



CLEC Association of Northern New England

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Subject: Federal Communications Commission, *Comprehensive Market Data Collection for Interstate Special Access Services*, FCC 12-153, OMB Control No. 3060-XXXX, 78 Fed. Reg. 73861

This letter is in response to the Office of Management and Budget (OMB) request for comments under the Paperwork Reduction Act regarding the Federal Communications Commission (FCC) Special Access Mandatory Data Request as outlined in the OMB Fed. Reg. Notice 2013-29235, 78 Fed. Reg. 73861. Specifically, the OMB has asked whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimates; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The CLEC Association of Northern New England, Inc. (CANNE) respectfully submits that OMB should not approve the subject information request on the grounds that it cannot be the least burdensome necessary for the performance of the FCC's functions (5 C.F.R. § 1320.5(d)(1)(i)); it improperly shifts disproportionate costs or burdens onto respondents (*id.* § 1320.5(d)(1)(iii)); and the burden of collecting the information is not justified by its practical utility (*id.* § 1320.5(e)).

CANNE is an organization of competitive local exchange carriers (CLECs) in the Northern New England states of Maine, New Hampshire and Vermont. CANNE's members provide competitive fiber, broadband and telephone services and promote the benefits of competitive telecommunications services in Northern New England.

CANNE's seven member CLECs provide critical telephone, Internet and telecommunications services to thousands of customers in Northern New England with networks that include several other states and

Canada. Despite the physical breadth of their individual networks, most of the members are relatively small carriers, with fewer than 100 employees. CANNE's members are very concerned about the impact this data request will have on their core operations given the nature of the request, the relatively short notice period members expect and the substantial amount of time its members estimate it will take to provide the information.

The mandatory data request seeks an unprecedented and overwhelming amount of data, regarding both regulated and unregulated operations, customers (including other carriers), services and rates for every high-bandwidth service in every structure, including buildings, cell towers and service huts, throughout the country. The mandatory data request also requires submission of a vast array of documents regarding market structure, demand, terms and conditions in certain contracts, and decision data regarding network deployment in response to demand.

The customer location information alone is incredibly burdensome – something the FCC itself understands. The FCC currently gathers substantial data in its FCC 477 report, which is required of all carriers, large and small. But, just six months ago, the FCC found that “many providers do not maintain broadband network deployment data on an address-by-address basis” and therefore “the added complexity and burden are unlikely at this time to provide a significant insight” into the state of broadband deployment.¹ The FCC also noted that “rural areas where networks are deployed may not have “street” addresses assigned.” *Id.* Special access, like broadband, depends on the same network and customer data that the FCC admits would lead to an overly complex and burdensome data request.

The FCC estimates it will take respondents, on average, 146 hours to respond to its request. That figure, even if it were accurate, is shocking, representing nearly *one full month* of an employee's time. However, CANNE respectfully, but vehemently, disagrees with the FCC estimate. It is egregiously and unrealistically low. To date, one of CANNE's members, FirstLight, has expended approximately one-tenth that time simply reviewing the request, getting clarification on what is required, and doing a preliminary assessment of data and systems to determine whether the desired information exists. FirstLight found that the data, in large part, is not readily available and is not compiled in such a way to allow efficient extraction. In many cases, the data is not available and will have to be manually retrieved through field visits and customer contact.

Because CANNE's members do not maintain the data in the form requested, they will be required to compile the information in an arduous manual effort. FirstLight estimates that it will take two hours per customer location to ensure completeness and accuracy of all of the information required. This burden includes determining the customer's physical locations, verifying that the location in its records matches the format the FCC is seeking, determining the services provided at that location, the manner in which those services are provided, the facilities used, ensuring that the billing data and facilities data match, obtaining the GIS coordinates for each location, verifying that the location is properly mapped, and ensuring that the bill properly identifies the services.

¹*Modernizing the FCC Form 477 Program*, WC Docket No. 11-10, Report and Order, FCC 13-87 (rel. June 27, 2013) at ¶ 35

While *some* aspects of these data exist in *some* of FirstLight's systems for *some* of its customers, FirstLight does not routinely or uniformly collect such data or maintain the data that it does possess in a single, organized, comprehensive system. All of the data will have to be verified for all customers. Further, even when the information exists, it is not tied together in a manner that would allow external reporting to a regulatory agency at this time without high-level employee compilation from multiple data sources, including paper sources along with the development of new, untried, databases and data processing tools. With approximately 6,000 customers and perhaps 7,000 customer locations, FirstLight estimates the burden of producing this information at 12,000 to 15,000 hours – roughly seven full-time equivalent employees for a full year, and *one hundred times* the FCC's estimate.

Further, due to the nature and complexity of the request, the compilation and clarification of the information involve more than administrative activities that can be handled by clerical personnel. Thus, the hours devoted to the task must come from FirstLight's most experienced personnel, pulling them away from other duties that are critical to serving customer needs and to the success of the company.

Other CANNE members concur with FirstLight that the time commitment and burden associated with this data request are unprecedented and unreasonable. Further, the FCC's expectations, both as to the level of detail and the time needed to provide said detail, are unrealistic. Smaller carriers simply do not have the resources (financial, personnel or otherwise) to fully respond to the FCC's request.

This should come as no surprise to the FCC. Throughout the process of developing this data request, the FCC has repeatedly been told by members of every segment of the industry that the burden of collection violates the Paperwork Reduction Act because the burden of collection outweighs the utility of the information.² The Independent Telephone & Telecommunications Alliance, a coalition of small incumbent telephone service providers many similar in size to CANNE members, pointed out that "compliance will require its members and other respondents to devote *thousands of hours* to gathering the requested data while diverting internal company resources away from other important functions in areas such as network improvement and optimization, carrier services, toll fraud, billing, and systems integration."³ While the FCC responded in a limited way to carriers' concerns by making some changes to the data collection parameters, it did not go far enough to relieve the burden on smaller providers.

In summary, it appears the FCC, in developing the estimated hours to complete the data request, has assumed that carriers have maintained databases of the information required by this data collection in a format that would allow efficient retrieval of the data. The reality is often the opposite; most of our

² See, e.g., *Small Purchasers Coalition Petition For Blanket Exemption Or, In The Alternative, Petition For Reconsideration*, WC Docket No. 05-25, RM-10593 (filed Dec. 9, 2013) ("The scope of quantitative data to be provided by Small Purchasers is unduly burdensome and, in many aspects, unnecessarily repetitive of the data to be furnished by the providers of such facilities.") and *Paperwork Reduction Act Comments of the American Cable Association* WC Docket No. 05-25, RM-10593 (filed Apr. 15, 2013) ([the proposed mandatory data request in the Special Access Data Collection Order is not compliant with the PRA because it] "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." and *Opposition Of The American Cable Association To Application For Review Of Centurylink* WC Docket No. 05-25, RM-10593 (filed Nov. 6, 2013) ("While ACA appreciates the willingness of the Commission and Bureau to hear [its] concerns, the Bureau Order is largely unresponsive in addressing them. As such, ACA maintains that the mandatory data request continues to violate the PRA.")

³ See *Paperwork Reduction Act Comments of the Independent Telephone & Telecommunications Alliance*, WC Docket No. 05-25, RM-10593 (filed Apr. 15, 2013), at 4-6. [emphasis added]

members have built their networks over time mixing and matching owned and leased network components using a wide variety of network platforms. Some CANNE members have acquired portions of their networks over the years from other providers, inheriting multiple network documentation databases (or sometimes none at all). In most cases, detailed documentation and maintenance of network data remains a desirable but not yet achievable goal, as our members strive to serve our customer needs and maintain financial stability. Even if our member companies could have foreseen that the FCC would make such a data request, the annual cost of staff and software development to be ready with such information would have threatened the financial health of most smaller companies. To force CLECs to make such investments, and in such a short time frame, is discriminatory to smaller carriers who will find it harder to meet these demands with current staffing.

CANNE members are also concerned about how useful the data will be. The FCC data request requires carriers to report two years' of data (2010 and 2012). If the OMB does not completely reject the study, it should direct the FCC to limit the data request to the most current one year period of time. Given that most carriers will not have records readily available, an enormous amount of time will be spent to reconciling former customers, with no benefit to our member companies, and little perceived benefit to the industry. Such a burden is unnecessary and should be eliminated.

The information requested by the FCC in this data request goes well beyond what CANNE members could reasonably have anticipated would be necessary to meet their regulatory obligations in light of the historical requirements the FCC has placed on telecommunication companies. For example, Incumbent Local exchange Carriers (ILECs), always more heavily regulated than CLECs, have been required for many years to follow strict guidelines to populate their continuing property records (CPRs) under FCC rule part 32. The CPR requirements are burdensome, yet these requirements do not even come close to the level of detail required by the FCC's mandatory data request. Even so, despite the facts that ILECs needed proper CPR records to receive USF subsidies (thus providing a substantial financial incentive to maintain proper records) and have had significant time to understand and conform to the collection of the required data, many ILECs, particularly smaller ILECs similar in size to CANNE's member companies, failed to maintain these minimum CPRs record requirement despite the fact that they knew about these requirements for years. The Universal Service Administrative Company (USAC) is the administrative arm for universal service and in that role audits CPR (among other things) to validate universal service reporting. USAC reports that common audit findings include "[n]o or inadequate documentation to support the amounts reported..." with respect to "depreciation, fixed assets (lack of Continuing Property Records) relating to central office equipment and/or cable and wire facilities."⁴ If financially-incented companies will not maintain basic network information, how can the FCC expect carriers to create detailed network databases on short notice for networks that our members and other CLECs have been rapidly building since 1996? CANNE's members are extremely concerned about where they will find the resources to meet the FCC's expectations.

Even if the OMB were to assume that every carrier were able to fully respond to the FCC data request, the amount of resources necessary for the FCC to simply summarize the data may well outweigh its

⁴ See BCAP – High Cost Program at USAC.org, <http://www.usac.org/hc/about/program-integrity/bcap.aspx> copy appended, downloaded January 8, 2014.

benefits. The data request will collect data that is two to four years old, which means that any final policy changes implemented by the FCC will already be based on stale data. Further, the FCC will not have the benefit of data associated with the many new facilities available from the government-subsidized networks that have reportedly resulted in hundreds of miles of new fiber facilities in the past twelve months.

CANNE members believe the burden can be reduced even while achieving the FCC's goals. For instance, one of the biggest challenges facing our members is the availability of GIS coordinates for customer locations. CANNE is unaware, as are its colleagues in the industry, of readily available databases that would allow for automated verification and collection of customer locations. Therefore, respondents must resort to the manual effort described above. This is problematic during both data collection and data analysis. As you are aware, GIS data is available in multiple formats, and even in those records our members maintain, those formats have varied, making computerized comparison of two locations difficult. CANNE members each believe that in order to provide GIS coordinates, the information will be collected manually, either from maps or by a person going out to the location, introducing errors and unnecessary variations. In either case, the coordinates are unlikely to precisely match those provided by other companies serving the same location, or any data the FCC intends to use to validate or utilize the information. Coupled with the extreme burden of compiling and providing the information, CANNE's members have to question the efficiency and efficacy of the effort.

Since the United States Postal Service (USPS) already has a database of addresses, and many of our members already validate address information against USPS data, it would make the data collection markedly easier if that database, along with standardized GIS information or unique serial number information, were made available to billing services providers (such as OSG) for download, relieving CLECs of the burden of individually collecting their own GIS information for those customer locations that are already known to other parties (such as the incumbent telephone and electric providers, the US Postal Service, the US Census Bureau and other carriers and utilities). Such a process would also ensure that the FCC analysts would know for certain that particular locations were the same, instead of having to make assumptions based on the inevitable variations that will otherwise be present. In a similar vein, the FCC should diligently explore and exhaust all other potential sources of information instead of imposing the burden of this information request on CANNE's members.

While CANNE acknowledges the FCC's determination to move forward with the mandatory data collection, we believe that OMB can, and should, take steps to relieve much of the burden imposed by the data request. Specifically, we request that unless and until the FCC demonstrates that its proposed data collection satisfies the applicable criteria for approval, including but not limited to 5 C.F.R. § 1320.5(d)(1)(i), (d)(1)(iii), and (e), OMB withhold its approval.

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Sincerely,

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