

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Establishing the Digital Opportunity Data Collection)	WC Docket No. 19-195
)	
Modernizing the FCC Form 477 Data Program)	WC Docket No. 11-10
)	

**REPLY OF
NTCA–THE RURAL BROADBAND ASSOCIATION**

NTCA–The Rural Broadband Association (“NTCA”)¹ hereby submits this reply to oppositions to the INCOMPAS Petition for Reconsideration (“Petition”)² with respect to the Report and Order (“Report and Order”) issued by the Federal Communications Commission (the “Commission”) in the above-referenced proceedings.³ In particular, when it comes to identifying deployment specifically, NTCA agrees with INCOMPAS that “only broadband providers using their own last-mile facilities to provide broadband service be required to file polygons of their service areas.”⁴ Grant of the INCOMPAS Petition is necessary to ensure that the Digital Opportunity Data Collection (“DODC”) draws the proper distinction between broadband “deployment” versus “subscription,” such that sound policy decisions can then be made and broadband-oriented funding also properly targeted based upon such data.

¹ NTCA is an industry association composed of approximately 850 rural local exchange carriers. While these entities were traditional rate-of-return-regulated telecommunications companies and “rural telephone companies” as defined in the Communications Act of 1934, as amended, all of NTCA’s members today provide a mix of advanced telecommunications and broadband services.

² INCOMPAS, Petition for Reconsideration, WC Docket Nos. 19-195 & 11-10 (fil. Sep. 23, 2019) (“Petition”).

³ *Establishing the Digital Opportunity Data Collection*, WC Docket No. 19-195, *Modernizing the FCC Form 477 Data Program*, WC Docket No. 11-10, Report and Order and Second Further Notice of Proposed Rulemaking, FCC 19-79 (rel. Aug. 6, 2019) (“Report and Order”).

⁴ Petition, p. 1.

The INCOMPAS Petition rightly highlights the importance of distinguishing properly between “deployment” and “subscription,” and the Commission should endeavor to keep those lines distinct lest it open to the door to confusion and the potential for serious negative policy implications. More specifically, including providers that have not deployed a network in a given area or to a given location – and that have no ability whatsoever to deliver broadband service there without reliance on another entity’s deployment – within overall depictions of deployment will provide the Commission and other stakeholders with an inaccurate understanding of “where broadband is and where it is not.” Put another way, incorporating such providers’ services will inevitably yield “false positives” of network deployment by multiple providers when, in fact, the only actual deployment in the area or to the location in question is by a single underlying provider.

This is hardly a theoretical question or concern. In fact, it portends very real consequences in the context of universal service policy – and particularly for purposes of the Commission’s “competitive overlap” determinations.⁵ If this rule were to hold and if a competitor were deemed to have deployed a network merely by virtue of fact of leasing someone else’s network, an area could appear “served” by one or more unsubsidized competitors despite the fact that the purported “competitive” providers do nothing more than rely upon the underlying network of an eligible telecommunications carrier that is supported by (and only exists in the first instance due to) the High-Cost Universal Service program. Without more careful stock taken of what it means to “deploy,” high-cost support could be reduced or removed – putting at risk the existence of the very network that the “reseller” needed to show

⁵ *Connect America Fund*, WC Docket No. 10-90, et al., Report and Order, Further Notice of Proposed Rulemaking, and Order on Reconsideration, FCC 18-176 (rel. December 13, 2018), ¶¶ 184-199; *Connect America Fund*, WC Docket No. 10-90, et al., FCC 16-33 (rel. Mar. 20, 2016), ¶¶ 364-368.

deployment. As the “reseller” in this instance does not have facilities of its own, its fictional “deployment” does nothing to offer the subscribers in that area an alternative to the supported network, and the reduction or loss of support in that area due merely to the leasing of the supported network by a competitive operator would be flatly contrary to both the Commission’s universal service goals and even the DODC’s goal of enabling the Commission to “[e]ffectively target[] federal and state spending efforts to bring broadband to those areas most in need.”⁶

To be sure, the Commission has a great interest in collecting subscription data via Form 477, and it is logical to ensure that those providers leasing last-mile facilities from underlying network operators submit such data. But gathering deployment data from such providers as well will yield no useful information as to where networks are being built and connected; to the contrary, such data will only confuse accurate depictions of deployment at best and, at worst, could undermine other important goals of the Commission. At a minimum, even if such deployment data are gathered, the Commission must clarify that such providers will not then be considered “unsubsidized competitors” for purposes of universal service policy.



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⁶ *Report and Order*, ¶ 1.