

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matter of )  
 )  
Protecting and Promoting the Open ) GN Docket No. 14-28  
Internet )  
 )

To: Chief, Consumer and Governmental Affairs Bureau

**REPLY COMMENTS OF SOUTHERNLINC WIRELESS**

Southern Communications Services, Inc. d/b/a SouthernLINC Wireless (“SouthernLINC Wireless”) hereby submits its reply to the comments filed in response to the *Public Notice* issued by the Commission’s Consumer and Governmental Affairs Bureau (“Bureau”)<sup>1</sup> regarding the small business exemption from the enhanced transparency requirements adopted by the Commission in its *2015 Open Internet Order*.<sup>2</sup> As discussed herein, SouthernLINC Wireless agrees that the small business exemption should be made permanent and urges the Commission to amend its rules accordingly. SouthernLINC Wireless furthermore supports CTIA’s proposal to define a “small business” for the purposes of this exemption on the basis of a size standard previously approved by the US Small Business Administration (“SBA”) and applied by the Commission.

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<sup>1</sup> / “Consumer and Governmental Affairs Bureau Seeks Comment on Small Business Exemption from Open Internet Enhanced Transparency Requirements,” Public Notice, DA 15-731 (rel. June 22, 2015) (“*Public Notice*”).

<sup>2</sup> / *Protecting and Promoting the Open Internet*, GN Docket No. 14-28, Report and Order on Remand, Declaratory Ruling, and Order, 30 FCC Rcd 5601 (2015).

SouthernLINC Wireless provides mobile voice, dispatch, push-to-talk, Internet access, and data transmission services over a service territory covering Georgia, Alabama, southeastern Mississippi, and the panhandle of Florida. SouthernLINC Wireless offers comprehensive geographic coverage, serving the extensive rural territory within its footprint as well as major metropolitan areas.

The initial comments filed in response to the *Public Notice* reflect overwhelming, unanimous support for making permanent the small business exemption from the Open Internet enhanced transparency requirements.<sup>3</sup> As the record of this proceeding demonstrates, these enhanced transparency requirements would impose significant, undue burdens on smaller broadband service providers. Moreover, the application of the enhanced transparency requirements to smaller broadband service providers would not provide any benefit to consumers, but would instead result in delayed deployment of and higher costs for broadband services, particularly in rural and underserved areas.

SouthernLINC Wireless is concerned that, as numerous parties in the record of this docket have stated, the Commission has drastically underestimated what the actual costs of complying with the enhanced transparency requirements will be.<sup>4</sup> The Commission has

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<sup>3</sup> / Comments of CTIA – The Wireless Association (“CTIA”); Comments of NTCA – The Rural Broadband Association (“NTCA”); Comments of the Rural Broadband Provider Coalition; Comments of the Wireless Internet Service Providers Association (“WISPA”); Comments of the National Cable & Telecommunications Association (“NCTA”); Comments of the American Cable Association (“ACA”); Comments of the United States Telecom Association (“USTelecom”); Comments of the Wireless Communications Association International (“WCA”); Comments of Alaska Communications Systems (“ACS”)’ Comments of WTA – Advocates for Rural Broadband; Comments of the “Small Rural Carriers” Group; Comments of GVNW Consulting, Inc. (“GVNW”); Comments of Gogo Inc.; Comments of the Education and Research Consortium of the Carolinas Inc.

<sup>4</sup> / *See, e.g.*, Comments of WISPA at 8 – 10; Comments of ACS at 5 – 6; Comments of ACA at 4 – 9. Several parties previously addressed this issue in detail in response to the Commission’s Public Notice in this docket requesting comment as required under the Paperwork

characterized the enhanced transparency requirements as “modest in nature,”<sup>5</sup> but the record in this docket overwhelmingly demonstrates that the costs and burdens of complying with these requirements would be both significant and disproportionately burdensome for smaller broadband service providers.<sup>6</sup>

Smaller providers lack the in-house staff and resources needed to implement the ongoing testing, monitoring, data collection, and analysis required by the enhanced transparency rules, as well as to continually draft and update enhanced disclosure statements to reflect any developments, upgrades, or other changes in performance characteristics or network management practices.<sup>7</sup> In addition to the costs associated with increased staffing and obtaining the assistance of outside legal counsel and consultants, service providers would also be required to invest heavily in new network testing and monitoring equipment and software.<sup>8</sup> These costs could be especially high for providers of wireless broadband services, since the performance of wireless networks can vary at any time due to a variety of factors such as network congestion,

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Reduction Act. *See* Information Collection Being Reviewed by the Federal Communications Commission, Disclosure of Network Management Practices, *Protecting and Promoting the Open Internet*, Report and Order on Remand, Declaratory Ruling, and Order, GN Docket No. 14-28, OMB 3060-1158, 80 Fed. Reg. 29000 (May 20, 2015).

<sup>5</sup> / *See* 2015 Open Internet Order at ¶ 172; *Public Notice* at 2.

<sup>6</sup> / *See* note 4 *supra*; *See also* Comments of NTCA at 10; Comments of the Rural Broadband Providers Coalition at 5 – 8; Comments of the Small Rural Carrier Group at 4; Comments of USTelecom at 7.

<sup>7</sup> / *See* Comments of NTCA at 10 – 11; Comments of WISPA at 8 – 9; Comments of the Rural Broadband Providers Coalition at 5; Comments of CTIA at 11 – 12; Comments of GVNW at 5 – 6; Comments of ACA at 3; Comments of USTelecom at 3 – 4; Comments of NCTA at 5.

<sup>8</sup> / *See* Comments of NTCA at 10 – 11; Comments of the Rural Broadband Providers Coalition at 7 – 8; Comments of ACS at 5; Comments of WISPA at 4 – 6; Comments of CTIA at 12; Comments of USTelecom at 3 – 4.

interference, and geographic conditions.<sup>9</sup> According to the Rural Broadband Provider Coalition, “The costs of the monitoring and test equipment needed to regularly measure and report on effective download speeds, upload speeds, latency, and packet loss could cost as much as the underlying data transmission deployed to provide the broadband service.”<sup>10</sup>

However, as several commenters have pointed out, smaller service providers have a much smaller customer base over which these costs can be spread.<sup>11</sup> Based on the cost estimates provided by various parties in the record of this docket, smaller providers may not be able to spread these costs out across their base in an economically feasible manner. As the Small Rural Carriers Group further noted, smaller service providers are also unable to take advantage of the economies of scale enjoyed by the nation’s major providers that would enable them to manage these costs through bulk purchasing or volume agreements with vendors and consultants.<sup>12</sup>

SouthernLINC Wireless agrees with other commenters that the application of the enhanced transparency requirements to smaller broadband service providers is not only unduly burdensome, but is entirely unnecessary as it would provide no benefit to consumers and would stifle the deployment of broadband services, particularly in rural and underserved areas.<sup>13</sup>

Several commenters point out that there is no record that the disclosure requirements adopted by

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<sup>9</sup> / See Comments of the Rural Broadband Providers Coalition at 7; Comments of the Small Rural Carrier Group at 4 – 6; Comments of WISPA at 5.

<sup>10</sup> / Comments of the Rural Broadband Providers Coalition at 7 – 8 (citations omitted).

<sup>11</sup> / See Comments of CTIA at 14; Comments of the Rural Broadband Providers Coalition at 3; Comments of ACS at 6; Comments of NTCA at 11; Comments of the Small Rural Carrier Group at 3; Comments of GVNW at 6; Comments of USTelecom at 5.

<sup>12</sup> / Comments of the Small Rural Carriers Group at 3.

<sup>13</sup> / See Comments of the Rural Broadband Providers Coalition at 2 – 5; Comments of NTCA at 8 – 9; Comments of WISPA at 7; Comments of CTIA at 14 – 16; Comments of WTA – Advocates for Rural Broadband at 3 – 6; Comments of the Small Rural Carrier Group at 4 – 7; Comments of GVNW at 5 – 6.

the Commission in 2010 have been inadequate to protect the customers of smaller broadband service providers or that smaller providers have failed to comply with their obligations under the 2010 requirements.<sup>14</sup> Smaller providers furthermore “lack the capabilities and market power to behave in a manner that would adversely impact any edge providers or that could not be addressed by current Commission rules.”<sup>15</sup>

The additional costs and burdens that would be imposed by the need to comply with the enhanced transparency requirements would also compel smaller service providers to divert already limited resources that would otherwise be invested in broadband network infrastructure and services and service quality.<sup>16</sup> As a result, smaller service providers will be stifled in their ability to provide competitive broadband services and to deploy new networks and infrastructure that would make affordable broadband services available to consumers in rural, unserved, and underserved areas.<sup>17</sup> Thus, SouthernLINC Wireless agrees that the application of the enhanced transparency requirements to smaller service providers will ultimately thwart the Commission’s own stated policy priorities and would not be in the public interest.<sup>18</sup>

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<sup>14</sup> / Comments of WISPA at 7; *See also* Comments of the Rural Broadband Providers Coalition at 2 and 6; Comments of WTA – Advocates for Rural Broadband at 3 – 4; Comments of NCTA at 4; Comments of ACA at 5; Comments of GVNW at 5.

<sup>15</sup> / Comments of the Rural Broadband Providers Coalition at 4; *See also* Comments of CTIA at 15 – 16; Comments of GVNW at 3.

<sup>16</sup> / *See* Comments of the Rural Broadband Providers Coalition at 5; Comments of ACS at 6; Comments of CTIA at 11 – 14; Comments of WISPA at 7; Comments of WTA – Advocates for Rural Broadband at 6; Comments of GVNW at 6.

<sup>17</sup> / *See* Comments of WISPA at 7 and 11; Comments of the Rural Broadband Providers Coalition at 4 – 6; Comments of CTIA at 14 – 15; Comments of ACS at 6; Comments of the Small Rural Carriers Group at 3; Comments of WTA – Advocates for Rural Broadband at 6.

<sup>18</sup> / *See* Comments of WISPA at 7, 10 – 11; Comments of CTIA at 8 – 9, 14 – 15; Comments of the Small Rural Carrier Group at 3.

Finally, SouthernLINC Wireless agrees with and supports the proposal introduced by CTIA to define a small service provider for purposes of the small business exemption on the basis of the size standard previously approved by the SBA and applied by the Commission in other regulatory contexts.<sup>19</sup> Specifically, SouthernLINC Wireless supports CTIA’s proposal that the Commission define a small provider as a provider with 500,000 or fewer subscribers, which accords with the definition previously applied by the Commission and approved by the SBA with respect to certain new E911 requirements, as well as certain number portability and back-up power requirements.<sup>20</sup>

Due to the significant and disproportionate impact that compliance with the enhanced transparency requirements would have on smaller service providers, SouthernLINC Wireless agrees that the *2015 Open Internet Order*’s interim threshold of 100,000 or fewer broadband connections is too low.<sup>21</sup> As CTIA observed, “Many broadband providers may have greater than 100,000 connections, but may not have the resources necessary to comply with the enhanced disclosures.”<sup>22</sup> Moreover, consideration of a size standard for defining small service providers that has been previously reviewed and approved by the SBA in other contexts would enable the Commission to address the procedural shortcomings identified by CTIA regarding this issue.<sup>23</sup>

For these reasons, SouthernLINC Wireless agrees with other commenters in this proceeding and urges the Commission to make permanent the small business exemption from the

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<sup>19</sup> / Comments of CTIA at 17 – 21.

<sup>20</sup> / *Id.* at 19 – 20 (citations omitted). SouthernLINC Wireless does not oppose CTIA’s proposal to exempt service providers with 1,500 or fewer employees, as long as providers may alternatively qualify for the exemption if they serve 500,000 or fewer subscribers.

<sup>21</sup> / *Id.* at 17 – 18.

<sup>22</sup> / *Id.* at 18.

<sup>23</sup> / *See Id.* at 18 – 21.

enhanced transparency requirements adopted in the *2015 Open Internet Order*. SouthernLINC Wireless further agrees that a small service provider for purposes of this exemption should be based on the SBA definition of a small provider as one that has 500,000 or fewer subscribers.

**WHEREFORE, THE PREMISES CONSIDERED,** SouthernLINC Wireless respectfully requests the Commission to take action in this docket consistent with the views expressed herein.

Respectfully submitted,

**SOUTHERNLINC WIRELESS**

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