

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Development of Nationwide Broadband Data	)	WC Docket No. 07-38
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	)	

**COMMENTS OF WINDSTREAM COMMUNICATIONS, INC.**

Windstream Corporation, on behalf of itself and its affiliates (collectively “Windstream”), submits the following comments in response to the Federal Communications Commission (“Commission”) request for comment on the Commission’s collection of data from broadband service providers.<sup>1</sup>

Windstream has demonstrated a strong commitment to deploying advanced services to its customers. As the largest independent communications provider focused primarily on rural areas, Windstream faces significant challenges as it deploys its advanced networks over vast rural regions.<sup>2</sup> Nevertheless it has spent hundreds of millions of dollars in aggressive deployment of broadband. Now Windstream’s broadband network reaches approximately 85 percent of its customer base.<sup>3</sup>

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<sup>1</sup> *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, Report and Order and Further Notice of Proposed Rulemaking, FCC 08-89 (rel. Jun. 12, 2008) (“*Broadband Data Report and Order and FNPRM*”).

<sup>2</sup> The average subscriber density for Windstream is approximately 20 access lines per square mile.

<sup>3</sup> This statistic represents Windstream’s incumbent local exchange carrier access lines as of year-end 2007, excluding those recently acquired through Windstream’s acquisition of CT Communications, Inc.

Given this commitment to broadband deployment, Windstream welcomes federal policy initiatives that will effectively promote deployment and encourage further use of networks that are already deployed. Broadband is central not only to Windstream's business, but also more generally to the well-being of the national economy, health care, education, and public safety. As recognized in Section 706 of the Communications Act of 1934, as amended, the Commission should "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans."<sup>4</sup>

**I. WINDSTREAM AND OTHER SIMILARLY SITUATED COMPANIES WOULD INCUR SIGNIFICANT, UNDUE EXPENSES IF REQUIRED TO PRODUCE ADDRESS-BY-ADDRESS DEPLOYMENT DATA**

Any rule requiring broadband providers to report broadband availability data on an address-by-address basis would disregard significant limits on broadband data currently collected by the nation's small and mid-sized carriers. Such a rule would ultimately harm consumers by imposing significant, undue burdens on the companies most focused on stretching the broadband networks to our nation's most remote regions. Capital would be diverted from deploying broadband to creating new costly and unnecessary systems. This result is inconsistent with Congressional direction to encourage broadband deployment to all Americans.<sup>5</sup>

Windstream is one such company that would incur significant costs if required to produce address-by-address broadband deployment data. Windstream does not keep a list of prospective customer households where broadband service is available. It currently does not have the engineering capability to create this list. Engaging in mass

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<sup>4</sup> § 706(b) of the Telecommunications Act of 1996, Pub. L. 104-104, 110 Stat. 56 (1996), reproduced in the notes under 47 U.S.C. § 157.

<sup>5</sup> *See id.* (instructing the Commission to "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans").

qualification of addresses would require Windstream to incur considerable expense, and so far Windstream has found that these costs would outweigh any targeted marketing benefits that would come from the investment.

Windstream instead determines whether broadband service is available to new customers on a case-by-case basis. When a prospective customer calls to request broadband service, a Windstream representative cross-references the address at issue with its records of prior and current broadband customer addresses, to determine whether broadband availability is likely (and, if so, what speeds are might be offered).<sup>6</sup> Alternatively manual qualification may be required. In this instance, a customer's query is logged and referred to an outside plant engineer. The engineer then will research where the prospective customer's address is and consider multiple factors, including whether the serving wire center is equipped to offer any broadband service, the loop length relative to the location of the broadband serving terminal (i.e., the central office or digital loop carrier), and the thickness of the wire used to deploy broadband service in the area at issue.<sup>7</sup>

The accuracy of pre-qualification measures can be guaranteed only upon actual provisioning of a line. Even a manual qualification rests on a number of assumptions that sometimes may be disproved by specific on-the-ground conditions affecting the facilities at issue. For example, Windstream's plant may suffer wear over time, or the plant record may not be 100 percent accurate. The physical conditions of the cable, therefore, may be inconsistent with assumptions regarding its transmission capability.

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<sup>6</sup> Customers going to Windstream's website can attain information about whether Windstream offers broadband service within their geographic area, but Windstream does not purport to provide availability information specific to an individual's address.

Given these issues with producing broadband data, Windstream has found that the best entities to map broadband data are regional public-private partnerships that are closest to the service areas mapped. For example, Windstream, as one the largest broadband providers in Kentucky, has worked with one such public-private partnership – Connect Kentucky – over multiple years to refine depictions of Windstream’s service territory. This is an ongoing effort. Any address-level descriptions of where service is available reflects whether Windstream offers service within the address’s service territory, but does not guarantee that service is available to the household at the individual address referenced. Importantly broadband data that Windstream provides to Connect Kentucky is subject to a nondisclosure agreement that protects against disclosure of competitively sensitive data.

Windstream urges the Commission to support, rather than attempt to replace, these valuable public-private partnership efforts. As recommended by Connected Nation in its ex parte submitted on July 14, 2008, the Commission should leverage success at the local level by facilitating discussion of best practices and serving as a clearinghouse for maps produced by regional public-private partnerships.<sup>8</sup> This approach would facilitate development of maps that evolve with new technologies and appropriately respond to the particular and widely varying conditions at the local level.

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<sup>7</sup> This consideration of wire gauge accounts for the positive correlation between thickness of wire used and the size of the radius over which high-speed services can be offered.

<sup>8</sup> Letter from Raquel Noriega, Connected Nation, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 07-38, attachment, filed March 10, 2008.

## **II. THE COMMISSION SHOULD FOCUS ON HOW IT WILL ANALYZE NEW SUBSCRIBERSHIP DATA BEFORE CONSIDERING WHETHER TO EXPAND THE RECENTLY REVISED FORM 477**

Additional Commission collection of broadband subscription data is unnecessary at this time. The new Form 477 has not even taken effect yet. This new Form will place significant challenges on broadband providers and the Commission alike. The revised Form 477 requires a broadband service provider to produce, at a minimum, 72 pieces of information within each census tract where it offers services.<sup>9</sup> Assuming seven broadband providers operate in each census tract,<sup>10</sup> the Commission now will receive approximately 31 million data points in each round of Form 477 submissions, required twice a year.<sup>11</sup> These numbers are even greater when service providers using more than one technology are considered.<sup>12</sup> The Commission should not further complicate matters with more data requirements. Implementation issues for the revised Form 477 no doubt will be significant and should be addressed first before new requirements are considered.

Instead of expanding the set of subscription data again, the Commission should focus its energies on how it can best use the new subscription data collected under the revised Form 477. The new Form 477 data will provide a more granular picture of where

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<sup>9</sup> See *Broadband Data Report and Order and FNPRM* at ¶ 20, Figure 1.

<sup>10</sup> As of June 30, 2007, 50.8% of ZIP codes have seven or more providers with high-speed lines in service. Industry Analysis and Technology Division, Federal Communications Commission, *High-Speed Services for Internet Access: Status as of June 30, 2007* (rel. Mar. 2008). The Commission currently does not produce comparable census tract data.

<sup>11</sup> This figure is derived by multiplying 72 (number of speed categories) by 1 (number of technology types employed) by 7 (number of high-speed providers per census tract, for reasons described in footnote 10) by 61,000 (the approximate number of census tracts in the United States, as indicated by Letter from Eric Einhorn, Windstream Communications, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 07-38, at 2, filed March 10, 2008).

<sup>12</sup> The Commission lists eleven categories for types of technologies that may be used to offer broadband. Individual subscriber counts are required for each technology employed by a single entity.

broadband deployment is and is not occurring in the United States. A broadband subscriber marks most every area where broadband is deployed.

Moreover, the Commission now can, and should, consider how broadband data correlates with U.S. Census demographic data. Since the new Form 477 requires data to be reported by census tracts, the Commission will be able to directly correlate broadband data with U.S. Census demographic information on topics including, but not limited to, age, gender, race, education, and income. These census tract data should be mined for a deeper understanding of how socioeconomic conditions impact broadband adoption.

### **III. THE COMMISSION SHOULD REMAIN EVER VIGILANT IN HOW IT PROTECTS GRANULAR BROADBAND DATA**

Broadband data submitted to the Commission are commercially sensitive, competitive information. As previously recognized by the Commission's Wireline Competition Bureau, "[f]ilers customarily guard this data from their competitors, and release would harm their competitive interests by revealing to competitors their market strategies, their customer identities and counts and where they have deployed their services. For example, competitors could use this data to decide where to target their service offerings, facilities construction, and marketing, all to the detriment of Form 477 filers."<sup>13</sup> It is essential, therefore, that the Commission continue its practice of aggregating filed data in published documents in a way that does not identify company-specific information.<sup>14</sup> Moreover, any proposals for further release of broadband data

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<sup>13</sup> Letter from Kirk S. Burgee, Wireline Competition Bureau, FCC, to Drew Clark, Center for Public Integrity, at 3 (Sept. 26, 2006). *See also* Brief for Defendant at 21-28, *Center for Public Integrity v. Federal Communications Commission*, 515 F. Supp. 2d 1 (D.D.C. 2007) (No. 06-1644) (Commission outlining various competitive harms that could result from public disclosure).

<sup>14</sup> *See Local Competition and Broadband Reporting*, CC Docket No. 99-301, Report and Order, FCC 00-114 (rel. Mar. 30, 2000), at ¶ 91 (adopting this practice); *Local Competition and Broadband Reporting*, WC Docket No. 04-141, Report and Order, FCC 04-266 (rel. Nov. 12, 2004), at ¶ 24, n.56 (same).

should be made with specificity so that providers have a meaningful opportunity to comment on the proposals. Consistent with Section 706, the Commission must ensure data released rewards and incentivizes further deployment of broadband.<sup>15</sup>

#### IV. CONCLUSION

For the reasons discussed above, Windstream asks that the Commission support broadband mapping best practices by public-private partnerships, and not attempt to replace these efforts with a new nationwide deployment map made out of whole cloth. Expanding collection of subscribership data is unnecessary and would insert unwarranted confusion into implementation of the newly revised Form 477 reporting requirements.

Respectfully submitted,

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<sup>15</sup> 47 U.S.C. § 157.