

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

In the Matter of	)	
	)	OMB 3060-XXXX
Affordable Connectivity Program	)	FR ID 130762

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

NTCA–The Rural Broadband Association (“NTCA”)¹ hereby submits these comments in response to the Federal Register Notice (“*Notice*”) issued by the Federal Communications Commission (“Commission”) in the above-captioned proceeding.² The *Notice* seeks comment on the Commission’s compliance with the Paperwork Reduction Act (“PRA”) of 1995³ in connection with the Affordable Connectivity Program (“ACP”) Transparency Data Collection (“ACP Collection”).⁴

As discussed further below, the Commission has miscalculated the “Estimated Time Per Response” and “Total Annual Cost” elements of the burden estimate associated with the ACP Collection. Even as the former is not wildly understated in estimating the time required in preparing to report ACP data, the latter then inexplicably assumes providers will incur zero costs

¹ NTCA–The Rural Broadband Association represents approximately 850 independent, 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 Information Collection Being Reviewed by the Federal Communications Commission, Notice, 88 FR 15716 (Mar. 16, 2023) (“*Notice*”).

³ 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.

⁴ Affordable Connectivity Program, WC Docket No. 21-450, Fourth Report and Order and Further Notice of Proposed Rulemaking, FCC 22-87 (rel. Nov. 23, 2022) (“ACP Collection” or “Collection”).

for compliance. Even worse, this appears to be the latest in a pattern of data collections⁵ that oddly seem to assume that efforts to comply are somehow *costless* for providers. In consistently taking such an approach, it is unclear whether the Commission is properly factoring in the true costs that are part of any data collection, and NTCA therefore urges the agency to take a broader (and more accurate) view of *all* costs of compliance here and going forward. NTCA members are small businesses with limited resources, and the PRA requires that the Commission look for less burdensome alternatives where it can – yet the agency cannot determine a collection is too burdensome and analyze alternatives if it presumes that time spent for compliance is somehow cost-free to reporting entities.

I. THE COMMISSION’S REPORTING BURDEN ESTIMATES MISCALCULATE, OR FAIL TO CONSIDER ALTOGETHER, ASPECTS OF SMALL PROVIDERS’ BURDENS ASSOCIATED WITH THE ACP COLLECTION.

A. NTCA members are small businesses that must comply with numerous regulatory and reporting burdens, and they do so with limited staff resources.

If data collected regarding the ACP program offers policymakers insight into whether and to what degree the program is enabling low-income consumers to subscribe to and retain broadband services, and if such data can highlight the value of the program and thereby provide a basis for additional funding, it will be a valuable collection. At the same time, as NTCA has noted in other data collections,⁶ there is a need to balance the benefit of such these with the potential burdens any given data collection may create, especially for small businesses.

⁵ See, NTCA Comments, FCC Docket No. 22-2, OMB 3060-XXXX, FR ID 126104 (fil. Apr. 10, 2023) (“*NTCA Labels PRA Comments*”), p. 4 (stating that “the PRA Worksheet projections of “\$0” burden for compliance with these rules beg significant questions”).

⁶ See *Id.* See also, NTCA/RICA Comments on Special Access Data Collection (fil. Jan. 8, 2014).

Stepping back for context, NTCA members are small businesses that collectively serve nearly a third of the United States' land mass but less than 5% of the population. Despite such great distances and low density, they operate, on average, with approximately 30 full-time employees, including executive teams, installers, technicians, customer service representatives, and the staff that manage compliance with regulations and data collections such as the one at issue here.

Of course, NTCA members, in large numbers,⁷ voluntarily chose to participate in the ACP, and they understand that certain reporting obligations follow from that choice. That said, it is critical that the Commission have an accurate understanding of the burden this data collection is likely to have on a small business such as those NTCA represents. The limited staff resources they possess, and the difficult environments and small markets in which these rural providers operate, require running “lean” operations that include the same staff person performing multiple functions ranging from managing accounts receivable to regulatory reporting. Moreover, precisely because compliance with these data collections is so critical and given that many reporting obligations can be quite complicated or require some degree of specialized and focused knowledge, these operators often work with outside expert consultants. Member feedback indicates that most will, at the very least, turn to outside consultants for the initial annual ACP Collection filing (and likely subsequent reports as well).

⁷ NTCA Broadband/Internet Availability Survey Report (Dec. 2022) p. 14 (“More than three-quarters (77.8%) of all respondents report that they offer the Affordable Connectivity Program (ACP) to their customers.”).

Unfortunately, as discussed further below, the burden estimates found in the *Notice* and released after the adoption of the *ACP Collection Order*,⁸ are cause for concern – this is true both in their own right and the latest in a pattern of burden findings for recent data collections.⁹

B. The “Estimated Time Per Response” and “Total Annual Cost” estimates in the *Notice* fail to account for several critical factors.

The “Estimated Time Per Response” and “Total Annual Cost” estimates in the *Notice* somehow indicate that 21 hours of time per provider per year will be required to comply with the instant data collection, but then estimate that this time will be entirely cost-free for any reporting entity. These paired findings are impossible to square.

With respect to “cost,” as noted above, many NTCA members will use internal resources – *paid* full-time staff – to perform some of the functions associated with reporting, turning in all likelihood to outside consultants to complete the ACP Collection. Indeed, even those that might be able to complete the request “in-house” in subsequent years largely intend to turn to consultants for guidance for the inaugural collection. Certainly, neither such consulting costs nor the portion of Fully-Loaded Costs of Full Time Equivalent employees devoted to compliance with the instant data collection should be ignored altogether and resulting in an estimate that the burden of reporting is “\$0.”

Moreover, internal staff resources and outside consultants are not the only costs that will be incurred here. Some members have indicated that billing system modifications and upgrades may be necessary to produce the data necessary for the ACP Collection – again, this may in some instances only be required for the inaugural annual collection, but these are very real costs for

⁸ *Affordable Connectivity Program*, WC Docket No. 21-450, Fourth Report and Order and Further Notice of Proposed Rulemaking, FCC 22-87 (rel. Nov. 23, 2022) (“*ACP Collection Order*”).

⁹ *Id.*, fn. 5.

small businesses. Even those providers that find billing system upgrades are unnecessary will nevertheless incur several hours to configure existing billing systems to produce the specific data requested by the Commission and to review it for accuracy and compliance with the *ACP Collection Order*. Finally, both consultants and internal staff will need time to familiarize themselves with, and ensure billing systems can interface with, the online reporting portal through which reporting will be done.

The cumulative burden that data collections place on small businesses' staff and resources is real, and even if one collection consumes only a few dozen hours per year, 30 or more of those per year adds up. And the latest disregard for the costs of compliance here appears to be part of a recent pattern. As NTCA replied to claims that the Broadband Labels rules issued last year would similarly be cost-free to reporting entities, it is "unrealistic to propose that small companies will endure "zero cost" in the implementation of these requirements."¹⁰ As the comments went on to state, "[i]t is further unclear why, even were in-house staff available to perform some or all of these functions for some providers, this would be deemed to come at "\$0" when those staff would still be paid for performing such functions at the opportunity cost of performing other functions."¹¹

Finally, while the 21 hours per submission estimate seems reasonable as an ongoing matter, it must not be overlooked that providers are likely to require a greater number of hours to complete the *inaugural* annual filing successfully and accurately – as noted above, familiarity with the online reporting portal and with the requirements of the ACP Collection itself will

¹⁰ *NTCA Labels PRA Comments*, p. 6.

¹¹ *Id.*

require additional time. The same can be said for the initial steps to integrate billing systems with reporting into the online portal (at least to the extent providers can do so). These additional steps should be accounted for; yet there is no indication that the 21 hours per submission is an “averaged” figure or factors in the additional hours that will come on the “front end.”

Again, NTCA does not seek herein to question, in any way, the ultimate value of the ACP Collection. The discussion herein is simply an effort to ensure that reporting obligations are properly calibrated based upon accurate estimates of time and cost. The PRA directs agencies to limit the burden of data collections to the extent possible while also fulfilling the underlying needs that spurred the collection in the first place,¹² and this can only be achieved if more realistic estimates of cost than “zero” are identified. Indeed, it is unclear how the PRA’s directive to “take into account the resources available to those who are to respond”¹³ in considering requirements and identifying alternatives can be satisfied in the face of such a cost estimate. Taking account of every “cost” reasonably involved in a data collection is the only way to assess the burden and ultimately tailor the reporting requirement appropriately.

II. CONCLUSION

Unless it can explain further how it reached such a result, the Commission should modify its estimate of zero cost for reporting burden when it is inarguable that both internal and external resources will be needed for compliance and that these resources are not cost-free to reporting entities.

¹² See 44 U.S.C. § 3506 (c)(3).

¹³ 44 U.S.C. § 3506 (c)(3)(C)(i).

Respectfully submitted,



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