



The Communications Workers of America (CWA) submits these reply comments in response to the Commission's *Further Notice of Proposed Rulemaking (FNPRM)* in which the Commission seeks comment on the adoption of a national broadband mapping program with the objective of creating a highly detailed map of broadband availability nationwide. CWA also submits these initial comments on the Commission's request for information on effective mechanisms to capture information about the actual speeds of Internet access services experienced by consumers.<sup>1</sup>

### **I. Broadband Mapping**

Virtually every commentator in this proceeding acknowledged the importance of accurate, up-to-date broadband availability data. CWA and consumer groups, state commissions and broadband authorities, and broadband providers all concurred that we need good broadband availability information for three primary objectives: to guide policymaking, to assist in policy implementation, and to inform consumers.<sup>2</sup>

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<sup>1</sup> FCC Public Notice, "Comment and Reply Comment Dates Established for the *Form 477 Further Notice of Proposed Rulemaking*," WC Docket No. 07-39, July 2, 2008; *Report and Order and Further Notice of Proposed Rulemaking*, In the Matter of Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscriberhip Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscriberhip, WC Docket No. 07-38, June 12, 2008 (rel) ("*Broadband Data Improvement Order*").

<sup>2</sup> See Comments of Communications Workers of America, In the Matter of Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscriberhip Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscriberhip, WC Docket No. 07-38, July 17, 2008, p. 3-4 ("CWA Comments"). See also Comments of AT&T Inc. In the Matter of Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscriberhip Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscriberhip, WC Docket No. 07-38, July 17, 2008, p. 5 ("AT&T Comments"); "Having current data to prove the applicant's proposed service area is indeed unserved is very important to our [Advanced Services Fund] program." Comments of the California Public Utilities Commission and of the People of the State of California on the Development of Broadband Data: Broadband Availability Mapping, In the Matter of Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscriberhip Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP)

Commentators, however, disagreed on three central questions regarding broadband data collection: 1) who should collect data on broadband availability; 2) what data should be collected; and 3) what data, if any, should be kept confidential. CWA responds to each of these issues.

**A. Collection of broadband availability data is a federal government responsibility**

CWA has worked closely with Connected Nation in a number of states in its broadband mapping and demand-stimulation programs. We have been impressed with their efforts, and believe the Commission has a great deal to learn from their extensive on-the-ground experience. Connected Nation believes that state-based public-private partnerships are the most effective means to gather accurate, address-specific information on broadband availability. They note that most broadband providers do not maintain broadband availability data in their information systems, and that the creation of accurate maps requires on-the-ground work with providers, supplemented by consumer feedback. Connected Nation argues, therefore, that the appropriate role for the Commission is to serve as a clearinghouse and source for “best practices” to guide state-based public-private partnerships in the collection of data on broadband infrastructure.<sup>3</sup>

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Subscribership, WC Docket No. 07-38, July 17, 2008, pp. 13-14. (“California PUC Comments”); “If CMA [Connect Maine Authority] had access to address-by-address data on availability of broadband in Maine, it could more quickly make decisions regarding which requests for its limited funds for projects in unserved areas should be funded. Access to accurate and complete data for a state could also be used to support the need for increased state funding of projects such as CMA.” Joint Comments of the Maine Public Utilities Commission and the Connect Maine Authority, In the Matter of 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, July 17, 2008, p.2 (“Maine PUC Comments”); Further Comments of Consumers Union, Consumer Federation of America, Free Press and Public Knowledge, In the Matter of 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, July 17, 2008 (“Free Press et al”).

<sup>3</sup> Comments of Connected Nation, Inc., In the Matter of Development of Nationwide Broadband Data to Evaluate

Certainly, CWA agrees with Connected Nation that state-based public-private partnerships have collected excellent data on broadband availability, information that has enabled local technology teams in states like Kentucky, Tennessee, and Ohio to develop plans that have very effectively increased broadband deployment and adoption. At the same time, CWA believes there is an important government role in data collection. Just as the Bureau of Labor Statistics collects labor market information; the Commerce Department collects economic data; the Transportation collects information on aviation, highways, railroads, ports, and other modes of transport; the Department of Health and Human Services collects data on our nation's health care and human services; and the Education Department collects information on our schools, it is appropriate for the expert agency of the federal government on communications policy to collect information on broadband infrastructure.

Further, it is important to collect data on broadband deployment that is standardized across the 50 states. We are skeptical that this can be achieved simply by making the Commission a clearinghouse for "best practices" in collection of broadband availability data. In its *Broadband Data Improvement Order*, the Commission adopted rules for reporting broadband subscribership that will now inform state data gathering.<sup>4</sup> States look to the Commission for guidance in their broadband mapping efforts as well. National reporting will ensure not only that data gathering is done in a standard format, but also that there are no gaps in our information

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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, July 17, 2008 ("Comments of Connected Nation").

<sup>4</sup> *Broadband Data Improvement Order*.

base, in the likely case that some states will not undertake broadband mapping efforts, due to lack of funding, expertise, or appropriate leadership.

As a second-best alternative, CWA recommends that the Commission develop standards for collection of broadband availability data to ensure that state mapping efforts follow a consistent reporting format, allowing the Commission to aggregate that information for national comparison.

**B. The Commission Should Collect Address-Specific Broadband Availability Data**

Commentators point out numerous problems with the Commission’s tentative conclusion that requiring broadband providers to submit the information that they use to respond to prospective customers on an address-by-address basis serves as an appropriate means to collect broadband availability data. AT&T, Windstream, and others note that they do not maintain such a database.<sup>5</sup> Connected Nation reports that in its experience, small and mid-sized providers – those most likely to serve customers in areas without broadband infrastructure – do not maintain such information. Connected Nation states that in its state mapping efforts, they must work with providers to collect broadband availability data and translate it into address-specific location information. Connected Nation acknowledges that this results in information that is a close approximation to actual broadband availability. Connected Nation then relies on online consumer feedback to correct the information.<sup>6</sup>

Consumer commentators and the California PUC encourage the Commission to collect deployment information at the census tract level. CWA concurs that this level of granularity can

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<sup>5</sup> Comments of AT&T, Comments of Windstream.

<sup>6</sup> Comments of Connected Nation.

be useful for policy analysis, but is far less useful to local and state officials and public-private partnerships working to aggregate demand or target limited funding to stimulate broadband deployment in underserved areas. That task requires address-specific information, so that a local economic development official, for example, can identify a provider to work with to get an unserved industrial park or new housing development or an individual consumer the broadband infrastructure they need. Finally, individual consumers want address-specific information.

The California PUC demonstrated the difference. Data collected by the PUC based on census tracts indicated 99 percent broadband availability in the state. However, data collected by the state broadband task force on an address-specific basis revealed 96 percent broadband availability. As the California PUC noted, “The discrepancy tended to be in large, rural, low-income census tracts – precisely where federal and state policymakers will want to focus attention.”<sup>7</sup>

Clearly, there are numerous technical issues to be resolved in determining the methodologies the Commission should adopt and the resources it will need to collect address-specific broadband availability information. The Commission should expeditiously convene a technical workshop and consult with other data collection and mapping agencies in the federal government to develop a more fully-formed proposal to address these technical concerns before it adopts a final order in this proceeding.

### **C. The Commission Should Adopt a Flexible Approach to Data Confidentiality**

As a general matter, CWA supports public access to government information. However, CWA recognizes that in the highly-competitive broadband market, broadband providers may

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<sup>7</sup> California PUC, pp. 15-18.

have some legitimate concerns in some limited circumstances about public access to detailed information about the deployment of their broadband infrastructure. In addition, there may be public safety concerns related to making available detailed information about this critical communications infrastructure.

CWA proposes an approach that carefully balances the public's right to know with carriers' confidentiality concerns. While the Commission should collect address-specific broadband availability data, it could choose to limit the public availability of the underlying data to state and local agencies and public-private partnerships. The Commission could require these public agencies and public-private partnerships to maintain the confidentiality of the underlying data, even as it uses the information for policy analysis and implementation efforts. In addition, the Commission could establish criteria under which researchers and public interest organizations could obtain access to the underlying data upon formal request. Such criteria would include a commitment to maintain confidentiality, a showing of legitimate research needs, non-profit status, and other criteria that the Commission might deem appropriate. CWA believes that this proposal strikes the proper balance regarding confidentiality of commercial data collected by a government agency.

## **II. Reporting Actual Broadband Speeds**

The Commission seeks comment on whether it should require reporting of actual broadband connection speeds experienced by customers.

In the *Broadband Data Improvement Order*, the Commission announced its intent to establish a voluntary registry that, among other things, will allow broadband service customers to

report actual speeds of service received.<sup>8</sup> For the past two years, CWA has sponsored the highly-popular Internet speed test at [www.speedmatters.org](http://www.speedmatters.org). Over the past two years, more than 300,000 individuals have gone to [speedmatters.org](http://speedmatters.org) to test the speed of their Internet connection. To report the real-time connection speed, the Speed Test sends an HTTP request to the nearest server and measures the time that it takes to receive a response. In July, 2007 CWA issued the first annual report on actual median Internet download and upload speeds in all 50 states. In addition, people can access the information at [speedmatters.org](http://speedmatters.org), and have the ability to zoom down to see median speeds by county and zip code. CWA will issue its second annual report next month, and will submit a copy of that report into the record in this proceeding.<sup>9</sup>

CWA believes that a voluntary registry is the best and most accurate method to collect data on actual Internet speeds. Broadband providers do not know the actual speed with which consumers connect to the Internet at a particular time and place, nor do they have the incentive to report this information accurately. The only way that consumers can learn whether they are getting the speeds that their broadband providers advertise and for which they are paying is to take a real-time speed test.

CWA recommends that the Commission establish a voluntary registry that would include the Speed Test, and that the Commission work with other organizations, including CWA, to publicize the test and collect information. If CWA has collected over 300,000 speed tests in a two year period with the advertising and outreach available to a single organization, imagine the amount of data the FCC could collect working in partnership with broadband task forces, public

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<sup>8</sup> *Broadband Data Improvement Order*, 22.

<sup>9</sup> Communications Workers of America, *Internet Speeds in All 50 States*, July 2007 (available at

private partnerships, state and local agencies, public interest and consumer organizations, universities and educational institutions, in addition to its own resources.

### **III. Conclusion**

CWA commends the Commission for its ongoing efforts to improve broadband data collection as an important step towards the goal of ensuring that all Americans have access to advanced technologies. The Commission has an important role to play in the collection of accurate, up-to-date, uniform national data on broadband availability; such data will be most useful if collected on an address-by-address basis by all providers; and made available to public agencies and legitimate researchers and public interest organizations under strict confidentiality agreements. CWA urges the Commission to work with other organizations, including CWA, to establish a voluntary registry that would collect and provide consumers with valuable information on actual speed of their Internet connection.

Respectfully submitted,



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