

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Modernizing the FCC Form 477)	WC Docket 11-10
Data Program)	
)	

COMMENTS OF AT&T

AT&T Services, Inc. on behalf of its affiliates (“AT&T”) respectfully submits the following comments in response to the Commission’s Further Notice of Proposed Rulemaking on the Form 477 data collection program.¹

The comments filed by service providers uniformly support the Commission’s goal of collecting useful, relevant data on broadband and voice services in the U.S., but they also emphasize that the Commission must “collect information efficiently, without imposing needless burdens on providers.”² Consistent with the Administrative Procedure Act and the Paper Reduction Act, AT&T and numerous commenters therefore have urged the Commission to refrain from adopting unduly burdensome reporting obligations where the Commission has not demonstrated a compelling regulatory need.

¹ *Modernizing the FCC Form 477 Data Program*, WC Docket No. 11-10, Further Notice of Proposed Rulemaking, FCC 11-14 (released Feb. 8, 2011) (“*Further Notice*”).

² Comments of Verizon at p. 1. *See also* Comments of Comcast at p. 1 (urging the Commission to “be mindful of its parallel objective of ‘identifying and eliminating unnecessary or overly burdensome filing requirements.’”)

For example, the comments demonstrate that the Commission’s proposal to collect mobile broadband and voice subscribership, and fixed broadband deployment at a more granular level, e.g. the sub-census block/address level, should be rejected because it would not generate useful information. Rather, because providers do not record addresses in a standardized, uniform manner, address level data will likely provide the Commission with less accurate information than data collected at a more aggregated level.³ In addition, the production of such massive data sets would be extremely burdensome for providers and also burdensome to the Commission because the agency would have to undertake the massive task of “scrubbing” the data to make sure that individual physical locations are uniquely identified.⁴

Those commenters that support the Commission’s proposal to collect more granular data do not address these drawbacks or burdens.⁵ Instead, their analysis seems to begin and end with the premise that more data is better, regardless of the actual utility of the data or the burdens of producing it. That is obviously insufficient.

The Commission should likewise reject the Incompas and Windstream proposal to dramatically increase the Form 477 reporting requirements by forcing filers to report the number of building connections in each census block, by speed tier.⁶

³ AT&T Comments at pp. 13- 15; *See also* Comments of NCTA – The Internet & Television Association at pp. 6-7; Comment of Verizon at pp. 10-12.

⁴ *See* AT&T Comments at p. 13-15.

⁵ Comments of Broadband Census, LLC at p.7; Comments of Connected Nation at pp. 3-4; Comments of National States Geographic Information Council at p.1; Comments of Open Technology Institute at New America at pp. 6-7; Comments of West Virginia Broadband Enhancement Council at pp. 2-3.

⁶ Comments of Incompas at pp. 2-6; Comments of Windstream at pp. 2-3.

The Commission correctly rejected these same proposals just a few months ago in the *BDS Order* on the ground that the burdens imposed would far outweigh any benefits.⁷ Parties in that proceeding asked the Commission to expand the Form 477 reporting requirements to include the same type of exceedingly granular data the Commission collected as part of its 2013 data collection so that it could update its findings going forward. As the Commission found, however, “it is not necessary, as some commenters suggest, to modify Form 477 to request additional information” in order to update the actual results of the competitive market test.⁸ Rather, “[t]he current Form 477 data are sufficiently precise to capture changes in competitive deployment that are likely to occur.”⁹ Therefore, the Commission concluded, “we are able to achieve our goals of updating the competitive market test results using accurate data and at the same time avoid imposing any additional burdens on providers or the Commission.”¹⁰

Moreover, contrary to Incompas’ and Windstream’s assertions, merely adding the number of building connections to Form 477 would be insufficient to conduct a retrospective appraisal of the competitive market test itself. That test is premised on the undisputed fact that competitors

⁷ *Business Data Services in an Internet Protocol Environment; Technology Transitions; Special Access for Price Cap Local Exchange Carriers; AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, WC Docket No. 16-143, GN Docket No. 13-5, WC Docket No. 05-25, RM-10593, Report and Order, 32 FCC Rcd 3459 at ¶¶ 145-52 (2017) (*BDS Order*).

⁸ *BDS Order* ¶ 148.

⁹ *Id.*

¹⁰ *Id.* In this regard, the Commission expressly found that the burdens of such a requirement would outweigh any benefits: “[t]he 201[3] Collection was the most comprehensive data collection the Commission has conducted, and the burden of conducting additional such collections, even if streamlined, would likely be considerable” and it is “not needed[ed] . . . to obtain updated market data.” *BDS Order* ¶ 148.

compete for customers both in buildings (1) to which they have already extended connections and (2) to which they can extend connections from *nearby* facilities.¹¹ Incompas and Windstream propose to add only half of this information (building connections) to Form 477, without identifying the locations of competitive transport facilities that could support laterals to additional buildings. But without the nearby network information, those data are incomplete, and could not produce the “benefit” Incompas and Windstream claim.¹²

By contrast, on the other side of the cost-benefit ledger, the burdens of the Incompas/Windstream proposal would be substantial, as they both frankly acknowledge.¹³ That is a key reason why the Commission already rejected nearly identical proposals to amend Form

¹¹ Incompas and Windstream clearly want access to additional building connection data to enable them to develop additional misleading soundbites. Indeed, they routinely assert that, according to the 2013 data collection, 86% of buildings have a single connection. But that metric fails to account for cable HFC-based connections, which reduce that number to 14%. *BDS May 2, NPRM* ¶ 221 & Table 4. It also ignores competition from competitors located nearby those buildings, which drops that number even closer to 0%. *BDS Order* ¶ 91.

¹² In addition, as the Commission found in the *BDS Order*, the proximity of competitive facilities constrain ILEC prices even where ILECs win contracts to serve particular customers. To perform the retrospective analysis Incompas and Windstream propose, therefore, the Commission would need to collect not only the data Incompas and Windstream identify (plus location data for competitive transport networks), but also a comprehensive set of pricing information. Even Incompas and Windstream do not propose such a burdensome data collection, but without it, there would be no genuine purpose for collecting the data they do ask the Commission to collect.

¹³ See, e.g., Windstream at 3 (“collection of these data will impose an incremental burden on filers”); Incompas at 6 (acknowledging that it would require at least geocoding, and proposing to reduce this burden for smaller providers by allowing them to report at less granular geographic levels). Indeed, AT&T would incur substantial additional burdens if required to report building connections in Form 477, including costs associated with developing systems that enable AT&T to gather, organize and report such information.

477 to collect all of these data. Incompas and Windstream identify no basis for reaching a different cost-benefit result now.¹⁴

As stated in AT&T's Comments, the Commission should update the Form 477 data collection only where changes can be made with relatively moderate increases in the burden on filers, and when competitive sensitivities can be maintained.

Respectfully submitted,

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¹⁴ Incompas also argues that building connections data is needed to satisfy the Commission's Section 706 mandate is likewise specious. Section 706 requires the Commission to assess whether advanced telecommunications are being reasonably and timely deployed. This is an assessment of service availability, not adoption. The Commission already collects deployment, by technology, by speed, by census block, which are more than sufficient to assess whether advanced telecommunications are being reasonably and timely deployed. The Commission does not also need the number of building connections, by census block, to make that determination. Indeed, the Commission has successfully carried out its Section 706 mandate for more than 20 years without such data, and Incompas identifies no legitimate seismic changes to the industry that make such data necessary for that evaluation today.