

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

In the Matter of)
) WC Docket No. 07-38
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 of Internet Protocol (VoIP))
Subscribership)

**COMMENTS OF
THE PEOPLE OF THE STATE OF ILLINOIS**

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I. Introduction

The People of the State of Illinois, through LISA MADIGAN, Attorney General, submit the following comments on broadband reporting in response to the NPRM released on April 16, 2007. In summary, the People of the State of Illinois recommend that the Commission gather information on broadband availability and subscribership at a level considerably more detailed than zip code. The current data, aggregated at the zip code level, fails to capture the true extent of broadband deployment, and hampers state and local efforts to both assess and address the questions of broadband availability. The Commission should consider collecting data on a “9-digit zip code” or “zip code plus four” basis or on a census block or tract level.

The People of the State of Illinois further support that the proposal that the Commission adopt rules to collect data on Voice over Internet Protocol (VoIP) service. Specifically, the People request that the Commission require VoIP providers to collect VoIP subscribership data on the same level of geographic detail that it collects other broadband information, and that VoIP providers report whether they are the provider of the Internet connection or independent of the provider of the Internet connection.

Finally, the People of the State of Illinois support Commission collection of pricing information. Although there are price variations due to packaging of differing volumes of usage or bundling of disparate services, general standards of reporting can be developed that will provide meaningful information to the Commission and the public. The Commission and local policy makers need consistent and reliable information to compare and follow pricing trends.

II. Data Collection At A More Precise Level Is Necessary To Ensure That The Commission Receives Sufficient Information Regarding The Deployment And Availability Of Broadband Services In All Areas.

The Commission requested comments on how it can ensure that it receives sufficient information regarding the deployment and availability of broadband services, particularly in rural and hard-to-serve areas. NPRM at ¶ 1. There are several standards that the Commission should adopt to ensure that it receives consistent, thorough, and reliable data.

A. The Commission should not limit the provision of more precise data to rural and hard-to-serve areas.

The Commission should require all carriers to provide data at the same level of detail. Assuming that the Commission adopts reporting at a level more specific than zip code, all reporters should provide this detail irrespective of whether they serve urban, suburban, or rural areas. Given the geographic limitations of certain technologies, especially DSL, even dense areas may have significant pockets of unserved areas. For example, in Illinois, the Office of the Attorney General has received several complaints from consumers who responded to advertisements for DSL and signed up for the service only to find that they were too far from the Central Office for adequate and reliable service. The data provided to the FCC should be accurate enough to show that certain broadband options are not available in these areas.

In paragraph 10 of the NPRM, the Commission refers to “rural and other hard-to-serve areas” when it asks whether more precise information could be gathered to provide a more accurate picture of broadband deployment. It is crucial that reporting be precise for both dense and sparsely populated areas, because gaps in service are not only found in rural areas.

B. All entities should be required to file data on the same level of detail to ensure complete and accurate reporting.

The Commission asks whether it should “require *all* filers to report those data.” NPRM at ¶ 24. The People of the State of Illinois maintain that all filers should provide the same data. For example, 9-digit zip code information is readily available, and the advantages of consistent reporting overcome the burden that may result from this reporting. Nine-digit zip code information is easy to obtain from the United States Post Office, and is used by many businesses to expedite mail delivery of bills and other correspondence. Identifying the number of customers by 9-digit zip code should be a straight-forward electronic sorting operation that can be done with a simple spread-sheet or data base program.

The widespread concern that the zip code level reporting overstates the extent of broadband deployment can be addressed by requiring all carriers to report the number of subscribers by 9-digit zip code or some other more precise measure, such as census block. If only *some* carriers make these reports while others report at a less precise level, there will be confusion about the extent of deployment. How will the Commission characterize a large area in which one carrier identifies some subscribers compared to how it will treat a smaller area within it which another carrier identifies as without subscribers or availability? Consistent reporting is necessary to create a reliable and accurate set of data.

Carriers’ confidentiality concerns should not block the Commission from gathering subscribership and availability at the most precise level possible. Consumers in the various parts of the country need to know whether service is available and certainly the availability of service should not be considered confidential. Advertising of service

as well as the fact of subscribership are matters known to the public, negating any confidentiality concerns. If there are gaps in availability, potential consumers will be affected and again that fact will be publicly known by those affected. Public officials should be able to verify the gaps in coverage so they can respond appropriately. Carriers should not be able to block public release of areas with gaps in service because another carrier might enter. The goal of widespread broadband availability means that if one carrier does not provide service in a particular location, other carriers or public entities should be encouraged to fill the gaps. This interest in promoting the widespread availability of broadband service should outweigh any possible interest a neighboring provider *that does not provide service* might have in confidentiality.

While providing accurate data on broadband availability is essential to the Commission's charge to encourage the deployment of broadband to all Americans on a reasonable and timely basis, NPRM ¶ 1, it is possible to meet this goal while protecting legitimate privacy concerns of broadband providers. It is not necessary to release the identities of the companies providing service in the various areas of the country if those companies want to be masked, although local people seeking service certainly can be expected to know who provides service. Further, the number of subscribers in a given area need not be attributed to any particular company and should be aggregated to include all carriers. This would protect carrier specific market share information. In situations where further masking or aggregation is necessary to protect legitimate confidentiality concerns, carriers could request appropriate treatment under existing FCC confidentiality rules.

C. The Commission should require carriers to report the number of homes passed and the number of homes served at the 9-digit zip code or census block group level.

The Commission invites comments on whether broadband providers should report the number of homes passed and the number of homes served. NPRM ¶ 28. The People of the State of Illinois support reporting the number of homes passed (availability) and the number of home serviced (subscription), provided that these data are broken down by either 9-digit zip code or census block group. Zip codes are based on the local postal route established by the United States Postal Service, and both the physical size and the number of residences within each code may vary considerably. Notwithstanding this limitation, and as discussed above, 9-digit zip codes may be used by carriers for billing purposes or to identify the location of service, lessening any burden of production of information in 9-digit zip code form.

In the alternative, the Commission could request carriers to provide the number of homes passed and the number of homes served by census block group. The advantage of using census blocks and census block groups is that they are defined to be consistent both in terms of size (census block groups include 600-3,000 people) and in terms of characteristics.¹ Further, it would be easier for policymakers to analyze the data if census standards are used. The Commission's interest in using demographic variables would be furthered if census findings could be readily applied to broadband data, possibly obviating the need for the FCC to collect key demographic information. See NPRM ¶ 40-41.

The Commission asks how "homes passed" should be defined. NPRM ¶ 28.

¹ See <http://www.census.gov/geo/www/psapage.html>

Irrespective of technology, “homes passed” should be any residence (including apartments or other multi-family dwellings) where broadband service can be provided upon request within a reasonable period of time. The Commission has rules requiring the installation of cable service within seven days. 47 C.F.R. 76.309.(c)(2)(ii).² A similar standard could be applied to broadband reporting, so that broadband service that can be provided within seven days of request or that is within 125 feet of the broadband distribution system can be considered available to consumers for purchase. That residence would be considered “passed” for purposes of reporting.

The reporting of availability, or residences “passed” should include sufficient information to allow mapping of the areas where broadband is available. See NPRM ¶ 35. Reporting by census block or block group, or translating 9-digit zip code information to census block or block group would enable the Commission to determine with a higher degree of accuracy in which areas broadband is available.

The Commission asks about using commercial databases or services to “add value, or diminish associated collection burdens.” NPRM ¶ 32. It may be appropriate to use commercial sources to translate the 9-digit zip code or even street addresses into census blocks, census block groups, or census tracts to (1) map availability and subscribership, (2) determine the extent of broadband deployment and subscribership, and (3) analyze demographic characteristics. Questions such as the relationship between broadband availability and subscribership and income level, education, and population density may require the translation of 9-digit zip code information into census blocks so that census data can be accurately applied to the broadband data. Further, the small size

² The installation rule applicable to cable service provides: “Standard installations will be performed within seven (7) business days after an order has been placed. “Standard” installations are those that are located up to 125 feet from the existing distribution system.” 47 C.F.R. 76.309(c)(2)(ii).

of census block groups (600-3,000 people) will allow both locations and characteristics of broadband gaps to be identified.

III. VoIP Subscription Should Be Reported At The Same Level Of Detail As Other Services And Include Whether The Provider Of VoIP Service Is Also The Provider Of The Broadband Connection.

The Commission requests comments on the collection of data from interconnected VoIP providers. NPRM ¶ 22. The People of the State of Illinois agree that the Commission should require retailers of interconnected VoIP service to report the number of subscribers, the percentage that are residential, and the percentage of subscribers who receive service over a broadband connection provided by the VoIP provider or its affiliate. *Id.* The Commission did not specify whether it would require VoIP providers to report subscription at the state, zip code, 9-digit zip code or other level of specificity. In order to maintain consistent data sets and to facilitate analysis and comparison, the Commission should require VoIP providers to report subscription at the same level of detail that broadband carriers report their subscribers.

Geographically specific reporting for VoIP is particularly necessary and important because of jurisdictional issues that may cloud state and local governments' abilities to obtain VoIP subscription data at a local level. Illinois requires local exchange carriers to file annual reports and provide various data about the locations and number of lines they serve in the state. See 220 ILCD 5/13-407. VoIP providers have challenged these obligations on the grounds that their service is interstate. The FCC may be the only agency with the authority to obtain this necessary information. In the absence of FCC mandated reporting on 9-digit zip code level, state and local governments will have to resort to other methods of data collection, which may be contested due to the FCC's

determination that VoIP is an interstate service. This burden on local governments and the potential variation in carrier reporting obligations state-by-state could be avoided by instituting sufficiently detailed national reporting standards.

The People of State of Illinois support the FCC's proposal to track the percentage of VoIP subscribers who receive broadband service from an affiliated carrier. NPRM ¶ 22. The extent of competitive pressure created by VoIP providers is affected by whether VoIP providers are independent of broadband service providers. The Commission should collect data so it can be determined whether VoIP service is simply part of a cable/teleco wireline duopoly, or is a flourishing third avenue for telephone service. This information should be reported on the same terms as other VoIP and broadband data: on a 9-digit zip code or census block basis.

IV. The Commission Should Require The Annual Reporting Of Price Information For Selected Services.

The Commission asks for comments on whether and how to collect price information. NPRM ¶ 45. The People of the State of Illinois recommend that the Commission collect selected price information from carriers. Given the difference in service packages and bundles offered by the major carriers, it is necessary to specify the categories of prices to be reported so that some degree of consistency may be obtained. For example, the Commission should require reporting of the lowest price for broadband service sold without any other service. The carrier should specify the connection speed, but in the absence of a specification, the speed will be assumed to be the lowest speed offered by the carrier that qualifies as a "high speed" connection. This reporting standard should apply to all carriers, irrespective of whether they offer television, telephone, or any other service that can be sold with Internet access. The purpose of this report would

be to track the competitive options customers have for broadband service as well as whether customers are being discouraged through pricing policies to purchase more than one service from their broadband provider.

Another price that should be reported is the lowest bundled price available to consumers of broadband services. Irrespective of whether the bundled service is telephone service (wireless or wireline) or television service or any other service, the reporting of the lowest bundled price available to consumers will enable the Commission and policy makers to see what options consumers have. Based on the bundling publicly promoted and advertised by both the telecommunications carriers and the cable carriers, the Commission should assume that the majority of broadband service customers do not purchase broadband as a stand-alone service. It is necessary to receive a report of at least one bundled price, preferably the lowest priced bundle for comparison purposes, to discern the prices that consumers are actually paying.

The Commission currently collects price data from cable operators and issues an annual report on cable prices, showing, among other things, the price for basic-tier service, basic-plus-expanded basic service, and average cable rates.³ The Report includes the percentage of customers that subscribe to different service levels as well as prices for various sample groups. In addition, it reports the percentage of subscribers that also subscribe to cable Internet.⁴ A report based on broadband subscription, rather than television or cable subscription, should provide data on the percentages of customers who subscribe to broadband with or without other services.

Price reporting should be location specific. For example, a carrier with multi-

³ See, e.g., FCC 06-179, Report on Cable Industry Prices, adopted December 20, 2006, released December 27, 2006.

⁴ See id. at Attachment 8.

state operations may have different prices in different states or different prices in different parts of the same state. Prices should be associated with the 9-digit zip code availability and subscribership information provided to the Commission, although the same price level may apply to several 9-digit zip codes. This will capture the extent that carriers have different prices in different areas. Pricing data should be collected so that analyses of urban/suburban/rural prices, statewide pricing, or regional pricing can be done.

V. Conclusion

The People of the State of Illinois support the Commission's initiative to improve its collection and analysis of broadband information, and request that the Commission adopt the recommendations contained herein.

Respectfully submitted,

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