Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Notice of Information Collection	)	OMB Control No. 3060-0819
Pursuant to the Paperwork Reduction Act	)	
Lifeline and Link Up Reform	)	
and Modernization	)	

PAPERWORK REDUCTION ACT COMMENTS
OF
NTCA–THE RURAL BROADBAND ASSOCIATION,
WTA – ADVOCATES FOR RURAL BROADBAND AND,
JSI

I. INTRODUCTION

NTCA–The Rural Broadband Association ("NTCA"),[1] WTA – Advocates for Rural Broadband,[2] and John Staurulakis, Inc. ("JSI")[3] (collectively "Rural Representatives") respectfully submit these comments in response to a Notice of Information Collection[4] published in the Federal Register on August 31, 2015. The notice seeks comment, pursuant to the Paperwork Reduction Act ("PRA"),[5] on the burdens arising out of an information collection

[1] NTCA represents nearly 900 rural rate-of-return regulated telecommunications providers ("RLECs"). All of NTCA's members are full service local exchange carriers and broadband providers, and many of its members provide wireless, cable, satellite, and long distance and other competitive services to their communities.

[2] WTA – Advocates for Rural Broadband is a national trade association representing more than 280 rural telecommunications providers offering voice, broadband and video services in rural America. WTA members serve some of the most rural and hard-to-serve communities in the country and are providers of last resort to those communities.

[3] JSI is a telecommunications consulting firm offering a full spectrum of regulatory, financial and operational services to over 275 primarily rural independent telecommunications providers in 45 states and the U.S. territory of Guam.

[4] Information Collection Being Reviewed by the Federal Communications Commission, Comments Requested, 80 Fed. Reg. 52474 (published Aug. 31, 2015) ("Notice").

[5] Paperwork Reduction Act of 1995, Public Law No. 104-13, 109 Stat. 163 (May 22, 1995), *codified at* 44 U.S.C. §3501, *et seq.*

adopted in the Federal Communications Commission's ("Commission") Lifeline Reform and Modernization proceeding.[6]

II. THE COMMISSION SHOULD ADOPT LESS BURDENSOME ALTERNATIVE FORM 497 REPORTING AND DOCUMENT RETENTION REQUIREMENTS FOR SMALLER PROVIDERS

Pursuant to the PRA, all federal agencies are required to estimate the burden of proposed information collections and justify the need for the data collection. Most importantly, the Commission is also required to investigate and implement less burdensome alternatives for small entities affected by actions that trigger the PRA. As the PRA states, the FCC is required to certify that the new or revised information collection:

> (C) reduces to the extent practicable and appropriate the burden on persons who shall provide information to or for the agency, *including with respect to small entities*…[through] the use of such techniques as –
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> > (i) establishing different…reporting requirements…that take into account the resources available to those who are to respond;
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> > (ii) the clarification, consolidation, or simplification of compliance and reporting requirements; or
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> > (iii) *an exemption from coverage* of the collection of information, or any part thereof.[7]

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[6] Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42, Telecommunications Carriers Eligible for Universal Service Support, WC Docket No. 09-197, Connect America Fund, WC Docket No. 10-90, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, FCC 15-71 (rel. Jun. 22, 2015) ("*Second Report and Order*" or "*Order on Reconsideration*").

[7] 44 U.S.C. § 3506 (c)(3) (emphasis added). *See also*, Memorandum for the Heads of Executive Departments and Agencies, Executive Office of the President (rel. June 22, 2012) In June of 2012, the Executive Office of the President released a memorandum discussing Executive Order 13610, which required federal agencies to eliminate unjustified regulatory requirements, including unnecessary reporting and paperwork burdens. In that memorandum, the Administrator of the Office of Information and Regulatory Affairs outlined several steps that federal agencies could take to reduce the paperwork and reporting burdens on small businesses. Among these were exemptions or streamlining for small entities (including small businesses). As the memo states, "[b]ecause of economies of scale, a collection may be disproportionately more burdensome for a small entity than a large one. Important burden reduction efforts may involve exemptions of small entities from reporting requirements, or streamlined requirements for such entities."

As the Rural Representatives have previously noted,[8] both the "Snapshot Rule" as established by the *Second Report and Order* and the document retention and security rules as adopted by the *Order on Reconsideration* impose substantial and unnecessary burdens on small communications providers, particularly for the small carrier members and clients that make up the Rural Representatives. On average, these small entities have fewer than 25 employees, many of whom are required to "wear multiple hats" in terms of both compliance and other functions for operations that span hundreds or even thousands of square miles. This number includes everything from customer service representatives to plant engineers to technicians installing and maintaining network facilities throughout what are typically large but sparsely populated rural areas. This also includes office personnel with the responsibility of maintaining compliance with the numerous other reporting requirements applicable to RLECs and their affiliated entities.

As to the newly adopted Snapshot Rule, this rule will require companies that bill their Lifeline customers on a monthly basis to either undergo costly billing system changes or implement a manual process which would increase the time required of their small administrative staffs to prepare Form 497. Likewise, the document retention and security measures adopted by the *Order on Reconsideration* also impose similarly burdensome requirements on the very same small RLEC staffs. This includes the new firewall, password, and other processes to retain and secure documents that these carriers were prohibited from retaining until the Commission adopted the *Order on Reconsideration* in June.

To make matters worse for small carriers, both the newly adopted Snapshot Rule and the document retention and security rules are quite possibly *temporary*. The Second Further Notice of Proposed Rulemaking also released in June asks several questions as to how to reform—for

[8] Comments of JSI, NTCA, & WTA, WC Docket No. 11-42, *et al*., (fil. Sep. 28, 2015); Reply to Opposition of JSI, NTCA, & WTA, WC Docket No. 11-42, *et al*., (fil. Sep. 28, 2015)

the long term—both the carrier reimbursement process and the consumer eligibility process. Specifically, the Commission is considering using the National Lifeline Accountability Database ("NLAD") to calculate carrier reimbursement for Lifeline discounts provided to consumers. The Commission is also considering removing entirely Lifeline providers from the consumer eligibility verification process. To be clear, because the Snapshot Rule and document retention and security rules may be temporary does not diminish the burden they impose on small carriers. Lifeline providers of course must undertake the changes necessary to comply with these rules in the short term regardless of whether the Commission retains them in the long term. Should the Commission move forward with alternate long-term changes, the staff time and other resources put into compliance with these rules is likely wasted. At the very least, the Commission could have held off an adopting the rules at issue herein until long-term reform was completed. Indeed, it appears that such an alternative, that would have minimized the burden on small carriers, was never even considered.

In order to comply with the PRA, the Commission should—and is statutorily required—to consider less burdensome alternatives for smaller entities. Establishing long-term reforms to both the carrier reimbursement and consumer eligibility verification processes is a good place to start. Each of these proposed reforms has the potential to eliminate a great deal of the burden of complying with the reporting requirements of FCC Form 497, and in fact would eliminate entirely the necessity for the document retention and security rules at issue herein because carriers would no longer obtain and verify eligibility documentation containing sensitive personal information of Lifeline subscribers.

Moreover, the Commission also has before it additional options for less burdensome alternatives. With respect to the Snapshot Rule, as the Rural Representatives have suggested, the

Commission could enable small providers to use their carrier-specific billing dates for purposes of completing Form 497.[9] Such an approach would significantly minimize the burdens on small providers of the Snapshot Rule as discussed above. With respect to the document retention and security rules, should the Commission choose not take carriers out of the eligibility verification process, it could adopt less burdensome requirements such as a shortened document retention period and also avoid mandating specific security methods that must be used in order to take into account the differing security postures among large and small carriers in the industry.[10]

Finally, it is worth noting that the Notice appears to estimate that the total annual cost of complying with the new rules is "none." However, as noted above, the Snapshot Rule will require RLECs to significantly alter their billing systems or alter their reporting procedures to manually complete Form 497 to ensure its accuracy. The newly adopted document retention and security rules will require these carriers to retain and secure documents they were once required to destroy as well as implement specific security measures prescribed by the Commission in the *Order on Reconsideration*. It should go without saying that such fundamental changes to the process will certainly impose significant costs. Such an estimate on the part of the Commission demonstrates a lack of understanding of the practical effect of such rules on carriers' day-to-day operations, particularly the effect the Commission's rules have on carriers with fewer than 25

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9 Comments of JSI, NTCA, & WTA, WC Docket No. 11-42, *et al*., (fil. Sep. 28, 2015).

10 It is also important to note that the Commission has indicated its intent to move forward with a rulemaking to establish new data security rules pursuant to Section 222 and the Open Internet Order, which reclassified broadband Internet access service as a "telecommunications service" under the Communications Act. Presumably small providers could—and likely would in many instances—need to update or implement new data security practices in order to ensure compliance new data security rules established in that proceeding. Accordingly, the impending Section 222 proceeding is the proper venue for the Commission to impose data security rules if it determines such new rules are necessary in the public interest, and the Commission should refrain from implementing its new Lifeline data security rules until such time as the Section 222 proceeding is complete.

employees whose time is often spent on a wide variety of tasks. On this, the Commission truly should "head back to the drawing board" and reconsider its burden estimate.

For all of the reasons discussed above, the Commission should adopt less burdensome alternatives to the rules at issue herein, including delaying the effective date of such rules until such time as long-term reform has been completed.

Respectfully submitted,

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