

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of )  
 )  
Protecting and Promoting the Open Internet ) GN Docket No. 14-28  
 )

TO: Chief, Consumer and Governmental Affairs Bureau

**COMMENTS  
OF  
WTA – ADVOCATES FOR RURAL BROADBAND**

WTA – Advocates for Rural Broadband (“WTA”) hereby submits its comments with respect to the Consumer and Governmental Affairs Bureau’s *Public Notice* (“Consumer and Governmental Affairs Bureau Seeks Comment on Small Business Exemption from Open Internet Enhanced Transparency Requirements”), DA 15-731, released June 22, 2015. WTA requests that the interim small business exemption from the enhanced transparency requirements be made permanent for providers serving 100,000 or fewer broadband connections.

WTA is a trade association that represents over 280 rural local exchange carriers (“RLECs”) that are generally small companies providing broadband, voice and video services to sparsely populated rural areas. Their primary service areas are comprised of sparsely populated farming and ranching regions, isolated mountain and desert communities, and Native American reservations. They must construct, operate and maintain their networks under conditions of climate and terrain ranging from the deserts of Arizona to the lakes of Minnesota to the wilderness and villages of Alaska, and from the valleys of Oregon to the plains of Indiana to the hills of Tennessee to the mountains of Wyoming. The major common feature of these diverse

areas is that the per-customer costs of constructing, upgrading, operating and maintaining broadband networks in these rural areas are much higher than in urban and suburban America.

WTA and its members support the Commission's goal of protecting and promoting the openness of the Internet. In addition to prohibiting practices such as blocking, throttling and paid prioritization, WTA urges the Commission also to promote Internet openness by ensuring that the customers of RLECs and other small carriers have high quality and affordable access to the Internet. A primary means of accomplishing this latter goal is to encourage and enable rural and other small carriers to invest in the deployment of higher and higher capacity broadband networks that allow their customers to obtain faster and more affordable access to new content, applications and services.

Many WTA members are presently caught in a squeeze between the burgeoning demands of their rural customers for greater and greater broadband speeds vis-à-vis the very limited capital resources they have available for the necessary broadband infrastructure investment. In a world of capped and uncertain universal service support and stagnant or declining voice and video service returns, WTA members are struggling to extend and upgrade their broadband networks as much as possible to provide the increased bandwidth and speeds needed and demanded by their rural customers. The last thing that they need at present is more regulatory and reporting requirements to drain away scarce financial resources that are urgently needed for broadband investment and upgrades.<sup>1</sup>

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<sup>1</sup> One WTA member RLEC serving less than 1,500 access lines reports that it was required to make 102 federal and state regulatory filings during 2014 (56 to the Commission and/or the Universal Service Administrative Company, 18 to the National Exchange Carrier Association, and 28 to its state public utilities commission. Of these filings, 26 required the participation of paid consultants, while the remaining 76 were prepared and filed by in-house personnel. Overall, the RLEC calculates that it spent \$259,797 in consulting fees and allocated employee compensation on these filings.

In light of these urgent broadband investment priorities, WTA opposed the Commission's initially proposed enhanced transparency requirements because any theoretical informational benefits they might offer to customers and edge providers in RLEC service areas were significantly outweighed by the major drain they would impose upon RLEC financial and staff resources that are urgently needed to invest in broadband infrastructure and to deploy new Internet Protocol services.<sup>2</sup> Subsequently, WTA supported an exemption of small providers from the enhanced transparency requirements.<sup>3</sup> WTA indicated that its members had supported and complied with the Commission's 2010 transparency rule, and that their Internet access service operations had posted on their websites or otherwise publicly disclosed the network management practices, performance and commercial terms of their Internet access services so that their customers and edge providers could make informed choices regarding their use of such services.

WTA noted then (and it remains true today) that its members are generally locally owned and/or managed, and that their managers and employees frequently live in the same rural communities as their customers and have regular contact with their customers as they go about their day-to-day activities both during and after business hours. These constant customer interactions enable WTA members to find out quickly and directly from their customers if there have been reliability, congestion, quality or other problems with their Internet access and other services. If relatives, friends and neighbors are complaining about Internet service issues, WTA members have more than adequate incentives to investigate and address such problems expeditiously.

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<sup>2</sup> See Comments of WTA – Advocates for Rural Broadband, GN Docket No. 14-28 (July 17, 2014), at pp. 7-9.

<sup>3</sup> See, e.g., Letter by Gerard J. Duffy, WTA Regulatory Counsel, to Marlene H. Dortch, Secretary, GN Docket No. 14-28 and WC Docket No. 06-122 (January 23, 2015).

On the other hand, WTA was not then aware (and such remains the case today) of any reported instances of inquiries by content, application, service or device providers to its members regarding their posted network management practices, performance and commercial terms. The likely explanation for this absence of inquiries is that virtually all edge providers are focused upon larger markets, and have not yet explored (and may never devote much effort to exploring) the use of the services of WTA members and other small providers in limited rural markets.

WTA recognizes that many of the proposed enhanced transparency requirements to which it originally objected were not ultimately adopted by the Commission. Moreover, WTA does not object to disclosures to customers of commercial terms for prices, other fees, and data caps and allowances for broadband Internet access services. WTA members and other RLECs have long been accustomed to providing actual and potential customers with detailed tariffs and price lists setting forth the prices, fees, and other terms and conditions of their services. This pricing information can and should be deemed to be required under the 2010 transparency rules as information “sufficient for consumers to make informed choices” rather than treated as an enhanced transparency requirement. As a clarified 2010 requirement, WTA members and their Internet affiliates do not object to providing these commercial terms to their customers.

However, the enhanced performance characteristic requirements and the enhanced network practices requirements pose problems for RLECs and other small providers. For example, WTA members do not understand how or why they would calculate “packet loss” on their broadband networks or what value these calculations would have for either their customers or edge providers. WTA understands that most data communications originating or terminating on the broadband networks of its members terminate or originate on the networks of unrelated carriers, often passing through multiple routers and lengthy middle mile facilities operated by

other entities. WTA believes that the only packet loss data that might be relevant to customers and edge providers is packet loss information along the entire route of a message. However, WTA is well aware that neither its members nor most other broadband providers have the capability to measure packet loss on the other side of their points of interconnection with adjacent networks. Measuring “intra-network” packet loss on rural broadband networks is likely to constitute a futile endeavor that would not provide information of significant value to customers or edge providers, while involving significant effort and expense for the rural providers.<sup>4</sup>

Similarly, monitoring and reporting network performance during peak usage periods in sparsely populated rural service areas is unlikely to create value that exceeds its costs. Moreover, even in some rural areas, there may be more than one peak usage period – for example, in some areas, peak usage periods may differ somewhat between towns and outlying areas. While the differences may not be huge, the time and resources of a small rural broadband provider’s limited staff are not likely to be efficiently and effectively used to monitor multiple sets of usage patterns during different peak periods – for example, a peak period for several thousand town customers (*e.g.*, 7-to-10 PM) and a separate and slightly different peak period for several thousand customers in outlying areas (*e.g.*, 6-to-9 PM). This is particularly true if there is no significant demand by customers or edge providers for usage pattern information for small groups of rural customers.

Finally, detailed disclosures of network practices addressing traffic associated with a particular user or user group (including the purposes of the practice, which users or data plans

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<sup>4</sup> WTA would also point out that certain broadband network designs involve trade-offs between packet loss and transmission speeds, and that packet loss varies substantially in importance with respect to different types of communications (for example, a missing number may significantly change the meaning of a message, while a missing word or letter may be readily spotted and corrected).

may be affected, the triggers that activate use of the practice, the types of traffic that are subject to the practice, and the likely effects of the practice on the experiences of end users) will require small broadband providers to expend substantial scarce resources on attorneys and consultants. During the immediately foreseeable future, the relevant network practices are likely to involve the streaming of video, but few small providers have the expertise, for example, to accurately describe in detail the likely effects of a particular practice on the experience of end users, or to devise activating triggers that will be certain to be deemed lawful by the Commission. Rather, such small providers will need to spend tens or hundreds of thousands of precious dollars on lawyers and consultants to develop and describe such network practices – dollars that would be much better spent extending and upgrading their broadband networks to meet growing consumer demand.

WTA re-emphasizes that during a period when the broadband infrastructure investment needs of RLECs are increasing while critical high-cost support is limited and intercarrier compensation revenues are decreasing by five percent per year, the Commission should minimize the regulatory and reporting costs of high-cost support recipients as much as practicable to ensure that as much support as possible goes directly to the improvement of the intended facilities and services rather than towards complying with additional administrative requirements that are unlikely to provide additional value or benefit to rural broadband consumers.

Therefore, WTA strongly urges the Commission to permanently exempt RLECs, their Internet service provider affiliates and other similarly situated small entities serving 100,000 or fewer broadband connections from its enhanced transparency requirements and instead leave them subject only to the existing 2010 transparency requirements.

Respectfully submitted,



By: /s/ Derrick B. Owens  
Derrick B. Owens  
Vice President of Government Affairs

By: /s/ Gerard J. Duffy  
Gerard J. Duffy  
Regulatory Counsel

WTA -- Advocates for Rural Broadband  
317 Massachusetts Ave., NE (Suite 300C)  
Washington, DC 20002  
Phone: (202) 548-0202  
Email: [derrick@w-t-a.org](mailto:derrick@w-t-a.org)

Blooston, Mordkofsky, Dickens, Duffy &  
Prendergast, LLP  
2120 L Street, NW (Suite 300)  
Washington, DC 20037  
Phone: (202) 659-0830  
Email: [gjd@bloostonlaw.com](mailto:gjd@bloostonlaw.com)

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