

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

In the Matter of	)	
	)	
Modernizing the FCC Form 477 Data Program	)	WC Docket No. 11-10
	)	
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
	)	
Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering	)	WC Docket No. 08-190
	)	
Review of Wireline Competition Bureau Data Practices	)	WC Docket No. 10-132
	)	

To: The Commission

**COMMENTS OF HUGHES NETWORK SYSTEMS, LLC**

Hughes Network Systems, LLC (“Hughes”) submits these comments in response to the Commission’s Notice of Proposed Rule Making concerning reform of the FCC Form 477 program.<sup>1</sup> The Commission seeks comment on ways to modernize its data collection efforts while also minimizing the overall costs of the program, including the burdens imposed on

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<sup>1</sup> *Modernizing the FCC Form 477 Data Program, 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, Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering, and Review of Wireline Competition Bureau Data Practices*, Notice of Proposed Rulemaking, WC Docket Nos. 11-10, 07-38, 08-190, 10-132, FCC 11-14 (rel. Feb. 8, 2011) (“NPRM”).

service providers.<sup>2</sup> As explained below, Hughes believes that many of the data reporting proposals advanced in the NPRM are unnecessary and unduly burdensome, especially when considered for application to satellite broadband service providers. Hughes urges that these proposals either not be adopted by the Commission, or, if adopted, not be applied to ubiquitous-coverage satellite service providers.

Hughes is the largest satellite Internet access provider to the North American consumer market, providing satellite broadband connectivity to more than 500,000 consumer and small business subscribers through its HughesNet service. Hughes is also the global leader in providing broadband satellite network solutions for large enterprises and governments. Hughes's customers use its network equipment and services for Internet and intranet access, voice services, private networking, connectivity to suppliers, franchisees and customers, credit authorization, inventory management, content delivery and video distribution to enterprises.

## **I. DISCUSSION**

At prior stages of components of this proceeding, Hughes explained that satellite-delivered broadband services are distinguishable from their terrestrial counterparts in important ways.<sup>3</sup> Most significantly, and unlike localized cable and DSL broadband systems, satellite broadband networks have an extensive geographic reach that allows for high speed communications to virtually anywhere in the United States. Remote and rural parts of the country that lack terrestrial infrastructure due to prohibitive build-out costs or other reasons are as accessible via satellite as are densely populated and built-out urban areas. Indeed, the

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<sup>2</sup> See NPRM at ¶ 1.

<sup>3</sup> See, e.g., Comments of Hughes Network Systems, LLC, WC Docket No. 07-38 (filed July 17, 2008); Comments of Hughes Network Systems, LLC, WC Docket No. 08-190 (filed Nov. 14, 2008).

HughesNet service is today available in all 50 states. Satellite broadband makes high speed Internet connectivity available on a truly national scale.

To its credit, the Commission in the NPRM appropriately recognizes that satellites' unique attributes raise issues in the context of data collection.<sup>4</sup> Hughes believes that these attributes should inform the Commission's thinking as it decides whether, and to what extent, new data reporting obligations should be imposed on service providers. In particular, Hughes cautions against the uniform application of any "one size fits all" reporting requirements to all service providers without consideration of the technologies involved. Data reports that may yield worthwhile information in the case of one form of technology can lead to meaningless, or even misleading, information in the case of another.

Hughes below addresses some of the more problematic proposals raised in the NPRM and, where appropriate, offers alternative approaches.

**A. Satellite Broadband Providers Should Be Exempt From Reporting Deployment Data.**

As an initial matter, Hughes believes satellite broadband providers should be exempt from reporting any deployment information, whether at the census tract, census block, or address level. The Commission has tentatively concluded that collecting data on an address-by-address basis will lead to more accurate records as to where broadband is deployed.<sup>5</sup> That objective, however, plainly has no meaning where satellite broadband with nationwide coverage is concerned; such satellite coverage necessarily equates to deployment to virtually all parts of the

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<sup>4</sup> See NPRM at ¶ 64 (seeking comment on "Satellite Issues," including how best to collect deployment data about satellite-based services).

<sup>5</sup> See *id.* at ¶ 56, citing *Development 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*, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 9691, 9709 (2008) ("2008 Broadband Data Order").

country, irrespective of granularity.<sup>6</sup> Requiring the reporting of satellite broadband deployment information at even the census tract level is unnecessary and wasteful for the same reasons.

Reporting data on satellite broadband deployment is redundant as well. The extent of a satellite broadband provider's coverage area is already a matter of record, and can be obtained by anyone today through the Commission's publicly available resources (*e.g.*, as part of a satellite application or letter of intent).<sup>7</sup> While nothing of value can be added to the Commission's data collection program by reporting information that is already publicly available, it does impose an undue burden on those providers required to submit a report and will generate reams of meaningless data. For the foregoing reasons, Hughes opposes any deployment reporting obligation for satellite broadband providers.

**B. Actual Speed Data Is Too Elusive And Too Burdensome To Report.**

Hughes also opposes any proposal that would require service providers to report actual speed data.<sup>8</sup> Measuring actual speeds with any degree of precision presents a formidable, if not impossible, challenge due to numerous factors that can increase or decrease a user's transfer speed and which vary depending on the technology at issue (*e.g.*, the amount of data being transmitted, general network congestion, middle-mile capacity, weather and terrain conditions). Given the inherent elusiveness of an "actual" speed figure, Hughes believes that the costs

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<sup>6</sup> The instances where terrain or other impediments may block a user's line of sight to a satellite are too limited in number to justify requiring satellite broadband service providers to report deployment data at a more granular level. *See* NPRM at ¶ 64.

<sup>7</sup> *See* 47 C.F.R. § 25.114(d)(4) (requiring information on areas to be served by a satellite).

<sup>8</sup> *See* NPRM at ¶ 59.

incurred in trying to determine that figure far outweigh any benefit that may be derived from it.<sup>9</sup> Where Hughes is concerned, the cost of reporting includes having to give up a significant fraction of the HughesNet network capacity just to transmit the collected data from the subscribers' earth terminals to the Hughes network control center.<sup>10</sup> This would come at great expense to both Hughes and its customers, while in exchange would only yield information of dubious value.

In lieu of collecting actual speed data, Hughes believes that the Commission should continue to require the reporting of data on an advertised speed basis. Hughes remains wary of a voluntary system involving consumers who self-report their actual broadband service speeds, as has been previously proposed in this proceeding.<sup>11</sup> There is a wide range of variables that affect speed, uncertainties of how such data could or would be used, and inconsistencies among test conditions and methods that will impact results reached.

**C. Meaningful Price Data Is Difficult To Obtain And Potentially Misleading.**

Hughes believes that the Commission should refrain from using Form 477 to collect broadband price information.<sup>12</sup> Just as ascertaining the actual speed of a broadband service is made extremely difficult due to many variables, determining reliable price data is complicated by a series of factors (*e.g.*, introductory offers, bundled service offerings, temporary promotions, contract terms) that undermine meaningful comparisons between or among service providers –

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<sup>9</sup> In any event, the data transfer rate of a broadband service is not necessarily a reliable measure of that service's desirability. This is especially true in the case of broadband delivery to rural and remote areas where satellite broadband may be the only readily available, economically viable option regardless of the service's speed.

<sup>10</sup> For example, under a current Commission speed-testing initiative, the traffic generated per test volunteer site is approximately 2 gigabits per month.

<sup>11</sup> See *2008 Broadband Data Order*, 23 FCC Rcd at 9699.

<sup>12</sup> See NPRM at ¶ 70.

and which could potentially lead to misleading conclusions.<sup>13</sup> Even the proposal to limit price information to a “basket of services” is unworkable because those services remain subject to a variety of pricing schemes that make cost comparisons difficult to make.<sup>14</sup>

In Hughes’ view, a far more efficient approach would be simply to have the Commission examine readily available sources of pricing information, such as those compiled by independent analysts or consumer groups. Should the Commission determine that price reporting is necessary, however, satellite broadband providers should be permitted to report a monthly national price for their broadband service, and industry organizations (*e.g.*, the Satellite Industry Association) may be called upon to develop a meaningful common reporting template.

**D. Broadband Subscription Data Should Continue To Be Reported At The Census Tract Level.**

Form 477 currently collects broadband subscription data at the census tract level, and the Commission seeks comment on whether subscribership data at a more granular level is warranted.<sup>15</sup> Hughes believes that the existing census tract level should be retained in order to ensure more accurate information. As the reporting level for broadband data becomes more granular, it becomes increasingly difficult to collect reliable subscribership data. Indeed, achieving broadband mapping accuracy at the census tract level already is posing significant challenges. The Commission should leave broadband subscription at the census tract level intact.

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<sup>13</sup> For example, promotional pricing that reflects local or regional trends or discounts is not necessarily an accurate measure of broadband pricing overall, and in particular on pricing offered on a uniform nationwide basis, as is the case with satellite broadband.

<sup>14</sup> See NPRM at ¶ 71.

<sup>15</sup> See *id.* at ¶ 81.

**E. Reporting Service Quality and Customer Satisfaction Data Is Unnecessary Given Available Alternative Sources.**

The Commission asks whether Form 477 should be revised to require the reporting of service quality and customer satisfaction information.<sup>16</sup> Hughes opposes this approach as unnecessary and very burdensome. The information relevant to a determination of service quality and customer satisfaction can be readily gleaned from alternative sources that do not impose an additional reporting obligation on service providers, including (as the Commission has previously recognized) the inherently reliable actual complaints of consumers.<sup>17</sup> Seeking a uniform approach toward gauging service quality and customer satisfaction also invites the possibility of misleading assessments, as any industry-wide survey will lead to an “apples to oranges” comparison between terrestrial broadband services and satellite broadband services, notwithstanding the fact that the two technologies have distinct strengths that cater to varying consumer preferences. While Hughes believes reporting service quality and customer satisfaction data is not necessary for these reasons, should the Commission conclude otherwise, such data from satellite broadband providers should be reported on a national basis to reflect their nationwide coverage.<sup>18</sup>

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<sup>16</sup> See NPRM at ¶ 90.

<sup>17</sup> See *Service Quality, Customer Service, Infrastructure and Operating Data Gathering*, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 23 FCC Rcd 13647, 13656 (2008) (observing that “[a]ctual complaint information may be a better indicator of trends in service quality than” the surveys reported through ARMIS Report 43-06”) (citation omitted).

<sup>18</sup> See NPRM at ¶ 93. Hughes, like other operators, would be expected to pass costs of compliance along to its users. This could negatively affect the Commission’s goal of bringing affordable broadband service to unserved and underserved areas.

**F. The Existing Approach Of Reporting Ownership Information Is Adequate And Should Not Be Changed.**

Finally, Hughes opposes any proposed revision of Form 477 that would require the collection of additional information concerning the ownership of service providers.<sup>19</sup> The existing approach, which allows reporting entities to largely decide how they submit ownership data on Form 477, properly balances the benefits of compiling accurate information with the need to minimize reporting burdens. Imposing the reporting of additional levels of ownership information, such as the disclosable interest holders that wireless carriers must report on FCC Form 602, is not necessary to help the Commission understand the competitive nature of broadband delivery in this country.

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<sup>19</sup> See NPRM at ¶ 102.

## II. CONCLUSION

For the foregoing reasons, Hughes urges the Commission to keep the unique attributes of satellite broadband providers in mind as it considers revisions to its Form 477 data program, and to avoid imposing any unnecessary or unduly burdensome reporting obligations.

Respectfully submitted,

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