

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Local Telephone Competition and Broadband Reporting)	OMB Control Number 3060-0816
)	
Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscribership)	WC Docket No. 07-38
)	

**PAPERWORK REDUCTION ACT COMMENTS
OF THE
ORGANIZATION FOR THE PROMOTION AND
ADVANCEMENT OF SMALL TELECOMMUNICATIONS COMPANIES
AND THE
RURAL INDEPENDENT COMPETITIVE ALLIANCE**

I. INTRODUCTION

The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO)¹ and the Rural Independent Competitive Alliance (RICA)² hereby submit these Paperwork Reduction Act comments in the above-captioned proceeding.³ Virtually all members of the associations offer broadband

¹ OPASTCO is a national trade association representing over 600 small incumbent local exchange carriers (LECs) serving rural areas of the United States. Its members, which include both commercial companies and cooperatives, together serve more than 5.5 million customers. Almost all of OPASTCO's members are rural telephone companies as defined in 47 U.S.C. § 153(37).

² RICA is a national association of competitive carriers that are affiliated with rural incumbent LECs. RICA members provide facilities-based telecommunications and video services in rural areas over modern facilities to residential and business subscribers in underserved rural areas.

³*Local Telephone Competition and Broadband Reporting*, OMB Control Number 3060-0816, Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget, 73 Federal Reg. 55080 (2008) (Notice); *see Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet Protocol*

Internet access services, either directly or through Internet Service Provider (ISP) subsidiaries, to rural subscribers using a variety of technologies and delivery mediums.⁴

In lieu of reporting subscriber counts by Census Tract, rural LECs should be given the option, at their discretion, of providing a confidential list of service addresses or Geographic Information System (GIS) coordinates of service, along with the speed and technology of the broadband connection in service at each address. This option, already permitted by the Commission in certain cases, would reduce reporting burdens on small businesses serving high-cost rural areas, while providing regulators with the data they deem necessary.

II. RURAL LECs SHOULD HAVE AN AUTOMATIC OPTION OF PROVIDING A CONFIDENTIAL LIST OF SERVICE ADDRESSES OR GIS COORDINATES IN LIEU OF REPORTING SUBSCRIBER COUNTS BY CENSUS TRACT

The Report and Order imposes new obligations on broadband providers, including rural LECs, requiring the reporting of subscriber data by Census Tract.⁵ Up to this point, rural LECs have rarely, if ever, maintained any sort of records or engaged in any business practice that involved the use of Census Tracts. The new rules therefore require major alterations to rural LECs' recordkeeping, training, and business practices. The Notice requests comment on ways to minimize the burden of the information collection on respondents.⁶

A viable alternative that would reduce the burden on rural LECs is readily apparent in the Report and Order, which correctly recognizes that "...some entities might

(*VoIP*) *Subscribership*, WC 07-38, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 9691 (2008) (Report and Order).

⁴ For the purposes of this filing, "rural LECs" also refers to their subsidiary or affiliated ISPs.

⁵ Report and Order, 23 FCC Rcd 9695, ¶ 10.

⁶ Notice, p. 55080.

suffer undue hardship in reporting on a census level.”⁷ To alleviate this undue hardship, the Report and Order continues: “Specifically, upon a showing of significant hardship, entities will be permitted to report a list of service addresses or GIS coordinates of service, along with the speed and technology of the broadband connection in service at each address, in lieu of reporting subscriber counts by Census Tract.”⁸

The associations request that in order to minimize the information collection’s burden on respondents, rural LECs should be permitted to utilize this alternative at their discretion. The Report and Order does not define “significant hardship,” nor does it explain the procedure by which a rural LEC broadband provider might make the required showing. As it stands, a rural LEC that finds the new requirements to be burdensome has no indication of how to request permission to provide the alternative data as described in the Report and Order. Nor is there any guidance as to what criteria must be met for permission to be granted. However, if all rural LECs had this option available, their reporting burdens would be significantly alleviated while the Commission would still receive the data it requires.

This modest alteration is necessary because many rural LECs remain uncertain of exactly how to alter their procedures, recordkeeping, business practices and employee training to incorporate Census Tracts, a metric that most have never used. Rural LECs have an average of 19 employees⁹ that are responsible for providing service across large, sparsely populated service territories, often spanning hundreds of square miles. Service territories of this nature may encompass multiple Census Tracts, even if they serve a

⁷ Report and Order, 23 FCC Rcd 9698, ¶ 15.

⁸ *Ibid.*; see also Final Regulatory Flexibility Analysis, 23 FCC Rcd 9721-9722, ¶ 4.

⁹ Telergee Alliance, 2008 Telergee Benchmarking Study, p. 64 (2008).

relatively small number of customers. With generally small staffs, recordkeeping and other regulatory changes are disproportionately burdensome for rural LECs.

Permitting rural LECs to provide a list of addresses or GIS data, without a showing of significant hardship, is also justified because the Commission's explanation of why the mandatory use of Census Tract data is not burdensome is faulty. The Report and Order asserts that the use of Census Tracts for broadband reporting is not overly burdensome because the Commission declined to mandate the use of Census Blocks, which would have been even more burdensome.¹⁰ The flaw in this reasoning is apparent on its face. Because the Commission chose a requirement that was less burdensome than one potential alternative does not demonstrate that the new requirement, which still necessitates a total change in current business practices, is not in itself unduly burdensome.

In addition, the Commission's Final Regulatory Flexibility Analysis (FRFA) is deficient. The FRFA contends that the record contained "no convincing evidence of any specific, actual burden, such as employee hours or monetary costs" that showed the new requirements would be unduly burdensome.¹¹ However, it was impossible for rural LECs to supply any evidence regarding the specific, actual burden, because the potential use of Census Tracts, in particular, was not mentioned at all in the NPRM or in the Initial Regulatory Flexibility Analysis. Furthermore, as the Office of Advocacy of the United States Small Business Administration (SBA) has previously explained, it is the responsibility of the regulating entity to provide cost and burden estimates for the public

¹⁰ Report and Order, 23 FCC Rcd 9697-9698, ¶ 13.

¹¹ FRFA, 23 FCC Rcd 9721-9722, ¶ 4.

to comment upon, and this duty cannot be shifted to commenting parties.¹² Rural LECs did not have the opportunity to comment on any burden estimates prior to the adoption of the Report and Order, because no estimates were provided.

III. PERMITTING RURAL LECs TO SUBMIT ALTERNATIVE DATA WILL NOT IMPEDE THE COMMISSION'S GOALS

Allowing rural LECs to submit alternative data without going through the unexplained step of showing a “significant hardship” would not impede the Commission’s ability to gather the data it deems necessary. The data would be presented in a different manner, but the Commission would be able to derive the information it seeks through the prescribed alternative submissions. Nor is it likely that all rural LECs would choose the alternative, should it be more readily available. Rural LECs are not homogenous. Some may find it comparatively easy to submit data by Census Tract, as certain carriers have more personnel available, have more flexible recordkeeping systems, serve populations that are more geographically compact, etc. These factors, combined with the fact that rural LECs serve a comparatively small number of customers, ensures that the Commission would only receive a small amount of data in the alternative format.

Furthermore, if the use of Census Tracts becomes more common in the industry as time goes on, even smaller LECs will eventually find it less burdensome to report in this manner as they learn from other carriers’ experiences, and consultants and vendors provide more products and services geared toward this function, at lower rates. At the very least, rural LECs should have the option of providing the alternative data at their

¹² Reply Comments of the U.S. Small Business Administration Office of Advocacy, *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147 (fil. Jul. 22, 1999), pp. 7–8.

discretion for a period of 24 months, in order to allow them time to adjust their business practices accordingly.

IV. CONCLUSION

In order to minimize the burden of the information collection on respondents, rural LECs should have the option to provide a confidential list of service addresses or GIS coordinates of service, along with the speed and technology of the broadband connection in service at each address, in lieu of reporting broadband subscriber counts by Census Tract. Because reporting at the Census Tract level requires rural LECs to alter their business practices to fulfill a regulatory requirement, this option should be open to rural LECs at their discretion, without the need to embark upon an unexplained process to demonstrate a “significant hardship.” Permitting rural LECs to file in the alternative format will not deprive the Commission of any data that it deems necessary, while minimizing the information collection’s burden on these carriers.

Respectfully submitted,

**THE ORGANIZATION FOR THE
PROMOTION AND ADVANCEMENT OF
SMALL TELECOMMUNICATIONS
COMPANIES**

By: /s/ Stuart Polikoff
Stuart Polikoff
Director of Government Relations

By: /s/ Stephen Pastorkovich
Stephen Pastorkovich,
Business Development Director/
Senior Policy Analyst

21 Dupont Circle, NW, Suite 700
Washington, DC 20036
(202) 659-5990

**THE RURAL INDEPENDENT
COMPETITIVE ALLIANCE**

By: /s/ Stephen G. Kraskin
Stephen G. Kraskin
Its Attorney
2154 Wisconsin Ave., N.W.
Washington, D.C. 20007
(202) 333-5275

November 24, 2008