



October 30, 2020

***Ex Parte* Letter**

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
45 L Street NE  
Washington, DC 20554

**Re: Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans In a Reasonable and Timely Fashion, WC Docket No. 20-269  
Establishing the Digital Opportunity Data Collection, WC Docket No. 19-195  
Modernizing the FCC Form 477 Data Program, WC Docket No. 11-10**

Dear Ms. Dortch:

NTCA–The Rural Broadband Association (“NTCA”)<sup>1</sup> hereby submits this letter to respond to issues raised by Hughes Network Systems, LLC (“Hughes”) in the above-referenced proceedings.<sup>2</sup> Specifically, NTCA herein urges the Federal Communications Commission (the “Commission”) to ensure meaningful accountability for coverage claims and focus on ensuring that the Digital Opportunity Data Collection (“DODC”) and forthcoming Section 706 reports at all times provide a complete and accurate view of the state of broadband availability.

Hughes’ recent arguments can be distilled down to the following – it would like the ability for a satellite provider to report that it can in theory serve *anyone* in a given area even if it knows it lacks the technical capability to serve *everyone* in a given area. Put another way, Hughes effectively admits in its correspondence that satellite services could not accommodate orders from “too many” users in a given area, but it nonetheless wants satellite providers to be able to claim an area as served simply because the provider *could* take an order from someone in that area. Such claims of coverage based upon the hope and expectation that not every potential customer will subscribe fly in the face of the fundamental objective of universal service and would fail to provide a realistic account of the advancement of broadband in the United States.

In both its most recent 706 letter and in the DODC proceeding as well, Hughes has argued against the imposition of detailed technical standards for its coverage claims, asserting broadly that “satellite networks—like all communications networks—are designed to meet reasonable expectations about demand.”<sup>3</sup> Yet, at a minimum, expectations about demand (or expected “take

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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> *Ex Parte* Letter from Hughes Network Systems, LLC (“Hughes”) to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 20-269 (fil. Oct. 22, 2020) (“Hughes 706 letter”).

<sup>3</sup> Hughes 706 letter, p. 3; Comments of Hughes Network Systems, LLC, GN Docket No. 20-269 (fil. Sep. 18, 2020), p. 4.

rates”) must necessarily be incorporated into coverage claims that form the basis of DODC-produced maps that then, in turn, inform the Section 706 report. Otherwise, a Section 706 report that relies upon DODC maps and – as Hughes requests – reflects that “satellite broadband providers are able to provide service to virtually any consumer in their stated service areas that can be *expected* to request their service”<sup>4</sup> could be highly misleading. Depending on the take rates “expected” by a provider, “reasonable expectations about demand” on the lower end of the range could result in millions of consumers being depicted as “served” by a satellite provider despite the fact that the provider does not “expect” and thus lacks the *capacity* to actually serve them. Only by incorporating clearly defined “reasonable expectations about demand” into mapping reporting standards can the Commission have any real window into the accuracy of coverage claims.

Stepping back, Hughes’s advocacy only highlights and reinforces the technologically neutral notion that detailed and commonly applied reporting standards for the DODC should apply to *all* providers – certainly standards may need to be tailored for given technologies, but an approach that applies no standards to one class of providers, such as satellite, would grant that group the continued license to “self-define” availability. This would only perpetuate the weaknesses of maps based upon “advertised speeds” over vast geographies that have long bedeviled policymakers. The Commission has already taken several important steps to improve *both the granularity and accuracy* of broadband maps, with reporting standards for all fixed, terrestrial providers.<sup>5</sup> The Commission needs now to “finish the job” and extend to satellite providers comparable accountability for coverage claims.

Thus, reporting standards for satellite providers should incorporate assumptions that get to the heart of “reasonable expectations about demand” (as the Commission has already proposed and NTCA has supported<sup>6</sup>) to enable the agency to determine if a claim of coverage for a particular area made by a provider is based on having in place sufficient *capacity* to serve every consumer in that area that could step forward and request service. These should include (1) the number and location of satellite beams and (2) the capacity used to provide service by an individual satellite to consumers at various speeds. Those metrics should be tied to standard assumptions, such as a specific number and location of satellite beams any provider using such technology must have in place and directed to a particular coverage area to claim coverage for every would-be subscriber in that area at the speed claimed. A similar, standard assumption should apply to the capacity of individual satellites used to provide service within each coverage polygon, to ensure that the “take rate” assumptions used by a satellite provider do not assume, for example, that only 10% or 20% of customers in an area claimed to be served can in fact be served by that provider – an estimate that would fall far short of national adoption metrics.<sup>7</sup> At bottom, these metrics will

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<sup>4</sup> Hughes 706 letter, p. 3 (emphasis added).

<sup>5</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*”).

<sup>6</sup> Comments of NTCA–The Rural Broadband Association, WC Docket Nos. 19-195 & 11-10 (fil. Sep. 8, 2020), pp. 14-16.

<sup>7</sup> *New Census Data Shows Broadband Adoption Rates Inching Up, Mobile Connectivity Growing in Importance, Connected Nation*, Connected Nation (Sep. 24, 2020) (discussing Census Bureau American Community Survey data finding that 70.8% of the U.S. reported having a fixed broadband connection), available at:

allow satellite providers to demonstrate that “satellite networks—like all communications networks—are designed to meet reasonable expectations about demand.”<sup>8</sup>

Nothing in this discussion should be taken, as Hughes claims, for the proposition that NTCA seeks to “downplay” the value of satellite service.<sup>9</sup> Rather, NTCA’s focus is on ensuring that all of this work to improve broadband maps does not go to waste by permitting any given sector or type of service – be it wired, wireless, terrestrial, or satellite – to be given the ability to continue reporting coverage based upon nothing more than internal estimates and assumptions of what might be achievable under certain unstated conditions. This proceeding, driven by directives from Congress, has focused upon taking depictions of broadband service availability from the theoretical to the actual. But this vision can only be achieved if there are underlying reporting standards *for all providers* that are clearly defined, transparently stated, and commonly applied to all providers using a particular technology. If such standards are clearly identified and applied equally to all providers (subject to appropriate tailoring for given technologies), coverage depictions found in DODC maps can, in turn, inform the Commission’s forthcoming Section 706 proceeding and ensure that policymakers’ reliance on the Report when considering actions (including funding) to spur broadband deployment is premised on accurate coverage depictions.

Thank you for your attention to this correspondence. Pursuant to Section 1.1206 of the Commission’s rules, a copy of this letter is being filed via ECFS.



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<https://connectednation.org/blog/2020/09/24/new-census-data-shows-broadband-adoption-rates-inching-up-mobile-connectivity-growing-in-importance/>

<sup>8</sup> Hughes 706 letter, p. 3.

<sup>9</sup> *Id.*