

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

Connect America Fund: Performance	)	Docket No. 10-90; DA 18-710
Measurement Obligations	)	OMB Control No. 3060-XXXX

Comments of

NTCA–THE RURAL BROADBAND ASSOCIATION

To the Commission:

I. INTRODUCTION

NTCA–The Rural Broadband Association (NTCA) herewith files comments in response to the Commission’s *Notice and Request for Comments* published in the Federal Register as part of the above-captioned docket on June 7, 2019.¹ As part of its obligations under the Paperwork Reduction Act of 1995 (PRA), the Commission is required to seek comment on information collections; the Commission is not permitted to sponsor or conduct a collection of information without approval from the Office of Management and Budget (OMB). In these comments, NTCA will demonstrate that the time per response as estimated in the Notice appears to underestimate the actual anticipated burden as it does not appear to contemplate the many steps that regulated entities must take before the relevant performance measurement data can be reported. Accordingly, NTCA commends the Commission to reassess the estimated hourly burden per response and to offer OMB an estimate that will enable a more accurate assessment of the proposed information collection.

¹ *Information Collection Being Reviewed by Federal Communications Commission*, OMB Control No. 3060-XXXX, 84 Fed. Reg. 110, at 26677 (Jun. 7, 2019).

II. DISCUSSION

NTCA has participated actively in all phases of the instant proceeding that establishes performance measurement obligations. As a general proposition, NTCA supports the intended goals of performance measurement testing and has articulated positions that would ensure reasonable administrative measures while promising sufficiently rigorous testing. In its various pleadings,² NTCA focused on technical and administrative issues related to the development and implementation of the rules. As providers assimilate additional information relating to Universal Service Administrative Company (USAC) processes, vendor product development and customer interactions, NTCA has met regularly with Commission staff. These topics discussed in these presentations have included, but are not limited, to:

- The availability of testing-compatible equipment;
- The creation and calibration of randomly selected sample pools;
- Upgrading of customer locations to achieve the required sample pool size;
- Customer inducements and participation;
- Network load and burst factors; and,
- Control of network segments to be tested.³

Whereas in previous presentations NTCA addressed technical and consumer-oriented issues, these instant comments will focus on various sequential steps that will be necessary as providers implement the performance measurement testing regime. It will be apparent from these comments that the 16-60 (sixteen-to-sixty) hours estimated time for response does not appear to

² See, *Application for Review* of NTCA (Sep. 19, 2018); *Ex Parte* of NTCA (Feb. 28, 2019); *Ex Parte* of NTCA (May 7, 2019).

³ NTCA notes at this point that no discussion in this instant filing constitutes or is intended to constitute waiver of any positions presented previously to the Commission in other pleadings.

contemplate the many prerequisite steps that must be taken before the actual reporting of data can be made. These steps include both one-time measures (testing and selecting equipment) as well as recurring steps (customer interactions and distribution of equipment) that will, in many cases, be part of each testing cycle. Any analysis by the OMB as to the actual predicted impact of the information collection requirement on companies must contemplate these parts of the process so that an accurate assessment of the time per response can be made.

The steps identified by NTCA members include, but are limited to:

Identification and bench-testing of testing-compliant equipment;

Customer interactions to obtain consent for testing, where necessary (and as envisioned by the Commission);⁴

Upgrading of locations to meet minimum sample pool size;

Customer interactions to obtain consent to upgrades, where necessary;

Truck rolls to deploy equipment;

Truck rolls to collect equipment, where necessary;

Cleaning of equipment after collection.

Collection, consolidation and filing of test results.

Below, NTCA will describe certain of these steps in greater detail to elucidate the anticipated time per response that will be necessary as providers comply with the rules.

Bench Testing

In the first instance, PRA analysis should contemplate the preliminary steps of sourcing and bench-testing candidate equipment. Although providers routinely bench-test equipment, the review of products whose acquisition and distribution is occasioned *solely* by regulatory requirement should be contemplated as the Commission assesses the burden on providers.

⁴ See, *Connect America Fund: Order*, Docket No. 10-90, DA 18-710, at para. 40 (2018).

Typically, NTCA member companies have dedicated work space at which new products can be tested over a period to assess their functionality and integration with existing back-office systems and customer interfaces. However, unlike larger firms that may have staff who focus exclusively on trialing products, small firms like NTCA members do not have dedicated bench-test staff. Rather, these small firms generally rely upon service technicians and other employees to test equipment “between calls.” Stated differently, bench-testing in small companies is typically “squeezed in” among general service orders and other work. In ordinary circumstances, companies align and budget their anticipated equipment testing, purchase and deployment schedules to accommodate the multi-task nature of their technicians among internal and customer-focused projects. In the instant proceeding, the Commission should consider the probability of increased staff labor-hours that will be necessary if the introduction of test-compliant equipment against Commission deadlines creates a compressed period in which equipment must be sourced, tested and deployed. NTCA also notes that these times relate only to bench-testing the customer premises equipment (CPE). Even companies that are testing equipment now may confront additional as servers react to full test loads.

NTCA members report a one-time bench-testing need of 40-50 hours, which includes potential back-office programming to accommodate the new CPE.

Customer Consent

A significant amount of discussion in the instant proceeding has focused on the potential need to obtain customer consent to participate in testing. This need may arise regardless of whether a provider utilizes a “white box” or modem/router with built-in testing capabilities. The deployment of a white-box to a customer location is anticipated to certainly require customer consent since it will involve the attachment of a new device to the customer’s existing equipment

(concerns relating to obtaining customer consent to participate in testing have been elucidated in prior NTCA filings in this docket;⁵ other parties, as well, have identified similar concerns).⁶ In similar vein, customer consent issues are implicated even where a provider does not use a white-box, but instead uses new equipment with built-in testing capabilities.

Customers obtain, and ISPs may provide, modems and routers in several different ways. Where the ISP provides a device as part of the paid subscription service, delivery of the new device might not implicate specific customer consent. However, where a customer leases a device from an ISP, the replacement of that device with a presumably more expensive device will require consent unless the provider absorbs the additional costs of the new device (the so-called “inducements” foreseen by the Commission could be reasonably envisioned to take the form of free, new and upgraded equipment).⁷ Alternatively, where a customer purchases a device from either the ISP or a third party, delivery of the new equipment almost certainly will require consent where a customer-owned device would be taken out of service and replaced by new equipment.

Interviews with NTCA members have revealed that all of these scenarios exist across NTCA service areas, to varying extent. Some NTCA members do not sell but rather only lease modems and routers to their customers; other NTCA members report that a significant proportion of their customers purchase equipment from third-party retailers. Accordingly, in addition to the actual financial cost impacts of exchanging equipment, significant time will be required in each testing cycle for customer interaction where functioning equipment is to be

⁵ See, *Ex Parte* of NTCA (Feb. 28, 2019).

⁶ See, *Comments of WTA* at 10 (Dec. 6, 2017).

⁷ See, *Connect America Fund: Order*, Docket No. 10-90, DA 18-710, at para. 40 (2018).

replaced with new, upgraded equipment at the customer's expense (the alternative, of course, is for the provider to absorb the cost of replacing still-functioning equipment). Finally, some customer interactions may lead to refusals to participate, requiring additional interactions with other testing candidates. Moreover, additional interactions may be required if over the course of a testing cycle a consenting consumer moves away. The matter of distributing and deploying equipment, which contemplates additional time, is discussed below.

NTCA members estimate customer-interaction times of approximately one hour per testing location where new equipment must be deployed with customer consent; this time does not include the distribution and deployment of equipment. Accordingly, for this aspect of the performance measurement obligations, companies with one test tier contemplate 50 hours compliance burden; companies with two tiers contemplate 100 hours compliance burden; and, companies with three tiers of testing contemplate 150 hours of customer interaction for each test period.

Deployment

As described above, deployment of new CPE to accommodate testing will generally require a truck roll. Although some currently-deployed equipment can be used to conduct testing, not all carriers use that equipment. The average population density of an NTCA member company service area is 1.25 persons per square mile. An informal review among NTCA members revealed that a functionally significant population of providers will need to either upgrade modems or routers or will rely upon white-box solutions; all may require a truck roll. Truck roll costs in rural areas can be high. An NTCA member in a Western state documented that many customers live as far as 100 miles from the dispatch point. Many customers in that service area live more than 50 miles from the dispatch point; others are within town. Other

NTCA member distances feature average distances of just over 15 miles from the office, with top distances beneath 30. Providers in Alaska may have customer locations that can be reached only by plane, and whose accessibility is affected by the weather. Overall, distances vary from company to company but even at the lower range contemplate significant time in rural service areas that must be dedicated to truck rolls; that time, of course, must be multiplied by the number of conducted tests. Review of this issue with numerous small providers confirmed the likelihood of truck rolls to deploy equipment. Finally, truck rolls may also be required where a location must be upgraded in order to contribute to a minimum testing sample pool.

Truck rolls to deploy (and then collect testing equipment, where necessary) implicate significant labor hours in rural areas; even closer locations require significant time when multiplied by the number of testing locations in low-population density areas. These must be considered in the PRA analysis in order arrive at an accurate assessment of the time per response.

Collection

Interviews with NTCA members reveal a range of approaches to the ultimate disposition of testing-compatible equipment. Where the equipment is sold or leased to the customer, there is no need for the company to dispatch a truck roll to collect the equipment. If, however, a company uses a white-box solution, then it must contemplate a round-trip truck roll to collect the equipment. Some companies contemplate selling new and advanced CPE equipment (relieving the burden of collecting the equipment) but acknowledge that the company may face the prospect of either giving the new equipment to the customer or collecting it after the testing period if the customer agrees to participate in the testing but refuses to pay for upgraded equipment (one NTCA member predicted that more than three-quarters of its customers will demand an

inducement to participate in testing in circumstances where customer consent must be obtained).

In addition to the time necessary to collect equipment, NTCA members the noted the need to clean equipment before it is redeployed. This cleaning includes not only resetting the devices to factory defaults but also physical surface cleaning of the device exterior as well as disassembly of the device to clean the inside from dust or other infiltrates. The number of testing locations will inform the amount of time necessary to complete these tasks.

NTCA members predict the likelihood of customers declining to purchase testing-compatible equipment, leading to additional time necessary to collect, clean and repackage testing-compatible equipment. Cleaning and repackaging is estimated at one hour per unit.

Inventory

The burden of distributing new equipment is also tied to the extent to which a company might deploy new equipment throughout its consumer base, as compared to sprinkling testing-compliant equipment to only test locations while maintaining currently-used CPE to the end of its useful life (this also speaks to the overall financial cost of compliance, as well). For example, a company that is obligated to test three tiers of service theoretically can order 150 testing units and meet its obligation. This approach, however, leaves no margin for spare units. Accordingly, it must be presumed that any provider subject to testing will be required to maintain an adequate inventory of spare CPE units. However, providers will confront a series of questions as they incorporate new equipment into their networks. These include:

1. Will the provider replace all or just some of its distributed CPE units? How many labor hours would be associated with this type of equipment change-out?
2. What are the relative administrative and tech-support labor-hours of supporting different types of CPE throughout the subscriber base?
3. What are the relative costs of replacing CPE before the end-of-useful-life of currently-deployed CPE?

4. What are the relative hourly burdens of purchasing CPE on a cycle-by-cycle basis (*i.e.*, enough units for each testing period, including spare units) as opposed to a one-time labor expenditure to purchase and renew an entire inventory?

III. CONCLUSION

As described above, numerous steps must be undertaken before and during the testing cycle. These measures do not appear to be contemplated in the original burden estimate set forth for PRA requirements. Accordingly, NTCA commends the Commission to account for the labor hours involved in testing, delivering and deploying equipment, as well as other functions relating to provider compliance with the performance measurement obligations.

Respectfully submitted,

s/Joshua Seidemann
Joshua Seidemann
Vice President, Policy
NTCA–The Rural Broadband Association
4121 Wilson Blvd., Suite 1000
Arlington, VA 22203
www.ntca.org

DATED: August 8, 2019