone bills or general business correspondence. The Petitioner asserted that the alleged practice constitutes a cause of action under common law and California law.

2. In its September 13, 1996 decision, the district court dismissed all of the claims presented by the Petitioner except for the claims for injunctive relief under the Consumers Legal Remedies Act and California Civil Code with respect to interstate long-distance service. Specifically, the Petitioner claimed that Sprint engaged in false advertising and unlawful business practices under state law by filing a tariff with the Commission for its interstate residential long-distance service without expressly disclosing that it rounds up to the next full minute. The court found that the Communications Act requires disclosure of carrier billing practices in filed tariffs but was unable to determine whether Sprint's tariff adequately disclosed its billing practices. The court concluded that whether Sprint should have expressly stated in its tariff that it rounds up is a question the Commission would need to address in light of its regulations under the Communications Act. Therefore, relying on the doctrine of primary jurisdiction, the court stayed a decision on Petitioner's claims with respect to interstate residential long-distance service pending referral of the disclosure issue to the Commission. Petitioner subsequently filed the petition for declaratory ruling with the