

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

|                                  |   |                      |
|----------------------------------|---|----------------------|
| In the Matter of                 | ) |                      |
|                                  | ) |                      |
| “Need For Speed” Information For | ) | WC Docket No. 09-158 |
| Consumers Of Broadband Services  | ) |                      |

**JOINT COMMENTS OF THE  
ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT OF SMALL  
TELECOMMUNICATIONS COMPANIES,  
THE NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION,  
AND THE WESTERN TELECOMMUNICATIONS ALLIANCE**

**I. INTRODUCTION**

The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO),<sup>1</sup> the National Telecommunications Cooperative Association (NTCA),<sup>2</sup> and the Western Telecommunications Alliance (WTA)<sup>3</sup> hereby submit these comments in the above captioned proceeding.<sup>4</sup> OPASTCO, NTCA, and WTA (collectively “the Associations”) all represent small telecommunications providers situated in rural America. The Associations believe that a voluntary industry “best practice” regarding the presentation of broadband speed information is best suited to facilitate informed consumer choice that keeps pace with technology.

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<sup>1</sup> OPASTCO is a national trade association representing approximately 460 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 3 million customers. All OPASTCO members are rural telephone companies as defined in 47 U.S.C. §153(37).

<sup>2</sup> NTCA represents more than 580 rural rate-of-return regulated telecommunications providers. All of NTCA’s members are full service local exchange carriers and many of its members provide wireless, cable, Internet, satellite, and long distance services to their communities; each member is a “rural telephone company” as defined in the Communications Act of 1934, as amended.

<sup>3</sup> WTA is a trade association that represents approximately 250 rural telephone companies operating west of the Mississippi River. Most members serve fewer than 3,000 access lines overall, and fewer than 500 access lines per exchange.

<sup>4</sup> *Consumer And Governmental Affairs Bureau Seeks Comment On “Need For Speed” Information For Consumers Of Broadband Services*, Public Notice, CG Docket No. 09-158, DA 11-661 (rel. April 11, 2011) (“Public Notice”).

## **II. A VOLUNTARY INDUSTRY-DEVELOPED “BEST PRACTICE” WOULD BE THE MOST EFFECTIVE WAY TO CONVEY RELEVANT BROADBAND SPEED INFORMATION TO CONSUMERS**

The Public Notice asks whether voluntary or mandatory standards, formats or methods would be the most effective way to provide consumers with the information they need regarding broadband performance.<sup>5</sup> Voluntary methods would be most effective, as regulatory mandates are rarely able to keep pace with rapid changes in technological advancements, marketplace demands, and consumer expectations. Broadband Internet access providers will find it in their best interests to disclose this information on a voluntary basis, as those that decline to do so could find themselves at a competitive disadvantage.

The Public Notice also seeks comment on the most important service characteristics that consumers of broadband service need to consider when determining their broadband performance requirements.<sup>6</sup> Although some tend to dismiss or diminish the role of “speed” as an essential metric of broadband performance and consumer expectation, as the title of the Public Notice suggests, data transfer speed is in fact the primary characteristic that consumers will need to consider in order to determine their performance needs. Moreover, download speed may remain the most common and relevant measurement for most purposes, but upload speed may be increasingly important depending on the specific applications that consumers – and businesses in particular – may wish to utilize. While the Public Notice recognizes that other factors, such as latency and jitter can impact broadband performance, these characteristics can fluctuate widely based on a variety of factors such as load on the network. Given current technical limitations, determining a reliable standard of measurement would be difficult at best, much less one that

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<sup>5</sup> Public Notice, p. 3.

<sup>6</sup> *Id.*

could convey useful information to consumers. Therefore, performance measurement information should focus on data transfer speed.

As the Commission is aware, advertised speeds are a representation of the fastest speed that the customer may potentially have access to; they are not a guarantee that such speeds are what the customer will experience at any given time, if at all. Actual data speeds experienced by end-users are highly volatile and are impacted by factors such as the number of users on the network, usage patterns, and how far a customer resides from the service provider's central office or functional equivalent. Furthermore, actual speeds are difficult to measure consistently because they are dependent on not only the factors listed above, but also on customer premises equipment, applications, and other factors within an end-user's location.

Therefore, an industry-developed method should be established for disclosing performance-related information that, to the extent practical, accounts for these multiple variables, while providing consumers with information regarding realistically obtainable download and upload speeds. Once developed, the disclosure of these metrics should be established as a voluntary industry best practice. For example, speed data could be described as the average speed that the customer will be able to experience, based upon the infrastructure and technology in place from the service provider's central office or functional equivalent to the customer's premises, measured at peak versus non-peak times, and with realistic assessments (based upon actual service conditions) as to factors such as oversubscription and the use of shared versus dedicated plant (*e.g.*, Busy Hour Offered Load).

In addition to broadband service providers, content and application providers should also be encouraged to voluntarily report the performance requirements necessary to effectively utilize their service offerings. Content and application providers are the most knowledgeable about

their own offerings and, therefore, are in the best position to report the speeds applicable to their services. Furthermore, as content and application service providers' services are updated, they also will be better positioned to revise their posted requirements in a timely manner.

### **III. CONCLUSION**

The Associations support the Commission's desire to better inform consumers about the performance of their broadband Internet access service and the speed requirements of related applications and services. A voluntary industry "best practice" is the most effective way to educate consumers about network performance because it can most easily keep pace with technological advancements and marketplace demands. Performance metrics should focus on realistically obtainable upload and download speed. In addition to broadband Internet access providers, application and content providers should also be encouraged to report their services' speed requirements.

Respectfully Submitted,



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## **CERTIFICATE OF SERVICE**

I, Adrienne L. Rolls, certify that a copy of the foregoing Comments of the National Telecommunications Cooperative Association in CG Docket No. 09-158, DA 11-661, was served on this 26<sup>th</sup> day of May 2011 via electronic mail to the following persons:

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