

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

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



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Executive Summary

While NTCA supports certain of the proposals made in the *Fourth Further Notice*, the association urges the Federal Communications Commission (the “Commission”) to go further to strengthen Broadband Data Collection (“BDC”) reporting, verification, and challenge process rules so that critical policy and funding decisions will be grounded in accurate and reliable data. The National Broadband Map (“NBM”) has improved significantly since the BDC was launched, as iterative reporting, verification, and challenge processes have refined the quality of availability data and the underlying Broadband Serviceable Location Fabric (the “Fabric”). These improvements, however, provide no basis to declare “mission accomplished” and deem the NBM “good enough.”

To the contrary, now is an apt time to assess what existing processes still have missed even as the map has iteratively improved, and to address whether persistent inaccuracies might be cemented into the NBM precisely because certain aspects of the current processes are inadequate to detect or address them. The Commission must recognize that even as many challenges have been adjudicated and the number filed has decreased over time, this could just as easily reflect frustration or fatigue with existing processes as much as it represents progress, and the lingering limitations of BDC rules that are intended to improve accuracy may in fact have the opposite effect. Indeed, NTCA submits that the BDC reporting, verification, and challenge processes all have limitations that prevent the exposure and correction of overstated coverage claims that in turn continue to undermine the utility of the NBM even in an improved state. Absent a thoughtful review and course correction, these inaccuracies threaten to become “calcified” in the NBM and ultimately to become ensconced in critical decisions that will affect consumers’ access to broadband service.

Against this backdrop, NTCA offers herein a series of specific proposals for fundamental process improvements. First, NTCA recommends that the Commission: (a) enhance the standards pursuant to which internet service providers (“ISPs”) report coverage in the first instance; and (b) update and refine challenge processes on the back end. On the front end, in lieu of deferring largely to the advertising claims of marketing departments of ISPs, availability reporting should be driven by reference to more detailed technical standards that only permit claims of coverage if basic network requirements are met and reasonable assumptions are made. Such standards should be better developed and adopted for all technologies, but particular attention must be paid to bolster the underlying data that accompanies fixed wireless providers’ data submissions to confirm they meet these standards. Meanwhile, on the back end, changes to the bulk availability challenge process as proposed herein – including the limited use of speed test data as a “flag” for further investigation – could aid both the Commission and challengers to verify and correct that data once submitted.

Second, for similar reasons, NTCA supports the *Fourth Further Notice* proposals with respect to adoption of more robust reporting standards for satellite providers. As the *Fourth Further Notice* acknowledges, such current availability data is likely overstated, and this speaks yet again to the need for more detailed technical standards for upfront reporting in this case as well.

Third, the Commission should decline to adopt the *Fourth Further Notice* proposal to limit providers’ access to critical notifications with respect to Fabric challenges. NTCA members frequently report frustration with the inability to understand the reasons behind the changes to the Fabric within their service areas, and limiting their access to notifications regarding resolution of challenges as proposed in the *Fourth Further Notice* would further undermine transparency. If

anything, the Commission should offer *greater visibility* into the processing and disposition of Fabric challenges.

Fourth, the Commission should retain (and finally enforce) the requirement that providers' BDC submissions include a certification by a licensed professional engineer if not submitted by a corporate engineering officer. Even if a temporary waiver of this requirement might have been justified when the BDC was in its infancy, sufficient time has passed for providers to locate and enlist the services of engineers that can attest objectively to the legitimacy of providers' filings. There has been no showing for some time – beyond mere proclamation – that there are meaningful barriers to obtaining such certification, and the value of improving the NBM through more objective and detailed technical review far outweighs the costs of such certification. Indeed, these certifications would become all the more important should the Commission fail to update and enhance the technical standards expected of providers in reporting as otherwise recommended herein.

Finally, the Commission should make better use of subscribership data in assessing the validity of availability data, with the former providing a potentially useful (if not dispositive) indicator of whether service is in fact available based upon the responses of real consumers. Relatedly, requiring the reporting of availability of voice service at each location would also aid customers and policymakers as well in determining what is actually “available.”

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**COMMENTS
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NTCA–THE RURAL BROADBAND ASSOCIATION**

I. INTRODUCTION

NTCA–The Rural Broadband Association (“NTCA”)¹ hereby submits these comments in response to the Fourth Further Notice of Proposed Rulemaking issued by the Federal Communications Commission (“Commission”) in the above-captioned proceedings.² The *Fourth Further Notice* seeks comment on several proposed amendments to the Commission’s Broadband Data Collection (“BDC”) rules. As discussed below, while NTCA supports certain of the proposals found in the *Fourth Further Notice*, the Commission should go further in several specific respects to strengthen the BDC reporting standards, verification procedures, and challenge processes to improve the National Broadband Map (“NBM”). NTCA further discusses the

¹ NTCA is an industry association composed of approximately 850 community-based companies and cooperatives that provide advanced communications services in rural America and more than 400 other firms that support or themselves are engaged in the provision of such services.

² *Establishing the Digital Opportunity Data Collection*, WC Docket No. 19-195, *Modernizing the FCC Form 477 Data*, WC Docket No. 11-10, Fourth Report and Order, Declaratory Ruling, and Fourth Further Notice of Proposed Rulemaking, FCC 24-72 (rel. Jul. 12, 2024) (“*Fourth Further Notice*,” “*Declaratory Ruling*” or “*Report and Order*” as applicable).

importance of retaining certain notifications regarding challenges and the professional engineering (“PE”) certification rules.

Even as the accuracy of the NBM has progressed since the initial version was released, structural deficiencies within the BDC reporting, challenge, and verification processes appear to enable persistent overstatements of coverage. If these deficiencies are left unaddressed, the risk of such overstatements will continue to plague the promise and ultimate reliability of the map. Indeed, both a lack of sufficient technical standards to which providers must adhere in reporting coverage in the first instance and structural deficiencies in the bulk availability challenge process – especially for dealing with sweeping claims of coverage across wide geographies – must be addressed if the NBM is to be used to make sound policy and funding decisions.

Indeed, these problems threaten to cement flaws in the NBM, as overstated claims of coverage can harden into permanency over time and would-be challengers decline to pursue losing battles. To be clear, NTCA recognizes that creating and updating the NBM is a complicated and time-consuming “iterative” process that requires ongoing corrections to, and refinement of, both the underlying “Fabric” and availability claims made atop that. The NBM has improved considerably over time as both the Fabric and bulk availability challenge processes have refined the data in the map. *Yet it is critical that any decline in the number of filed challenges not be interpreted as a success; rather, this may likely be a product of “challenge fatigue,” where providers cannot find a means to convey their experience in what networks can realistically deliver and their firsthand knowledge of their communities through overly rigid challenge processes.*

With critical decisions on the horizon that will turn to a substantial degree on mapping data – including distribution of Broadband Equity, Access, and Deployment program funding and Enhanced Alternative Connect America Cost Model support adjustments – action should be taken

now to ensure such decisions are grounded in the most accurate and reliable data. The Commission must not declare “mission accomplished” or deem the NBM “good enough” based merely upon the iterative improvements to date; rather, the Commission should reassess whether its processes are in fact catching persistent flaws in the underlying data and would benefit from further improvement and enhancement. Delaying or forgoing action on steps needed to realize the promise of the NBM will only further frustrate broadband objectives and frustrate the consumers and communities losing out from bad information that leads to bad decisions. As discussed below, the Commission can and should instead build upon the substantial and good work done thus far to realize fully the promise of the NBM.

II. THE COMMISSION SHOULD TAKE STEPS THAT WILL IMPROVE REPORTING ON THE FRONT END AND VERIFICATION AND CHALLENGE PROCESSES ON THE BACK END.

A. Technical reporting standards should define realistic network performance expectations and drive BDC reporting.

As an initial matter, NTCA supports the *Fourth Further Notice* inquiry into steps it can take to “allow the Commission to better verify the terrestrial fixed wireless service availability data submitted in the BDC.”³ NTCA offers below suggestions as to this question directly, but also urges the Commission to take a step back and undertake a more comprehensive re-evaluation of the extent to which its existing processes are effective in producing reliable data. Unfortunately, the current standards for reporting fall short of the mark, leaving an apparent deficit of accurate data in far too many cases that in turn compels would-be challengers to “prove a negative” by attempting to show across widespread areas that service is unavailable to dozens or hundreds, or even thousands, of locations.

³ *Fourth Further Notice*, ¶ 62.

NTCA members continue to see highly suspect coverage claims in some of the areas they serve.⁴ Even as successful bulk availability challenges have revealed overstated coverage claims to some extent, lingering structural problems in the collection of data fail to ensure such overstatements cannot be made in the first place. To best address such concerns, the Commission should adopt more specific and exacting technical standards to underpin reporting by all ISPs. Such standards should be crafted appropriately for each technology, but some common objective engineering-backed standards should be applied in each case in lieu of permitting reports to be submitted by reference only to some high-level assumptions and the advertising decisions of ISPs' marketing departments.

To be clear, these technical reporting standards should operate not only as information that ISPs include as supporting documentation with their BDC filings, but also as parameters around the extent of coverage that can be claimed in the first instance – in other words, rather than passively accepting limited back-up documentation for claims of coverage, the Commission should establish, for each technology, specific technical standards that an ISP *must* meet in order to plausibly claim coverage at specific levels of performance (*e.g.*, speed and latency) across a given geography. Each ISP would then submit a reasonable level of documentation to demonstrate that those standards are met in the case of its specific network deployment. As one example, in the case of fixed wireless providers, these objective technical standards should be tied to the

⁴ NTCA *ex parte* letter, WC Docket No. 19-195 (fil. May 2, 2024), Attachment B, pp. 7-10, 14-16. In a presentation to Commission staff on this issue, NTCA highlighted BDC reporting from an ISP claiming to serve a large geographic area that includes significant portions of rural Iowa, Minnesota, and South Dakota and at speeds of 150/50 Mbps. Speed test data and NTCA members' bulk availability challenges called these claims into question. In a similar manner, NTCA highlighted claims by another ISP claiming to serve a large portion of Iowa and Nebraska, and discussed as well how reported speeds failed to match what the provider advertised to potential subscribers. Attachment B available at: <https://www.fcc.gov/ecfs/document/1050212166523/2>

spectrum band(s) used as well as physical infrastructure already in place (such as towers, antennas and backhaul), and the standards should specify assumptions as to oversubscription and the reach of various spectrum bands. The fixed wireless provider would then provide reasonable documentation indicating how it satisfies such standards (*e.g.*, the amount of spectrum it has in a sector and its own propagation assumptions) that would be used to validate that the claimed level of performance is realistic and achievable based upon the standards the Commission has adopted.

B. The Commission should close the “CSV” reporting loophole.

As an additional step to improve fixed wireless provider verification efforts,⁵ the Commission should close the loophole that permits fixed wireless providers to avoid submitting reasonable back-up information for their BDC availability reports. Presently, fixed wireless providers have the option to report coverage claims via submission of a polygon shapefile or via a list of Broadband Serviceable Locations (“BSLs”). However, data such as “Propagation Model Details,” “Fixed Wireless Base Station Location and Height” and “Fixed Wireless Link Budget Parameters”⁶ are only submitted by those reporting entities that submit shapefiles (as opposed to a list of locations). As a result, critical data is often unavailable for the Commission to verify the submissions. Indeed, this almost certainly provides a strong incentive for operators to submit lists of BSLs rather than shapefiles that would require greater initial justification and thus could be better scrutinized.

NTCA therefore urges the Commission to close this “CSV loophole” and apply the data specifications discussed above to all fixed wireless BDC submissions whether made via shapefiles

⁵ *Fourth Further Notice*, ¶ 62.

⁶ Broadband Data Collection, Data Specifications for Biannual Submission of Subscription, Availability, and Supporting Data (Mar. 30, 2023) (“BDC Specifications”), Section 7, p. 32.

or BSL lists. This should establish better incentives for more accurate filings if providers are required to “show their work” behind coverage claims, and at the very least it would ensure the Commission has on hand what it needs to respond to challenges without regard to the ISP’s chosen method for initial reporting.

C. Challengers should have access – subject to the Commission’s protective order rules – to supporting data submitted to demonstrate compliance with reporting standards.

In addition to tackling reporting issues, the Commission should consider improvements to its challenge processes as well based upon prior experience. Pursuant to existing BDC rules, challengers are hampered in their efforts to obtain the evidence necessary to mount a successful challenge. Key data such as propagation models used, base station locations and height, and much of the data found in Section 7 of the BDC Specifications⁷ are available only to Commission staff (and as noted above, only in the case when fixed wireless providers report via shapefiles rather than lists of locations). It is difficult, if not impossible, to assess providers’ coverage claims, particularly over large rural geographic areas with large numbers of locations claimed as served at certain levels of performance, without access to data points and underlying assumptions that form the basis of claims. Allowing would-be challengers to access this information – in addition to closing the “CSV loophole” to ensure that such information is submitted at all by fixed wireless providers – would almost certainly reduce the number of challenges filed in the first instance, as concerns about overstated coverage could be allayed by review of technical data confirming that such coverage is in fact available. Moreover, challenges filed based on access to this data would

⁷ *Id.*, pp. 32-49.

be more efficient as challengers, challenged operators, and the Commission would be “on the same page” as to the facts underpinning the challenge.

Certain of this information will undoubtedly be confidential and/or proprietary, and providers will rightfully be concerned about public review of commercially sensitive data and any competitive implications that may have. Yet, such confidentiality concerns could be mitigated through use of the agency’s time-tested and well-established protective order process. The Commission has relied on these in a wide variety of circumstances⁸ and there is no indication that sensitive materials have been used in contravention of these rules.

D. Speed test data should be leveraged to identify potential overstatements of coverage that merit further Commission investigation.

Pursuant to BDC rules, challengers cannot turn to speed test data as part of the bulk availability challenge process. Rather, these are treated as informative “crowdsourced” data. As a result, a would-be challenger is hindered in trying to demonstrate that reported speeds are unachievable at a location; in fact, the only way to demonstrate that service at a reported level of performance is unavailable is to engage in “secret shopper” efforts, attempting to subscribe to a challenged provider’s service to obtain evidence that the speed in question is not available at that

⁸ *Connect America Fund*, WC Docket No. 10-90, Protective Order, DA 21-318 (Rel. Mar. 16, 2021), ¶ 2 (recognizing that in its proceeding “to adjust the defined deployment obligations of CAF Phase II auction support recipients” that required such carriers “to submit location information (including address and geocoordinates) for every location within the areas they won in each state and to provide additional evidence demonstrating that no further locations could be found” the data “could reveal competitively sensitive information regarding the Participants’ future deployment plans”); *Special Access for Price Cap Local Exchange Carriers*, WC Docket No. 05-25; *AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, RM-10593, Order and Data Collection Protective Order, DA 14-1424 (rel. Oct. 1, 2014), ¶ 3 (stating that a protective order for the Commission’s special data collection was necessary because “[m]uch of the data and information sought in the Data Collection are competitively sensitive and not publicly available.”).

individual location. This is a process that is time-consuming and nearly impossible to sustain over hundreds or thousands of locations within a given area.

The Commission should therefore permit parties to submit large batches of speed tests as “bulk availability” challenges. Providers using such speed tests as part of bulk availability challenges should be required to demonstrate that the tests – in terms of the number of tests performed, the number of locations tested, and the geographic area over which they were performed – represent a statistically sufficient sample.⁹ Well-defined protocols that ensure the tests are reflective of performance across a wider area, as well as Commission approval of acceptable testing platforms, would ensure that results are valid.

In recognition of the fact that this expanded use of speed tests could be overly burdensome for challenged providers (including NTCA’s small business members) as well as Commission staff, the submission of such data should not lead to the agency acting upon and adjudicating each individual speed test. Rather, a confluence of reports of speeds not being achievable as reported should serve as “heat maps” that prompt further Commission investigation as to whether the data are indicative of a larger problem with respect to inaccuracies in reporting.

E. The Commission should impose meaningful penalties for chronic overstatements of coverage.

Chronic overstatement on the NBM is not only enabled by structural deficiencies in reporting standards and verification measures, but also by the lack of meaningful penalties assessed upon providers in the wake of sustained challenges. If the only consequence for overstated coverage claims is to “remove them from the map and try again” – even as the

⁹ The Commission should also amend its bulk availability challenges rules to allow for the submission of speed test data as proposed herein for challenges filed under Challenge Codes 6 and 7.

Commission has adopted a heightened standard for refileing of locations previously removed by challenge¹⁰ – reporting providers have reduced incentives to report accurately in the first place. Moreover, public and policymaker confidence in the map is undermined, and the absence of public pronouncement with respect to investigations and penalties only exacerbates the lack of faith that can be placed in the NBM.

Even as the Commission recently took steps to vest authority in staff to investigate patterns of incorrect data,¹¹ such a step is just a start. Meaningful forfeitures in the case of chronic and/or widespread overstatements of coverage followed by public notice of the results of investigations would be consistent with Commission rules¹² and historical practice,¹³ and would signal to reporting providers as well as those that need to rely upon the accuracy of the map that errors and overreach are taken seriously.

III. THE COMMISSION SHOULD ADOPT REPORTING STANDARDS FOR SATELLITE PROVIDERS THAT REFLECT IN FULL THEIR NETWORK CAPABILITIES.

The Commission should adopt the *Fourth Further Notice* proposal¹⁴ that would require satellite providers’ submissions of mapping data to include the supporting data as found in Section

¹⁰ *Declaratory Ruling*, ¶ 28.

¹¹ *Report and Order*, ¶¶ 24-26.

¹² 47 CFR § 1.7009.

¹³ *In the Matter of John M. Burkman, Jacob Alexander Wohl, and J.M. Burkman & Associates LLC*, Forfeiture Order, File No.: EB-TCD-21-00032652, FCC 23-44 (rel. Jun. 6, 2023) (assessing a forfeiture of \$5,134,500 against the subjects of the order).

¹⁴ *Fourth Further Notice*, ¶¶ 69-76.

2.3 of the BDC Verification Specifications dated February, 2024.¹⁵ Requiring adherence to these specifications should lead to more accurate depictions of satellite providers’ ability to serve every would-be consumer within a claimed coverage area and are necessary to take depictions of satellite broadband service from the theoretical to the actual.

The *Fourth Further Notice* makes a sound case for the need to apply such specifications. While the NBM shows “[s]atellite broadband service with speeds of at least 100/20 Mbps is available to 164.1 million Broadband Serviceable Locations, or 99.6% of all locations,”¹⁶ the Commission notes that “BDC service availability data for satellite broadband service may overstate the extent to which satellite broadband service is available.”¹⁷ Given the “relatively low subscription rate and capacity limitations for satellite services indicated by available FCC Form 477 data,”¹⁸ as well as the tacit acknowledgement that satellite availability data is unreliable such that the Commission should not “include in its analysis of fixed broadband service availability any data on satellite service,”¹⁹ it is clear that the time has come to amend the reporting standards. As in the case of other technologies and as described in earlier sections of these comments, adopting better objective technical standards to justify claims of coverage²⁰ and pairing those with the

¹⁵ Broadband Data Collection, Data Specifications for Provider Infrastructure Data in the Challenge, Verification, and Audit Processes (Feb. 20, 2024), pp. 56-67 (“BDC Verification Specifications”).

¹⁶ *Fourth Further Notice*, ¶ 69.

¹⁷ *Id.*, quoting *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, GN Docket No. 22-270, 2024 Section 706 Report, FCC 24-27, ¶ 58 (rel. Mar. 18, 2024) (“2024 Section 706 Report”) (internal quotations omitted).

¹⁸ *Fourth Further Notice*, ¶ 69, citing *2024 Section 706 Report*, ¶ 58.

¹⁹ *Id.*

²⁰ For satellite providers, 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 must be

submission of reasonable documentation showing that such claims are achievable based upon a provider's specific network deployment and configuration, is critical to making the NBM a resource that inspires confidence in making critical funding and policy decisions.

Thus, the Commission should adopt the *Fourth Further Notice* proposal to require satellite providers to include as part of their BDC submissions infrastructure data contained in Sections 2.3.1, 2.3.2, and 2.3.4 of the BDC Verification Specifications.²¹ As the *Fourth Further Notice* acknowledges, satellite providers have already been directed to maintain this supporting data and were directed to retain this information should they seek to take advantage of the professional engineering waiver issued in 2023.²² Thus, requiring the submission of this data as part of initial BDC filings should not impose an undue burden, and certainly not one that outweighs the Commission's need for it in light of the unreliability of satellite coverage as noted above and in the *Fourth Further Notice*.

IV. THE COMMISSION SHOULD NOT UNDERMINE THE FABRIC CHALLENGE PROCESS BY LIMITING PROVIDERS' ACCESS AND RESPONSE TO CHALLENGE NOTIFICATIONS.

The Commission should decline to adopt the proposal in the *Fourth Further Notice* to eliminate the provision of notifications and the opportunity to respond to such notifications related to Fabric challenges.²³ Under existing rules, NTCA members frequently report that the Fabric challenge process lacks transparency and communication – in fact, as NTCA recently noted in this

adhered to for a provider 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 area as well.

²¹ *Fourth Further Notice*, ¶ 74, fn. 151.

²² *Id.*, ¶ 68.

²³ *Id.*, ¶ 90.

proceeding with respect to challenges these providers *themselves* file, “there appears to be little to no communication as to whether a Fabric challenge has been accepted after filing.”²⁴ As NTCA went on to state, after submission, several months or more can elapse before any response or resolution to a challenge itself is communicated (and in many cases none is ever provided).²⁵ While this problem persists with respect to Fabric challenges that members file themselves, the Commission now proposes to further reduce communication and transparency when these are filed by other entities.

The proposal to further reduce transparency would have very real consequences that must be considered and addressed. A common fact pattern related by members is that BSLs in their service area are removed from the Fabric for reasons unknown, and in some cases, *these are locations where the provider has an active subscriber*. Limiting these providers’ ability to know when other entities’ challenges in their service areas have been accepted and to respond to evidence submitted by that challenging party would result in discovery of such changes only upon the publishing of a new Fabric version. In such cases, the only recourse would be to then file their own challenges to correct these mistakes.

It is difficult to fathom the perspective that less transparency is better, and such reasoning cannot be based upon the inexplicable claim that “it is unclear that providers (as a group) have better or more reliable geospatial data on BSL attributes than other groups (e.g., state, local or Tribal governments, consumers).”²⁶ NTCA members that have served their rural areas for several

²⁴ Comments of NTCA, WC Docket No. 19-195 (fil. Feb. 19, 2024), p. 9.

²⁵ *Id.*

²⁶ *Fourth Further Notice*, ¶ 91.

decades – and that also recognize that the continued receipt of critical universal service funding can be tied directly now, or in the future, to accurate maps – would dispute this assertion. The Commission should not inject greater uncertainty and confusion into a Fabric challenge process that many already view as too much of a “black box.” Instead, the Commission should offer *greater* visibility into the processing and disposition of Fabric challenges. Indeed, NTCA members often express frustration as to the lack of feedback regarding what evidence drove the success or failure of challenges they have filed to mislabeled or missing BSLs. In some cases, this includes no explanation of why a source of evidence (supporting documentation such as property records) is sufficient to sustain a challenge to some locations but not for others. This lack of insight and consistency undermines confidence in the Fabric challenge process. The Commission should thus indicate after a challenge is adjudicated specifically what evidence was utilized to decide upon the status of a BSL and explain why supporting documentation was insufficient to sustain a challenge.

V. THE PROFESSIONAL ENGINEERING CERTIFICATION IS A CRITICAL LEVEL OF ADDITIONAL VALIDATION OF MAPPING SUBMISSIONS.

The *Fourth Further Notice* seeks comment on eliminating “the requirement in our rules that parties submitting verified broadband data in the BDC provide a certification by a licensed professional engineer if not submitted by a corporate engineering officer.”²⁷ Subject to limited exceptions, the Commission should retain the PE certification to ensure that realistic and well-informed engineering review by a professional *with a license at stake* stands behind every claim of coverage made in the BDC.

NTCA members are familiar with the challenges that workforce shortages can create, and certainly the retention of outside professional engineers or corporate officers with engineering

²⁷ *Id.*, ¶ 95.

degrees can be difficult for providers of all sizes. In addition, the state licensure issues to which the *Fourth Further Notice* points likely continue to limit the availability of licensed PEs with RF experience.²⁸ That said, those entities that have twice sought a waiver of the PE requirement,²⁹ as well as those commenters that may support the *Fourth Further Notice* proposal, have had years to prepare for and seek to overcome any PE shortages. Indeed, those claiming such a shortage or claiming that the certification would be overly burdensome have never come forward with any credible or thorough individualized evidence as to the inability to procure assistance from PEs to review BDC filings or that the requirement represents a meaningful barrier to obtaining such certification that outweighs its value to improving the accuracy of the NBM. Even if the Commission has thus far accepted assertions as to the inability to retain a PE and issued blanket waivers twice previously, it should expect those facing that problem several years ago to have planned ahead or to at least present more particularized evidence of such challenges.

In addition, while the *Fourth Further Notice* breezily dismisses the value of the PE requirement, and in doing so points to “other tools at [the Commission’s] disposal to ensure the ongoing improvement in BDC data, including the challenge, verification, and audit processes,”³⁰ these tools have been insufficient thus far. As noted above, suspect coverage claims remain, and structural limitations within the reporting, verification, and challenge processes leave these difficult, if not impossible, to assess and correct. Should the Commission adopt the proposals contained herein to address these process concerns, it may be worth reconsidering *at that time*

²⁸ *Id.*, ¶ 104.

²⁹ *Petition of Competitive Carriers Association (CCA) for Declaratory Ruling or Limited Waiver*, WC Docket No. 19-195 at 8-9 (fil. May 13, 2022); *Petition for Extension of Waiver of Competitive Carriers Association and USTelecom – The Broadband Association*, WC Docket No. 19-195 (fil. Aug. 4, 2023).

³⁰ *Fourth Further Notice*, ¶ 103.

whether the PE requirement remains necessary in light of other structural measures adopted and implemented. But there is no basis *now* to eliminate a requirement that might offer the best hope of tying BDC reports to better technical standards.

Indeed, the Commission should consider that not a single availability reporting cycle has come and gone with this requirement in place. At the very least, the Commission should reinstate the provision for one reporting cycle subject to a streamlined, evidence-based waiver process. Specifically, those ISPs unable to comply and able to demonstrate their difficulty in procuring the help of a PE should be granted a waiver based upon individual circumstances; yet the necessity of a blanket waiver of a provision that has not been in effect and thus tested as “doable” or not is not needed at this time.

VI. SUBSCRIBERSHIP DATA FROM FCC FORM 477 SHOULD BE MATCHED TO DATA FROM THE BDC AS A FURTHER VERIFICATION OF AVAILABILITY CLAIMS; REPORTING PROVIDERS SHOULD ALSO REPORT ON THE AVAILABILITY OF VOICE FOR EACH BROADBAND SERVICEABLE LOCATION.

NTCA supports the *Fourth Further Notice* proposal to modify the definition of “broadband connection” found in the Commission’s FCC Form 477 rules such that it would then align with that contained within the BDC rules.³¹ As the *Fourth Further Notice* states, this would “allow the Commission to streamline its rules, reduce confusion among filers, and impose consistency on the broadband data it collects in the BDC and FCC Form 477.”³² As an additional benefit, this definitional alignment would allow a comparison of providers’ BDC availability claims and subscribership data, and thereby aid in revealing overstated coverage claims. In short, a provider

³¹ *Id.*, ¶¶ 115-119.

³² *Id.*, ¶ 117.

that claims to serve a large geographic area but reports little to no subscribers should raise a flag. Indeed, where meaningful subscribership numbers are not reported within a reasonable time after coverage claims are first reported on the BDC, this should serve as prima facie evidence that something is amiss, and coverage claims should be disregarded unless and until the provider can demonstrate that service is in fact available notwithstanding a complete lack of apparent consumer interest or adoption.

As a further matter of “clean-up” reconciliation with Form 477, NTCA urges the Commission to require providers to indicate whether facilities-based voice service is available for each BSL where broadband service is reported. There is no reason to retain a vestige of census tract-based reporting of such service in Form 477 when a provider can rather easily indicate at the same time as it reports broadband coverage for a given BSL that it also offers voice service there.

VII. CONCLUSION

For all of the reasons discussed above, NTCA respectfully requests that the Commission proceed consistent with the recommendations set forth herein.

Respectfully submitted,



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