

**Mandatory Data Collection Requirements
Special Access Proceeding. WC Docket No. 05-25**

**OMB TALKING POINTS
Small Purchasers Coalition
February 12, 2014**

Background

- Small Purchasers Coalition: 11 small CMRS carriers; serving mostly rural areas.

Scope of Data Collection

- Extensive data regarding special access facilities must be collected and reported by each and every carrier for each and every cell site, even if the facility is self-provisioned.
- Data required for each backhaul facility includes: a complex categorization and detailed quantification of the special access facilities serving each site – including (1) the dollar value of special access facilities broken down into numerous categories depending on the nature of the facilities and the provider of the facilities, (2) whether the facilities were purchased under tariff (and what kind of tariff) or by contract, and (3) the discount procured by entering into a multi-year contract.
- Data must be provided for CY 2010 *and* CY 2012.
- Full scope of data requirements for purchasers is attached (and highlighted).

OMB Should Not Approve the Data Collection, as Submitted by the FCC, because it Fails to Comply with the PRA

- PRA prohibits data collection requirements that impose undue cost with no corresponding public benefit: as applied to Small Purchasers, the data collection imposes an enormous burden that is utterly disproportionate to any public benefit.
- Data collection lacks practical utility and is unnecessarily duplicative – as explained below.
- FCC should be required to reduce the data collection for small businesses by providing an exemption or establishing reduced reporting requirements.

In Order to Obtain OMB Approval, FCC Should be Required to Modify the Data Collection

Exempt Small Purchasers (less than \$5 million or fewer than 200 special access facilities)

- Data from small purchasers is not material to the FCC's inquiry. *N*

- Small purchasers constitute an almost infinitesimal level of spending: \$5 million = 1/80th of 1% of the \$40 billion special access market.
- Burden is extraordinarily high, while the practical utility of the data is remarkably low.
- Burden: 140 – 180 hours. 4 full weeks of work. Yet, responsible staff is as low as 2 persons. Outside contractors will be required for most of our clients.
- Data will lack practical utility: FCC can do little, if anything (beyond its current rules) to provide relief to CMRS carriers in rural areas – competition is highly unlikely.
- Data will be duplicative: providers must furnish all of the same data (and more).

Eliminate Requirement to Provide Data for CY 2010

- Data will be more than 4 years old by the time it is collected, and therefore, will lack practical utility.
- There was no notice prior to release of Order on 12/18/12 that such data would be required – thus, many of our clients have not identified, collected or tracked such data. To the extent the data exists, it is typically in hard copies in separate folders for each cell site.
- Old data will be far less useful to any analysis – thus, the burden of collecting such data heavily outweighs the utility of such data.
- FCC can reduce the overall burden by more than 50% just by eliminating this requirement.

Eliminate Requirement for Small Purchasers to Provide Data that Duplicates the Data Provided by Providers of Special Access

- Data collected from purchasers will be duplicative: providers must furnish all of the same data (and more).
- FCC concedes that certain requests for data from purchasers are duplicative, but asserts that “overlapping questions allow Commission analysts to cross-check for accuracy....”
- OMB/PRA prohibits the collection of “unnecessarily duplicative” information.
- FCC must re-assess the cost/benefit analysis of collecting duplicative data.
- At most, purchasers should be required to furnish minimal data: location of cell site, capacity and provider of special access facility. FCC can then match this to data provided by purchasers.

identify where your company records recurring and non-recurring charges associated with the processes listed above. If recorded in a *Tariff*, provide the specific *Tariff* section(s). If these policies are recorded in documents other than *Tariffs*, list those documents and state whether they are publicly available. If they are publicly available, explain how to find them. For documents that are not publicly available, state whether they are conveyed to customers orally or in writing.

E. Purchasers that are mobile wireless service providers must respond to the following:

II.E.1. How many cell sites do you have on your network?

II.E.2. Provide the information requested below for each cell site on your network as of December 31, 2010 and as of December 31, 2012.

- a. A unique ID for the cell site;
- b. The actual situs address of the cell site (*i.e.*, land where the cell site is located) if the cell site is located in or on a building;
- c. The geocode for the cell site (*i.e.*, latitude and longitude);
- d. The CLLI code of the incumbent LEC wire center that serves the cell site, where applicable;
- e. Whether the cell site is in or on a building, is a free-standing cell site, or is on some other type of man-made structure, *e.g.*, a water tower, billboard, etc.;
- f. If the cell site is served by a *CBDS*, indicate the equivalent number of *DS1s* used;
- g. If the cell site is served by a *PBDS*, indicate the total bandwidth of the circuit or circuits in Mbps;
- h. If the cell site is served by a wireless *Connection*, indicate the total bandwidth of the circuit or circuits in Mbps;
- i. The name of the *Provider(s)* that supplies your *Connection* to the cell site; and
- j. If you self-provide a *Connection* to the cell site, the provisioned bandwidth of that self-provided *Connection*.

Expenditures Information

II.E.3. What were your expenditures, *i.e.*, dollar volume of purchases, on *Dedicated Services* for 2010 and 2012? For each year, report expenditures in total, separately for *CBDS* and *PBDS* purchases, and separately for purchases from *ILECs* and *Competitive Providers*.

II.E.4. Provide your company's expenditures, *i.e.*, dollar volume of purchases, for *DS1s*, *DS3s*, and/or *PBDS* purchased from *ILECs* pursuant to a *Tariff* in 2010 and in 2012. For each of the following categories, report expenditures for each year in total and separately for *DS1s*, *DS3s* and *PBDS*:

- a. All *DS1s*, *DS3s*, and *PBDS*;
- b. *DS1s*, *DS3s*, and *PBDS* purchased at *One Month Term Only Rates*;
- c. *DS1s*, *DS3s*, and *PBDS* purchased under *Tariff Plans*;
- d. *DS1s*, *DS3s*, and *PBDS* purchased under *Contract-Based Tariffs*;
- e. *DS1s*, *DS3s*, and *PBDS* purchased under *Tariff Plans* that contained a *Term Commitment* but not a *Volume Commitment*;
- f. *DS1s*, *DS3s*, and *PBDS* purchased under *Tariff Plans* that contained a *Prior Purchase-Based Commitment*;
- i. Of the total (and for the separate *DS1*, *DS3*, and *PBDS* totals where applicable), indicate the average discount from the *One Month Term Only Rate* incorporated in the expenditures.

For purposes of calculating the percentages described above, an example would be a *Tariff Plan* that requires a purchase of 20 *DS1s* and 10 *DS3s* and generates expenditures of \$2,000 for calendar-year 2012. If those same circuits were purchased at *One Month Term Only Rates* of \$100 per *DS1* and \$200 per *DS3*, then total expenditures would instead be \$4,000. Since the *Tariff Plan* under this scenario generated 50% of the expenditures that would be generated from *One Month Term Only Rates*, the discount would be 50%.

- g. *DS1s*, *DS3s*, and *PBDS* purchased under *Contract-Based Tariffs* that contained a *Term Commitment* but not a *Volume Commitment*; and
- h. *DS1s*, *DS3s*, and *PBDS* purchased under *Contract-Based Tariffs* that contained a *Prior Purchase-Based Commitment*;
 - i. Of the total (and for the separate *DS1* and *DS3* totals if available), indicate the average discount from the *One Month Term Only Rate* incorporated in the expenditures.

An example of how to calculate this percentage can be found at question II.E.4.f.i.

- i. What percentage of your expenditures in 2012 were subject to a *Term Commitment* of five or more years?

II.E.5. What were your expenditures, *i.e.*, dollar volume of purchases, on *DS1s*, *DS3s*, and/or *PBDS* purchased from *Competitive Providers* pursuant to a *Tariff* in 2010 and in 2012? Report expenditures in total and separately for *DS1s*, *DS3s* and *PBDS*, as applicable, for the following categories for each year:

- a. All *DS1s*, *DS3s*, and *PBDS*;
- b. *DS1s*, *DS3s*, and *PBDS* purchased at *One Month Term Only Rates*;
- c. *DS1s*, *DS3s*, and *PBDS* purchased under *Tariffs* that contained a *Term Commitment* but not a *Volume Commitment*;
- d. *DS1s*, *DS3s*, and *PBDS* purchased under *Tariffs* that contained a *Prior Purchase-Based Commitment*;
 - i. Of the total (and for the separate *DS1*, *DS3*, and *PBDS* totals where applicable), indicate the average discount from the *One Month Term Only Rate* incorporated in the expenditures.

An example of how to calculate this percentage can be found at question II.E.4.f.i

- e. What percentage of your expenditures in 2012 were subject to a *Term Commitment* of five or more years?

II.E.6. What were your expenditures, *i.e.*, dollar volume of purchases, on *DS1s*, *DS3s*, and/or *PBDS* purchased from *ILECs* and *Competitive Providers* pursuant to an agreement (not a *Tariff*) in 2010 and in 2012? Report expenditures in total, separately for purchases from *ILECs* and *Competitive Providers*, and separately for *DS1s*, *DS3s* and *PBDS*, as applicable, for the following categories for each year:

- a. All *DS1s*, *DS3s*, and *PBDS*;
- b. *DS1s*, *DS3s*, and *PBDS* purchased at a non-discounted rate;
- c. *DS1s*, *DS3s*, and *PBDS* purchased under a non-tariffed agreement that contained a *Term Commitment* but not a *Volume Commitment*;
- d. *DS1s*, *DS3s*, and *PBDS* purchased under a non-tariffed agreement that contained a *Prior Purchase-Based Commitment*;
 - i. Of the total (and for the separate *DS1*, *DS3*, and *PBDS* totals where applicable), indicate the average discount from the non-discounted rate incorporated in the expenditures.

An example of how to calculate this percentage can be found at question II.E.4.f.i

II.E.7. What were your expenditures, *i.e.*, dollar volume of purchases, on *PBDS* purchased under a *Tariff* in 2010 and in 2012?

- a. Separately for purchases from *ILECs* and *Competitive Providers* for the following service bandwidth categories:
 - i. less than or equal to 1.5 Mbps;
 - ii. greater than 1.5, but less than or equal to 50 Mbps;
 - iii. greater than 50, but less than or equal to 100 Mbps;
 - iv. greater than 100, but less than or equal to 1 Gbps; or
 - v. greater than 1 Gbps.

II.E.8. What were your expenditures, *i.e.*, dollar volume of purchases, on non-tariffed *PBDS* in 2010 and in 2012?

- a. Separately for purchases from *ILECs* and *Competitive Providers* for the following service bandwidth categories:
 - i. less than or equal to 1.5 Mbps;
 - ii. greater than 1.5, but less than or equal to 50 Mbps;
 - iii. greater than 50, but less than or equal to 100 Mbps;
 - iv. greater than 100, but less than or equal to 1 Gbps; or
 - v. greater than 1 Gbps.

Terms and Conditions Information

II.E.9. Explain whether the terms and conditions of any *Tariff* or contract to which you are a party for the purchase of *Dedicated Services* or the policies of any of your *Providers* constrain your ability to:

- a. Decrease your purchases from your current *Provider(s)*;
- b. Purchase services from another *Provider* currently operating in the geographic areas in which you purchase services;
- c. Purchase non-tariffed services, such as Ethernet services, from your current *Provider* of tariffed *DS1*, *DS3*, and/or *PBDS* services or from other *Providers* operating in the geographic areas in which you purchase tariffed services;
- d. Contract with *Providers* that are considering entering the geographic areas in which you purchase tariffed services;
- e. Move circuits, for example, moving your *DS1* and/or *DS3 End-User Channel Terminations* to connect to another *Transport Provider*; or
- f. Otherwise obtain *Dedicated Services* or change *Providers*.

Relevant terms and conditions, among others, may include: (a) early termination penalties; (b) shortfall provisions; (c) overlapping/supplemental discounts plans with different termination dates; (d) requirements to include all services, including new facilities, under a *Tariff Plan* or *Contract-Based Tariff*; or (e) requiring purchases in multiple geographic areas to obtain maximum discounts.

In your answer, highlight contracts where you contend that a term or condition is a particularly onerous constraint by comparison with more typical provisions in other contracts. Also, at a minimum, list: (a) the *Provider* and indicate whether the *Provider* is an *ILEC* or a *Competitive Provider*; (b) a description of the term or condition; (c) the geographic area in which the services are provided; (d) the name of the vendor providing the service; and (e) where relevant, the specific *Tariff* number(s) and section(s), or if the

policy at issue is recorded in documents other than *Tariffs*, list those documents and how you obtained them.

If you allege that a term, condition, or *Provider's* policy negatively affects your ability to obtain *Dedicated Services*, state whether you have brought a complaint to the Commission, a state commission or court about this issue and the outcome. If you have not brought a complaint, explain why not.

II.E.10. If you purchase, or purchased, *Transport Service* and *End User Channel Terminations* from the same *Provider*, explain your experience with changing *Transport Service* from one *Provider* to another between January 1, 2010 and December 31, 2012 while keeping your *End User Channel Terminations* with the original *Provider*. Where appropriate, identify the *Provider(s)* in your responses below and indicate whether they are an *ILEC* or a *Competitive Provider*.

- a. How many times did you change *Transport Service* while keeping your *End User Channel Terminations* with the original *Provider*? An estimate of the number of circuits moved to a new *Transport Provider*, or the number of such changes requested for each year, is sufficient.
- b. What was the length of time, on average, it took for the original *Provider* to complete the process of connecting your last-mile *End-user Channel Terminations* to another *Transport Provider*? An estimate is sufficient.
- c. Were you given the opportunity to negotiate the amount of time it would take to complete the process of connecting your *End User Channel Terminations* to another *Transport Provider* on a case-by-case basis? In answering this question, also describe and provide citations to the *ILEC's* or *Competitive Provider's* policies, rules or, where relevant, *Tariff* provisions, if known, explaining the transition process.
- d. How did connecting to a new *Transport Provider* impact the rate you paid for the *End User Channel Terminations* you continued to purchase from the original *Provider*?
- e. Did connecting to a new *Transport Provider* typically impact the rate you continued to pay for *Transport Service* from the original *Provider* while the change in *Transport Providers* remained pending? If so, how? What was the average percentage change in rates? For example, did you ever pay a *One Month Term Only Rate* during that time?

II.E.11. Describe any circumstances since January 1, 2010, in which you have purchased circuits pursuant to a *Tariff*, solely for the purpose of meeting a *Prior Purchase-Based Commitment* required for a discount or *Non-Rate Benefit* from your *Provider* (i.e., you would not have purchased the circuit but for the requirement that you meet a *Volume Commitment* required for a discount or *Non-Rate Benefit* from your *Provider*). In your description, provide at least one example, which at a minimum, lists:

- a. The name of the *Provider* providing the circuits at issue;
- b. A description of the *Prior Purchase-Based Commitment*;
- c. The *Tariff* and section number(s) of the specific terms and conditions described;
- d. The number of circuits you would not have purchased but for the *Prior Purchase-Based Commitment* requirement to receive a discount or *Non-Rate Benefit*;
- i. Of the circuits reported in II.E.11.d, how many did you not use at all?
- e. A comparison of the dollar amount of the unnecessary circuit(s) purchased versus the dollar amount of penalties your company would have had to pay under the *Prior Purchase-Based Commitment* had it not purchased and/or maintained the circuit(s), and a description of how that comparison was calculated.
- f. How many circuits were activated under the identified *Tariff* plan and not used when you initially entered into the plan? What were these unused circuits as a percent of the total circuits currently purchased under this *Tariff* plan? Indicate the percent of the total

circuits currently purchased under this *Tariff* plan that exceed your *Prior Purchase-Based Commitment*.

- g. For the *Prior Purchase-Based Commitment*, indicate whether you are able to buy any *DS1s* or *DS3s* from the *Provider* outside of the identified *Tariff* plan, or are you required to make all purchases from the *Provider* pursuant to the identified *Tariff* plan?

II.E.12. For each year for the past five years, state the number of times and in what geographic area(s) you have switched from purchasing *End-User Channel Terminations* from one *Provider of Dedicated Services* to another.

II.E.13. Explain the circumstances since January 1, 2010 under which you have paid *One Month Term Only Rates* for *DS1*, *DS3*, and/or *PBDS* services and the impact, if any, it had on your business and your customers. In your response, indicate any general rules you follow, if any, concerning the maximum number of circuits and maximum amount of time you will pay *One Month Term Only Rates*, and your business rationale for any such rules.

II.E.14. Separately list all *Tariffs* under which your company purchases *DS1s*, *DS3s*, and/or *PBDS* and provide the information requested below for each plan.

- a. This plan is a:
 Tariff Plan *Contract-Based Tariff* (select one)
- b. Plan name:
- c. *Provider* name:
- d. *Tariff* and Section Number(s):
- e. *Tariff* type:
 Interstate Intrastate
- f. This plan contains:
 Term Commitment(s) *Volume Commitment(s)*
 Non-Rate Benefit option(s) (select all that apply)
- g. If the plan contains *Non-Rate Benefits*, identify the *Non-Rate Benefits* that were relevant to your decision to purchase services under this plan.
- h. This plan can be applied to the purchase of:
 DS1 services *DS3* services *PBDS* Other (select all that apply)
- i. In what geographic areas do you purchase *DS1s*, *DS3s*, and/or *PBDS* under this plan, e.g., nationwide, certain states, or certain *MSAs*?
- j. To receive a discount or *Non-Rate Benefit* under this plan, does your company make a *Prior Purchase-Based Commitment*?
 Yes No
- k. If this is an *ILEC* plan, do *DS1*, *DS3*, or tariffed *PBDS* purchases your company makes outside the study area(s) of the *ILEC* (e.g., purchases from an *Affiliated Company* of the *ILEC* that is providing out-of-region service as a *CLEC*) count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?
 Yes No N/A (no *Volume Commitment*, not an *ILEC* plan)

- i. If you answered yes, in what geographic areas outside the study area(s) of the *ILEC*, do you purchase these *DS1s*, *DS3s* and/or tariffed *PBDS*?
- ii. For each geographic area identified, state whether your company would have purchased from a different *Provider*, if at all, had it not been for the discounts or *Non-Rate Benefits* received under this plan? In your response, indicate whether the *Provider* that you would have purchased from has *Connections* serving that geographic area and the *Provider's* name.
- l. If this is an *ILEC* plan, do *DS1*, *DS3*, and/or tariffed *PBDS* purchases your company makes from the *ILEC* in price cap areas where the Commission has not granted the *ILEC* pricing flexibility count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?
 Yes No N/A (no *Volume Commitment*, not an *ILEC* plan)
- i. If you answered yes, then identify the price cap areas where you purchase *DS1s*, *DS3s*, and/or tariffed *PBDS* that count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?
- m. If this is an *ILEC* plan, do *DS1*, *DS3* and/or tariffed *PBDS* purchases your company makes from the *ILEC* in areas where the Commission has granted *Phase I Pricing Flexibility* count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?
 Yes No N/A (no *Volume Commitment*, not an *ILEC* plan)
- i. If you answered yes, in what geographic areas subject to pricing flexibility do you purchase *DS1s*, *DS3s*, and/or tariffed *PBDS* that count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?
- ii. For each geographic area identified, state whether your company would have purchased from a different *Provider*, if at all, had it not been for the requirements of the *Tariff Plan*? In your response, indicate whether the *Provider* that you would have purchased from has *Connections* serving that geographic area and the *Provider's* name.
- n. If this is an *ILEC* plan, do *DS1*, *DS3* and/or tariffed *PBDS* purchases your company makes from the *ILEC* in areas where the Commission has granted *Phase II Pricing Flexibility* count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?
 Yes No N/A (no *Volume Commitment*, not an *ILEC* plan)
- i. If you answered yes, in what geographic areas subject to pricing flexibility do you purchase *DS1s*, *DS3s*, and/or tariffed *PBDS* that count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?
- ii. For each geographic area identified, state whether your company would have purchased from a different *Provider*, if at all, had it not been for the requirements of the *Tariff Plan*? In your response, indicate whether the *Provider* that you would have purchased from has *Connections* serving that geographic area and the *Provider's* name.
- o. If this is an *ILEC* plan, do non-tariffed *PBDS* purchases your company makes from this *ILEC* count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?

- Yes No N/A (no *Volume Commitment*, not an *ILEC* plan)
- i. If you answered yes, in what geographic areas do you purchase non-tariffed *PBDS* that counts towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan.
- ii. For each geographic area identified, state whether your company would have purchased non-tariffed *PBDS* from a different *Provider*, if at all, had it not been for the requirements of the plan? In your response, indicate whether the *Provider* that you would have purchased from has *Connections* serving that geographic area and the *Provider's* name.
- p. If this is an *ILEC* plan, do purchases you make for services other than *DS1s*, *DS3s*, and *PBDS* from this *ILEC* count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan?
- Yes No N/A (no *Volume Commitment*, not an *ILEC* plan)
- i. If you answered yes, identify the other services purchased and the geographic areas where you purchase these services that count towards meeting any *Volume Commitment* to receive a discount or *Non-Rate Benefit* under this plan.
- ii. For each geographic area identified, state whether your company would have purchased those other services from a different *Provider*, had it not been for the requirements of the plan? In your response, indicate whether the *Provider* that you would have purchased from has *Connections* serving that geographic area and the *Provider's* name.
- q. Is the discount or *Non-Rate Benefit* available under this plan conditioned on the customer limiting its purchase of *UNEs*, e.g., the customer must keep its purchase of *UNEs* below a certain percentage of the customer's total spend? If yes, then provide additional details about the condition.

II.E.15. Indicate whether you have any non-tariffed agreement with an *ILEC* that, directly or indirectly, provides a discount or a *Non-Rate Benefit* on the purchase of tariffed *DS1*, *DS3*, and/or *PBDS* services, restricts your ability to obtain *UNEs*, or negatively affects your ability to purchase *Dedicated Services*. If so, identify each agreement, including the parties to the agreement, the effective date, end date, and a summary of the relevant provisions.

F. Purchasers that are not mobile wireless service providers must respond to the following:

II.F.1. What is the principal nature of your business, e.g., are you a CLEC, cable system operator, fixed wireless service provider, wireless Internet service provider, interconnected VoIP service provider, etc.?

Expenditures Information

II.F.2. What were your expenditures, i.e., dollar volume of purchases, on *Dedicated Services* for 2010 and 2012? For each year, report expenditures in total, separately for *CBDS* and *PBDS* purchases, and separately for purchases from *ILECs* and *Competitive Providers*.