

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

In the Matter of	)	
	)	
Development of Nationwide Broadband Data to	)	WC Docket No. 07-38
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	)	
	)	
Further Notice of Proposed Rulemaking on	)	
Broadband Availability Mapping	)	

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**REPLY COMMENTS OF AT&T INC.**

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## I. INTRODUCTION AND SUMMARY

AT&T Inc. and its affiliated companies (collectively, AT&T) respectfully submit the following reply comments in response to the mapping section of the Commission's further notice of proposed rulemaking on broadband data gathering (*2008 Broadband Data Notice*) to briefly address two issues.<sup>1</sup>

*First*, notwithstanding the misguided criticisms from a few commenters, the record in this proceeding clearly demonstrates the substantial progress that public-private partnerships like ConnectKentucky and other similar entities affiliated with Connected Nation are making in getting broadband Internet access service deployed to underserved, rural communities across the U.S. That progress begins with the creation of custom-tailored, community-specific broadband maps, developed by the "ConnectKentucky folks, [who] get out in the mud with locals and service providers to understand exactly which homes have broadband available and which do not."<sup>2</sup> Those maps, in turn, provide the foundation for targeting additional Connected Nation programs in underserved communities, including demand-side technology assessments, eCommunity Leadership Teams and the No Child Left Offline computer distribution program, all of which are part of a coordinated, comprehensive effort to stimulate and aggregate broadband demand and match it with broadband supply. To the extent the Commission creates a one-size-fits-all broadband availability mapping program of its own and effectively "occupies

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<sup>1</sup> *Deployment of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscriber Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscriber Data*, WC Docket No. 07-38, Report and Order and Further Notice of Proposed Rulemaking, FCC 08-89 (released June 12, 2008) (referred to individually herein as the *2008 Broadband Data Order* and *2008 Broadband Data Notice*).

<sup>2</sup> Letter from Hon. Henry Bertram, Pendleton County, KY, to Kevin Martin, FCC, WC Docket No. 07-38, at 2 (July 19, 2008).

the field” of broadband mapping,<sup>3</sup> it risks seriously undermining the efforts of ConnectKentucky and Connected Nation by drawing time, funding and effort away from their mapping programs, which the Commission itself described as a “success.”<sup>4</sup> To ensure that it does not jeopardize the progress that Connected Nation continues to make in bringing broadband to underserved areas, the Commission should clearly articulate – in a more complete further notice of proposed rulemaking – the purpose of its own proposed mapping program and how that program will encourage, rather than hinder, broadband deployment in this country.

*Second*, assuming *arguendo* the Commission does launch a broadband availability mapping program of its own, it should not require the submission of availability data at the Census Block Group level as Consumers Union suggests. Consumers Union made this very same argument with respect to the reporting of subscribership data and the Commission flatly rejected it – just six weeks ago in the *2008 Broadband Order* – because of the burdens it would impose on broadband providers.<sup>5</sup> Consumers Union offers nothing new to address those burdens and, as before, its argument should be rejected again here.

## **II. DISCUSSION**

### **A. The Record Demonstrates the Benefits of Enabling Public-Private Partnerships to Spur Broadband Deployment.**

As the Commission observed in the *2008 Broadband Data Notice*, the public-private partnership enabled by ConnectKentucky has been a “success,” in part, because it has “facilitated identification of areas without broadband service” and “this identification has resulted in public

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<sup>3</sup> See Connected Nation comments at 24.

<sup>4</sup> *2008 Broadband Notice* ¶ 34.

<sup>5</sup> *2008 Broadband Order* ¶ 13.

and private resources being focused to provide service to unserved areas.”<sup>6</sup> But as Connected Nation and many other commenters have emphasized, the identification of unserved or underserved areas through mapping, while an important first step, is only one part of a comprehensive and tightly integrated approach to facilitating broadband deployment. That approach starts with a custom-tailored, community-specific mapping effort and then adds demand-side research to identify potential barriers to adoption, such as income, education, geography, cultural factors, computer ownership and literacy, awareness of broadband applications and other factors.<sup>7</sup> These “technology assessments” bring together broadband providers, local governments, businesses and citizens to “accurately mesh technology deployment with potential users . . . all while increasing community awareness and adoption.”<sup>8</sup>

Based on information gathered through mapping and demand-side research, Connected Nation then forms “eCommunity Leadership Teams,” which bring community leaders from “key sectors such as healthcare, education, security, and the local private and public sectors” together with “information technology consultants that specialize in community-based technology planning [to] help communities effectively and efficiently leverage broadband and computer technology.”<sup>9</sup> These teams “use the dynamic mapping and research products in devising a comprehensive, community-based technology planning program,” the purpose of which is to “create and aggregate demand for broadband, identify locally relevant applications or solutions,

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<sup>6</sup> 2008 *Broadband Notice* ¶ 34.

<sup>7</sup> Connected Nation comments at 15-16.

<sup>8</sup> Connected Nation comments at 17.

<sup>9</sup> Connected Nation comments at 18.

foster cooperation across both private and public sectors to ensure that the community's needs are fully addressed, and create local awareness of the opportunities of broadband.”<sup>10</sup>

Based on its efforts to date, Connected Nation has found that “the primary barrier to Internet adoption is lack of computer ownership and lack of understanding of the value proposition of broadband services.”<sup>11</sup> In response, Connected Nation created the “No Child Left Offline” program, which has delivered thousands of computers to “low income children and other disenfranchised populations.”<sup>12</sup> The net effect of all of these efforts is to “generat[e] demand for broadband services in previously unserved areas, and . . . spur[] additional private sector broadband investment,” which, in turn, “sharply and quickly decrease[s] the geographic scope of unserved areas in the states where Connected Nation operates, while simultaneously improving technology literacy and Internet use.”<sup>13</sup>

Despite the well-documented success of ConnectKentucky and similar Connected Nation efforts,<sup>14</sup> and the substantial praise those efforts have received *from the people actually living in the communities assisted by ConnectKentucky*,<sup>15</sup> some trade associations and consumer

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<sup>10</sup> Connected Nation comments at 19.

<sup>11</sup> Connected Nation comments at 20.

<sup>12</sup> Connected Nation comments at 8, 20-22. *See also* No Child Left Offline website at [http://www.connectednation.org/state\\_programs/no\\_child\\_left\\_offline/](http://www.connectednation.org/state_programs/no_child_left_offline/).

<sup>13</sup> Connected Nation comments at 8.

<sup>14</sup> Connected Nation comments at 6, 7, 22.

<sup>15</sup> *See* Letter from Hal Goode, Springfield-Washington Economic Development Authority, to Kevin Martin, FCC, WC Docket No. 07-38 (July 9, 2008) (“Using the detailed maps that they create, ConnectKentucky conducted an extensive engineering assessment of our county’s unserved areas, identifying vertical assets such as water towers and existing cell towers that could be used for the network. And as a result, we have been able to construct a network without building any additional towers, using our existing resources in partnership with Springfield Water and Sewer and cellular companies. It was ConnectKentucky who brought all of these players together and conducted the technical work to enable the project’s success. ConnectKentucky did not charge us for any of this work, of course, because this is part of what they do for local officials throughout our state.”); Letter from Hon. Henry Bertram, Pendelton County, KY, to Kevin Martin, FCC, WC Docket No. 07-38 (July 19, 2008) (“Three years ago, ConnectKentucky reached out to me and helped me pull together a team of local

advocates have criticized Connected Nation. They make no serious effort to dispute Connected Nation's success in fostering broadband deployment. Instead, their main criticism of Connected Nation seems to be that broadband mapping is a function the federal government alone is best qualified and most trusted to perform and, since Connected Nation is not a federal government agency, they believe that this Commission must necessarily take on the responsibility for mapping broadband availability across the United States.<sup>16</sup>

In essence, these commenters are attempting to portray one of Connected Nation's biggest virtues – reliance on public-private partnerships rather than bureaucratic government mandates – as a vice. But the key to Connected Nation's federally recognized "success" is its commitment to such partnerships and the resulting ability to bring both public and private sector

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community leaders, and together we developed an action plan for not only filling our broadband gaps, but also for creating effective broadband applications to enable citizen services, and for generating awareness about the benefits of broadband to increase the actual use of these services." "When we started this process in 2005, less than 50% of Pendleton County residents could subscribe to broadband. Now more than 90% of residents have broadband or have access to broadband in a county where the largest city has a population of around 2,000."); Letter from Jiten Shah, Green River Area Development District, KY, to Kevin Martin, FCC, WC Docket No. 07-38 (July 8, 2008) ("Chip Spann, and other staff members from ConnectKentucky, provided valuable assistance in helping us develop an RFP for network construction and service provision." "I encourage you to find creative ways that you could use the ConnectKentucky model."); Letter from Dennis Atha, Mayor, Monterey, KY, to Kevin Martin, FCC, WC Docket No. 07-38 (July 14, 2008) ("Our small community is full of artisans and craftsman who can now sell their products all over the world. We would probably still be on dial-up if it weren't for ConnectKentucky bringing us together with Southeast Telephone to build support and find funds for broadband infrastructure."); Letter from Brent Graden, WC Docket No. 07-38 (July 9, 2008) ("It is my opinion that ConnectKentucky and other programs like it are an invaluable tool to help communities help themselves. Their invaluable leadership and knowledge base helps to create a public-private partnership that stimulates the local economy, promotes education, increases tourism and development, and offers increased access to broadband in underdeveloped or rural areas.").

<sup>16</sup> On July, 2, 2008, the American Public Power Association (APPA) filed a letter attacking the credibility and transparency of Connected Nation. Letter from Gloria Tristani, counsel for APPA, to Marlene Dortch, FCC, WC Docket No. 07-38 (July 2, 2008). On July 11, 2008, Connected Nation responded with a point-by-point reply, which refuted each of APPA's allegations. Letter from Brian Mefford, Connected Nation, to Kevin Martin, FCC, WC Docket No. 07-38 (July 11, 2008). *See also* Letter from Laura Taylor, Connected Nation, July 25, 2008 (refuting similar criticism by Public Knowledge), available at <http://benton.org/node/15506#comment-27>.

entities together to work collaboratively at expanding broadband deployment.<sup>17</sup> By launching its own national broadband mapping program, this Commission would “essentially occupy the field and effectively halt state and local government initiatives to map broadband infrastructure in their own communities.”<sup>18</sup> That, in turn, would draw time, funding and effort away from Connected Nation’s mapping initiatives, which provide the foundation for its other broadband deployment programs (demand-side technology assessments, eCommunity Leadership Teams and No Child Left Offline). And as Connected Nation explained in its comments, replacing the custom-tailored, community-based maps that Connected Nation develops with a one-size-fits-all Commission mapping program – which proposes to collect static, incomplete and potentially misleading information<sup>19</sup> – would only undermine the progress that Connected Nation has been making in accelerating broadband deployment across the U.S. Accordingly, as AT&T urged in our opening comments, before the Commission initiates its own mapping program, it should clearly articulate how that program will help, not hinder, public-private partnerships like Connected Nation.

**B. The Commission Should Not Adopt Broadband Availability Mapping Requirements at the Census Block Group Level.**

In reply comments on the *2007 Broadband Data Gathering Notice*, Consumers Union, Consumer Federation of America and Free Press (collectively, Consumers Union) argued that the Commission should require broadband providers to report subscribership data at the Census

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<sup>17</sup> See Statement of Commissioner Robert M. McDowell, *2008 Broadband Notice* (“Already, public-private partnerships, such as ConnectKentucky and Connected Nation, are underway that use helpful mapping methodologies on a statewide basis and have been exceedingly successful. There may be differences in the approach taken by these entities that cannot be easily replicated by the federal government.”).

<sup>18</sup> See Connected Nation comments at 24.

<sup>19</sup> See AT&T comments at 7-9; CTIA comments at 3-4; Connected Nation comments at 23-24.

Block Group level,<sup>20</sup> rather than the Census Tract level. The Commission rejected Consumers Union’s argument, finding that the “larger Census Tract is more appropriate for our purposes” because it “will be less burdensome” but will still have “beneficial census characteristics,” such as stability over time and correlation with “valuable demographic data” like race, income, education, and tribal land status.<sup>21</sup>

Although Consumers Union concedes that the Commission properly rejected its Census Block Group proposal and “struck the right balance between the need for detailed subscribership data and the burden of gathering such information by choosing the Census Tract as the geographic reporting unit,” Consumers Union nonetheless argues that the Commission should now require all providers to report broadband *availability* data at the Census Block Group level.<sup>22</sup> In support of this argument, Consumers Union contends that, because “two of the largest providers of DSL service in the United States and the four largest providers of cable modem service” are subject to Census Block Group level reporting in California for video franchising purposes, it would be “completely feasible” for this Commission to mandate Census Block Group reporting of broadband availability in its proposed mapping program.<sup>23</sup>

Whether a particular reporting obligation is “feasible” (i.e., technically possible), however, is a far different question than whether that obligation is burdensome. The fact that a handful of large providers that offer video service in California produced certain video service area data to meet their franchise obligations says nothing about the burdens of such production,

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<sup>20</sup> Consumers Union reply comments, WC Docket No. 07-38, at 6 (July 16, 2007) (“We believe that the Commission should require the reporting of subscriber counts at the Census Block Group level.”).

<sup>21</sup> *2008 Broadband Data Order* ¶¶ 12-13.

<sup>22</sup> Consumers Union comments at 13. The latest comments from Consumers Union, et al, now include Public Knowledge as a joint commenter.

<sup>23</sup> Consumers Union comments at 11.

which, at least in AT&T's case, required a substantial investment of time and effort. Nor does it speak to how similar data production burdens would impact the other 1,354 broadband providers in the U.S, who Consumers Union ignores in its comments.<sup>24</sup> Moreover, as Consumers Union acknowledges, the California reporting requirement it references applies to state *video* franchisees, not broadband providers.<sup>25</sup> Indeed, just three weeks ago, the California Commission expressly rejected a proposal for video franchisees to report broadband data below the Census Tract level because such reporting “will impose substantial costs on reporting parties and is not needed for implementation of” the California Commission’s statutory responsibilities for video franchising and promoting broadband deployment.<sup>26</sup> Instead, the California Commission chose to rely on the Census Tract level subscribership data reported to this Commission in order to discharge those responsibilities.<sup>27</sup>

Given the Commission’s prior rejection of Consumers Union’s original proposal for Census Block Group reporting of subscribership data, and Consumers Union’s misguided

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<sup>24</sup> *High-Speed Services for Internet Access: Status as of June 30, 2007*, Wireline Competition Bureau, FCC, at Table 7 (March 2008) (listing 1360 broadband providers in the U.S.).

<sup>25</sup> The Census Block Group level reporting obligation referenced by Consumers Union is part of the *initial* video franchise application process in California and gives applicants the option to describe their proposed video service area by listing the Census Block Groups in that area or by supplying geographic information system (GIS) boundary data. See Application for a New or Amended California State Video Franchise, available at <ftp://ftp.cpuc.ca.gov/VideoFranchiseTemplate/Franchise%20form%205.15.DOC>. Subsequent video and broadband reporting obligations in California apply at the *Census Tract level*, rather than the Census Block Group level. See *Order Instituting Rulemaking to Consider the Adoption of a General Order and Procedures to Implement the Digital Infrastructure and Video Competition Act of 2006*, Rulemaking 06-10-005, Decision Amending General Order 169, Appendix C (issued July 14, 2008) (*2008 CPUC Data Order*).

<sup>26</sup> *2008 CPUC Data Order* at 32 ¶ 19.

<sup>27</sup> See *id.* at 31-32 ¶¶ 11, 14, 16-18. Thus, the *2008 CPUC Data Order* would appear to undercut the suggestion in the California Commission’s comments in this docket that this Commission should consider collecting availability data at the Census Block Group level. See California Commission comments at 18 (recommending Census Block Group level data, but also noting the administrative burdens associated with collecting such data).

attempt to extend that proposal to availability data with an inapt analogy to video franchising reporting requirements in California, the Commission should once again reject Consumers Union's advocacy for Census Block Group reporting.

### **III. CONCLUSION**

For all of the foregoing reasons, the Commission should not adopt a broadband availability mapping program until after it seeks comment on a more complete further notice of proposed rulemaking that clearly articulates the purpose of the mapping effort and its relation to other pre-existing mapping programs.

Respectfully Submitted,

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