OMB Approval date: 03/13/2003.
Expiration Date: 03/31/2006.
Title: Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers.
Form No.: FCC–507, FCC–508, FCC–509.
Estimated Annual Burden: 5,555 responses; 31,725 total annual hours; 5.7 hours per respondent.
Needs and Uses: The Commission modified, on its own motion, the data collection and filing procedures for implementation of the Interstate Common Line Support (ICLS) mechanism, in order to ensure timely implementation of the ICLS mechanism on July 1, 2002, as adopted in the MAG Order. The Commission will use the information to determine whether and to what extent non-price cap or rate of return carriers are providing the data eligible to receive universal service support. The tariff data is used to make sure the rates are just and reasonable.

OMB Control No.: 3060–0855.
OMB Approval Date: 04/03/2003.
Expiration Date: 04/30/2006.
Title: Telecommunications Reporting Worksheet, CC Docket No. 96–45.
Form No.: FCC–499–A, FCC–499–Q.
Estimated Annual Burden: 15,500 responses; 164,487 total annual hours; 10.6 hours per respondent.
Needs and Uses: Pursuant to the Communications Act of 1934, as amended, telecommunications carriers (and certain other providers of telecommunications services) must contribute to the support and cost recovery mechanisms for telecommunications relay services, numbering administration, number portability, and universal service. The Commission modified the existing methodology used to assess contributions that carriers make to the federal universal service support mechanisms. The modifications adopted, will entail altering to the current revenue reporting requirements to which interstate telecom. carriers are subject under part 54 of the Commission's rules.

OMB Control No.: 3060–0511.
OMB Approval date: 04/15/2003.
Expiration Date: 04/30/2006.
Title: ARMIS Access Report.
Form No.: FCC–43–04.
Estimated Annual Burden: 84 responses; 13,188 total annual hours; 140.3 hours per respondent.
Needs and Uses: The Access Report is needed to administer the Commission's accounting, jurisdictional separations and access charge rule; to analyze revenue requirements and rates of return, and to collect financial data from Tier 1 incumbent local exchange carriers.

OMB Control No.: 3060–0496.
OMB Approval date: 04/15/2003.
Expiration Date: 04/30/2006.
Title: The ARMIS Operating Data Report.
Form No.: FCC–43–08.
Estimated Annual Burden: 53 responses; 7,367 total annual hours; 139 hours per respondent.
Needs and Uses: The Operating Data Report collects annual statistical data in a consistent format that is essential for the Commission to monitor network growth, usage, and reliability.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–10735 Filed 4–30–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

[Notice 2003–9]

Enforcement Procedures

AGENCY: Federal Election Commission.

ACTION: Notice of public hearing and request for public comment.

SUMMARY: The Federal Election Commission is announcing a public hearing on the enforcement processes of the Federal Election Campaign Act of 1971, as amended (''the FECA'' or ''the Act''), and its implementing regulations. The Commission seeks comments from the public on the FECA's enforcement procedures administered by the Commission.

DATES: Comments must be received on or before May 30, 2003. A public hearing will be held on Wednesday, June 11, 2003, from 10 a.m. to 5 p.m. at the Federal Election Commission, 999 E Street, NW., 9th floor Hearing Room, Washington, DC 20463. Commenters wishing to testify at the hearing must so indicate in their written or electronic comments.

ADDRESSES: All comments should be addressed to Susan L. Lebeaux, Assistant General Counsel, and must be submitted in either written or electronic form. Written comments should be sent to the Federal Election Commission, 999 E Street, NW., Washington, DC 20463. Faxed comments should be sent to (202) 219–3923, with printed copy follow-up to insure legibility. Electronic mail comments should be sent to *enfpro@fec.gov.* Persons sending requests and comments by electronic mail must include their full name, electronic mail address and postal service address within the text of the request or comments. If the electronic comments include an attachment, the attachment must be in the Adobe Acrobat (.pdf) or Microsoft Word (.doc) format. Commenters are strongly encouraged to submit comments electronically to ensure timely receipt and consideration. The Commission will make every effort to post public comments on its Web site within ten business days of the close of the comment period.

FOR FURTHER INFORMATION CONTACT: Susan L. Lebeaux, Assistant General Counsel, Office of General Counsel, or Ruth Heilizer, Staff Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Background and Hearing Goals

The Commission is currently examining its enforcement practices and procedures. The Commission is conducting this review to determine if issues have arisen that require reexamination or adaptation of enforcement practices and procedures. The Commission will use the comments received to determine whether internal directives or practices should be adjusted, and/or whether rulemaking in this area is advised. The Commission has made no decisions in this area, and may choose to take no action.

The Federal Election Act of 1971, as amended, 2 U.S.C. 431 *et seq.* (''FECA'' or ''the Act''), grants to the Commission ''exclusive jurisdiction with respect to civil enforcement'' of the provisions of the Act and Chapters 95 and 96 of Title 26. 2 U.S.C. 437c(b)(1). Enforcement matters come to the Commission through complaints from the public, referrals from the Reports Analysis and Audit Divisions, referrals from other agencies, *sua sponte* submissions, and through agency personnel. Enforcement matters are processed, numbered as Matters Under Review (MURs), and assigned to enforcement attorneys. The Commission investigates MURs pursuant to the compliance procedures set forth at 11 CFR part 111, and various internal directives.

In the course of addressing its administrative obligations, the Commission periodically reviews its programs. For example, the Commission recently reviewed its Alternative Dispute Resolution and Audit procedures and is currently reviewing its Reports Analysis Division procedures. The intent behind this Notice of Inquiry is to examine the

enforcement practices and procedures, many of which have been in place since the Commission was founded; and to give the regulated community and representatives of the public an opportunity to bring general enforcement policy concerns before the Commission.

In inviting a constructive dialogue concerning its enforcement procedures, the Commission asks those who submit comments to be cognizant of the fact that statutory requirements, such as confidentiality and privacy mandates, may be implicated by certain proposals. Thus, the Commission would appreciate if participants would specify in their written remarks whether their proposals are compatible with applicable statutes or would require legislative action.

The Commission would like to see addressed the issues that face counsel who practice before the Commission, complainants and respondents who directly interact with the FEC, witnesses, other third parties, and the general public. The Commission seeks general comments on how the FEC's enforcement procedures have been helpful or unhelpful in working through enforcement cases. The Commission is *not* interested in complaints or compliments about individual FEC employees, but seeks input on structural and policy issues. The Commission would also benefit from hearing about practices and procedures used by other civil law enforcement agencies when acting in a prosecutorial (*i.e.,* non-adjudicative) capacity. For example, do such agencies provide greater or lesser transparency? What opportunities exist for presenting or addressing issues, evidence, or potential claims that might be the basis of a subsequent adjudicative proceeding? The Commission would also be interested in any studies, surveys, research or other empirical data that might support changes in its enforcement procedures.

General Topics for Specific Comments

The Commission welcomes input on any aspect of its enforcement procedures. Among the topics on which the Commission will accept comment are those below. However, the list is not seen as exhaustive and comments are encouraged on other issues as well.

1. Designating Respondents in a Complaint

In addition to respondents named in the complaint, the Commission may designate additional respondents from information ascertained in the normal course of carrying out its supervisory responsibilities. 2 U.S.C. 437(a)(2); 11 CFR 111.8(a). As a simple example, a complaint may allege that a campaign accepted an illegal contribution from Corporation X, but name only the campaign as a respondent. The Commission may add the alleged donor as a respondent. This has been done on a case-by-case basis. In some cases, the Commission has been criticized for designating too many additional respondents who may only have tangential interaction with the allegations in the complaint. At other times, the Commission has been criticized for failing to give early notice and an opportunity to address allegations that give rise to potential liability to persons who may be generated as respondents at the reason to believe stage or after the investigation is underway. The Commission seeks comments as to how the Commission designates respondents. In what circumstances and at what time is it appropriate to designate additional respondents? What criteria should the Commission apply?

2. Confidentiality Advisement

Under 2 U.S.C. 437g(a)(12), an investigation shall not be made public without the consent of the respondents. To ensure the confidentiality of investigations, including the protection of respondents from premature disclosure, Commission staff advises witnesses (usually orally, but sometimes in writing) of this statutory requirement. The Commission has received comments in the past from respondents that this advisement has been interpreted by some third party witnesses (such as vendors) as preventing them from speaking to respondents and thus interfering with the respondent's own investigation of the events in question. *See generally* MUR 4624 Coalition; Carol F. Lee, *The Federal Election Commission, The First Amendment, and Due Process,* 89 Yale L.J. 1199, 1209–1210 (1980). Should the Commission clarify its confidentiality advisement to address this issue? If so, how? What, if any, language should be included in an oral or written advisement to explicitly exclude communications with third party witnesses that are initiated by respondents? Is the Commission obliged to inform witnesses that they can speak to respondents? Is the Commission permitted to identify the respondents so as to convey such permission? Is there a better way in which to ensure confidentiality?

3. Motions Before the Commission

Both complainants' and respondents' attorneys have occasionally put forward motions for the Commission to consider, including motions to dismiss and reconsider. Although neither the FECA nor the Commission's regulations provide for consideration of such motions, and the Administrative Procedure Act, 5 U.S.C. 551 *et seq.* (''APA'') does not require that agencies entertain such motions in nonadjudicative proceedings,[1] the Commission has reviewed these motions on a case-by-case basis. The Commission requests comments on whether procedures for consideration of these motions should be formalized in a rulemaking. If yes, what motions should be considered and what should the time frame be for consideration? Should there be a requirement that in order to trigger the Commission's review, the motion must contain genuinely new material that respondents had no opportunity to present previous to the subject findings? Should the motions be considered even though this would extend the time that a MUR remains active? Should parties be required to toll the statute of limitations for periods in which motions are under consideration by the Commission?

4. Deposition and Document Production Practices

When Commission attorneys take a respondent's sworn testimony at an enforcement deposition authorized by section 437d(a)(4), only the deponent and his or her counsel may attend. The respondent has the right to review and sign the transcript, but normally a respondent is not allowed to obtain a copy of, or take notes on, his or her own transcript until the investigation is complete, *i.e.* after all depositions have been taken.

If the General Counsel decides to recommend that the Commission find probable cause to believe that a respondent has violated the Act, the Act requires that the General Counsel so notify the respondent, and provide a brief on the legal and factual issues in the case. The Act entitles respondents to submit, within 15 days, a brief stating their position on the factual and legal issues of the case. 2 U.S.C. 437g(a)(3). Although nothing in the FECA requires that documents or deposition transcripts be provided to respondents at this stage, respondents are generally provided, upon request, with the documents and depositions of other respondents and third party witnesses that are referred to in the General Counsel's brief.

[1] Note, however, that unless otherwise prohibited by law, it is always within the agency's discretion to afford more procedure than that required by the APA. *Chrysler Corp.* v. *Brown,* 441 U.S. 281 (1979).

Respondents, however, may deem other information that the Commission does not disclose as valuable to the respondents' defense. Note that this practice can cause delay because, upon receiving these documents and depositions, respondents' counsel often seek an extension of time since counsel must submit the reply brief within 15 days of receiving the General Counsel's probable cause brief. Should counsel have access to all documents prior to the probable cause stage?

The Commission's practice in providing depositions and documents to respondents contrasts with the practice of some other civil law enforcement agencies during the investigative stage of their proceedings, in which the only deposition transcript supplied to the respondent is the respondent's own deposition. Further, during the pendancy of an investigation, section 6b of the APA, 5 U.S.C. 555(c), grants investigative agencies the right to deny the request of a witness for copies of transcripts of his or her own testimony based on ''good cause,'' such as concerns that witnesses still to be examined might be coached. *Commercial Capital Corp.* v. *SEC,* 360 F.2d 856, 858 (7th Cir. 1966). On the other hand, it can be suggested the Commission's practice contrasts with procedural rights afforded in litigation matters under the Federal Rules of Civil Procedure, which give litigants the right to attend the depositions of all persons deposed in their case and obtain copies of all deposition transcripts.

The Commission would like comments on whether and when the respective depositions (respondent, other respondents, and witness) should be released and to whom the depositions should be released. Should respondents be allowed full access to the depositions of all other respondents, including those with the same and those with competing interests, prior to the Commission's decision to sue in court? If so, should this occur only at the probable cause stage or at some point during the investigation? If the latter, when? Would full access to the deposition transcripts of all other respondents increase the likelihood of a public disclosure in violation of 2 U.S.C. 437g(a)(12)? If full access were to be granted prior to the probable cause stage, would it compromise the effectiveness of the Commission's investigations? Should respondents be allowed to attend depositions of other respondents, including those with the same and those with competing interests? If so, in what circumstances? One change in practice to make transcripts of a respondent's own testimony more readily available would be for the Office of General Counsel routinely to allow deponent-respondents to procure immediately a copy of their own transcript unless on a case-by-case basis the General Counsel concludes (or the Commission concludes, on the recommendation of the General Counsel) that it is necessary to the successful completion of the investigation to withhold the transcript until completion of the investigation.

Similarly, the Commission seeks comments on whether all relevant documents that would be required to be disclosed in civil litigation pursuant to Federal Rule of Civil Procedure 26(a) should be provided with the probable cause brief. Would it be practical to do so in cases involving voluminous records and multiple respondents? Who should bear the costs of copying documents and ordering deposition transcripts from court reporters? Would providing all such materials and allowing time for their review further delay the submission of responsive briefs? Would doing so compromise investigations? Should this be done on a case-by-case basis? Would some standard other than Rule 26(a) of the Federal Rules of Civil Procedure provide a more workable standard?

The Commission seeks comments on these or other approaches to balancing its need to conduct effective investigations with the interests of respondents seeking to support their positions before the Commission.

5. Extensions of Time

Under what circumstances, if any, should extensions of time be granted to respondents to respond to the probable cause brief? Are there particular situations in which extensions of time should be denied? If extensions are granted, should they be contingent on respondents' agreements to toll the statute of limitations for the extension period?

6. Appearance Before the Commission

Pursuant to the FECA, Respondents are permitted to present their position through written submissions in response to the complaint and the General Counsel's probable cause brief, and may also do so at the reason-to-believe stage pursuant to Commission practice. Neither the FECA nor the APA specifically provide that respondents also be permitted the opportunity to appear and present their positions in person, and the Commission has no procedure allowing such appearances in the context of MURs.[2] The Commission seeks comment on whether respondents should be entitled to appear before the Commission, either *pro se* or through counsel, at the probable cause stage and on motions to quash subpoenas. If so, should appearances be limited to certain types of hearings and cases? If so, what should be the limiting criteria? What should be the scope and form of the personal appearance? Should the Commission be permitted to draw an adverse inference if respondents decline to answer certain questions or do not fully answer them? Allowing counsel to appear would add an additional procedural right, but would also lengthen the enforcement process. How would this additional step be balanced with the timeliness of completing a MUR? Is the Commission justified in prolonging the process? Would this complicate the process or add unnecessary time constraints? What would respondents achieve that they are not already afforded by the statutory process? Would affording the opportunity to appear in person before the Commission at the probable cause stage diminish respondents' interest in conciliating at an earlier stage? Would it place respondents with limited resources, or those located far from Washington, at a comparative disadvantage, and if so, is this a valid reason to restrict personal appearances for all respondents? In cases involving multiple respondents, how would the Commission protect the confidentiality of other respondents also wishing to appear? The Commission would also benefit from hearing about whether other civil law enforcement agencies provide for personal appearances before agency decision-makers.

7. Releasing Documents or Filing Suit Before an Election

The Commission's practice is to release to the public closed enforcement matters in the normal course of business, even if this occurs immediately prior to, or following, an election that may involve one of the respondents in the matter. Upon resolution of an enforcement matter, the Commission could not deny a FOIA request for disclosure of conciliation agreements or other dispositions simply because of the proximity of an upcoming election. Furthermore, the FECA provides for expedited conciliation immediately prior to an election, which allows voters to

[2] However, the Office of General Counsel, which may be recommending action adverse to the respondent, is present to answer questions of law and fact for the Commission.

consider a Commission determination that a campaign has not violated the FECA as alleged in a complaint, or alternatively, that a campaign has accepted responsibility for an election law violation. 2 U.S.C. 437g(a)(4)(A)(ii).

On the other hand, the Commission is sensitive to the fact that releasing documents or filing suit before an election, even when it occurs in the normal course of business, may influence election results. The Commission seeks comment on whether consideration of an upcoming election should or should not be considered when releasing documents. In particular, should the Commission adopt a policy of not releasing outcomes of cases for some period immediately preceding an election? If so, should that policy apply only to violations from a previous cycle? Would such a policy invite respondents to employ dilatory tactics for the apparent purpose of keeping information confidential until the election is over? Should the same considerations apply to when the Commission has completed the administrative process and is prepared to file an enforcement action in federal court? What if the statute of limitations is due to run before or shortly after the election?

8. Public Release of Directives and Guidelines

In an effort to assure greater uniformity in sentencing, the Federal courts in the 1980s adopted sentencing guidelines. Should the Commission make public its penalty guidelines in a similar manner? Do other civil law enforcement agencies do so? If the Commission publishes such guidelines, would they be applicable without exception or with only a few specified exceptions? Should the Commission give up its discretion and flexibility to depart from its guidelines in instances when it feels that fairness or public policy requires another result? Would such guidelines minimize or even eliminate negotiations over what constitutes an appropriate penalty? Are there other directives that should be publicly available, including those pertaining to enforcement procedures? Should more procedural information be available via the Web site and other publications?

9. Timeliness

Though the Commission in recent years has reduced its case backlog, it has still been criticized in some quarters for lack of timeliness. Are there specific practices or procedures that the Commission could implement, consistent with the FECA and the APA, that could reduce the time it takes to process MURs? Does the agency have too few staff assigned to handle its workload? Can the Commission afford respondents with more procedural rights without sacrificing its goal of conducting timely investigations? Should respondents be afforded more process than is required by the FECA or the APA when the likely result will be longer proceedings? How should a respondent's timeliness in responding to discovery requests and subpoenas and orders, or the lack thereof, be weighed in the balance? Has any particular stage of the enforcement procedure been a source of timeliness problems?

10. Prioritization

The Commission has adopted an Enforcement Priority System to focus resources on cases that most warrant enforcement action. Should the Commission give lesser or greater priority to cases that require complex investigations and/or raise issues where there is little consensus about the application of the law—such as coordination, qualified non-profit corporation status, and express advocacy/issue ad analysis? Since cases involving these issues often involve large amounts of spending, and hence large potential violations, should these be the cases given high priority?

11. Memorandum of Understanding With the Department of Justice

The Commission for years has divided responsibility for the enforcement of FECA with the Department of Justice. A 1977 Memorandum of Understanding has dictated that the Department of Justice should handle ''significant and substantial knowing and willful'' violations and the Commission should handle the rest. Is this still a valid demarcation of responsibility? Does anything in BCRA suggest a different approach is appropriate?

12. Dealing With 3–3 Votes at ''Reason To Believe'' Stage

On some occasions the six commissioners split 3–3 on whether to find ''reason to believe'' and hence whether to conduct an investigation of the alleged violations in a complaint. Should the Commission adopt a policy of proceeding with an investigation in such circumstances where the Office of General Counsel has so recommended? Would a legislative change be required to permit an investigation in such circumstances?

13. Other Issues

As noted above, the Commission welcomes comments on other issues relevant to the processing of MURs.

Dated: April 25, 2003.

David M. Mason,

Commissioner, Federal Election Commission.

[FR Doc. 03–10701 Filed 4–30–03; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

[Program Announcement No. AoA–03–03]

Fiscal Year 2003 Program Announcement; Availability of Funds and Notice Regarding Applications

AGENCY: Administration on Aging, HHS.

ACTION: Announcement of availability of funds and request for applications for the Alzheimer's Disease Demonstration Grants to States Program.

SUMMARY: The Administration on Aging announces that under this program announcement it will hold a competition for grant awards for two (2) to three (3) projects at a Federal share of approximately $225,000–$350,000 per year for a project period of three years.

Legislative Authority: The Alzheimer's Disease Demonstration Grants to States Programs (ADDGS) was established under Section 398 of the Public Health Service Act (Pub. L. 78–410) as amended by Public Law 101–157, and by Public Law 105–379, the Health Professions Education Partnerships Act of 1998. (Catalog of Federal Domestic Assistance 93.051).

Purpose of grant awards: The purpose of these projects is to:

1. Develop models of home and community based care for persons with Alzheimer's disease and their families, and

2. Improve the existing home and community based care system to better respond to the needs of persons with dementia and their families, through improving the coordination and integrated access to health and social support services.

Eligibility for grant awards and other requirements: Eligibility for grant awards is limited to state agencies. The thirty-three (33) states currently funded under the Alzheimer's Demonstration Program are not eligible. Only one application per state will be accepted. Applicants must provide a letter from their state's Governor designating the applicant agency as the sole applicant for the state.