

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Modernizing the FCC Form 477 Data Program)	WC Docket No. 11-10
)	
To: The Commission		

JOINT PETITION FOR EXTENSION OF TIME TO FILE COMMENTS

The American Cable Association (“ACA”), NCTA — The Internet & Television Association (“NCTA”), NTCA—The Rural Broadband Association (“NTCA”), the USTelecom Association (“USTelecom”) and the Wireless Internet Service Providers Association (“WISPA”) (collectively, the “Joint Petitioners”), pursuant to Section 1.46 of the Commission’s Rules,¹ hereby respectfully request a four-week extension of the September 25, 2017 deadline for comments in the above-captioned proceeding.² The Joint Petitioners propose October 23, 2017 as the new deadline for filing Comments, with Reply Comments due by November 6, 2017.

The Joint Petitioners appreciate that pursuant to Section 1.46(a), extensions of filing deadlines are not routinely granted. The Joint Petitioners submit, however, that extenuating circumstances and the importance of a well-informed and fully-considered record in this proceeding warrant an extension, and that grant of this request therefore would be consistent with the public interest.

I. Introduction

The Joint Petitioners are trade associations representing the interests of thousands of broadband service providers that serve millions of consumers and businesses across the country.

¹ 47 C.F.R. § 1.46(a).

Collectively, the Joint Petitioners' members include the vast majority of entities required to file Form 477, a process that requires semi-annual collection and reporting of prescribed voice and broadband subscriber and deployment information. As such, the Joint Petitioners have a deep understanding of the importance of Form 477 to the Commission's policymaking objectives and a strong interest in participating in this proceeding to assist the Commission's efforts in obtaining factual information to inform that process. The Joint Petitioners are requesting an extension so they have adequate time to consider and respond in a more detailed and meaningful fashion to the proposed modifications to Form 477, particularly in light of other related and ongoing proceedings now active at the Commission.³ Moreover, two natural disasters in less than two weeks also have impacted our members that reside and operate broadband businesses throughout the affected Southern and Coastal States. At a time when they are trying to rebuild their networks and deal with devastation and destruction of their homes and businesses, they have little ability to provide information necessary to provide the responsive information the Commission desires.

II. Grant Of The Requested Extension Will Generate A More Developed Record To Inform The Commission's Decision-Making

The Commission recognizes that Form 477 is a "principal tool used by the Commission to gather data on communications services, including broadband services, to help inform our policymaking."⁴ In fact, the Commission acknowledges Form 477 as one of the Commission's

² *Modernizing the FCC Form 477 Data Program*, Further Notice of Proposed Rulemaking, WC Docket No. 11-10, FCC 17-103 (rel. Aug. 4, 2017) ("FNPRM").

³ See, e.g., *Public Notice, Comment Sought on Competitive Bidding Procedures and Certain Program Requirements for the Connect America Fund Phase II Auction (Auction 903)*, AU Docket No. 17-182 & WC Docket No. 10-90 (rel. Aug. 4, 2017); *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, Thirteenth Section 706 Report Notice of Inquiry, GN Docket No. 17-199, FCC 17-109 (rel. Aug. 8, 2017).

⁴ FNPRM at ¶1.

“most important datasets”⁵ and that it “base[s] so many of our significant policy decisions, on the information we receive from those filers.”⁶ In recent outreach efforts to a number of Joint Petitioners, the Commission’s Wireline Competition Bureau staff emphasized that there is a significant need for detailed, accurate and thoughtful feedback from the broadband industry on the proposed modifications to Form 477, including whether such proposals are practical or realistic for providers that serve non-urban areas and/or use different technologies, and for quantifying any additional costs or other burdens that changes to the form might engender. Like the Commission, the Joint Petitioners fully understand that the record in this proceeding will directly impact the scope and detail of any new requirements and collection methodologies for Form 477 the Commission may adopt, which in turn will affect Commission policymaking, rulemaking and implementation of the federal Universal Service Fund program, as well as “bringing digital opportunity to all Americans.”⁷

Unlike other proceedings that rely heavily on legal arguments, this proceeding involves practical and factual questions related to how voice and broadband providers currently collect and report subscription and deployment information, and the impact of any changes to those existing practices. Answering these questions will require extensive coordination with our member companies, many of which are small entities without large staff. Joint Petitioners may need additional time to engage in such coordination given the very extenuating circumstances of back-to-back major hurricanes affecting living and business conditions throughout a large part of the

⁵ See *FNPRM*, Statement of Chairman Ajit Pai, at 42 (“Pai Form 477 Statement”) (“Form 477 generates one of our most important data sets at the Commission, one we rely on every day. . . . In the two congressional hearings in which I participated last month, Form 477 was mentioned a total of nine times.”).

⁶ *FNPRM*, Statement of Commissioner Mignon L. Clyburn, at 43.

⁷ Pai Form 477 Statement, at 42 (“Maintaining updated and accurate data about broadband deployment is critical to bridging the digital divide”)

country, which severely limits their ability to respond to requests for information. Additionally, many of our members are already overburdened with additional proceedings and other regulatory obligations.⁸

With the benefit of additional time for commenters to develop this information, commenters will be able to better inform the Commission's decision-making. To this end, some of the Joint Petitioners will be holding industry conferences over the next few weeks, and their counsel and leadership thus will have the opportunity to communicate directly with their memberships to solicit input for this proceeding. For example, WISPA is holding its annual national conference, WISPAPALOOZA, in Las Vegas October 9-13 and NTCA's 2017 Fall Conference is scheduled from September 24-27 in Philadelphia. An extension of the comment deadline to October 23 will enable information gathered at these conferences to be included in the record, for the benefit of the Commission's consideration. Moreover, such an extension would not cause any undue delay in the Commission's deliberations. If anything, the extension will lead to a better developed record that would expedite the Commission's deliberations. The benefits of an extension also could extend to other ongoing proceedings. For example, the record may support improvements for data collection that will better target Connect America Fund support or inform the Commission's inquiry pursuant to Section 706 of the Telecommunications Act of 1996.⁹

III. A Short Extension Will Not Cause Undue Prejudice To Other Stakeholders Or The Commission, Or Undue Delay For The Commission

⁸ See *FNPRM*, Statement of Commissioner Michael O'Rielly, at 44 ("Additionally, if we can meet our data needs and policy obligations through less frequent reporting, particularly from already overburdened small providers, then we should provide any necessary relief.").

⁹ *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, Thirteenth Section 706 Report Notice of Inquiry, GN Docket No. 17-199, FCC 17-109 (rel. Aug. 8, 2017).

For the reasons stated above, there is good cause to grant this extension request in the public interest. A four-week extension of the initial comment deadline is unlikely to cause a material delay in the overall proceeding, and it is likely that the additional time will facilitate a more complete and detailed record. It is clear from the *FNPRM* that the Commission's major emphasis is on the need for detailed, thoughtful and responsive data derived from broadband providers' experiences, which simply cannot be provided within the current time frame. In this instance, the absence of thoughtful and responsive data will directly influence the Commission's final decision. The initial comments set the foundation for the administrative record for the rest of the proceeding's deliberations for other providers, other stakeholders and the Commission, and will inform other ongoing important Commission proceedings. In short, it would not be beneficial for anyone if the Commission rushed this proceeding along its current schedule given the long term and lasting impact of any proposed changes it will make to Form 477, and the inherent burdens on the Joint Petitioners' small members.¹⁰

The Commission has recently recognized the importance of an adequate administrative record and the need to allow more time for comments in other proceedings, and has granted extension requests accordingly.¹¹ The Commission should follow the same course here, where the need for a data-driven record necessarily involves fact-gathering that requires additional time.

IV. Conclusion

¹⁰ See *Protecting and Promoting the Open Internet*, Notice of Proposed Rulemaking, GN Docket No. 14-28, 29 FCC Rcd 5561, 5657 (2014), Dissenting Statement of Commissioner Ajit Pai ("I hope that we will not rush headlong into enacting bad rules").

¹¹ See, e.g., *Restoring Internet Freedom*, Order, WC Docket No. 17-108, DA 17-761 (rel. Aug. 11, 2017) and *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, Order, GN Docket No. 17-199, DA 17-843 (rel. Sept. 5, 2017).

The Joint Petitioners have illustrated that a short four-week extension of the initial comment filing deadline would serve the public interest by providing adequate time for our associations and members to fully consider the practical and business impacts of the Commission's proposed changes to Form 477, and to provide thoughtful comments, without causing undue delay or prejudice in the Commission's deliberations. Our request for this extension should be granted.

Respectfully submitted,

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