

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

In the Matter of)
)
Establishing the Digital Opportunity Data) WC Docket No. 19-195
Collection)

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

NTCA–The Rural Broadband Association (“NTCA”)¹ hereby submits these reply comments addressing the record compiled in response to the Petition for Declaratory Ruling or Limited Waiver filed in the above-captioned Federal Communications Commission (“Commission”) docket.² The *Petition* seeks clarification of Section 1.7004(d) of the agency’s rules.³

As NTCA stated in initial comments,⁴ the association has consistently supported the goals of the Broadband DATA Act⁵ to jettison census-block based reporting that lacked clear and objective standards for determining where service could be delivered and move instead toward more granular reporting and objective standards for doing so. A critical part of ensuring compliance with the technical standards the Commission put in place for Broadband Data

¹ 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.

² Petition of Competitive Carriers Association (“CCA”) for Declaratory Ruling or Limited Waiver, WC Docket No. 19-195 (fil. May 13, 2022) (“CCA Petition”).

³ 47 C.F.R. § 1.7004(d).

⁴ Comments of NTCA–The Rural Broadband Association, WC Docket No. 19-195 (fil. Jun. 8, 2022).

⁵ Broadband Deployment Accuracy and Technology Availability Act, Pub. L. No. 116-130, 134 Stat. 228 (2020) (codified at 47 U.S.C. §§ 641-646) (Broadband DATA Act).

Collection (“BDC”) submissions via the *Second Report and Order*⁶ is a meaningful certification⁷ attesting to the accuracy of submitted mapping data. These attestations must, in turn, be based upon sufficient experience and a realistic and knowledge-based review of each provider’s network capabilities.

To that latter point – the issue of network capability – as NTCA noted in initial comments, the association understands that the engineer’s certification will be made with respect to *network design*, that is, that the provider’s network as designed and engineered is technically *capable* of delivering the relevant performance metrics claimed to every location within the asserted geography.⁸ NTCA urges the Commission to clarify that this is the correct reading of the rule. For one, it will balance keeping in place the accountability clearly sought by the underlying requirement while defining the scope of the certification in a way that could relieve the cost and burden of obtaining such certification from a qualified engineering expert – the latter is of substantial concern for many NTCA members and similarly situated operators as

⁶ *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*”), ¶¶ 16-32.

⁷ *Establishing the Digital Opportunity Data Collection*, WC Docket No. 19-195, *Modernizing the FCC Form 477 Data Program*, WC Docket No. 11-10, Third Report and Order, FCC 21-20 (rel. Jan. 19, 2021) (“*Third Report and Order*”), ¶¶ 42-46.

⁸ NTCA went on to explain in its comments, at page 4 that “[a]s one example, a professional engineer would certify that propagation models used to design a wireless network were properly calibrated to ensure that service levels claimed over the geographic area claimed are truly achievable, including taking into account clutter data and other information that would provide a meaningful look at local capabilities and projected lines of sight. As part of this, the engineer would confirm that the network as designed incorporates oversubscription assumptions so that the effects of any shared capacity (of feeder plant and middle mile capability for wireline services or spectrum and backhaul capacity for wireless services) are taken into account. This will help ensure again that the network is designed to deliver the asserted level of service to every location within a claimed geographic area.” NTCA further explained that “[o]n the other hand, it should be clear that the scope of the engineer’s certification does *not* extend to a more granular evaluation of whether the specific provider in question has the supplies, personnel, and other resources to deliver service in fact to each and every location within ten business days. It would take an unreasonable level of due diligence, for example, for a professional engineer to certify that a provider has on hand the supplies and the workforce to reach each and every location with a 500 foot drop within ten business days.”

noted below. Moreover, this clarification as to scope tracks to the text of the rule itself, which states that the “certified professional engineer...shall certify that he or she has examined the information contained in the submission and that...all statements of fact contained in the submission are true and correct, and *in accordance with the service provider's ordinary course of network design and engineering.*”⁹

In response to the Public Notice, a number of commenters referenced the difficulty they expect to face in securing the services of a professional engineer with experience specifically relevant to the BDC.¹⁰ As the BDC Carrier Coalition stated, “[s]mall rural carriers in many cases are confronted with a serious shortage of RF engineers who are licensed PEs and also have the requisite experience and knowledge to certify the carriers’ broadband mapping data.”¹¹ Such concerns are precisely why NTCA suggested clarification of the scope of the certification, with the understanding that this would help to streamline engineering review while maintaining sufficient assurance that reported data would accurately capture network design capabilities based upon expert review.

Should the Commission however choose an alternative to that set forth above and in NTCA’s initial comments, it remains critical that the Commission not inadvertently open the door to circumvention of the strong accountability and accuracy mechanisms it has put in place. Thus, if the Commission decides to clarify that a broader set of personnel may provide the required certification, it should be made clear that a company employee providing such

⁹ 47 C.F.R. § 1.7004(d) (emphasis added).

¹⁰ Comments of ACA Connects – America’s Communications Association, WC Docket No. 19-195 (fil. Jun. 8, 2022), pp. 2-7; Comments of USTelecom – The Broadband Association, WC Docket No. 19-195 (fil. Jun. 8, 2022), p. 2; Comments of WISPA – Broadband Without Boundaries, WC Docket No. 19-195 (fil. Jun. 8, 2022), pp. 2-8; Comments of CTIA, WC Docket No. 19-195 (fil. Jun. 8, 2022), pp. 3-4.

¹¹ Comments of the BDC Carrier Coalition, WC Docket No. 19-195 (fil. Jun. 8, 2022), p. 4.

attestation possesses qualifications and experience directly relevant to the assessment of broadband network design that, in turn, produces availability as claimed in BDC submissions. That person should also work in a senior position within the reporting entity. For example, this employee should have (1) as ACA Connects proposes, “at least 10 years overall experience in network design and/or performance;”¹² (2) as CCA suggests a “Bachelor of Science degree in Electrical Engineering, Electronic Technology, or other similar technical disciplines”¹³ and (3) a supervisory position within the company, as well as direct responsibility for overseeing the provider’s network design. Such measures would be necessary at a minimum to ensure that the person providing the certification has the skills and education and is otherwise well-positioned within the reporting entity to attest to the information within the report.



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¹² ACA Connects, p. 10.

¹³ CCA Petition, p. 9.