



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <https://www.fcc.gov>
TTY: 1-888-835-5322

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INTERNATIONAL BUREAU RELEASES REVISED FILING MANUAL FOR SECTION 43.82 CIRCUIT CAPACITY REPORTS

Instructions for Filing Cable Operator and Capacity Holder Data

By this Public Notice, we release a revised manual (Filing Manual) for filing the Section 43.82 Circuit Capacity Reports, which consist of submarine cable operator reports and cable capacity holder reports.¹ Filing entities must file capacity data as of December 31, 2018 no later than April 1, 2019.² The International Bureau will release a subsequent Public Notice announcing the opening of the electronic filing window.³ The revised Filing Manual provides instructions on how to file the reports, who must file, which reports to file, the required information, and the filing procedures. Based on questions received from Filing Entities this year, the revised Filing Manual also clarifies the definition of “available capacity” in the submarine cable operator reports.

The Commission collects annual circuit capacity data for U.S.-international submarine cable systems pursuant to Section 43.82 of the Commission’s rules.⁴ In 2017, the Commission streamlined the international reporting requirements and eliminated the traffic and revenue reports and the requirement to file terrestrial and satellite circuit data.⁵ The Commission retained the requirement to file submarine cable operator and capacity holder reports, concluding that the data continue to be “necessary for the Commission to fulfill its statutory obligations.”⁶ The Commission explained that the data are critical for

¹ International Bureau, Filing Manual for Section 43.82 Circuit Capacity Reports (Dec. 2018). The Filing Manual is attached to this Public Notice. The International Bureau has delegated authority to prepare a Filing Manual with instructions on how to file the reports. 47 CFR § 43.82(c).

² The rule requires the Circuit Capacity Reports to be filed by March 31 each year. 47 CFR § 43.82(a). Since March 31, 2019 is a Sunday, the reports are due the next business day, Monday, April 1, 2019. 47 CFR § 1.4.

³ Failure to file timely Section 43.82 reports may subject a Filing Entity to the enforcement provisions of the Communications Act of 1934 and other applicable law and could result in the imposition of forfeitures or other penalties. Inaccurate or untruthful information contained in Section 43.82 reports may lead to prosecution under Section 220(e) of the Communications Act, 47 U.S.C. § 220(e), or the criminal provisions of Title 18 of the United States Code, 18 U.S.C. § 1001.

⁴ 47 CFR § 43.82.

⁵ *Section 43.62 Reporting Requirements for U.S. Providers of International Services; 2016 Biennial Review of Telecommunications Regulations*, IB Docket Nos. 17-55 and 16-131, Report and Order, 32 FCC Rcd 8115 (2017) (*Section 43.62 Report and Order*).

⁶ *Id.* at 8127, para. 24.

analyzing the international transport markets and for national security and public safety responsibilities.⁷ The rule changes went into effect in April 2018.⁸

With the elimination of the traffic and revenue reports and terrestrial and satellite data, the revised Filing Manual includes only the instructions for the Section 43.82 Circuit Capacity Reports.⁹ These instructions clarify the definition of “available capacity” to ensure that the submarine cable operator reports capture all of the capacity of the cable. The term “available capacity” is as follows: “Available capacity, also known as design capacity, is all of the capacity (both lit and unlit capacity) on the cable as of the reporting date (December 31 of the reporting period).”

Cable landing licensees and common carriers must file their Circuit Capacity Reports through the Commission’s Section 43.82 online filing system.¹⁰ Cable landing licensees must file cable operator and capacity holder reports. Common carriers must file capacity holder reports.

For further information, please contact Stacey Ashton, Telecommunications and Analysis Division, International Bureau at Stacey.Ashton@fcc.gov or at (202) 418-2214 or David Krech, Telecommunications and Analysis Division, International Bureau at David.Krech@fcc.gov or at (202) 418-7443.

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⁷ *Id.* at 8128-29, para. 28. Although the circuit data historically had been used for assessing annual regulatory fees, the Commission did not cite this as a reason to maintain the cable operator and capacity holder reports and eliminated the collection of the terrestrial and satellite circuit data since that data was only used for assessing regulatory fees. *Id.* at 8118, 8127, paras. 5, 25, 31.

⁸ Reporting Requirements for U.S. Providers of International Services; 2016 Biennial Review of Telecommunications Regulations, Announcement of Effective Date, 83 Fed. Reg. 17931 (2018).

⁹ The Bureau intends to seek comment on other issues in time for the filing of the December 31, 2019 data on March 31, 2020. These include appropriate changes to allow more than one cable landing licensee per cable to file a cable operator report and other possible changes to the types of capacity holdings in the capacity holder reports. *Section 43.62 Report and Order*, 32 FCC Rcd at 8132, para. 34 (directing the Bureau to consult with stakeholders on such changes to the Filing Manual).

¹⁰ The International Bureau will release a subsequent Public Notice announcing the opening of the electronic filing window.