

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Establishing the Digital Opportunity Data Collection)	WC Docket No. 19-195
)	
Professional Engineer Certification in the Broadband Data Collection Process)	
)	
)	

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

NTCA–The Rural Broadband Association (“NTCA”)¹ hereby submits these reply comments in the above-captioned Federal Communications Commission (“Commission”) proceeding,² the subject of which is a Petition for Waiver³ seeking to extend previously granted relief from the engineering certification provisions of the agency’s broadband mapping rules.⁴ Petitioners seek to extend the *BDC Waiver* and justify this request by general references to workforce training challenges and the assertion that “nothing has changed for the industry” in terms of such challenges or professional engineering licensure since the waiver was issued. NTCA

¹ NTCA–The Rural Broadband Association represents approximately 850 community-based companies and cooperatives that provide advanced communications services in rural America and more than 400 other firms that support or are themselves engaged in the provision of such services.

² *Comment Sought on Petition for Extension of Waiver of the Requirement for a Certified Professional Engineer to Certify Broadband Data Collection Availability Data*, Public Notice, WC Docket No. 19-195, DA-23-688 (rel. Aug. 11, 2023).

³ Petition for Extension of Waiver of Competitive Carriers Association and USTelecom – The Broadband Association, WC Docket No. 19-195 (filed August 4, 2023) (“*Petition*”).

⁴ *Establishing the Digital Opportunity Data Collection; 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, Declaratory Ruling and Limited Waiver, DA 22-733 (July 8, 2022) (“*BDC Waiver*”).

responds in this filing to parties supporting the requested relief and demonstrates that arguments advanced therein, and the Petition itself, should be rejected.

Arguments in support of the Petition are unpersuasive and unsupported by anything other than the broadest assertions. To begin with, while much is made of the theoretical difficulty of complying with the engineering certification requirement,⁵ these parties overlook that the Commission already had taken steps to mitigate such concerns in the very rule as written – as NTCA noted in initial comments,⁶ the rule allows providers the choice between leveraging qualified internal resources or retaining the services of a licensed professional engineer (“PE”). To the extent the Commission nonetheless believes a further balancing may be needed to alleviate burdens on those least likely to have qualified internal resources, at most it should only grant the relief requested by Petitioners for smaller providers reporting the ability to serve fewer than 100,000 fixed broadband locations nationwide.⁷

Moreover, the Commission should view with skepticism general claims that “circumstances have not changed,”⁸ thus justifying continuation of the existing waiver. For one, such statements are not evidence – neither parties supporting the waiver nor petitioners supply concrete evidence or data to buttress the assertion that qualified professional engineers are in such⁹ short supply that another eighteen-month industry-wide waiver is warranted. While NCTA

⁵ Comments of WISPA – Broadband Without Boundaries (“WISPA”), WC Docket No. 19-195 (fil. Sep. 1, 2023), pp. 3-6; Comments of NCTA – The Internet & Television Association (NCTA), WC Docket No. 19-195 (fil. Sep. 1, 2023), p. 2; Comments of ACA Connects – America’s Communications Association (“ACA Connects”), pp. 3-4.

⁶ Comments of NTCA, WC Docket No. 19-195 (fil. Sep. 1, 2023), p. 3.

⁷ *See Id.*, p. 4.

⁸ WISPA, p. 4; NCTA, p. 2.

⁹ While WISPA provides member survey data on this issue, it addresses only the extent to which its members employ an engineer “in house” or have availed themselves of the relief granted in the *BDC Waiver*. Tellingly, it never touches on the availability of professional engineers. See WISPA, pp. 5-6.

attempts to further this line of argument by stating that “many of the individuals actually developing and preparing the BDC submissions would not be able to certify those filings, which would be detrimental to the accuracy and timeliness of the submissions,”¹⁰ this overlooks the fact that, as the Rural Wireless Association states, “providers have had an extended period of time to plan appropriately for using a PE or corporate engineering officer.”¹¹ Thus, the companies to which NCTA points could have prepared for the circumstances they point to, knowing in June 2022, when the *BDC Waiver* was issued, that certification would be needed 18 months later. In addition, as RWA goes on to note, “filers still have six months, until March 1, 2024, to prepare for the next filing that must be accompanied by a PE or corporate engineering officer certification.”¹² This is in contrast to the circumstances underlying the existing waiver – at that time, broadband providers were under a much tighter timeframe and participating in an entirely new broadband mapping regime, and the waiver was granted with just a few months’ time before the first submission. Thus, reporting providers – now more experienced in the BDC submission process and likely needing less time to complete these going forward – still have approximately six more months to comply with the certification requirement as originally established.

Finally, arguments that the existing waiver has improved the “quality and timeliness of BDC submissions, without adversely impacting the accuracy of the data,”¹³ is a confounding and baseless assertion. Even if the quality of the maps may have improved – and there are many places where this remains in serious question – there is certainly no basis to conclude that the waiver

¹⁰ NCTA, p. 2.

¹¹ Comments of the Rural Wireless Association, Inc. (“RWA”), WC Docket No. 19-195 (fil. Sep. 1, 2023), p. 5.

¹² *Id.*

¹³ WISPA, p. 6. *See also*, NCTA, p. 2.

promoted any such improvements. Indeed, to the contrary, countervailing evidence found in actual BDC submissions suggests otherwise. As NTCA highlighted in initial comments, certain coverage claims “raise eyebrows,” to say the least, and even worse are accompanied by “engineering” justifications for such far-reaching coverage that are astonishing in their cursory nature.¹⁴ Finally, the assertion that the waiver order has led to “more timely BDC submissions”¹⁵ is an unserious argument at best, as it is hard to fathom the notion that a waiver was (and remains) necessary to give providers adequate incentives to be prompt in complying with a Commission reporting requirement.¹⁶

NTCA therefore renews its request that the Petition for Waiver be denied or, to the extent it believes additional relief is warranted, that relief be limited to those with fewer than 100,000 fixed broadband locations nationwide.

Respectfully submitted,



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Dated: September 11, 2023

¹⁴ NTCA, pp. 4-5.

¹⁵ Comments of CTIA, WC Docket No. 19-195 (fil. Sep. 1, 2023), p. 5 (“The BDC Limited Waiver has allowed providers to make timely submissions of their data while relying on qualified engineers with actual expertise in RF engineering.”).

¹⁶ *Establishing the Digital Opportunity Data Collection*, WC Docket No. 19-195, Third Report and Order, FCC 21-20 (rel. Jan. 19, 2021), ¶ 144 (stating that “failure to timely file required data in the new Digital Opportunity Data Collection may lead to enforcement action and/or penalties as set forth in the Communications Act and other applicable laws.”).