

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

Modernizing the FCC Form 477 Data Program      )      WC Docket No. 11-10

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

Respectfully submitted,



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## **EXECUTIVE SUMMARY**

As a general proposition, NTCA supports the development of accurate and verifiable data to support the distribution of sufficient, specific, and predictable support as well as other policies that will facilitate the further deployment of broadband throughout the Nation. NTCA also appreciates and applauds the Commission's recognition of inherent tension between the twin goals of developing more focused, granular data and minimizing burdens on filing entities. Toward these ends, NTCA recommends that any course of action taken by the Commission be based upon a reasoned cost/benefit analysis that weighs the anticipated benefits against the reasonably anticipated costs. Accordingly, and as set forth herein, NTCA proposes the elimination of certain Form 477 filing obligations, the amendment of other Form 477 requirements, and the use of geocoding for reporting new installations and upgrades.

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To the Commission:

**I.     INTRODUCTION.**

NTCA–The Rural Broadband Association (NTCA)<sup>1</sup> hereby submits comments in the above-captioned proceeding.<sup>2</sup> The Commission is undertaking this proceeding in order to (a) determine whether it can "collect better and more accurate information on Form 477," and (b) improve other aspects of the data collection in order to make the product more useful for policymakers, legislators, and the industry.<sup>3</sup> The Commission explains further that those goals are also guided by an intent to minimize burdens on filing entities.<sup>4</sup> In these comments, NTCA

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<sup>1</sup> NTCA represents nearly 850 independent, community-based telecommunications companies and cooperatives and more than 400 other firms that support or are themselves engaged in the provision of communications services in the most rural portions of America. All NTCA's service provider members are full service rural local exchange carriers (RLECs) and broadband providers.

<sup>2</sup> *Modernizing the FCC Form 477 Data Program: Further Notice of Proposed Rulemaking*, WC Docket No. 11-10, FCC 17-103 (2017) (FNPRM).

<sup>3</sup> FNPRM at para. 1.

<sup>4</sup> *Id.*

concur with the necessity and usefulness of better data collections, but urges the Commission to guard against imposing new burdens on small providers.

Form 477 was established in 2000 to assist the Commission's assessment of broadband deployment and competition in the voice services marketplace, and to establish more successful policies in those regards.<sup>5</sup> Separately, and as will be discussed herein, the Commission directed the Universal Service Administrative Company (USAC) in 2016 to "develop an online portal to accept geo-located broadband information" and related information. In response, USAC created the High Cost Universal Service Broadband Portal, or HUBB, to which recipients of model-based support and certain other recipients of high-cost universal service fund (USF) support must submit data.<sup>6</sup> Although the instant FNPRM contemplates Form 477 and possible amendments to that collection, NTCA submits that the HUBB can inform the Commission's efforts in the instant proceeding.

As a general proposition, NTCA supports the development of accurate and verifiable data to support the distribution of sufficient, specific, and predictable support<sup>7</sup> as well as other policies that will facilitate the further deployment of broadband throughout the Nation. NTCA also appreciates and applauds the Commission's recognition of inherent tension between the twin goals of developing more focused, granular data and minimizing burdens on filing entities.

Toward these ends, NTCA recommends that any course of action taken by the Commission in

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<sup>5</sup> FNPRM at para 5.

<sup>6</sup> *See, generally*, "Wireline Competition Bureau Provides Guidance to Carriers Receiving Connect America Fund Support Regarding Their Broadband Location Reporting Obligations," Public Notice, DA 16-1363 (Dec. 8, 2016).

<sup>7</sup> *See*, 47. U.S.C. § 254(b).

response to the FNPRM be based upon a reasoned cost/benefit analysis that weighs the anticipated benefits against the reasonably anticipated costs. As will be borne out in the discussion of these comments, NTCA supports data collections that do not impose undue or burdensome obligations on its members. NTCA recommends the Commission confirm the data sets that are necessary to inform sound policy decisions, and to limit collections to those data for which the Commission has a legitimate statutory or regulatory need. These include, but are not limited to, verifying areas in which competitors may or may not be present to determine distribution of high-cost universal service fund support. The Commission is requested to refrain from any course that would tend to increase reporting burdens, particularly for small providers. The instant opportunity can be utilized, as described herein, to decrease administrative burdens on providers, and NTCA will suggest routes by which relief from certain reporting burdens can be obtained. Moreover, as the Commission engages this proceeding, NTCA urges the Commission to give specific consideration to the potential burdens on small providers.

Even where the Commission can identify aggregate benefit arising out of increased granularity, the costs of gathering that information must be considered to ensure that the burdens of acquiring those perceived benefits are not visited disproportionately on smaller carriers in particular. This approach is consistent with the ultimate goals of the collections, which are consumer protection and the promotion of broadband deployment. In the first instance, proper data collection enables the Commission to establish sound policy on the bases of accurate data. To the extent these data inform universal service policies, they can play a critical role in ensuring the resources necessary to ensure ubiquitous deployment are available and deployed in a targeted and rational manner. These, in turn, support services of a capability that are necessary to support core economic development, educational, health care, public safety and other vital functions.

Avoiding costly administrative burdens while pursuing these goals will enable providers to direct more resources to network deployment and consumer interests. Accordingly, and as set forth below, NTCA submits the following specific comments for the Commission's consideration.

## **II. DISCUSSION.**

### **A. THE USEFULNESS OF DATA COLLECTIONS SHOULD IMPROVE IF UNIFORM METRICS ARE APPLIED TO THE VARIOUS AND SEPARATE REPORTING OBLIGATIONS.**

Communications providers subject to Commission jurisdiction comply with multiple data collections each year. These include, but are not limited to: Form 395 (common carrier employment report); Form 481 (for state designated eligible telecommunications carriers); Form 497 (low-income reporting); Form 502 (numbering utilization); Forms 507 (line count), 508 (broadband loops), and 509 (cost data); Form 555 (Lifeline certification); and others whose cumulative annual burden is estimated to exceed 900 hours. Form 477 alone is estimated to require 130 hours on an annual basis. Various data collections relating to broadband deployment are currently reserved to separate segments of the industry. Whereas many recipients of high-cost support provide data via the HUBB portal, most carriers (including many rate of return carriers to the extent they do not have specified buildout obligations) provide information semi-annually via the Form 477. However, even though these data are submitted by entities that, to the eye of the consumer, should be roughly equivalent, the data collections (and the data submitted therein) are not.

The data collection measures serve several purposes, including, but not limited to, USF distribution and the Commission's annual Section 706 report. Accordingly, both quantifiable and qualitative impacts evolve from these collections in the form of regulatory reactions or Commission conclusions. Notably, however, even qualitative impacts may then evolve to actions

that have a quantitative impact should the Commission act based upon findings of the Section 706 report. Noting the "end of line" impact of these collections, specifically, policies and regulations that inform providers' strategies for deploying and maintaining networks, NTCA supports efforts to ensure consistent, specific, accurate and verifiable data. However, NTCA also notes the need to balance the costs against the anticipated benefits. By way of illustration, informal NTCA inquiries indicate that that smaller companies often "hire out" the task of completing these filings. Larger companies are likely better able to absorb these "costs of doing business," but NTCA also has members that employ several people and serve only hundreds of customers. For these smaller companies, the cost of complying with multiple data collections each year can mount a burden that takes resources away from network expansion and other core undertakings. The ultimate benefit of the Form 477 must also be measured against the new collection methods of the HUBB. Each collection, at bottom, is intended to gather information about deployment and availability, but the various distinct approaches of each raises a question as to whether harmony among the collections, both in process and timing, would serve the overall purposes of the Commission more soundly.<sup>8</sup>

As noted above, these data assist the Commission's development of the annual Section 706 report, from which regulatory actions and policies may arise. Accordingly, as the Commission looks at Form 477, it is worthwhile to consider how its processes can molded to fit

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<sup>8</sup> By way of example, Form 477 aims to develop data concerning the types of the services that are available, and where they are available. Form 477 looks at census blocks, while HUBB relies on geocoding. Form 477 develops information about the technology that is deployed and/or available, while HUBB focuses primarily on identifying served locations. Form 477 demands more detailed service capability than HUBB on a geographic basis; HUBB endeavors to quantify the number of customers.



more neatly against the more granular kind of data obtained via the HUBB. Harmonization of data that feeds a common report can assist "apples-to-apples" comparisons and analyses of cross-applicable metrics. However, the determination of whether a type or types of services are available at a geographic location is best arrived at on the bases of uniform metrics that correlate geographic reference points. Therefore, NTCA suggests that, within the boundaries of reasonable burdens imposed upon reporting entities, the Commission may consider a uniform reporting protocol where data that is intended to address service availability is reported in a common and consistent manner.<sup>9</sup>

**B. FORM 477 REQUIREMENTS FOR NEW DEPLOYMENTS SHOULD BE AMENDED.**

Toward these ends, NTCA proposes that Form 477 deployment requirements be amended. At the outset, NTCA notes that existing deployment data indicates census block-level information for deployment. On a prospective-only basis, looking to the HUBB as a reference point, all entities required to file a Form 477 could be required to geocode and report with respect to new installations as well as upgrades of service at existing locations; providers would be under no obligation to revise Form 477 data filed prior to the date of this change. Inasmuch as geocoding has the benefit of not only being more granular but also capturing the census block of the location (for example, the HUBB indicates whether a geocode entry is within or outside of an eligible census block), any new census block data would be discernible as part of the overall

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<sup>9</sup> Harmonization of data collection methodologies could enable the Commission to extract more granular analyses without necessarily increasing burdens. For example, Form 477 could focus on breakdowns of residential vs. business subscriptions, while a HUBB-type approach could focus on the geographic locations at which service is available. Section 706 reports could continue to draw from these data sets.

Form 477 filing and thus could show progress (in the form of expansion or upgrades) as compared to prior Form 477 filings. More specifically, and again in the interest of moving toward more consistent datasets, this would (a) add a census block to the roster if a provider geocoded an installation in a previously-unserved census block, or (b) reflect improved speed if a service upgrade was implemented in a previously-served census block. Over a period of time, this migration toward geocoded reporting for new installations and service upgrades would naturally “phase down” the capturing of data at a census block level. These measures would lead, over the course of a measured multi-year transition, to commonality and greater granularity – a migration to depicting deployment by location rather than census block – without placing undue reporting burdens on filers because the geocoded information would be collected only on a prospective basis.<sup>10</sup>

In addition to the amending the *form* of submitted data, NTCA submits that the *frequency* should be addressed as well. Specifically, Form 477 reporting obligations should be drawn back from semi-annual to annual. This will reduce compliance costs among carriers and enable the Commission to analyze trends on a standard annual basis. This is especially relevant when one considers that the Section 706 report, which is informed by Form 477, is conducted on an annual basis.

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<sup>10</sup> NTCA’s members’ experiences with geocoding in the HUBB process is that while some incremental burden is certainly associated with such tracking and reporting, it is not an undue burden *if applied only prospectively* when network is installed or upgrades in service are activated at a location – and the burdens of obtaining such information on a prospective basis are likely outweighed by the benefits of obtaining more granularity and commonality (and reliability) with respect to deployment data moving forward. By contrast, in NTCA members’ experiences, a retrospective collection of deployment information on a geocoded basis would present a substantial burden that is unnecessary to achieve the transition contemplated by these comments.

Follow-on policies developed from a uniform set of approaches in Form 477 and HUBB, and as developed in the Commission's analysis as presented in the Section 706 report, should result in improved and more effective policy. In sum, the respective approaches of Form 477 and HUBB are neither *per se* correct nor incorrect; rather, the existence of two data sets, each of which may well have merit the other does not, may be found to frustrate the realization of important policy goals by perpetuating the collection of disparate data sets. In contrast, the Commission should consider whether reasonable and economically feasible approaches to move toward uniform data collections would enable the ability to cross-reference data, and whether those would lead policy makers to a clearer understanding and, ultimately, policies that better meet the Commission and Congressional goals of ensuring affordable and ubiquitous broadband.

**C. THE COMMISSION RAISES IMPORTANT ISSUES THAT WARRANT A STUDIED EXAMINATION OF COSTS AND ANTICIPATED BENEFITS.**

The FNPRM suggests numerous amendments and potential modifications to the Form 477 process. In this section, NTCA addresses certain of these proposals. A constant theme in NTCA's approach herein is to balance the collection of useful data that is both harmonious to other data collections and undertaken in cost-conscious, administratively efficient manner.

The Commission seeks comment on how it can improve the data that it collects on mobile and voice subscriptions.<sup>11</sup> NTCA submits that efficiencies can be obtained without compromising the overall quality of collections by gathering certain subscription data annually on a sampled basis, instead of a semi-annual mandatory submission of data by companies in the industry. With this approach, the Commission would conduct a stratified random sampling of

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<sup>11</sup> FNPRM at paras. 26-29.

companies to obtain a statistically valid sampling of the industry. These selected sample companies would be the only companies that need to file the full subscription data set, *e.g.*, speed and network type, in that given year. The total universe of customer connections would still be obtained by the Commission by requiring all companies to file their total voice and broadband subscriber counts. However, the overall burden on all companies would be reduced. Even those companies required to file full data sets in one year would likely "fall out" of the sample group in following years.

The use of sampling by the Commission is not without precedent: The Commission currently undertakes annual urban rate surveys to set national benchmarks for voice and broadband rates. In that process, the Commission has formulated a methodology to extrapolate a national benchmark from a survey sample. A similar course in the Form 477 arena is worthy of consideration, as it would reduce burdens on filing entities while not compromising the overall data quality sought by the Commission.<sup>12</sup>

The Commission suggests that Form 477 filers indicate several categories for each technology code.<sup>13</sup> NTCA does not support proposals that would require providers to identify (a) where they can serve, how many they serve, and how many they could serve, as distinguished from (b) identifying where they serve but cannot accommodate new customers and as

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<sup>12</sup> This being said, there is no reason for voice subscriptions to continue to be gathered only at the state or tract level. Unlike broadband where subscription information can vary greatly because of speed and network type – and thus the burden of reporting of such data on a census block basis is more complicated and much greater – there is little to no burden associated with identifying voice subscription data at a census block level. Thus, voice subscription data should be processed and gathered at a census block, rather than state, level of granularity.

<sup>13</sup> FNPRM at para. 34.

distinguished from (c) areas where there are no customers but in which customers could be added upon request. The matter of where a provider can serve in the future is of specific concern to the company, rather than the Commission. The overriding concern of the Commission is where a provider is meeting its obligation *vis-à-vis* those areas where it is *currently* able and required to serve. It can be reasonably anticipated that providers will serve where market demands and company resources (including, but not limited to, universal service support, access to private capital, and other Federal and state programs) enable such expansion. Moreover, it is not clear that a provider's prediction of six-months into the future<sup>14</sup> serves consistent policy purposes when for purposes of determining competitive overlap (for example), providers must be ready to provide service within seven-to-10 days. In fact, competitive overlap should not be found where a provider speculates six months into the future. NTCA therefore submits that Form 477 is not an appropriate forum in which to require firms to speculate regarding the future. Rather, to the extent feasible, the Commission can develop such data from voluntary filings as companies may desire to submit.

The Commission also seeks comment on whether fixed broadband providers should have the option of providing data in geospatial format.<sup>15</sup> NTCA submits that data submitted in GIS format can be more useful than a list of census blocks, but supports this transition only to the extent it can be accomplished in a reasonably economic manner that is not administratively burdensome. At a time when small businesses generally are facing substantial burdens and RLECs are also facing reductions in high cost support, mindful attention must be paid to costs

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<sup>14</sup> FNPRM at paras. 33-35.

<sup>15</sup> FNPRM at para. 38.

that could divert resources from network-oriented tasks. Moreover, consistent with the discussion in the preceding section of these comments, it must be noted that the use of polygons may not yield data whose accuracy reaches a level as desired by the Commission. The use of polygons that illustrate partial census blocks may in some instances ultimately yield only a differently vague dataset, albeit one that might provide more specific contours. In similar vein the Commission seeks comment on how data may be collected on a sub-census block level.<sup>16</sup> As NTCA has noted above, granular data can support more effective policies, but those benefits must be weighed against the costs of developing the data. In all instances, however, the data must be verifiable. For example, if a provider avers to serving the entire census block, then it must demonstrate how data was developed and assure its reliability.<sup>17</sup>

However, even as filers confirm the accuracy of their data, it must be assured that, except for the Commission's review, that information *remains* the filer's data. Accordingly, and in response to the Commission's inquiry regarding the availability for Form 477 data,<sup>18</sup> NTCA submits that filers retain full and complete control of their data, and that data may be not be released by the Commission, including after a discrete duration. Deployment trends that can be reversed engineered to disclose network investment patterns could subject RLECs to unfair competitive practices that would be foreclosed but for the release of data collections mandated by the Commission. The release of data may also implicate predatory pricing, enabling potential and existing competitors to plot RLEC plans and progress by studying trends over time. These

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<sup>16</sup> FNPRM at paras. 39-42.

<sup>17</sup> FNPRM at para. 43.

<sup>18</sup> FNPRM at paras. 51-55.

steps could enable competitively damaging insight into RLEC planning, and ultimately undermine the Commission's intent to formulate policies aimed at rational and ubiquitous network deployment.

Finally, NTCA submits that as the Commission approaches the permutations through which data may be collected and analyzed, any data, no matter how granular, must reveal a relationship between the various providers. The various providers, whether subject to Form 477 or HUBB, are bound best by a common methodology that enables an apples-to-apples comparison of availability, even where a comparison among services (fiber to mobile to satellite) may be of an apples-to-oranges.

### **III. CONCLUSION.**

For the reasons set forth herein and above, NTCA submits that a reduction in certain Form 477 filing obligations will ease administrative burdens on filing entities, but will not visit an adverse impact on the quality and usefulness of data collected by the Commission. Moreover, the use of geocoded filing data for new installations and upgrades will assist a transition toward greater granularity of Form 477 data, and a common form as gathered in the HUBB, thereby facilitating more useful data sets for the review and establishment of Commission policies.

Respectfully submitted,



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