

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

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

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

NTCA–The Rural Broadband Association (“NTCA”)<sup>1</sup> hereby submits these comments in response to the Public Notice<sup>2</sup> seeking comment on a Petition for Declaratory Ruling or Limited Waiver (“*Petition*”) filed in the above-captioned Federal Communications Commission (“Commission”) docket.<sup>3</sup> The *Petition* seeks clarification of Section 1.7004(d) of the Commission’s rules,<sup>4</sup> the provision that sets forth the engineering certification requirement for Broadband Data Collection (“BDC”) filings and that was established by the *Third Report and Order*<sup>5</sup> in this proceeding. NTCA recognizes that striking a balance between ensuring accountability in providers’ BDC submissions and the reasonable flexibility they need to complete them, without excessive burden, is no easy task. As a concept to help navigate this careful balancing act, NTCA suggests herein a means of clarifying the engineering certification requirement that maintains the accountability clearly sought by the underlying requirement while

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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> *Broadband Data Task Force, Wireless Telecommunications Bureau, Wireline Competition Bureau, and the Office of Economics and Analytics Seek Comment on Competitive Carriers Association Petition for Declaratory Ruling or Limited Waiver Regarding the Requirement for a Certified Professional Engineer to Certify Broadband Data Collection Maps*, WC Docket No. 19-195, Public Notice, DA 22-543 (rel. May 17, 2022).

<sup>3</sup> *Petition of Competitive Carriers Association (“CCA”) for Declaratory Ruling or Limited Waiver*, WC Docket No. 19-195 (fil. May 13, 2022) (“*Petition*”).

<sup>4</sup> 47 C.F.R. § 1.7004(d).

<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, *Third Report and Order*, FCC 21-20 (rel. Jan. 19, 2021) (“*Third Report and Order*”), ¶¶ 42-46.

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.

NTCA has long supported the requirement that broadband providers' BDC filings include a meaningful certification attesting to the accuracy of submitted mapping data based upon sufficient experience and a realistic and knowledge-based review of each provider's network capabilities.<sup>6</sup> Taking a step back, it is important to recall that the BDC is intended to move away from the census-block based reporting that lacked clear and objective standards for determining where service could be delivered and toward the improved *granularity and accuracy* of broadband availability data. In particular, the technical specifications underlying providers' coverage claims (such as the "buffers" for fixed wireline services<sup>7</sup> and the cell edge parameters, etc. for fixed wireless services<sup>8</sup>) set forth by the *Second Report and Order* should, if properly applied and enforced, help ensure that coverage claims accurately reflect the *true capabilities* of broadband networks based upon their design and consistent with what can realistically be expected under real world conditions. An engineering certification, in turn, is a critical, additional level of validation based upon qualified review of a provider's network design and mapping data submissions reflecting that design. As the Commission noted in the *Third Report and Order*, such certification will serve as "an appropriate measure to confirm that filers have in fact engaged in the analysis necessary to meet Congress's objective of developing more accurate data."<sup>9</sup>

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<sup>6</sup> Comments of NTCA–The Rural Broadband Association, WC Docket No. 19-195 (fil. Sep. 8, 2020), p. 14.

<sup>7</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*"), ¶¶ 16-24.

<sup>8</sup> *Id.*, ¶¶ 24-32.

<sup>9</sup> *Third Report and Order*, ¶ 45 (also stating that "[t]he Broadband DATA Act makes clear the importance that Congress places on collecting accurate broadband deployment data, and the reporting standards the Commission has

Moreover, the interests of consumers must be considered in identifying the proper balance to strike in any clarification of this certification requirement. Consumers will be the direct beneficiaries of BDC maps that are as accurate as they are granular, with accuracy hinging largely upon two factors – faithful adherence to the Commission’s technical specifications and the “accuracy check” that the engineering certification represents. A “false positive” depiction of service availability based upon overstated coverage that ignores or misapplies technical specifications could leave an unserved consumer waiting even longer for the level of broadband that many Americans take for granted if funding is precluded for the area in which that consumer lives because it is depicted as served based upon little more than marketing aspirations and lab tests of service capabilities. In fact, the stakes have been raised in this regard, with the allocation and distribution of more than \$42 billion in appropriated funds turning on what providers report to create the maps in question.<sup>10</sup>

This being said, NTCA shares the concerns of other representatives regarding the potential burden – in terms of time and cost, or even the ability to locate qualified engineering resources – associated with obtaining and submitting this certification. The small entities that comprise the NTCA membership face particular challenges of course given their small staffs and limited resources. A strict certification requirement that does not provide some reasonable degree of flexibility could lead to providers being simply unable to find engineering help as outside engineering firms themselves are swamped in the next few months with requests for help and thus turn away such requests.

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adopted for all technologies in the Digital Opportunity Data Collection will require filers to evaluate new, more stringent technical issues than have been required in reporting on FCC Form 477.”).

<sup>10</sup> Infrastructure Investment and Jobs Act of 2021, Division F, Title I, Section 60102, Public Law 117-58, 135 Stat. 429 (Nov. 15, 2021) (establishing the Broadband Equity, Access, and Deployment (“BEAD”) Program).

To help achieve a balance between the need for accountability as described above and these very real concerns about the ability to pay for – or even merely find – engineering resources to aid in this process, NTCA urges the Commission to clarify the scope of the engineer’s certification. Specifically, it is NTCA’s understanding 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 speed/latency, etc., as claimed to every location within the asserted geography. As 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.

On 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. Indeed, the clarification as to scope sought here is wholly consistent with the text of the current 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.*”<sup>11</sup> Clarifying the scope of the certification as suggested herein should allow qualified engineers to perform the necessary due diligence in a more reasonable period of time than would be involved in evaluating each location’s characteristics from “out-in-the-field” and from an “on-the-ground” level perspective, thereby helping to mitigate substantially the time and cost associated with obtaining such review.



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<sup>11</sup> 47 C.F.R § 1.7004(d) (emphasis added).