

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION**

In the Matter of)	
)	
Providing Eligible Entities Access to)	WC Docket No. 07-38;
)	
Aggregate Form 477 Data As Required by the)	
)	
Broadband Data Improvement Act)	GN Docket Nos. 09-47, 09-51
)	

**Public Notice Seeking Comment on How to Interpret and Implement Sections 106(h)(1)
and 106(h)(2) of the Broadband Data Improvement Act (BDIA).**

Reply Comments of the Wyoming Public Service Commission

August 4, 2009

The Wyoming Public Service Commission (WyPSC) submits these reply comments in the matter of the Federal Communications Commission’s (FCC or the Commission) public notice seeking comment on how to interpret and implement sections 106(h)(1) and 106(h)(2) of the Broadband Data Improvement Act (BDIA).¹

The Commission seeks comment on how it should interpret the term “aggregate” in Section 106(h)(1), which states: “(h) ACCESS TO AGGREGATE DATA.—(1) IN GENERAL.—Subject to paragraph (2), the Commission shall provide eligible entities access, in electronic form, to aggregate data collected by the Commission based on the Form 477 submissions of broadband service providers.”² The WyPSC agrees with and supports the initial comments filed by the National Association of Regulatory Utilities Commissioners (NARUC), the Nebraska Public Service Commission, and the California Public Utilities Commission (State Commissions) on the issue of disaggregation of data.

¹ Broadband Data Improvement Act of 2008, Pub. L. No. 110-385, 122 Stat. 4097 (codified at 47 U.S.C. §§ 1301-04).

² Section 106(i)(2) of the BDIA defines “eligible entity” as: (A) an entity that is either (i) an agency or instrumentality of a State, or a municipality or other subdivision (or agency or instrumentality of a municipality or other subdivision) of a State; (ii) a nonprofit organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and that is exempt from taxation under section 501(a) of such Code; or (iii) an independent agency or commission in which an office of a State is a member on behalf of the State; and (B) is the single eligible entity in the State that has been designated by the State to receive a grant under this section.

Access to the Form 477 data in disaggregated form is important. The FCC must provide data access to eligible entities doing broadband mapping. The FCC must provide access to relevant data collected in Form 477 in accordance with the requirements set forth in the BDIA.

It is important that the FCC give the data to eligible entities doing mapping under the BDIA so that they can fulfill the technical requirements set forth in the Notice of Funds Availability (NOFA) and solicitation of applications by the Department of Commerce, National Telecommunications and Information Administration for the State Broadband Data and Development Grant Program.³ As summarized in the NOFA,

[t]he State Broadband Data Program is a competitive, merit-based matching grant program that effects the joint purposes of the Recovery Act and the BDIA by funding projects that collect comprehensive and accurate state-level broadband mapping data, develop state-level broadband maps, aid in the development and maintenance of a national broadband map, and fund statewide initiatives directed at broadband planning.

With regard to the issue of confidentiality raised in the instant Public Notice, the WyPSC notes that the NOFA defines and addresses confidential information as follows:

Any information, including trade secrets, or commercial or financial information, submitted under this Program that: 1) identifies the type and technical specification of infrastructure owned, leased, or used by a specific broadband service provider; 2) identifies the average revenue per user (ARPU) for a specific broadband service provider; or 3) explicitly identifies a broadband service provider in relation to its specific Service Area or at a specific Service Location. For example, a broadband service provider's specific service "footprint", as identified with such provider, will be considered Confidential Information for the purposes of this Program and will either (a) be aggregated with other available providers of the same technology type before being published in the national broadband map, in which case the map would only display the aggregated list of providers that have consented to have their names displayed for such service area; or (b) in the absence of other providers of the same technology type with which a provider's specific service "footprint" can be aggregated, be displayed without providing the provider's identity, unless the provider gives its consent. NTIA and the FCC may otherwise aggregate, combine or mask broadband service provider data, and take other steps so as to make such data suitable for public release.

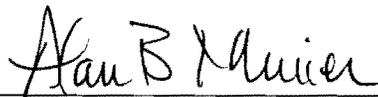
Notwithstanding the foregoing, Confidential Information, as defined herein and as provided as part of a project funded under this Program, will not be made publicly available, pursuant to the limitations set forth in the BDIA, except as required by applicable law or judicial or administrative action or proceeding, including the Freedom of Information Act requirements. (Footnote 11: BDIA § 106(h), 122 Stat. at 4101)

The WyPSC agrees with and supports the comments of NARUC, and the State Commissions. Confidential information provided by the Commission should only be provided upon the commitment that such information will be protected. We also agree that the Commission could utilize a protective order and have the responsible eligible entity sign a nondisclosure agreement pursuant to that order.

³ Publication Date: 07/08/2009.

Finally, it is important that, upon request by an eligible entity doing state mapping, the FCC provide the data immediately because applications for mapping grants are due to be filed on August 14, 2009 at 11:59 p.m. ET. With all due respect, time is absolutely of the essence.

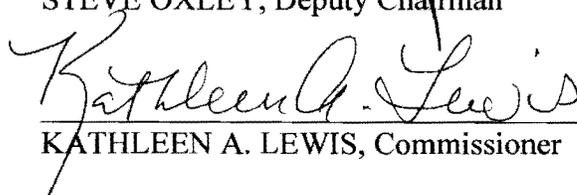
Respectfully submitted August 4, 2009.



ALAN B. MINIER, Chairman



STEVE OXLEY, Deputy Chairman



KATHLEEN A. LEWIS, Commissioner