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**SUBJECT TO PROTECTIVE ORDER IN WC DOCKET NO. 05-25, RM-10593 BEFORE
THE FEDERAL COMMUNICATIONS COMMISSION**

April 15, 2013

VIA HAND DELIVERY AND ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
The Portals
445 - 12th Street, SW
Washington, DC 20554

Re: American Cable Association; Paperwork Reduction Act Comments – WC
Docket No. 05-25, RM-10593, OMB Control Number 3060-XXXX

Dear Ms. Dortch:

The American Cable Association (“ACA”), through its attorneys, hereby submits two copies of the enclosed Paperwork Reduction Act Comments redacted pursuant to the Modified Protective Order (DA 10-2075) in this proceeding to the Secretary’s Office.

KELLEY DRYE & WARREN LLP

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SUBJECT TO PROTECTIVE ORDER IN WC DOCKET NO. 05-25, RM-10593,
BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
April 15, 2013
Page Two

In addition, this submission is being filed electronically in ECFS in the above-referenced docket.

Sincerely,



Thomas Cohen
Joshua Guyan
Kelley Drye & Warren LLP
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Counsel for the American Cable Association

cc: Judith B. Herman (PRA@fcc.gov)

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**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
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
Comprehensive Market Data Collection for Interstate Special Access Services)	FCC 12-153 OMB Control Number: 3060-XXXX

**PAPERWORK REDUCTION ACT COMMENTS
OF THE AMERICAN CABLE ASSOCIATION
ON FCC 12-153**

I. INTRODUCTION AND SUMMARY

The American Cable Association (“ACA”) submits these Paperwork Reduction Act (“PRA”)¹ comments in response to the notice² of the Federal Communications Commission

¹ 44 U.S.C. §§ 3501-3520. The PRA’s purposes include: minimizing the federal paperwork burden on individuals, small businesses, and other governmental entities; ensuring the greatest public benefit from information collected by the federal government; coordinating federal information resources management policies; and improving the quality of federal information and the use thereof. *See* 44 U.S.C. §§ 3501(1). The statute defines the term “burden” broadly, including “time, effort, and financial resources expended by persons to generate, maintain, or provide information.” 44 U.S.C. §§ 3502(2). In addition, the statute requires federal agencies to reduce the

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(“Commission”) seeking comment on the information it proposes to collect about the market for interstate special access services. The proposed mandatory information request is contained in Appendix A of the “Special Access” Report and Order and Further Notice of Proposed Rulemaking adopted by the Commission in December, 2012.³ The Commission intends to use this information in conjunction with a market analysis “in conducting a comprehensive evaluation of competition in the special access market updating its rules for pricing flexibility for special access services.”⁴

The Commission’s proposed comprehensive special access data collection is mandatory for providers of Dedicated Services and Best Efforts Internet Service to business customers. The *FR Notice* states that more than 6,000 entities are expected to respond and that the average time required for each respondent to complete the request is 134 hours. The *FR Notice* provides no background on how the Commission arrived at these numbers. The *FR Notice* requests, among other things, that comment is requested on “the accuracy of the Commission’s burden estimate,” “ways to minimize the burden of the collection of information on the respondents,” and “ways to

burden to the extent practicable with respect to small entities. *See* 44 U.S.C. §§ 3506(c)(3)(C).

² Federal Register Notice, Information Collection(s) Being Reviewed by the Federal Communications Commission Comments Requested, Federal Register, Vol. 78, No. 29, at 9911-9912 (Feb. 12, 2013) (“*FR Notice*”).

³ *See Special Access for Price Cap Local Exchange Carriers, AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, WC Docket No. 05-25, RM-10593, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-153 (rel. Dec. 18, 2013) (“*Special Access Order/NPRM*”).

⁴ *FR Notice* at 9912.

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further reduce the information burden on small business concerns with fewer than 25 employees.”⁵

ACA represents approximately 850 small cable providers offering communications service throughout the United States. Based on the attributes of members sampled for purposes of these comments, it estimates that between 100 to 150 of its members provide Dedicated Services or Best Efforts services to business customers and will need to respond to the Commission’s data collection. Nearly all of these operators would qualify as small cable companies.⁶ As such, it has a substantial interest in the outcome of PRA review. To understand the burdens of the data collection, ACA has had lengthy exchanges with its members who have carefully reviewed the questions in the collection request.

The proposed collection of information is set forth in great detail in the 24 pages of Appendix A with a series of highly technical definitions and set of complex, often multi-part, questions. As discussed at length herein, the Commission’s average estimate of the time to respond – 134 hours – is significantly below that of the members ACA has sampled. Based on lengthy reviews of Appendix A by its members, ACA estimates the average small operator will take at least 500 hours to respond. This would be in addition to the time required to read the request, understand the terminology (which is alien to many small cable operators), and determine what it will take to comply. One cable operator has informed ACA that its staff has

⁵ *FR Notice* at 9911.

⁶ *See Special Access Order/NPRM*, Appendix B, ¶ 54.

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already spent 100 hours on just this aspect of the response.⁷

Since the Commission provided no support for its estimates, ACA can only surmise as to the reason for the large discrepancy between the estimates of ACA members and the Commission. It may be that the Commission did not understand and account for the fact that small operators do not collect the information requested by the Commission in the normal course of business. That is, the information is not the operator's current data base and will need to be created for the first time in response to the Commission's mandate.

The cost of gathering, collating, and formatting the information will be very large for small cable operators – in fact disproportionately large in comparison to the revenues from Dedicated Services that these operators receive. ACA estimates, based on the members sampled for purposes of supplying information for the comments, that the total effective cost for an average small operator to respond will be approximately \$50,000. This is clearly excessive in absolute terms for smaller entities, in terms of the value of the information produced for this cost, and because much of the information required for the Commission's analysis can be found in information kept by these operators in their normal course of business. It is especially troublesome since these small operators did not request the Commission's examination of the special access market, and few, if any, who compete in this market, will benefit from any Commission regulation of special access services. Because the request imposes such large burdens on small cable operators, ACA submits it is not compliant with PRA's directive to minimize the paperwork burden, especially for smaller entities, and needs to be extensively

⁷ See Declaration of Michael Edl, Chief Technology Officer, ImOn Communications, ¶ 4 ("ImOn Declaration")

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revised before the mandatory data request should be issued.⁸

In the interest of proposing solutions to address these flaws and lessen the burden, ACA submits that the Commission alter the request and establish as a general rule that small cable operators not be required to produce information that they do not collect in the normal course of business.⁹ More specifically, at the very least, no small cable operator should be required to create a new map of its fiber deployments or develop new information regarding building locations (i.e. by geocode or building-type) and customer billings and revenues from Dedicated Services or Best Efforts service. ACA recognizes that the Commission may believe it requires specific and highly detailed information to implement its panel regression analysis. However, there is little support in the industry – either by incumbent or competitive providers for that type

⁸ A central purpose of the PRA is to minimize the “paperwork” burden for reporting entities, and the Commission has an obligation to ensure this objective is achieved. Unfortunately, the Commission has not provided any background information on how it arrived at its estimates and whether it attempted to select the least intrusive means of collecting the information, especially from smaller entities. Because of this lack of transparency, ACA is unable to match with any precision the time its members believe will be required to respond to each question with that estimated by the Commission.

ACA notes that in the *Special Access Order/NPRM*, the Commission delegated authority to the Wireline Competition Bureau to “amend the data collection based on feedback received through the PRA process.” *Special Access Order/ NPRM*, ¶ 52. Last year, ACA had productive conversations on the data request with the Wireline Competition Bureau. It intends to continue this dialogue so that the burdens identified here can be lessened.

⁹ In the *Special Access Order/NPRM*, the Commission exempted smaller entities from complying with the need to produce information about their Best Efforts service to business customers. See *Special Access Order/ NPRM*, ¶ 22. ACA appreciates the Commission’s response addressing that burden. However, ACA sought an exemption for Dedicated Services as well, and it continues to urge the Commission to revisit this issue and adopt an exemption for filing any data for small cable operators, such as Frankfort Plant Board and ImOn Communications.

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of economic analysis.¹⁰ In addition, the Commission is required by the PRA to balance its need for this specific data with the burdens imposed. In this case, small cable operators are relatively new entrants in the provision of Dedicated Services, a market the incumbents have dominated for decades and where long term customer contracts, which are often regionally based, play a key role.¹¹ Accordingly, the local market presence of small cable operators is not significant enough to warrant the Commission's far-reaching information request. In contrast, as ACA sets forth herein, the burdens in producing the required information are great, far beyond what the Commission estimates.

In addition to ACA's own proposal, it supports the proposed revisions of the National Cable & Telecommunications Association ("NCTA"), which were recently submitted to the Commission.¹² In these proposals, NCTA recommends:

- For maps of fiber deployments (Question A 5), the Commission should not require any provider to create a new map and should eliminate the obligation to provide information about nodes used as interconnection points.

¹⁰ See e.g., Comments of AT&T, WC Docket No. 05-25, RM-10593 at 24 (Feb. 11, 2013), and Comments of BT Americas et al., WC Docket No. 05-25, RM-10593 at 47-74 (Feb. 11, 2013).

¹¹ The Commission has determined that the special access revenues of the price cap LECs total approximately \$16 billion annually. See Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission, Statistics of Common Carriers (2008), Table 2.11 (2006 data). "According to self-reported data by four of the largest sellers of special access services, combined revenues from special access services exceeded twelve billion dollars in 2010 alone." Special Access: The Harm of Premature Deregulation in Telecommunications, *Cardozo Arts & Entertainment*, Vol. 31:113, at 114 (Nov. 2012). These revenues are an aggregate of all local markets.

¹² See *Ex Parte* from Steven F. Morris, Vice President and Associate General Counsel, National Cable & Telecommunications Association, WC Docket No. 05-25 (Mar. 22, 2013).

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- For pricing data (Questions A 12-14), the Commission should not collect that data from competitors since it is not necessary to determine an ILEC's market power; but, if such information is collected, it should only be data in the provider's automated billing records.
- For marketing materials (Question A 10), the Commission should only seek information for 2013.
- For RFP Responses (Question A 11), the Commission should only require information on "wins" that are not yet operational, and, for "losses," it should only require location data.
- For location type (Question A 4d), the Commission should require the provider to produce only information in existing records.
- For purchaser data (Question F3 – Tariff), the Commission should not burden competitive purchasers with any requirement to produce data since the best source of data is the incumbent local exchange carrier ("LEC") providers.
- For revenue data (Question A 16) and purchaser data (Question F 6-7) about bandwidth, the Commission should only require the submission of data collected in the normal course of business.
- For data about the headquarters location and affiliate relationships (Question A 9), the Commission should not collect data, or at least limit the collection to 2010 and 2012.
- For data comparing competitors' offering to incumbent LEC offerings (Question A 18), the Commission should eliminate the requirement or make it voluntary.
- For purchaser data about terms and conditions (Question F 8), the Commission should eliminate the requirement or make it voluntary.

II. MAJOR FLAWS AND EXCESSIVE BURDENS WITH THE DATA COLLECTION REQUEST

So that it could provide more accurate information to the Commission and Office of Management and Budget ("OMB") about the burden imposed by the mandatory data request, ACA reached out to many of its members who provide Dedicated Services and Best Efforts service to business customers and thus need to comply with the information request. Attached

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are declarations from two smaller cable operators, Frankfort Plant Board (Kentucky) (“Frankfort”) and ImOn Communications (Iowa) (“ImOn”).¹³ In these declarations, Frankfort and ImOn provide their estimates of the time and resources required to respond and the reasons for these estimates. ACA also sought to confirm whether the information provided in these declarations reflects the concerns of other ACA members. It therefore canvassed another dozen members on the issues raised by Frankfort and ImOn. Some of these members, while still small to mid-sized operators, were substantially larger than these two operators. As discussed herein, in general, these other members would suffer the same burdens as those identified by these two operators.

Frankfort is a municipal utility providing video, voice, and broadband services to approximately **REDACTED XXXXXXXXXXXX REDACTED** customers overall, **REDACTED XXXXXXXXX REDACTED** of whom take broadband service.¹⁴ From the provision of Dedicated Services, it has annual revenues of approximately **REDACTED XXXXXXXX REDACTED**; from Best Efforts service to business customers, approximately **REDACTED XXXXXXXXXXXX REDACTED**.¹⁵

ImOn provides video, voice, and broadband services to approximately **REDACTED XXXXXXXXXXXX REDACTED** customers, Best Efforts service to approximately **REDACTED XXXXX REDACTED** business customers and Dedicated Services to

¹³ See Declaration of John Higginbotham, Superintendent Cable/Telecommunications, Frankfort Plant Board (“Frankfort Declaration”); ImOn Declaration.

¹⁴ See Frankfort Declaration, ¶ 2.

¹⁵ See *id.*, ¶ 3.

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approximately **REDACTED XXXXX REDACTED** customers.¹⁶ It is unable to breakout revenues from Dedicated Services or Best Efforts service to business customers.

Before delving into the problems faced by Frankfort, ImOn, and other ACA members in gathering and submitting the information required by the request, it is important for the Commission and OMB to understand that the burden on these smaller operators begins from the outset, when they read and attempt to understand the information request.¹⁷ This is far from a trivial exercise, particularly for entities like Frankfort and ImOn that do not have staff dedicated to regulatory compliance. As a result, these providers were not familiar with terminology used in the request, and they were overwhelmed by the complexity of the questions. This caused Frankfort and ImOn to reference the 24 page information request and have lengthy internal discussions and follow-up calls with ACA about what was required to comply. For instance, ImOn declared that it took about 100 hours to evaluate the information request and determine the

¹⁶ See ImOn Declaration, ¶ 2.

¹⁷ Smaller cable operators are not the only respondents that have difficulty understanding the information request. A number of major telecommunications providers, which have many individuals dedicated solely to dealing with federal regulatory matters and which frequently advocate before the Commission, including in the special access proceeding, have visited Commission staff over the past months trying to clarify and understand the information request. See e.g., *Ex Parte* Letter from Frederick E. Moacdieh, Verizon, WC Docket No. 05-25 and RM-10593 (Apr. 10, 2013), *Ex Parte* Letter from Jay Bennett, AT&T, WC Docket No. 05-25 and RM-10593 (Jan. 15, 2013), *Ex Parte* Letter from Maggie McCready, Verizon, WC Docket No. 05-25 and RM-10593 (Jan. 15, 2013), *Ex Parte* Letter from Thomas Jones, Attorney for tw telecom, inc., WC Docket No. 05-25 and RM-10593 (Jan. 10, 2013), *Ex Parte* Letter from Eric Branfman, Counsel for Level 3 Communications, LLC, WC Docket No. 05-25 and RM-10593 (Jan. 9, 2013), and *Ex Parte* Letter from Paul Margie, Counsel for Sprint Nextel Corporation, WC Docket No. 05-25 and RM-10593 (Jan. 9, 2013).

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time and cost to respond.¹⁸ From any objective standpoint, this by itself is excessive for small providers.

The fundamental problem Frankfort, ImOn, and other ACA members have with the information request is that they do not collect much of the information in the normal course of business and to respond will need to spend significant time and resources to create it for the first time. These new efforts lie principally in three areas: fiber maps, location information, and billing and revenues information.

Fiber Maps

The information request (Question A 5) requires respondents to provide maps of their networks, including fiber that is owned or leased pursuant to an IRU agreement and all Nodes used to interconnect to third party networks, and the year the Node went live. Frankfort does not have these maps and would need to create them. This would entail, among other activities, reviewing its many end user agreements to determine routes, Nodes, and dates of service initiation for each Node. The entire exercise of gathering data and generating the maps would take Frankfort approximately 180 hours.¹⁹

ImOn “has some maps of its fiber routes showing its most recent hubs (3 out of the 26), but it does not currently have the maps required by the mandatory data request.”²⁰ For ImOn, the “most difficult and time-consuming aspect of creating the maps would be identifying the year each Node went live,” which would require it to review some **REDACTED XXXXXXXXXXX**

¹⁸ See ImOn Declaration, ¶ 4.

¹⁹ See Frankfort Declaration, ¶ 7.

²⁰ ImOn Declaration, ¶ 7.

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REDACTED customer agreements.²¹ ImOn estimates it would need to spend 80 hours on the fiber map tasks.²²

Of the ACA members surveyed, most did not have complete fiber maps, especially connecting to end user locations. Further, for those with maps, not one contained complete information about nodes. Thus, their experience does not differ much from Frankfort or ImOn, and this information would need to be generated for the first time to respond to the information request.

Location Information

The information request (Question A 4) requires respondents to provide a variety of specific information about locations where they provide a connection for Dedicated Services. Frankfort does not maintain most of the information the request seeks. It therefore would “need to review all customer agreements and obtain the latitude and longitude manually for each location (by using Google Maps and other generally available sources).”²³ Also, to gather information about location type, the contracts are likely to prove insufficient, and it may need to contact the customer or visit the site. In all, Frankfort estimates this work would take at least 60 hours.

Like Frankfort, ImOn does not collect and maintain most of the location information requested. Consequently, it “will be required to review all of its customer agreements and obtain latitude and longitude manually for each location by using generally available sources” and may

²¹ *See id.*

²² *See id.*

²³ Frankfort Declaration, ¶ 6.

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need to visit customer locations to determine location type.²⁴ It estimates these activities would require nearly 200 hours. In addition, ImOn estimates that it would take at least 40 hours to create information about the date on which it first provided the connections to its customers.²⁵

Of the ACA members surveyed, all maintain information about their customers' addresses, but, with one exception, none had geocode (longitude/latitude) information for these locations. Also, most did maintain information about location type.

Billing and Revenues Information

The information request (Questions A 12-14 and A 15-19) requires respondents to provide a large amount of data related to billing and revenues. Frankfort “uses manual record retention and billing systems.”²⁶ As such, it cannot automatically generate the information required to respond to Questions A 12-16. This means it would need to spend “hundreds of hours” to review each customer contract.²⁷ In contrast, ImOn has automated billing records, but it still estimates it would need to review many of its records manually to respond to the questions. For example, it estimates it would need 16 hours to compile responses on the question about closing dates of monthly billing cycles (Question A 12) and another 16 hours to obtain the information to provide its revenues from Dedicated Services based on bandwidth speeds (Question A 16).²⁸

²⁴ See ImOn Declaration, ¶ 6

²⁵ See *id.*, ¶ 8.

²⁶ Frankfort Declaration, ¶ 8.

²⁷ See *id.*, ¶ 8.

²⁸ See ImOn Declaration, ¶ 8.

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Almost all of the other ACA members surveyed have automated billing records. Approximately 50 percent of these are able to track billing and revenues for Dedicated Services but generally not by rate element or by speed.

Total Effects of the Information Request

Frankfort estimates that it will take approximately 765 hours of employee time²⁹ – 5 times as much as the Commission estimates to develop the information to respond to the request.³⁰ In addition, it expects to use outside assistance because it has no employee with the necessary skills to review certain documentation. It believes the total cost it will incur to respond to be in excess of \$50,000.³¹ But, this understates the burden on the company since Frankfort’s team working on the project would be its only internal attorney, IT employee and billing clerk.³² Each of these people already have a “day job,” and so the data request would take them away from (or be in addition to) their normal duties.

ImOn estimates it will spend over 560 hours of employee time responding to the request – 4 times the Commission’s estimate.³³ It also will need external assistance and support. It expects the total cost to be approximately \$35,000.³⁴ Further, like Frankfort, it has no employees that devote their full (or even part) time to regulatory work. As a result, employees working on

²⁹ This does not include the time Frankfort has spent so far to understand the information request and the time and resources required to respond.

³⁰ See Frankfort Declaration, ¶ 9.

³¹ See *id.*.

³² See *id.*, ¶ 10.

³³ See ImOn Declaration, ¶ 10.

³⁴ See *id.*

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the responses will still need to carry out their normal, full-time duties. ImOn believes this would “negatively impact” its business.³⁵

Frankfort and ImOn are among the smaller ACA members that provide Dedicated Services or Best Efforts service to business customers. ACA expects its larger members (some of whom were surveyed) will require more time and resources to respond to the information request. As a result, ACA expects that the total effective cost for an average small operator to respond will be approximately \$50,000. This is clearly excessive in absolute terms and in terms of the value of the information required to perform the analysis, and inconsistent with the PRA’s directive to minimize the paperwork burden, especially on smaller entities. The Commission needs to be responsive if it does not want to harm these businesses.

While ACA would prefer the Commission go back to the drawing board and exempt smaller cable operators from complying with the information request, at least, it should not require these providers to produce information that they do not keep in the normal course of business. Just requiring them to produce this information should take the 134 hours estimated by the Commission – which, for most of these operators, still represents a month of effort by a person who still has to perform his/her normal duties.

³⁵ See *id.*, ¶ 11.

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Finally, ACA stands ready to meet with the Commission to discuss all of the concerns raised here and its proposed remedies.

Respectfully submitted,



<p>Matthew M. Polka President and Chief Executive Officer American Cable Association One Parkway Center Suite 212 Pittsburgh, Pennsylvania 15220 (412) 922-8300</p> <p>Ross J. Lieberman Vice President of Government Affairs American Cable Association 2415 39th Place, NW Washington, DC 20007 (202) 494-5661</p> <p>April 15, 2013</p>	<p>Thomas Cohen Joshua Guyan Kelley Drye & Warren LLP 3050 K Street, NW Suite 400 Washington, DC 20007 Tel. (202) 342-8518 Fax (202) 342-8451 tcohen@kelleydrye.com Counsel to the American Cable Association</p>
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EXHIBIT

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

In the Matter of)	
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
)	

DECLARATION OF JOHN HIGGINBOTHAM

1. My name is John Higginbotham, and I am Superintendent of Cable/Telecommunications for Frankfort Plant Board (“Frankfort”), which is a smaller provider of communications services and a member of the American Cable Association. I submit this Declaration in support of the Paperwork Reduction Act Comments of the American Cable Association to the Office of Management and Budget in the above-captioned proceeding. As I discuss in this declaration, the Federal Communications Commission’s (“FCC’s”) mandatory data collection contained in Appendix A to the December 18, 2012 Report and Order (FCC 12-153) would require Frankfort to expend an enormous amount of time and money to complete. As such, it would impose an excessive burden on the company.

2. Frankfort is a small municipal utility. It provides utilities including electric, water, cable television, high-speed Internet and telephone service to approximately **CONFIDENTIAL XXXXX CONFIDENTIAL** customers in Frankfort, Kentucky. Frankfort provides communications services (i.e., television, broadband and voice service) to

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approximately **CONFIDENTIAL XXX CONFIDENTIAL** customers, and broadband Internet specifically to about **CONFIDENTIAL XXX CONFIDENTIAL** customers.

3. Frankfort has annual revenues of approximately **CONFIDENTIAL XXXXX CONFIDENTIAL** from providing Best Efforts Business Broadband Internet Access Service (as defined in the mandatory data collection) to business customers. It has annual revenues of approximately **CONFIDENTIAL XXXXX CONFIDENTIAL** from providing Dedicated Services (as defined in the mandatory data collection) to business customers.

4. I, along with my staff, have already spent many hours reviewing the extensive requirements in Appendix A to determine how to comply, and the resources and expenditures required for compliance. This process was complicated because, as an entity that has not needed to comply with such requests previously and that has only one internal attorney that is not dedicated solely to regulatory compliance, we had difficulty understanding some of the data collection requirements. This has caused us to expend significant time in discussions internally and with counsel of the American Cable Association. The following provides our current estimate of the burdens imposed by the mandatory data collection.

5. For most of the information requested by the Commission in the mandatory data request, Frankfort does not have the information immediately or easily available in databases or computer systems. As a result, Frankfort's limited staff will be required to review at least **CONFIDENTIAL XXX CONFIDENTIAL** individual contracts and extract, compile and analyze the information for submission to the FCC. That process is the most important reason for the number of hours and the high costs that will be necessary to respond to the FCC's mandatory data request.

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6. As an example, the mandatory data request requires detailed location information for every Connection provided by Frankfort, including address, geocode and location type. Frankfort estimates that it serves at least **CONFIDENTIAL XXXX** **CONFIDENTIAL** Connections and expects this response to require at least 60 hours. First, Frankfort will be required to review all of its customer agreements and obtain the latitude and longitude manually for each location (by using Google Maps or other generally available sources). Further, Frankfort will have to determine the location type for each location, which is often not apparent from the contract and such information may need to be obtained from each customer or through site visits. In addition, Frankfort provides several different types of services (e.g., dark fiber, Dedicated Services, Best Efforts Business Internet Access Service) in a single fiber bundle to various types of customers (e.g., businesses, schools). Frankfort will be required to parse out those services from each fiber bundle to respond to the FCC's specific questions. Frankfort would accomplish this through various time-consuming methods, including reviewing contracts or other hard copy maps and records, or through site visits.

7. In addition, the mandatory data request requires that Frankfort provide maps of its network, including its fiber routes, all Nodes and the year that each Node went live. Frankfort does not currently have such maps, and it estimates that it would have to spend approximately 180 hours compiling the information for the maps and generating them. The maps would have to be generated only for purposes of responding to the mandatory data request and would not be of use for Frankfort's business purposes. Frankfort would be required to review each of the **CONFIDENTIAL X CONFIDENTIAL** customer agreements to determine the routes, Nodes and dates of service initiation for each Node. Once it has that information, it can then generate the maps.

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8. Frankfort uses manual record retention and billing systems – it does not have automated billing systems that would allow it to generate the billing and revenue information requested in Sections A 12 – A 16 of the mandatory data request. To respond it would be required to review each contract with its customers, as well as potentially each of the **CONFIDENTIAL XX CONFIDENTIAL** bills sent each month, which would require hundreds of hours of effort.

9. As a result of all these activities, Frankfort expects to spend approximately 765 hours of employee time collecting data and responding to the mandatory data collection. Assuming an average rate of \$50 per hour, that is an internal cost of \$38,250. In addition, Frankfort expects to require external advice and support that will cost approximately \$15,000 - \$20,000. Therefore, the total expected cost to respond to the mandatory data request is \$53,250 – \$58,250. That cost is approximately **CONFIDENTIAL XX CONFIDENTIAL** percent of Frankfort’s annual revenue for the Dedicated Services.

10. Frankfort has one internal attorney, one IT employee and one billing clerk that maintains its bills. Along with me, these three employees make up the team that would likely be tasked with responding to the mandatory data request. This burden would be in addition to each employee’s full-time duties trying to operate a successful municipal utility company. Responding to this mandatory data request will therefore take employee time away from their normal duties and negatively impact Frankfort’s business. Further, Frankfort does not expect to realize any benefit from the regulatory processes based on market analysis to be conducted using the data.

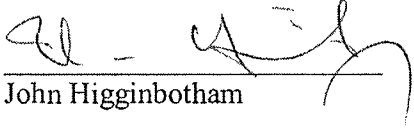
11. In sum, requiring a small company like Frankfort that does not have automated records or billing systems, and would have to obtain the required information by

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manually reviewing dozens of individual contracts, to respond to the FCC's mandatory data request is tremendously burdensome. I urge the Commission to revisit its mandatory data collection request and exempt smaller providers from having to comply. If the Commission continues to insist that smaller providers comply, it should drastically decrease the information collection requirements and seek to collect only that information that Frankfort keeps in the normal course of business. Further, the information should be collected in its existing format or in another manner that does not require smaller providers to manually review and analyze paper records to respond. Finally, the Commission should eliminate any requirements that impose significant confidentiality and privacy concerns.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my information and belief.

Executed on 12 April, 2013


John Higginbotham

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**Before the
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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
)	

DECLARATION OF MICHAEL EDL

1. My name is Michael Edl, and I am Chief Technology Officer of ImOn Communications, LLC (“ImOn”), which is a member of the American Cable Association and a smaller provider of communications services. I submit this Declaration in support of the Paperwork Reduction Act Comments of the American Cable Association to the Office of Management and Budget in the above-captioned proceeding. As I discuss in this declaration, ImOn does not have much of the information required by the Federal Communications Commission’s (“FCC’s”) mandatory data collection contained in Appendix A to the December 18, 2012 Report and Order (FCC 12-153) readily available and collecting, analyzing and organizing that information in the manner required would impose an excessive burden on the company with respect to time and expense.

2. ImOn services approximately **REDACTED** XXXXXXXXXXXX **REDACTED** customers around Cedar Rapids, Iowa with communications services including cable television, high-speed Internet and telephone service. ImOn provides broadband Internet

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service to about **REDACTED XXXXXXXXXXXXXXXXXXXX REDACTED**. It provides Dedicated Services (including as point to point transport, Ethernet dedicated Internet connections, Primary Rate Interfaces and T-1s circuits) to **REDACTED XXXXXX REDACTED** customers.

3. ImOn has annual revenues of approximately **REDACTED XXXXXXXX REDACTED** from providing broadband services to business and residential customers. However, ImOn cannot easily break out revenues from Best Efforts Business Broadband Internet Access Service and Dedicated Services to business customers. Those revenue numbers would have to be generated by an ImOn employee researching each billing cycle and adding the numbers for each category for each customer.

4. I, along with my staff, have already spent approximately 100 hours reviewing the extensive requirements in Appendix A to determine how to comply, and the resources and expenditures required for compliance. This process was complicated because, as an entity that has not needed to comply with such requests previously and does not have any dedicated compliance staff, we had difficulty understanding some of the data collection requirements. This has caused us to expend significant time in discussions internally and with counsel of the American Cable Association. The following provides our current best estimate of the burdens imposed by the mandatory data collection as it is currently written.

5. For most of the information requested by the Commission in the mandatory data request, ImOn does not have the information immediately or easily available in databases or computer systems. As a result, in many cases ImOn's limited staff will be required to review contracts manually and extract, compile and analyze the information for submission to the FCC or confirm information with site visits. Some of the contracts are available

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electronically and some are only available in paper records, but all would have to be reviewed manually. That process is the most important reason for the number of hours and the high costs that will be necessary to respond to the FCC's mandatory data request.

6. As an example, the mandatory data request requires detailed location information, including address, geocode and location type, for every Connection provided by ImOn. ImOn estimates that this response would require nearly 200 hours since the company serves at least **REDACTED XXXXXXXXX REDACTED** Connections. First, ImOn will be required to review all of its customer agreements and obtain the latitude and longitude manually for each location by using generally available sources. Further, ImOn would have to determine the location type for each location, which is often not apparent from the contract and such information may need to be obtained through site visits.

7. In addition, the mandatory data request requires that ImOn provide maps of its network, including its fiber routes, all Nodes and, most importantly, the year that each Node went live. ImOn has some maps of its fiber routes showing its most recent hubs (3 out of the 26), but it does not currently have the maps required by the mandatory data request, and it estimates that it would have to spend approximately 80 hours compiling the information for the maps and generating them. The most difficult and time-consuming aspect of creating the maps would be identifying the year each Node went live and including that information in the map. The maps would have to be generated only for purposes of responding to the mandatory data request and would not be of use for ImOn's business purposes. ImOn would be required to review approximately **REDACTED XXXXXXXXX REDACTED** customer agreements and other records to determine the routes, Nodes and dates of service initiation for each Node. Once it has that information, it can then generate the maps.

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8. Further, ImOn would be required to expend at least 40 hours to identify the month and year that ImOn first provided a Connection to each of the Locations that it serves. This is because ImOn was spun off from another company and may not have the records required to respond.

9. ImOn has automated billing systems, but much of the information requested would need to be obtained manually by reviewing paper records. For example, ImOn estimates that it would take 16 hours to compile the responses to the question requiring closing dates of monthly billing cycles and another 16 hours to compile a response to the question regarding revenues from Packet-Based Dedicated Services based on bandwidth speeds due to the need to obtain information manually.

10. As a result of all these activities, ImOn expects to spend over 560 hours of employee time collecting data and responding to the mandatory data collection. Assuming an average rate of \$35 per hour, that is an internal cost of \$19,600. In addition, ImOn expects to require external advice and support that will cost approximately \$15,000. Therefore, the total expected cost to respond to the mandatory data request is \$34,600.

11. ImOn does not expect to realize any benefit from the regulatory processes based on market analysis to be conducted using the data. Nevertheless, it would likely be necessary for ImOn to devote time from eight or nine of its employees to respond to the mandatory data request. This includes me, a controller and finance employees and none of us are devoted primarily or substantially to regulatory work. The burden of responding to this mandatory data request would be in addition to each employee's full-time duties trying to operate a successful communications company. Responding to this mandatory data request

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would therefore negatively impact ImOn's business because it would take employee time away from their normal duties.

12. In sum, requiring a small company like ImOn that does not have much of the information requested available in its automated records or billing systems, and would have to obtain much of the required information manually, is extremely onerous. I urge the Commission to revisit its mandatory data collection request and exempt smaller providers from having to comply. If the Commission continues to insist that smaller providers comply, it should seek to collect only that information that ImOn keeps in the normal course of business. Further, the information should be collected in its existing format or in another manner that does not require smaller providers to manually review and analyze records to respond.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my information and belief.

Executed on 12 April, 2013



Michael Edl