

**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

**PAPERWORK REDUCTION ACT COMMENTS OF THE
INDEPENDENT TELEPHONE & TELECOMMUNICATIONS ALLIANCE**

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**PAPERWORK REDUCTION ACT COMMENTS OF THE
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The Independent Telephone & Telecommunications Alliance (“ITTA”) hereby responds to the Commission’s request for comment¹ on whether the information collection obligations associated with the mandatory special access Data Request that the Commission adopted in the above-captioned proceeding² satisfy the requirements of the Paperwork Reduction Act of 1995 (“PRA”).³

ITTA is concerned that the Commission has underestimated the amount of time associated with responding to the Data Request. In fact, compliance with the extraordinarily detailed Request would divert substantial resources and take far more time than the Commission acknowledges. Thus, the Data Request is inconsistent with the policies underlying the PRA,

¹ *Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested*, 78 Fed. Reg. 9911-9912 (Feb. 12, 2013) (“PRA Notice”).

² *In the Matter of Special Access for Price Cap Local Exchange Carriers*, WC Docket No. 05-25, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-153 (rel. Dec. 18, 2012) (“R&O” or “FNPRM,” as appropriate).

³ See Paperwork Reduction Act, Pub. L. 104-13, 109 Stat. 163 (1995), *codified at* 44 U.S.C. §§ 3501-3520.

which Congress enacted to “have Federal agencies become more responsible and publicly accountable for *reducing* the burden of Federal paperwork on the public.”⁴

ITTA also is concerned that the Commission’s information management practices may not be adequate to protect the highly sensitive data it has requested, which would provide the exact location of the nation’s telecommunications infrastructure on a building-by-building basis, against cyber security threats. Given the paramount importance of making sure that such information does not fall into the wrong hands, the Commission must ensure that it has policies and controls in place so that this information is not placed at unnecessary risk of improper disclosure, misuse, or destruction.

DISCUSSION

I. THE COMMISSION’S AUTHORITY IS LIMITED BY THE PRA

The Commission issued the mandatory data collection to obtain comprehensive information on dedicated services that will enable “a robust analysis” and evaluation of competition in the market for special access services.⁵ This comprehensive review is intended to aid the Commission in ensuring that its special access rules “reflect the state of competition today and promote competition, investment, and access to dedicated communications services [that] businesses across the country rely on every day to deliver their products and services to American consumers.”⁶ The *R&O* thus suggests that the Data Request, when released, would require the submission of a vast array of data, information, and documents regarding market structure (*e.g.*, the location and type of facilities capable of providing special access and the proximity of such facilities to sources of demand), pricing, demand (*i.e.*, observed sales and

⁴ *Id.* at 163 (emphasis added).

⁵ *R&O* at ¶ 30.

⁶ *Id.* at ¶ 1.

purchases), information on terms and conditions in special access contracts, and decision data (e.g., detailed information regarding recent successful and unsuccessful RFPs).⁷

As part of the proposed data collection, incumbent providers must provide the actual situs address (i.e., land where the building or cell site is located), including latitude and longitude coordinates, for each location to which they provide special access service.⁸ Competing providers are required to submit maps identifying all fiber routes “connecting your network to End User Locations” as well as “all Nodes on your network used to interconnect with third party networks.”⁹ The exceedingly sensitive nature of such data renders it ripe for misuse by bad actors intent on disrupting the nation’s communications networks.

While much of the requested information may be useful to the Commission in assessing the market for special access services, the Commission does not have unlimited authority to impose paperwork burdens on providers and purchasers of special access services. Where a federal agency seeks to collect information from the public, the PRA mandates that the process minimize the paperwork burden on regulated entities while limiting the cost incurred in collecting, using, and maintaining the information at issue.¹⁰ Accordingly, the PRA requires the Commission to certify to the Office of Management and Budget (“OMB”) that, *inter alia*, a proposed information collection:

- “is necessary for the proper performance of the functions of the agency, including that the information has practical utility;”¹¹

⁷ See *id.* at ¶¶ 30-46.

⁸ *Id.* at Appendix A, § II.B.3.

⁹ *Id.* at Appendix A, § II.A.5.

¹⁰ See 44 U.S.C. §§ 3501(1), (5).

¹¹ *Id.* at § 3506(c)(3)(A).

- “reduces to the extent practicable and appropriate the burden on persons who shall provide information to or for the agency;”¹² and
- “is to be implemented in ways consistent and compatible, to the maximum extent practicable, with the existing reporting and record keeping practices of those who are to respond.”¹³

In order to certify compliance with these requirements, the Commission must develop a realistic estimate of the total time required to comply with the proposed data collection.

II. THE COMMISSION’S PRA ANALYSIS IS FLAWED

Unfortunately, it appears that the Commission has drastically underestimated the amount of time it will take for respondents to comply with the Data Request. The FCC suggests that, on average, respondents will devote 134 hours (16.75 work days) to the mandatory Data Request.¹⁴ While this figure is intended as an average for all respondents, it grossly underestimates the amount of time required to satisfy the data collection, particularly for larger operators.

As CenturyLink has indicated, the estimated burden in terms of the amount of time necessary for the company to comply with the data request will be about 40,000 hours.¹⁵ ITTA understands that the burden on AT&T will be even more significant. Other companies also face the prospect of significant time burdens associated with the data collection. For example, Cincinnati Bell estimates that compliance with the Data Request will take the company’s impacted affiliates nearly 8,000 hours to complete.

While other ITTA members are still grappling with the amount of time that will be required to formulate a response to the Data Request, it is clear that collecting the requested data

¹² *Id.* at § 3506(c)(3)(C).

¹³ *Id.* at § 3506(c)(3)(E).

¹⁴ *PRA Notice* at 9911.

¹⁵ *See* Letter from Melissa Newman, CenturyLink, to Marlene H. Dortch, FCC, WC Docket No. 05-25 (filed Jan. 10, 2013).

will require significant efforts by personnel at all affected companies. Employees will have to be redeployed from their regular duties to undertake a number of tasks in connection with responding to the Data Request, resulting in opportunity costs and loss of productivity due to increased demands on company resources.

For instance, ITTA member companies predict that diverting employees away from their current duties to focus on the Data Request will come at the expense of other important responsibilities, including in the areas of network improvements (deploying DSLAMs further into the network to increase both speed and availability); network optimization (reviewing network costs and benefits and implementing changes to increase efficiency); carrier services (responding to carrier questions related to circuit operations, such as where particular circuits originate and terminate and on what facilities they ride, which is helpful to carriers who are trying to optimize networks they obtained through mergers and acquisitions); toll fraud (monitoring network usage for toll fraud); and systems integration (meeting internal deadlines for integration projects associated with industry transactions as expected within the investment community). It should be noted that responding to the Data Request also comes at the same time that ITTA members and other providers are expending substantial efforts to implement the myriad changes the FCC adopted in the *USF/ICC Transformation Order*, which further stretches limited resources.¹⁶

¹⁶ *In the Matter of Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109; CC Docket Nos. 01-92, 96-45; GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011).

In addition, a significant amount of time and energy will be devoted to the determination of whether each element of the requested data exists or will need to be created. In many cases, respondents have not previously been required to comply with recordkeeping or reporting obligations with respect to the data now being requested, so gathering, creating, compiling, and submitting the requested information will require a substantial effort and time commitment from employees in addition to the other roles and functions they are expected to perform within their companies.¹⁷ It also is unclear as to the manner in which providers and purchasers will be required to submit the requested data, which could significantly add to the amount of time required for submitting a response should respondents need to put systems and/or capabilities in place to compile the information in the requested format.

Based on the sheer magnitude of the Data Request and the impact it will have on the internal resources and operations of respondents, it is clear that the FCC has significantly underestimated the amount of time associated with responding. Before the Commission can move forward with the Data Request, it must update its burden estimate to properly reflect the scope of the data collection.

III. THE DATA REQUEST MAY SUBJECT THE NATION'S COMMUNICATIONS INFRASTRUCTURE TO SUBSTANTIAL RISK

Finally, the Commission must ensure that the data it collects is not at risk of cyber security attacks. As indicated above, the data collection calls for highly granular data on the exact location of the nation's telecommunications infrastructure. It is not apparent that the FCC

¹⁷ Many providers and purchasers of dedicated services may only maintain current information with respect to certain data that has been requested, such as fiber maps, geocoded latitude and longitude data for customer locations, and information on nodes between the end user location and the end point of a circuit. Such data may not be available as far back as 2010. Thus, it is important for the Commission to make clear that respondents will not be expected to provide material that they do not possess or that they cannot easily compile and that it will honor respondents' good faith compliance efforts.

has allocated resources for efficient and effective management and use of the information collected. There is a clear national security risk if the data is not managed and stored properly. Given the GAO’s findings earlier this year that the FCC needs to “more effectively implement its IT security policies and improve its project management practices,” the Commission must ensure that the data being collected is secure against cyber security threats.¹⁸

In this age of cyber security issues and attacks, protecting such information is of the utmost concern. Cyber-based threats to federal information systems continue to grow and can come from a variety of sources, including criminals, foreign nations, terrorists and other adversarial groups.¹⁹ Absent adequate safeguards, “systems are vulnerable to individuals and groups with malicious intent who can intrude and use their access to obtain sensitive information, commit fraud, disrupt operations, or launch attacks against other computer systems and networks.”²⁰

Obviously, data that would reveal every location where two or more providers interconnect “would be a target for hackers and others who might be intent on disrupting communications services in the United States.”²¹ In light of GAO’s findings that the FCC has not implemented appropriate information security controls “to sufficiently protect the

¹⁸ Government Accountability Office, Information Security, *Federal Communications Commission Needs to Strengthen Controls over Enhanced Secured Network Project*, Report No. GAO 13-155 (rel. Jan. 2013), at 20 (“GAO Report”). In examining whether the FCC instituted adequate security measures following a data breach, the GAO Report concluded that the “FCC did not effectively implement appropriate information security controls in the initial components of the ESN project. . . . As a result, FCC limited the effectiveness of its security enhancements and its sensitive information remained at unnecessary risk of inadvertent or deliberate misuse, improper disclosure, or destruction.” *Id.* at 9.

¹⁹ *Id.* at 1.

²⁰ *Id.* at 6.

²¹ See Letter from Steven F. Morris, NCTA, to Marlene H. Dortch, FCC, WC Docket No. 05-25 (filed Feb. 28, 2013).

confidentiality, integrity, and availability of its sensitive information,” the Commission must take steps to improve its cyber security practices and ensure that such data is not put at “unnecessary risk of inadvertent or deliberate misuse, improper disclosure, or destruction.”²²

CONCLUSION

In sum, ITTA is concerned that the Commission has underestimated the amount of time it will take for respondents to comply with the Data Request, and fears that the Commission’s information management practices may not be adequate to protect the highly sensitive data the Commission has requested. Given the importance of ensuring that its information collection activities reduce the burdens on the entities it regulates to the maximum extent possible, the FCC should give further consideration to the actual burden imposed by its comprehensive special access Data Request, and update its estimates accordingly. Moreover, the Commission must ensure that any data it collects in connection with the Request remains secure from cyber attacks that could pose a threat to the nation’s telecommunications infrastructure.

Respectfully submitted,

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²² GAO Report at 9.