

## FCC ANNOUNCES EFFECTIVE DATE FOR CHANGES TO INTERNATIONAL REPORTING REQUIREMENTS, INCLUDING NEW REQUIREMENTS FOR SUBMARINE CABLE OPERATORS AND CAPACITY HOLDERS

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The FCC announced on February 13, 2015 that changes to the FCC's rules regarding reporting requirements for U.S. providers of international telecommunications services and submarine cable operators became effective on February 11, 2015. U.S. providers of international telecommunications services must now file their annual international circuit capacity reports ("CC Reports," due March 31) and their annual traffic and revenue reports ("T&R Reports," due July 31) pursuant to the requirements of section 43.62 of the FCC's rules. Submarine cable operators (regardless of whether they are regulated on a common-carrier or non-common-carrier basis) must now report current and planned capacity on their systems. Common carriers who hold submarine cable capacity on an ownership, IRU, or lease basis must also report on their submarine cable capacity holdings. To assist providers with these new reporting requirements, the FCC also announced the release of a new filing manual covering both reports.

On January 15, 2013, the FCC released an order (the "Order") that made changes to the reporting requirements for U.S. providers of international telecommunications services. Prior to the Order, U.S. providers of international telecommunications services were required to report their annual traffic and revenue pursuant to 47 C.F.R. § 43.61, and to report annually the number of circuits they own or lease and related services under 47 C.F.R. § 43.82. Under the new rules that became effective on February 11, 2015, the two reporting requirements are consolidated under one rule (47 C.F.R. § 43.62). Below, we describe briefly the requirements for the new CC Reports and T&R Reports.

### I. T&R Reports

- **Who must file.** All U.S. international authorization holders—whether or not they provided any services pursuant to those authorizations during the preceding calendar year—and all U.S. providers of international telecommunications services that provided services during the reporting period must file an annual T&R Report pursuant to § 43.62. Note that this includes providers of international VoIP services connected to the public switched telephone network ("PSTN").
- **Relevant Forms.** The FCC has adopted a set of new, simplified forms that 214 licensees should use to report their revenue. The new forms include:
  - A *Registration Form* on which the filer provides basic contact and identification information, lists its 214 authorizations, and provides the officer certification that must accompany all T&R and CC reports.
  - A *Services Checklist* on which the filer notes which services it has provided during the reporting period (International Telecommunications Service; International VoIP Service connected to the PSTN; U.S.- or Foreign-Billed Facilities International

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- Calling Services; Traditional Transiting International Calling Services to foreign carriers; International Private Line Service; or International Miscellaneous Services).
- *Schedules specific to each service.* Which schedules the filer must fill out will depend on what types of services the filer provided during the reporting period. The draft filing manual provides detailed instructions on how to report revenue for particular services, specific to each schedule.
  - **Accounting guidance.** Revenues should be reported on an accrual basis of accounting rather than a cash basis, meaning that the amounts reported should correspond to the value of services provided or obtained during the reporting period, not to the amounts received or paid during the reporting period.

## **II. CC Reports**

- **Who must file.** The following categories of carriers and licensees must file annual CC Reports: (1) Any U.S. international carrier that owned or leased bare capacity on a submarine cable or on a terrestrial or satellite facility between the United States and any foreign point as of December 31 of the reporting period; (2) any person or entity that held a submarine cable landing license on December 31 of the reporting period; (3) cable landing licensees (one licensee per system); and (4) any satellite licensee that is not a U.S. international carrier and that owns circuits between the United States and any foreign point as of December 31 of the reporting period.
- **Submarine Cable Information.** The FCC's new rules and filing manual require two kinds of reports with respect to submarine cable capacity:
  - The *Circuit Capacity Report for Submarine Cable Operators* provides the FCC with circuit capacity information for a whole cable system. The licensees of a submarine cable system extending between the United States and foreign points must select one licensee to report the available capacity of the cable (in Gbps) and the planned capacity of the cable (meaning the intended capacity of the cable two years out from the reporting date, which is December 31 of the prior year). Note that any of the following could be licensees for a particular system: (1) any entity that owns or controls a cable landing station; and (2) all other entities owning or controlling a five percent (5%) or greater interest in the cable system and using the U.S. points of the cable system, 47 C.F.R. § 1.767(h), but only one licensee per cable system must file.
  - The *Circuit Capacity Report for Submarine Cable Capacity Holders* provides the FCC with circuit capacity information for individual licensees. Each individual international carrier—a person/entity in the United States that provides telecommunications services on a common carrier basis between the United States and a foreign point—that owned or leased bare capacity on a submarine cable between the United States and any foreign point and each person/entity that held a submarine cable license on December 31 of the reporting period must provide information about the submarine cable capacity it holds individually. This includes owned capacity, IRU capacity, and inter-carrier leased capacity. This capacity data should be reported in STM-1 units, rounded to one decimal place, and should also be broken out by activated and non-activated capacity.

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- *Relevant Forms.* As with the T&R report, the new CC Report will be filled out using fillable forms or worksheets provided by the FCC. In addition to the two reporting forms described above (for which the FCC's fillable forms list most existing cable systems by region), filers must also fill out the Registration Form.
- ***Satellite Information.***
  - *Common Carriers.* Each individual facilities-based common carrier—a common carrier that holds an ownership, indefeasible-right-of-use, or leasehold interest in bare capacity in the U.S. end of an international facility—must report a world-total count of active (used or leased) international bearer circuits as of December 31 of the reporting period in any terrestrial or satellite transmission facility (reported separately) for the provision of service to an end-user or resale carrier. This includes active circuits used by the common carrier itself and its affiliates. All circuits must be reported as 64 kbps equivalent circuits.
  - *Non-Common Carriers.* Non-common carrier satellite operators must report a world-total count of circuits sold or leased to any customer as of December 31 of the reporting period (other than circuits sold or leased to an international common carrier authorized by the Commission to provide U.S. international common carrier services). This includes circuits used by or leased to the non-common carrier itself and its affiliates. All circuits must be reported as 64 kbps equivalent circuits.

**III. Other Changes of Note and Implications for Quarterly Reporting**

- ***Confidentiality.*** For both reports, filers can now indicate on the Registration Form that they wish the FCC to keep the information submitted confidential. Filers should check the relevant boxes on the registration form with each filing in order to request non-disclosure. Should someone file a request to see a particular filer's data, the filer would then need to justify its request for confidential treatment.
- ***Quarterly reporting implications.*** Note that the rule changes related to annual reporting also have implications for providers that file quarterly reports with the FCC pursuant to 47 C.F.R. § 63.10(c)(4) (regarding quarterly circuit status reports) and 47 C.F.R. § 63.10(c)(2) (regarding quarterly traffic and revenue reports). Providers filing quarterly traffic and revenue reports pursuant to section 63.10(c)(2) must file according to the instructions set forth in FCC's new filing manual for annual T&R Reports. However, the same is not true for quarterly circuit status reports filed pursuant to section 63.10(c)(4), which providers should continue to submit as they have done in the past.

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For more information regarding the FCC's reporting requirements for U.S. providers of international telecommunications services, please contact **Kent Bressie** at +1 202 703 1337 or [kbressie@hwglaw.com](mailto:kbressie@hwglaw.com) or **Brita Strandberg** at +1 202 730 1346 or [bstrandberg@hwglaw.com](mailto:bstrandberg@hwglaw.com).

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