

**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 COMMENTS  
of  
NTCA–THE RURAL BROADBAND ASSOCIATION**

NTCA–The Rural Broadband Association (“NTCA”)<sup>1</sup> hereby submits these reply comments to discuss the record in response to the Third Further Notice of Proposed Rulemaking (“*Further Notice*”) issued by the Federal Communications Commission (“Commission”) in the above-captioned proceedings.<sup>2</sup> The *Further Notice* seeks comment on ways to pursue greater accuracy and consistency in mapping data submitted by providers through the Digital Opportunity Data Collection (“DODC”). NTCA reiterates herein several suggestions made in initial comments for building upon the important steps taken by the Commission in its July 2020 *Second Report and Order*. In particular, NTCA discusses how a challenge process to refine baseline mapping data prior to use in significant policy or funding decisions will minimize the burden on all parties involved while still ensuring that DODC-produced maps are as accurate as possible. NTCA further addresses the need for reporting standards for satellite broadband providers, to ensure that the Commission’s efforts to make mapping data more accurate are not

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<sup>1</sup> NTCA represents approximately 850 rural local exchange carriers (“RLECs”). All of NTCA’s members are voice and broadband providers, and many of its members provide wireless, video, and other competitive services to their communities.  
<sup>2</sup> *Establishing the Digital Opportunity Data Collection*, WC Docket No. 19-195, *Modernizing the FCC Form 477 Data Program*, WC Docket No. 11-10, *Second Report and Order* and *Third Further Notice of Proposed Rulemaking*, FCC 20-94 (rel. Jul. 17, 2020) (“*Second Report and Order*” or “*Further Notice*”).

severely undermined by allowing one type of provider to continue projecting theoretical coverage claims. Finally, NTCA discusses its proposal for the submission of “business-only” broadband data.

**I. THE RECORD SUPPORTS THE USE OF THE CHALLENGE PROCESS AS A REFINEMENT OF MAPPING DATA PRIOR TO ITS USE IN POLICY OR FUNDING DECISIONS; SUCH A PROCESS WOULD BE THE MOST EFFICIENT METHOD OF PROVIDING POLICYMAKERS THE ACCURATE DATA NEEDED FOR SUCH DECISIONS, WOULD MINIMIZE THE BURDEN THAT THE DODC WILL IMPOSE ON ALL PARTIES INVOLVED, AND IS FULLY CONSISTENT WITH THE VISION ARTICULATED BY CONGRESS IN THE BROADBAND DATA ACT.**

Most parties commenting on the *Further Notice* support the use of a robust, but at the same time, user-friendly challenge process to ensure that mapping data as initially submitted by providers is verified. When discussing the process, many parties focus on the need to establish a challenge process that is not overly burdensome to providers, and commenters further endorse the same consideration being applied to the other verification processes (*i.e.*, crowdsourced data and third-party submission of mapping data) that will also serve to promote the accuracy of DODC-produced maps as contemplated by the Broadband DATA Act.<sup>3</sup> Each of these processes has an important role to play, but they must be coordinated carefully and sequenced thoughtfully both to maximize the benefits of using them and to minimize the potential for duplication or burden in administering them.

Ultimately, if structured properly – and if crowdsourcing and third-party mapping processes are carefully calibrated as well as discussed below – the challenge process should be

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<sup>3</sup> Comments of ACA Connects, WC Docket Nos. 19-195 & 11-10 (fil. Sep. 8, 2020), pp. 7-14; Comments of AT&T, WC Docket Nos. 19-195 & 11-10 (fil. Sep. 8, 2020), pp. 11-14; Comments of CTIA, WC Docket Nos. 19-195 & 11-10 (fil. Sep. 8, 2020), p. 17; Comments of USTelecom/WISPA, WC Docket Nos. 19-195 & 11-10 (fil. Sep. 8, 2020), pp. 9-16; Comments of Verizon, WC Docket Nos. 19-195 & 11-10 (fil. Sep. 8, 2020), p. 17; Comments of NCTA – The Internet & Television Association, WC Docket Nos. 19-195 & 11-10 (fil. Sep. 8, 2020) (“NCTA”), p. 5.

minimally burdensome. In fact, the Commission has already taken important steps to minimize the potential burden of any challenge process by adopting reporting standards that should produce far more accurate data in the first instance than current Form 477 rules that essentially allow providers to self-define “availability.” Indeed, as the parties using crowdsourcing and third-party submission of data processes refine maps following providers’ initial filings into the DODC, maps should improve even further as gaps are flagged and corrected. Put simply, with better data upfront through standards and these other validation processes, the circumstances under which a challenge should then be necessary to correct that data prior to use in policy or funding decisions should be fewer and much farther between than was the experience in the past when working from maps based upon the current census block-based Form 477 structure. They will also encompass much smaller geographic areas than before given the focus of reporting on locations rather than census blocks, such that any lingering disputes and disagreements regarding coverage will be much narrower and more focused.

With respect to the processes for crowdsourcing and third-party submission of data in the wake of initial provider filings, the record supports guardrails around these two processes as necessary to not only reduce the burden they could impose on the Commission and providers, but also to make them as *effective* as possible. Specifically, like NTCA, Verizon and NCTA recognize that<sup>4</sup> the *Further Notice* proposal to accept mapping data only from an entity that “specializes in gathering and/or analyzing such data”<sup>5</sup> and that employs “a sound and reliable methodology,”<sup>6</sup> along with enabling the Commission to “in its discretion determines that the data

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<sup>4</sup> Verizon, pp. 15-17. *See also*. NCTA, p. 5.

<sup>5</sup> *Further Notice*, ¶ 116.

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

would make the coverage maps... more accurate”<sup>7</sup> will ensure this data truly improves the accuracy of any DODC-produced maps. Moreover, certain guardrails around crowdsourced data – requiring that it be produced via commonly-used testing applications, via “hard-wired” router connections only (not over Wi-Fi), and that data once submitted is used as “heat maps” to detect trends rather than requiring individual responses to and resolution of each report<sup>8</sup> – will ensure such data submissions catch actual gaps/mistakes in coverage depictions and do not force the Commission and providers to chase down the source of hundreds of thousands of complaints many of which may be tied to improperly functioning consumer-owned devices. Moreover, this will also produce better data – and this better data will, again, flag and correct true gaps/mistakes in coverage depictions and in the end reduce the number of challenges that will be filed once the Commission is poised to use DODC-produced maps for a specific purpose.

The Broadband DATA Act contemplates precisely this sort of structure: (1) providers submitting data initially pursuant to better defined standards on a more granular basis; (2) ongoing use of third-party submission of data and crowdsourcing to refine providers’ initial filings; and (3) specific use of challenge processes to validate that data are accurate and current prior to their use in significant policy or funding decisions. Specifically, with respect to challenge processes, Section 642(b)(5)(B)(i)(iv) expressly directs the Commission to consider “the costs to consumers and providers resulting from a misallocation of funds because of a reliance on outdated or otherwise inaccurate information in the coverage maps.”<sup>9</sup> Elsewhere, the Broadband DATA Act indicates that the crowdsourcing process is one “through which entities or

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<sup>7</sup> *Id.*

<sup>8</sup> ACA Connects similarly argues that “providers should not be required to file a corrected DODC report each time a crowdsourced submission identifies a potential broadband data issue in the absence of a specific Commission Inquiry.” ACA, p. 23.

<sup>9</sup> 47 U.S.C. § 642(b)(5)(B)(i)(iv).

individuals . . . may submit specific information about the deployment and availability of broadband Internet access service . . . on an *ongoing basis* so that the information may be used to verify and supplement information submitted by providers . . . for inclusion in the [broadband coverage] maps.”<sup>10</sup> These two statutory provisions, taken together, indicate that Congress understood the need for an ongoing refinement of maps – through processes intended to “keep providers honest” – with a final “once-over” of mapping data through a challenge process just prior to its use for a specific purpose. The challenge process as proposed herein, if paired with the proper calibration of crowdsourcing and third-party mapping submissions, fulfills the wishes of Congress, minimizes the burden on providers and the Commission and produces the most accurate maps possible.

**II. THE COMMISSION HAS TAKEN IMPORTANT STEPS TO TAKE BROADBAND MAPPING FROM THE THEORETICAL TO THE ACTUAL; IT SHOULD ENSURE THAT PROVIDERS OF ALL KINDS REPORT ACTUAL RATHER THAN THEORETICAL COVERAGE THROUGH WELL-DEFINED TECHNICAL STANDARDS.**

Current FCC Form 477 data has suffered from the fact that it effectively leaves it to each provider to determine for itself how “accurate” its mapping claims should be. As NTCA has previously noted in this proceeding, if a provider merely advertises its ability to offer, for example, 25 Mbps across a wide swath of rural areas – even if it has neither tested nor vetted the actual reach and limits of using those technologies to reach specific locations or its capability to serve all of the locations in that area – that alone is technically sufficient to justify a report of availability on today’s Form 477. Ultimately, all that matters for purposes of current Form 477 reporting is that the provider’s marketing department *believes* that service *could be* provisioned to a customer within a given area and that the provider’s systems then reflect that purported

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<sup>10</sup> *Second Report and Order*, ¶ 62, citing 47 U.S.C. §§ 642(a)(1)(B)(iv), 644(b)(1) (emphasis added).

capability. Put another way, *a provider's theoretical ability to offer broadband to a wide swath of geography is all that matters, even if service is not actually available to each and every individual would-be subscriber.*

Fortunately, the Commission – as well as Congress – have made the considered determination to move beyond the theoretical. The Commission has put this commitment to the actual into action via reporting standards applicable to all fixed terrestrial providers<sup>11</sup> – as NTCA stated in initial comments, these standards, at their core, reflect the ability of various technologies to actually deliver service to every would-be subscriber within a claimed coverage area.

Despite the monumental steps forward the Commission has already taken to move broadband maps from the theoretical to the actual, there are some who seek to cling to the theoretical and overly broad, denying the need for well-thought standards for all reporting entities. Specifically, Hughes argues that current Form 477 – which enables a provider to label an entire census block as “served” even if only one actual customer can in theory be served based upon marketing determinations – produces an “accurate” depiction of coverage.<sup>12</sup> In short, Hughes seeks to perpetuate for satellite providers the ability to report theoretical claims that *any* customer in a census block can be served even if reasonable standards would show that the provider is not capable of serving *every* customer in that block simultaneously. Consumers depicted as “served” by satellite providers’ depictions of nationwide coverage but unable to actually obtain service will not be comforted by the knowledge that the Commission’s mapping

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<sup>11</sup> *Second Report and Order*, ¶¶ 12-32.

<sup>12</sup> Comments of Hughes Network Systems, WC Docket Nos. 19-195, 11-10 (fil. Sep. 8, 2020), p. 4.

rules limited the burden on the provider<sup>13</sup> that claims to serve them but actually cannot do so. More importantly, that consumer will, rightfully, be much more aggrieved once funding is directed to another area based upon a perpetuation of the very kinds of flaws that the Broadband DATA Act and the Commission’s own actions have sought to remedy.

Moreover, if satellite networks “like all broadband networks . . . are engineered to satisfy demand,”<sup>14</sup> as Hughes claims, one must wonder why the adoption of standards to confirm that are so problematic and concerning to Hughes. Indeed, Hughes fails to make any case as to why translating this engineering into coverage claims and based on Commission established reporting standards would be more burdensome for satellite providers as compared to every other provider. The Commission has struck a careful balance in applying reporting standards to terrestrial providers that are designed to drive accurate depictions of coverage while minimizing unreasonable burdens. Providing satellite providers with a pass on compliance with comparable standards would only inject the same flaws into the DODC that the Commission and Congress have long sought to eliminate.

### **III. ONLY THOSE ENTITIES SERVING BUSINESS CUSTOMERS EXCLUSIVELY AND ESCHEWING THE RESIDENTIAL MARKET SHOULD BE SUBJECT TO “BUSINESS-ONLY” BROADBAND REPORTING.**

The Commission should adopt the *Further Notice* proposal for “business-only” providers’ submission of coverage polygons reflecting their service offerings. In supporting the proposal for “business-only” providers’ submission of coverage polygons, NTCA seeks to avoid the pitfalls that could emerge with an improperly comingled “business-and-residential”<sup>15</sup> data set

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<sup>13</sup> *Id.* (arguing that “there is no basis that demonstrates that additional data are needed ‘to more reasonably represent satellite broadband deployment’” and that “the reporting of additional information related to satellite broadband availability also would create an unnecessary administrative burden.”) (internal citations omitted).

<sup>14</sup> *Id.*

<sup>15</sup> *Further Notice*, ¶ 90.

– specifically, to the extent entities choosing to offer service *only* to business customers while eschewing the residential market report under such a category, a coverage polygon indicating that “all locations” within it are served would depict service available to households that are in fact not served. Funding decisions made on such inaccurate depictions of broadband availability would harm the residential consumers in that area that may be unserved but not depicted as such on a commingled coverage polygon. It would also defeat the purpose of developing standards to promote more accurate maps and then refining them through multiple processes as discussed above. Thus, to be clear, NTCA proposes that *only* those entities offering service to business customers exclusively be required to report that kind of coverage through “business-only” polygons. By contrast, providers making their service available to residential and business customers alike would submit one polygon reflecting coverage for *both* kinds of service in a given area. For such providers offering both kinds of service in an area, it would be overly burdensome and redundant to compel them to produce separate polygons for business and residential locations.

In addition, as NTCA stated in initial comments, it is important that the Commission gather additional data on the availability of broadband service to anchor institutions. The *Further Notice* correctly notes that the Broadband DATA Act “focuses on restricting subsidies to unserved areas and avoiding wasteful,”<sup>16</sup> and NTCA believes that the availability of business-only deployment data would be critical for proper targeting of E-Rate or Rural Health Care funding and thus would advance the goals set forth in the statute.<sup>17</sup> Thus, mapping data submissions from both “business-only” providers as well as “residential-business” providers as

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<sup>16</sup> *Id.*

<sup>17</sup> *Id.*



discussed above should also indicate if coverage polygons reflecting their service offerings include service offered to anchor institutions. Data collected via the DODC should be leveraged to the fullest extent possible, and mapping data should give the Commission (and any other agency that will inevitably look to these maps), the tools necessary for the proper “targeting” of limited state or federal funding resources.<sup>18</sup>

#### **IV. CONCLUSION**

For all of the reasons discussed above, the Commission should adopt a robust challenge process as contemplated by the Broadband DATA Act to help refine mapping data prior to its use in significant policy or funding decisions. The Commission should also take steps to properly calibrate other verification processes to ensure they are not overly burdensome for providers or agency staff and elicit useful data. In addition, reporting standards for satellite providers should be adopted that reflect their true capabilities (just as has been done already for all other providers), and the DODC should collect data from business-only providers as along with data on the availability of service to anchor institutions.

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<sup>18</sup> Comments of the Texas Carriers, WC Docket Nos. 19-195, 11-10 (fil. Sep. 8, 2020), p. 1 (“Collecting business-only data can assist the Commission and USAC in understanding which schools, libraries and hospitals are served and targeting finite E-Rate and RHC USF funds to bring broadband to the schools, libraries that desperately need it.”).

Respectfully submitted,



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