

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscribership)	WC Docket No. 07-38 IV(B): Broadband Availability Mapping

**REPLY COMMENTS
OF THE
ORGANIZATION FOR THE PROMOTION AND
ADVANCEMENT OF SMALL TELECOMMUNICATIONS COMPANIES
AND THE
WESTERN TELECOMMUNICATIONS ALLIANCE**

I. INTRODUCTION

The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO)¹ and the Western Telecommunications Alliance (WTA)² hereby submit these reply comments in the above-captioned proceeding.³ In addition to serving as ILECs, OPASTCO and WTA members are among the industry leaders in bringing advanced services to consumers in high-cost rural areas,

¹ OPASTCO is a national trade association representing over 600 small incumbent local exchange carriers (ILECs) serving rural areas of the United States. Its members, which include both commercial companies and cooperatives, together serve more than 5.5 million customers. Almost all of OPASTCO's members are rural telephone companies as defined in 47 U.S.C. §153(37).

² WTA is a trade association that represents approximately 250 rural telecommunications carriers operating in the 24 states west of the Mississippi River. Most members serve fewer than 3,000 access lines overall, and fewer than 500 access lines per exchange.

³*Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscribership*, WC 07-38, Report and Order and Further Notice of Proposed Rulemaking, FCC 08-89 (rel. June 12, 2008) (Report and Order, Further Notice).

either through their ILEC operations, competitive local exchange carrier (CLEC) subsidiaries, and/or through Multichannel Video Programming Distributor (MVPD) operations that often offer triple play packages that bundle voice, video and broadband data services. Virtually all members offer broadband Internet access using a variety of delivery mediums and, on average, are able to reach 88 percent of the consumers in their service areas. Over 40 percent offer broadband to all of the consumers in their service areas. Almost 90 percent are able to deliver data speeds of at least one megabit per second (Mbps) in one direction.⁴

OPASTCO and WTA agree that the Commission needs accurate data regarding the availability and penetration of broadband services in order to make informed decisions. However, OPASTCO and WTA share the concerns expressed by many commenting parties regarding the challenges related to determining broadband availability on an address-by-address basis. Prior to gathering data at this granular level, the Commission should first heed the recommendation of the Government Accountability Office (GAO) to learn more about the costs and burdens regarding various options for improving broadband data collections.

II. THE COMMISSION SHOULD HEED GAO'S SUGGESTION TO EXAMINE THE COSTS AND BURDENS ASSOCIATED WITH VARIOUS OPTIONS FOR IMPROVING BROADBAND DATA COLLECTIONS PRIOR TO REACHING ANY CONCLUSIONS

The Further Notice tentatively concludes that the Commission should collect information granular enough to determine broadband availability on an address-by-address basis.⁵ However, as numerous commenters point out, few service providers

⁴ OPASTCO comments, GN Docket No. 07-45 (fil. May 16, 2007), pp. 3-5.

⁵ Further Notice, ¶35.

maintain records in the course of their normal business practices at this level of detail.⁶

As the Commission has recognized earlier in this proceeding, the GAO has suggested that the Commission should “develop information regarding the degree of cost and burden that would be associated with various options for improving the information about broadband deployment.”⁷ Yet the Further Notice provides no information on the burdens the Commission’s tentative conclusion would impose on rural LECs,⁸ nor does it supply any cost projections or estimates for the public to consider and comment upon. Instead, the Further Notice indicates that such facts will be gleaned from the record in this proceeding.⁹

Absent an analysis of the costs and burdens involved, the Further Notice’s tentative conclusion is premature. OPASTCO and WTA agree with the GAO, and urge the Commission to provide cost and burden estimates for various options designed to improve information regarding broadband availability. The public should then be able to comment upon these estimates. Any conclusions should only be reached once key facts on costs and burdens have been collected, and all stakeholders have had an opportunity to

⁶ American Cable Association (ACA), pp. 3-4; AT&T, pp. 7-9; Connected Nation, pp. 9-10, 25-26; CTIA, p. 5; Frontier Communications (Frontier), pp. 2-3; Independent Telephone & Telecommunications Alliance (ITTA), pp. 3-4; Sprint Nextel, pp. 2-3; Windstream Communications, Inc. (Windstream), pp. 2-3.

⁷ *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscribership*, WC Docket No. 07-38, Notice of Proposed Rulemaking, 22 FCC Rcd 7760, 7784, ¶6 (2007) (citations omitted).

⁸ Specific attention should be paid to the burdens on companies with fewer than 25 employees, per the Paperwork Reduction Act (*see*, Further Notice, ¶50). It should be noted that rural LECs have an average of 22 employees (*see*, Telergee Alliance, 2007 Telergee Benchmarking Study, p. 53 (2007)).

⁹ Further Notice, Initial Regulatory Flexibility Analysis, ¶55. As the regulating entity that has tentatively concluded that a more burdensome reporting regime is desirable, it is the Commission’s responsibility to provide cost and burden estimates, and it cannot shift this duty to the public. *See* Reply Comments of the U.S. Small Business Administration Office of Advocacy, *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147 (fil. Jul. 22, 1999), pp. 7-8.

analyze them. The Commission could accomplish this through a Notice of Inquiry or a more specific supplemental Further Notice of Proposed Rulemaking.

Commenters also noted that the Commission has recently obligated carriers to report on broadband services by Census Tract.¹⁰ There has been no opportunity to evaluate how this new requirement will fulfill the Commission's goal of providing more useful data regarding broadband availability.¹¹ Additional reporting requirements should not be imposed upon rural LECs until it can be conclusively demonstrated that Census Tract level reporting is insufficient for the Commission's purposes.

Several commenting parties correctly urged the Commission to consider how any additional data collected would actually be used to help advance broadband deployment, and to balance the expenses involved with the goal of providing additional broadband capability to consumers.¹² More granular data reporting requirements should not force rural LECs to revamp their billing, recordkeeping, and/or customer service systems. This result would undermine, rather than enhance, efforts to improve broadband availability and quality in areas served by rural LECs.

Finally, the Further Notice inquires about the confidentiality of broadband availability data.¹³ Commenting parties have correctly stressed the importance of

¹⁰ Texas Statewide Telephone Cooperative, Inc. (TSTCI), p. 3; Windstream, pp. 5-6; Verizon and Verizon Wireless, pp. 3-5. *See also*, Report and Order, ¶¶14-16.

¹¹ The requirement to report at the Census Tract level represents a significant departure from the business practices of rural LECs. Despite the GAO's suggestion, it was adopted without the benefit of cost estimates or with any clear idea of what the burdens on rural LECs will be. The Commission should provide cost and burden estimates, and the opportunity for the public to comment upon them, prior to implementing any additional reporting requirements for rural LECs.

¹² ACA, p. 6; AT&T, pp. 2-4; CTIA, pp. 5-6; ITTA, pp. 2-3; Sprint Nextel, pp. 2-3; TSTCI, pp. 1-3; Windstream, pp. 2, 5-6.

¹³ Further Notice, ¶35.

confidentiality.¹⁴ Rural LECs, especially those offering voice, video and data services in competition with large national providers, have found predatory pricing to be an all too common occurrence.¹⁵ Predatory pricing drives service providers out of the marketplace, reduces customer choice, and has a chilling effect on network investment. If competitively sensitive data is inadequately protected, rural LECs will be further dissuaded from making new investments in broadband infrastructure.

III. CONCLUSION

The Further Notice's tentative conclusion that the Commission should collect data in such a manner as to determine broadband availability on an address-by-address basis is premature. As the GAO suggested, the Commission should first develop information regarding the degree of costs and burdens that would be associated with various options for improving its information about broadband deployment. No conclusions should be reached until these projections have been made and the public has had an opportunity to comment upon them. Any competitively sensitive data that is ultimately collected must remain confidential to preclude anticompetitive action by large providers, and to preserve the ability of rural LECs to continue investing in broadband infrastructure.

¹⁴ CTIA, pp. 6-7; ITTA, pp. 5-6; National Cable & Telecommunications Association, pp. 6-7; Qwest, pp. 5-6; Sprint Nextel, pp. 4-5; TSTCI, pp. 4-5; Windstream, pp. 6-7.

¹⁵ OPASTCO reply comments, MB Docket No. 06-189 (fil. Dec. 29, 2006), pp. 13-14; OPASTCO reply comments, MB Docket No. 05-255 (fil. Oct. 11, 2005), p. 6.

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August 1, 2008

CERTIFICATE OF SERVICE

I, Stephen Pastorkovich, hereby certify that a copy of the comments by the Organization for the Promotion and Advancement of Small Telecommunications Companies and the Western Telecommunications Alliance was sent by first class United States mail, postage prepaid, or via electronic mail, on this, the 1st day of August 2008, to those listed on the attached sheet.

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