



January 8, 2014

Via Electronic Mail

Mr. Nicholas A. Fraser
Office of Management and Budget
via e-mail: Nicholas_A._Fraser@omb.eop.gov

Mr. Leslie Smith
Office of Managing Director
Federal Communications Commission
via e-mail: Leslie.Smith@fcc.gov

Re: Comprehensive Market Data Collection for Interstate Special Access Services
FCC 12-153
OMB Control Number: 3060-XXX
PRA Comments of the Rural Wireless Association, Inc.

Dear Messrs. Fraser and Smith:

The Rural Wireless Association, Inc. (“RWA”) is a 501(c)(6) trade association dedicated to promoting wireless opportunities for rural wireless companies who serve rural consumers and those consumers traveling to rural America. RWA’s members are small businesses serving or seeking to serve secondary, tertiary, and rural markets. RWA’s members are comprised of both independent wireless carriers and wireless carriers that are affiliated with rural telephone companies. Each of RWA’s member companies serves fewer than 100,000 subscribers. RWA’s members are both users and providers of special access services and must therefore respond to the FCC’s onerous comprehensive market data collection for interstate special access services.

While RWA understands the desire of the Federal Communications Commission (“FCC” or “Commission”) to ensure that price cap carriers’ special access rates are just and reasonable, the FCC’s collection of information from *all* users and providers of special access services is overly burdensome and costly for small rural carriers and unnecessary to achieve the Commission’s goal of determining whether there is sufficient competition in the provision of special access services to justify providing price cap carriers with regulatory relief and pricing flexibility. For the reasons outlined below, the FCC’s data collection request is not justifiable under the Paperwork Reduction Act of 1995 (“PRA”)¹ and should not be approved by the Office of Management and Budget (“OMB”). Rather, OMB should limit the Commission’s data collection authorization to price cap carriers and Tier I CMRS carriers.

The Commission has submitted to OMB for review a mandatory data reporting requirement applicable to, with very few exceptions, all providers and purchasers of special

¹ 44 U.S.C. § 3501-3520.

access services as well as certain entities that provide best efforts business broadband Internet access services.² “The data, information and document collection required by [the *Mandatory Data Collection Order*] falls into five categories: market structure, pricing, demand (*i.e.*, observed sales and purchases), terms and conditions, and competition and pricing decisions.”³ The Commission requires respondents to provide detailed information for each of these categories for the 2010 and 2012 calendar years.

Section 3501 of the PRA requires an agency seeking to collect information to minimize the paperwork burden and reduce the collection of information, particularly for small businesses. Section 3502(2) defines “burden” to include the:

time, effort or financial resources expended by persons to generate, maintain or provide information to or for a Federal agency, including the resources for -

- (A) reviewing instructions;
- (B) acquiring, installing, and utilizing technology and systems;
- (C) adjusting the existing ways to comply with any previously applicable instructions and requirements;
- (D) searching data sources;
- (E) completing and reviewing the collection of information; and
- (F) transmitting or otherwise disclosing the information.⁴

In the *Mandatory Data Collection Order*, the Commission requires, with limited exceptions, *all* providers and all purchasers of special access services to submit data for calendar years 2010 and 2012, with no exemption based on the size of the respondent or how few special access services that entity provides or buys. While the FCC’s Final Regulatory Flexibility Act (“FRFA”) analysis “note[d] concerns regarding the burden that this data collection will impose on small companies, and [the FCC] is mindful of the importance of seeking to reduce information collection burdens for small businesses concerns...” the Commission did nothing to alleviate the extensive burdens the data collection will place on small carriers. Rather, the Commission asserts that “[c]ompetition in the provision of special access... appears to occur at a very granular level - perhaps as low as the building/tower. Accordingly, the Commission finds it necessary to obtain data from special access providers and purchasers of all sizes.”⁵

However, collecting granular data from *all* small businesses providing or purchasing special access services is unnecessary for the Commission to conduct a competition analysis of the special access market in order to *determine whether price cap carriers should be afforded*

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, 27 FCC Rcd 16318 (rel. Dec. 18, 2012) (“*Mandatory Data Collection Order*”).

³ *Mandatory Collection Order*, Appendix B, Final Regulatory Flexibility Analysis (“FRFA”) at ¶ 61.

⁴ 44 U.S.C. § 3502(2)(A)-(F).

⁵ FRFA at ¶ 73.

regulatory relief and pricing flexibility with regard to special access services. The information to be gleaned from small rural carriers is a drop in the bucket compared to the information the FCC will receive from price cap carriers that would ultimately benefit from the information. For these reasons, the Commission should, at this time, limit its mandatory data collection request to price cap carriers and Tier I Commercial Mobile Radio Service (“CMRS”) carriers who have the additional resources needed to provide the information to the Commission. If the Commission determines that it has not received sufficient information from these carriers to ascertain whether there is sufficient competition in the special access service market to justify regulatory relief for price cap carriers, the Commission can request additional information from small rural carriers. However, until that time, the Commission’s mandatory data collection for small carriers should not be approved.

It is also important to note that the FCC’s time and cost estimates for this data collection are absurdly low. The Commission originally predicted that it would take respondents 134 hours⁶ to collect the requested information and then changed that prediction to 146 hours,⁷ at an hourly rate of \$10.70 per hour (\$10,000,000 / 934,400 hours) for a ridiculously low estimated cost of \$1,562 per respondent. RWA believes that it will take respondents at least *twice, if not three times, this amount of time to comply with the FCC’s data request* and the FCC’s estimated hourly rate is not only lower than the \$11.50 minimum wage recently backed by the DC Council, it is far below the actual wages of the cost consultants and skilled employees who will need to collect and compile the requested information. A more accurate estimate is that it would cost rural carriers between \$80 - \$100 per hour, and at least 300 hours to compile the requested data. **Based on this more realistic information, it would likely cost each RWA member \$24,000 to \$30,000 to comply with the FCC’s mandatory data collection, which is approaching annual salary levels for rural, wireless front office personnel.**

⁶ *Mandatory Data Collection Order*, Information Collection Being Submitted for Review and Approval to the Office of Management and Budget (OMB), 78 FR 9911 (Feb. 12, 2013).

⁷ *Mandatory Data Collection Order*, Information Collection Being Submitted for Review and Approval to the Office of Management and Budget (OMB), 78 FR 73861 (Dec. 9, 2013).

For these reasons, RWA respectfully requests that OMB deny the Commission's request for authorization to conduct the mandatory data collection, except to the extent the Commission seeks to obtain this information from price cap and Tier I CMRS carriers.

By: /s/ Caressa D. Bennet

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