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

In the Matter of	)	
	)	
Special Access for Price Cap Local Exchange Carriers	)	WC Docket No. 05-25
	)	
	)	
Notice of Public Information Collection	)	OMB Control No. 3060-XXXX

COMMENTS OF THE
NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION

Steven F. Morris
Jennifer K. McKee
National Cable & Telecommunications Association
25 Massachusetts Avenue, N.W. – Suite 100
Washington, DC 20001-1431

April 15, 2013

SUMMARY

NCTA consistently has expressed support for the Commission's efforts to gather data that will enable it to determine the level of competition in the special access marketplace. At the same time, however, we have asked the Commission to heed the requirements of the Paperwork Reduction Act (PRA) and craft a data request that reflects the significant differences between cable operators and the incumbent LECs and that does not gather huge quantities of data that the Commission will not be able to process in a timely and meaningful way.

As we demonstrate in these comments, the data request adopted in the *Report and Order and Further Notice* does not comply with the requirements of the PRA. The request would require cable operators to provide detailed information on every rate they have charged to every commercial customer in America for every month of 2010 and 2012, plus a host of additional information (such as extremely granular maps and four years of marketing materials) that will be incredibly time-consuming and expensive to produce.

The data request raises a variety of concerns under the PRA. A number of questions in the data request seek information that cable operators either do not possess or that they cannot compile without extensive manual review of bills, contracts, and other documents. Additional questions seek information that the Commission already possesses or could more easily obtain from other parties, or is simply unnecessary to the task of analyzing today's special access marketplace. The net result is a data request that will prove overwhelming for the 6000 companies that must respond to it and that is likely to stretch the Commission's analytical capabilities and resources beyond the breaking point.

The Commission estimates that the average respondent will require 134 hours to comply with the data request and asks for comment on the accuracy of this estimate. As described in great detail in declarations from experts at two of our member companies, the Commission's

estimate is not even close to being realistic. One company estimates that the mapping requirement alone could cost as much as $50 million. Even without that requirement, responding to the data request will require some individual companies to spend tens of thousands of hours of employee time, and millions of dollars of labor and other costs.

Recognizing the importance of gathering current data to the Commission's responsibilities in this docket, NCTA previously proposed a number of revisions to the data request. If adopted by the Commission, these revisions would significantly ameliorate the concerns identified in these comments. We strongly encourage the Commission to adopt these revisions before it submits the data request to the Office of Management and Budget for approval under the PRA.

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NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION

The National Cable & Telecommunications Association (NCTA) strongly encourages the Commission to revise its proposed mandatory special access data collection before submitting it to the Office of Management and Budget (OMB) for approval under the Paperwork Reduction Act (PRA). As explained in these comments, and demonstrated in attached declarations from experts at two NCTA member companies, the request imposes overwhelming burdens on cable operators. Even if some of the most burdensome questions, like the mapping requirement in Question A.5, are eliminated, these experts estimate that their companies will be required to devote tens of thousands of hours to responding to the data request, resulting in millions of dollars of labor and other costs. To address these concerns and comply with the requirements of the PRA, we encourage the Commission to adopt the revisions to the data collection that NCTA proposed last month, which are attached as Exhibit C of this pleading.[1]

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[1] *See* NCTA Proposed Revisions to Special Access Data Request (NCTA Proposal), attached to Letter from Steven F. Morris, NCTA, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 05-25 (filed March 22, 2013) (NCTA March 22 Letter). These proposed revisions already have garnered support from outside the cable industry. *See* Letter from Nancy Lubamersky, TelePacific Communications, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 05-25 (filed March 25, 2013) (supporting NCTA proposed revisions to data collection). USTelecom recently submitted a letter challenging some of NCTA's proposals, which we will respond to separately.

INTRODUCTION

In the *Report and Order and Further Notice*, the Commission adopted a mandatory data request that will gather data from over 6000 companies that provide and/or purchase special access services.[2] The Commission's intent is to use this data to perform a "one-time, multi-faceted" analysis that will enable it to develop new pricing rules for special access services provided by incumbent local exchange carriers (LECs).[3]

The Commission's mandatory data request cannot take effect until it is approved by OMB pursuant to the PRA. As a prerequisite to obtaining the required OMB approval, the Commission must review the data request and provide OMB with a certification (including a record supporting such certification) that the information collections involved in that request, among other things: (1) are "necessary for the proper performance of the functions of the [Commission]"; (2) are "not unnecessarily duplicative of information otherwise reasonably accessible to the [Commission]"; and (3) reduce to the extent practicable and appropriate the burden on respondents.[4] In addition, the PRA requires that an information collection "be implemented in ways [that are] consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of those who are to respond."[5]

As explained in these comments, the data request adopted by the Commission does not meet this standard. Specifically, the mandatory collection includes a great deal of information that is not "necessary for the proper performance" of the Commission's functions because it has

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[2] *Special Access for Price Cap Local Exchange Carriers*, WC Docket No. 05-25, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-153 (rel. Dec. 18, 2012) (*Report and Order and Further Notice*); *see also* Information Collection Being Reviewed by the Federal Communications Commission, 78 Fed Reg 9911 (rel. Feb. 12, 2013) (*PRA Notice*) (estimating that 6387 entities will be required to submit responses).

[3] *See Report and Order and Further Notice* at ¶ 66.

[4] 44 U.S.C. § 3506(c) (3) (A)-(C); 5 C.F.R. § 1320.9(a)-(c).

[5] 44 U.S.C. § 3506(c) (3) (E); 5 C.F.R. § 1320.9(c).

no "practical utility" for its intended purpose.[6] Moreover, some of the data the Commission requests is already in its possession, which makes this new data request unnecessarily duplicative. In addition, as is readily evident from the attached declarations, the proposed data request solicits a significant amount of information that NCTA's member companies do not maintain in their ordinary course of business. Finally, the Commission has significantly underestimated the burden the data request will place on respondents, and it has not taken steps to reduce that burden "to the extent practicable and appropriate."[7] In these and other respects, the proposed data collection is in clear conflict with the PRA and OMB's implementing regulations. NCTA previously submitted a list of suggested revisions to the data collection that would enable the Commission to better meet these requirements,[8] and we strongly encourage the Commission to adopt those suggestions before seeking OMB's approval of the data request.

I. THE COMMISSION HAS NOT TAKEN APPROPRIATE STEPS TO REDUCE THE BURDEN OF THE COLLECTION ON RESPONDENTS

A. The Commission Has Substantially Underestimated the Burden of the Data Request

In the *PRA Notice*, the Commission asks parties to comment on the accuracy of the Commission's estimate that over 6000 companies will spend an average of 134 hours (for a total of roughly 856,000 hours) responding to the mandatory data collection.[9] As we demonstrate below, the Commission has significantly underestimated the burden that the mandatory data

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[6] 44 U.S.C. § 3506(c) (3) (A); 5 C.F.R. § 1320.9.

[7] 44 U.S.C. § 3506(c) (3) (C); 5 C.F.R. § 1320.9(c). The PRA also requires a demonstration that the agency has "planned and allocated resources for the efficient and effective management and use of the information to be collected." *Id*. § 3506(c) (3) (H). As described in NCTA's reply comments in response to the *Report and Order and Further Notice* in this proceeding, we have serious concerns about the Commission's ability to process the requested data in a meaningful and timely manner. Reply Comments of the National Cable & Telecommunications Association, WC Docket No. 05-25 (filed March 12, 2013) (NCTA Reply Comments).

[8] NCTA March 22 Letter at 1.

[9] *PRA Notice*, 78 Fed Reg at 9911.

collection will impose on cable operators and other respondents. For example, Cox Communications and Comcast Corporation conservatively estimate that responding to the data requests will take them more than 8400 hours and 30,000 hours respectively, even if some of the most burdensome obligations are not counted. Moreover, to date the Commission has failed to take any practicable and appropriate steps to reduce this burden. The Commission should not submit the data request to OMB until it makes changes that reduce the burden on respondents, as previously proposed by NCTA.

As an initial matter, the Commission has provided absolutely no explanation for how the estimates in the *PRA Notice* were derived or how much of a burden is estimated for each of the four types of respondents (incumbent LECs, competitive providers, wireless carriers, and purchasers). Given the lack of information that has been made public by the Commission, it is effectively impossible for any party to judge the accuracy of the total estimate of 856,000 hours. It is possible, however, to assess the accuracy of the Commission's estimate that the average company will be required to spend 134 hours responding to the request.

Based on the review performed by a number of NCTA members, it is abundantly clear that the average company will need to spend well in excess of 134 hours to fully respond to the request. We anticipate that the burden in some cases could be more than 200 times higher than the average estimated by the Commission. Indeed, Cox estimates that just the preliminary review process it carried out consumed over 100 hours.[10]

These conclusions are informed by general discussions with a variety of NCTA member companies, as well the extensive efforts of personnel at some of NCTA's larger member companies. In particular, as described in Exhibit A, the Declaration of Robert Hattori of Cox

[10] *See* Hattori Declaration at 9.

Communications (Hattori Declaration), and Exhibit B, the Declaration of Lisa Panepinto of Comcast Corporation (Panepinto Declaration), these company experts analyzed every question to determine whether responsive material is available, which databases must be searched to find that material, which staff must be consulted to compile the data, and what additional costs (e.g., new software) must be incurred. Based on this exhaustive analysis, they estimate that the mandatory data request will require tens of thousands of hours of employee time and millions of dollars of labor and other costs including software upgrades and outside expertise, even if some of the most burdensome obligations, like the mapping requirement in Question A.5, are excluded.

As these declarations demonstrate, responding to this data request will require the efforts of dozens of employees and numerous databases.[11] Accordingly, although no two companies will have the exact same experience in responding to the data request, the breadth and granularity of the questions virtually ensures that every single respondent will experience a significant burden as a result of the request. While the Cox and Comcast declarations reflect the experience of two of NCTA's larger member companies, we have every reason to believe that the rest of our member companies will be forced to bear the same type of burdens in compiling and submitting responses to the data request.

B. A Large Share of the Compliance Burden Is Attributable to a Limited Number of Questions

Below we identify some of the most burdensome questions in the mandatory data request and estimate the burden those requirements will place on cable operators. These estimates are informed primarily by the attached declarations from Cox and Comcast, but other NCTA

[11] Hattori Declaration at 1-3; Panepinto Declaration at 1-2.

member companies have confirmed that responding to these specific questions will be extremely burdensome if the Commission does not revise them.

1. Maps

Question A.5 asks for maps that show the route of a company's fiber optic network and the location of all nodes used to interconnect with third parties, as well as the year each node went live. As NCTA has explained previously, the requested maps are more detailed than what most companies currently use in operating their business.[12] As a result, assuming data is even available for this exercise, many companies would have to create such maps solely for the purpose of responding to this data request.[13] Such a requirement would seem to directly conflict with the PRA's mandate that information collections "be implemented in ways [that are] consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of those who are to respond."[14]

The requirement to create maps at the level of detail demanded by the data request is by far the most burdensome element of the Commission's mandatory data request. In particular, identifying fiber routes and interconnection points at the street level or manhole level cannot be done based on data in existing systems and therefore companies will require walkouts costing hundreds of dollars per mile of plant, followed by updates to existing maps to incorporate all of the requested information. For a company like Cox, which has "tens of thousands of potential

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[12] *See* Letter from Steven F. Morris, NCTA, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 05-25 (filed Feb. 28, 2013) at 3.

[13] Requiring companies to create such maps and then aggregating them at the Commission raises significant data security concerns as the Commission (as well as parties to the protective order adopted in this proceeding) would be in possession of a complete map of the entire U.S. telecommunications system, something that does not currently exist but that would have tremendous value to those intent on harming the nation. *Id*. Regrettably, but perhaps inevitably, there have been multiple occasions when highly confidential information that has been submitted to the Commission has inadvertently been disclosed by Commission employees (or by third parties who obtained it under the provisions of a protective order).

[14] 44 U.S.C. § 3506(c) (3) (E); 5 C.F.R. § 1320.9(c).

nodes, as that term is defined," even estimating the burden attributable to the mapping obligation proved to be overwhelming,[15] while Comcast has estimated the cost attributable to this requirement "could be *in excess of $50 million* based on costs per mile of several hundred dollars."[16]

NCTA recognizes that it is important for the Commission to collect information that will help it identify where competitive networks have been built, but the PRA requires the Commission to pursue less burdensome alternatives. The Commission should eliminate the obligation to provide data on network nodes and instead limit the request to determining the footprint of a competitive provider's network.[17] Specifically, as NCTA has proposed, the Commission should clarify that companies have no obligation to create new maps and that they may submit (1) existing network maps that are in their possession; or (2) a list or "airline" map showing the network footprint (headend locations and customer locations served by those headends).[18]

Moreover, the Commission should eliminate the requirement that respondents provide a separate map just for lateral connections to end user locations. As Cox explains, it maintains fiber maps that show both backbone fiber routes as well as lateral connections. Cox has provided these maps in response to previous voluntary data requests. It does not have the ability to provide maps that just reflect lateral connections and the Commission has proffered no rationale why maps showing fiber routes and laterals would not be sufficient for its purposes. Making these changes to the data request would provide the Commission with the data it needs

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[15] Hattori Declaration at 5.

[16] Panepinto Declaration at 3 (emphasis added).

[17] NCTA Proposal at 1.

[18] *Id.*

to determine which geographic areas are experiencing competition and which are not, but it would achieve that goal in a far less burdensome manner.

2. Pricing Data

Questions A.12 – A.14 require competitive providers to submit detailed information on every rate they have charged to every single commercial customer in America for every month in 2010 and 2012, as well as information on each "adjustment, rebate, or true-up" to a bill (A.13). The high level of granularity specified in the data request exceeds what most companies would be able to produce simply by pulling data from their existing billing systems. Consequently, most companies would need to undertake a manual review of their billing records to locate and compile all the information necessary to respond to these questions. Moreover, the questions require competitive providers to break out pricing information based on rate elements used by incumbent LECs that reflect those companies' legacy network topology. Many competitive providers do not utilize these rate elements in their billing systems, creating a further burden as companies attempt to match their billing terminology to incumbent-centric rate elements. The Hattori Declaration provides a preliminary estimate for Cox of at least 2000 hours just to address the questions set forth in A.12.[19] Similarly, the Panepinto Declaration explains that Comcast "could require as much as 6 months" to complete the data gathering required for Questions A.12 and A.13 using three dedicated personnel, which "equates to a total in excess of 3,100 hours."[20]

There is no reasonable basis for imposing such a burdensome question on competitive providers. The requested pricing information is likely to have only limited relevance in determining the level of competition in the special access marketplace, let alone in determining how best to regulate the special access services offered by incumbent LECs, which has always

[19] Hattori Declaration at 7-8.

[20] Panepinto Declaration at 3.

been the focus of this proceeding. Consistent with the mandates of the PRA, if the Commission moves forward with collecting pricing information from competitive providers, it could obtain such data in a less burdensome manner by clarifying that companies are only obligated to provide billing data as it exists in their automated billing records and that there is no obligation to perform a manual review of every bill (or bill adjustment) they issued to every customer for every month of 2010 and 2012.[21]

3. Revenue Data

Question A.16 requires providers of special access services to submit information on revenue broken down by five different categories of bandwidth. Questions F.6 and F.7 require purchasers of special access service for expense information based on these same bandwidth categories. As explained in the Panepinto Declaration, companies do not routinely track the bandwidth level of their sales or purchases based on these categories (in part because it may change during the contract term) and therefore answering these questions would require a manual review of all tariffs and contracts to determine which category applies.[22] The Commission can address this concern by making clear that companies only are obligated to provide this detailed breakdown by bandwidth if they track such information in the normal course of business and that companies that do not track such data do not have to undertake a manual review of all of their sales contracts to create the information.

4. Location Data

Question 4 asks for a variety of detailed data regarding the locations served by providers of special access services, including the geocode for the location (Question 4(c)), information on

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[21] NCTA Proposal at 2.

[22] Panepinto Declaration at 3-4 ("Comcast personnel or contractors would need to look up each individual customer's sales order materials manually to determine the bandwidth purchased, and then correlate that back to the revenue reported on financial statements. . . . I estimate the cost of producing this information could be as high as $500,000 and would require approximately 8,750 man hours to complete.").

the type of location that is being served (e.g., building v. other structure, cell site or not) (Question 4(d)), and the amount of bandwidth sold at that location (Questions 4(g)-(j)). The Hattori Declaration estimates that for Cox alone to gather all the data requested in Question 4 will require roughly 500 hours of staff time.[23] This estimate is conservative because it does not fully take into account the extent to which physical visits to sites may be necessary to confirm the nature of the location. As NCTA has explained previously, a service provider may not always have the information needed to respond to this question without a site visit or a request to the customer.[24] Given that some companies serve hundreds, or even thousands, of customer locations, a requirement to undertake site visits or request information from customers will impose a significant burden. Comcast estimates that gathering the data for Question 4 "could result in expenses close to $450,000 and would require in excess of 15,000 man hours."[25] To address this concern and minimize the burden on respondents, the Commission should clarify that there is no obligation to answer Question 4(d) in cases where the provider does not possess such information in its existing records.

5. Marketing and RFP Data

Question A.10 requires the submission of all past and future marketing activities and plans through the end of 2014, while Question A.11 requires competitive providers to submit up to 15 winning responses to a Request for Proposals (RFP) (five in each of three categories) and 15 losing RFP responses. Not only do these questions seek information that is largely unnecessary and/or duplicative, as we discuss in Section II below, it also will be quite burdensome for most companies to gather this data. As explained in the Hattori and Panepinto

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[23] Hattori Declaration at 4.

[24] NCTA Proposal at 3; *see also* Panepinto Declaration at 4 ("[T]he information requested in part (d) is not currently tracked in any Comcast system.").

[25] Panepinto Declaration at 4.

Declarations, if a company does not have information regarding all of its marketing campaigns, responding to Question 10 will require extensive efforts at the local level to identify potentially responsive material.[26] Compiling RFP responses for Question 11 raises similar concerns, but answering that question also will require additional analysis to identify the subset of RFP responses that meets the criteria established in the question.[27]

The burden of these questions can be limited without sacrificing the value of the data for purposes of the Commission's analysis by significantly narrowing the universe of documents that must be searched. Specifically, as NCTA has proposed previously, the Commission should limit Question 10 to marketing data for 2013.[28] With respect to Question 11, the only winning RFP responses that are relevant are those where the facilities are not yet operational and therefore not reflected in the information provided in response to Questions 4 and 12. With respect to losing RFP responses, the Commission only should require submission of the customer location since the terms offered in an RFP that has not been chosen are irrelevant.

The Commission also should at most only require information about a sample of RFPs, rather than requiring ranking of the "largest" unsuccessful" RFPs or the "most recent" successful ones. Ranking the largest would require review of every single unsuccessful RFP, which would make the request much more burdensome and call for review of records that the companies may no longer have in their possession.[29] Similarly, the identity of the "most recent" successful RFPs would be constantly changing as the provider attempted to finalize its response. It should be

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[26] Hattori Declaration at 6 ("Cox does not maintain this information in any one database or any one location."); Panepinto Declaration at 4 ("Because of the manual nature of the work, it could take in excess of 1,400 man hours to gather the requested information from our 16 regions.").

[27] Hattori Declaration at 6-7.

[28] NCTA Proposal at 2.

[29] In no event should companies be required to rank RFPs by connection. As reflected in the Hattori Declaration, companies may not utilize connections as a way to measure the size of an RFP. Hattori Declaration at 7.

sufficient for the Commission to have data from a sample of successful and unsuccessful "recent" RFPs.

6. Purchaser Data - Tariff Category

Question F.3 asks for a detailed breakdown of how much service is purchased through seven different types of tariffs. Questions F.4 and F.5 ask similar questions based on three different types of competitive LEC tariffs (F.4) and three different types of contracts (F.5). Most companies do not routinely track the type of tariff based on these categories and therefore answering the question would require a manual review of all sellers' tariffs to determine which category applies. As explained in the Hattori Declaration, the complexity of the questions is "staggering," to the point that Cox was "unable to provide a good faith estimate for the length of time it might take Cox to respond."[30]

Because the LECs that provide these services are the best source for the data in Question F3, requiring purchasers to submit the same data is "unnecessarily duplicative" and therefore inconsistent with the PRA. Accordingly, the Commission should eliminate this question as NCTA proposed previously.[31] If the Commission retains the question, it should establish a far more limited set of categories and it should give respondents the option of simply identifying (rather than categorizing) the tariff through which service is purchased.[32]

7. Headquarters/Affiliate Data

Question A.9 seeks information on the headquarters location and affiliate structure of the company going back to 1995. Such data is irrelevant for the purpose of analyzing today's special access marketplace and compiling such information could be extremely burdensome for

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[30] Hattori Declaration at 9.

[31] NCTA Proposal at 3.

[32] *Id*.

many companies. Companies would be required to undertake a manual review of records and files going back almost 20 years to seek "information that is not readily available or normally maintained."[33] Unless the Commission can demonstrate that this information is in some way relevant to an analysis of the special access marketplace in 2013, it should eliminate this question. At a minimum, it should limit the question to information for the same two years as the rest of the questions in the data request – 2010 and 2012.[34]

C. Submitting Data in a Format Specified by the Commission Will Result in Additional Costs for All Respondents

As described above, compiling the data necessary to respond to the Commission's data request would impose extreme burdens on cable operators and other respondents. Beyond these burdens, however, companies also will be required to incur costs associated with submitting the data to the Commission in the format specified by the Commission. At this point, however, the Commission has provided no information whatsoever regarding this submission process. For example, respondents have not been provided with a draft set of instructions for how to submit the data nor have they been provided with any information about the data system the Commission is developing for receipt and storage of the data that is submitted. Without any of this information, companies have no ability to estimate the burden associated with this aspect of the data collection process, nor are they in any position to determine whether the Commission's estimate in the *PRA Notice* includes any of these costs. Before sending the data collection to OMB for approval, the Commission must provide interested parties with detailed information on the process for submitting data and it must include an estimate of the costs associated with that process in the documentation that it submits to OMB.

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[33] Panepinto Declaration at 4.

[34] NCTA Proposal at 4.

II. THE PROPOSED COLLECTION SEEKS DATA THAT IS NOT NECESSARY FOR ITS INTENDED PURPOSE AND THAT HAS NO PRACTICAL UTILITY

To obtain approval from OMB under the PRA, the Commission not only must demonstrate that it has taken steps to reduce the burden imposed by the proposed data collection, but also must demonstrate that all the information being collected is necessary for the proper functioning of the Commission and that it has actual (rather than merely theoretical or potential) practical utility. Below we identify a number of requests that fail to satisfy this standard.

A. Headquarters/Affiliate Data

Question A.9 seeks information on the headquarters location and affiliate structure of the company going back to 1995. Even if there were no burden associated with compiling this data (which is not the case), it is inconceivable that the Commission needs data of this nature going back to 1995 to perform an analysis of the special access market in 2013. As noted above, unless the Commission can explain the relevance of this information, the question should be eliminated or, at a minimum, the time frame of the question should be limited to cover only the two years covered by the rest of the data request – 2010 and 2012.

B. Marketing Data

Question A.10 requires the submission of all past and future marketing activities and plans through the end of 2014. Backward-looking information on marketing is irrelevant to the Commission's analysis because other questions will elicit information on the customers and locations that are actually served as a result of those marketing efforts. And future marketing plans, particularly plans two years in the future, generally are too speculative to use as the basis for regulation or deregulation; notably, in the context of the Connect America Fund, the Wireline

Competition Bureau has stated that a company's future plans are too speculative to consider.[35] Accordingly, the Commission should narrow the question to cover only marketing activities for 2013.

C. RFP Responses

Question A.11 requires competitive providers to submit up to 15 winning responses to an RFP and 15 losing RFP responses. The submission of winning responses seems unnecessary as the services provided to these customers should be reflected in the responses to other questions. While the existence of a losing RFP response arguably could be relevant because it demonstrates where a competitor might be able to serve, the terms of the losing offer are irrelevant. Accordingly, as NCTA proposed, Question 11 should be limited to those winning RFP responses where the facilities are not yet operational and the customer location associated with losing RFP responses.[36]

D. Comparison to Incumbent LEC Offerings

Question A.18 asks for a comparison of competitors' offerings to similar incumbent LEC offerings. The requested information is highly subjective and may not be within the ability of companies to provide. Competitive providers offer service pursuant to a wide variety of business arrangements, as do incumbent LECs. Responding to the Commission's vague question as to how a competitor's offerings compare to incumbent LEC offerings potentially would require a very burdensome analysis of various retail offerings. Alternatively, if such an analysis is not performed and a company responds with anecdotal comments, the response is unlikely to be helpful to the Commission's ultimate objective of performing a data-driven analysis of the

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[35] Public Notice, *Wireline Competition Bureau Seeks Comment on Procedures Relating to Areas Eligible for Funding and Election to Make a Statewide Commitment in Phase II of the Connect America Fund*, WC Docket No. 10-90, DA 12-2075 (Wireline Comp. Bur. Dec. 27, 2012) at ¶ 20.

[36] NCTA Proposal at 3.

special access marketplace. The Commission should eliminate this question or, at a minimum, change it to a voluntary request.[37]

E. Purchaser Data – Terms and Conditions

Question F.8 asks whether terms and conditions in incumbent LEC tariffs constrain the purchaser's ability to take certain actions. This question is not a data collection but rather requires respondents to make a series of subjective judgments regarding the potential effects of its vendor contracts on their business. Moreover, the Commission already has gathered ample commentary on this issue through the rulemaking process, most recently in the comments filed earlier this year in response to the *Report and Order and Further Notice*.[38] Accordingly, the information requested cannot possibly be necessary for the Commission to obtain, considering that it already has it. Any such information collection also is unnecessarily duplicative and should be eliminated from the data request or, at a minimum, changed to a voluntary request.

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[37] *Id*. at 4.

[38] *See, e.g*., Comments of BT Americas, Cbeyond, Earthlink, Integra, Level 3 and tw telecom, WC Docket No. 05-25 (filed Feb. 11, 2013).

CONCLUSION

NCTA appreciates that gathering data regarding the special access marketplace is necessary for the Commission to determine whether, and how, to regulate (or deregulate) the special access services offered by incumbent LECs. Unfortunately, the data request adopted by the Commission seeks a variety of information that is unnecessary to this purpose and it imposes overwhelming burdens on cable operators. To comply with the PRA, the Commission must modify the request so that it is more relevant to the task at hand and far less burdensome on respondents. To achieve this goal, we encourage the Commission to adopt the proposed revisions previously submitted by NCTA.

Respectfully submitted,

/s/ Steven F. Morris

Steven F. Morris
Jennifer K. McKee
National Cable & Telecommunications Association
25 Massachusetts Avenue, N.W. – Suite 100
Washington, DC 20001-1431

April 15, 2013

EXHIBIT A

DECLARATION OF ROBERT HATTORI

COX COMMUNICATIONS

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	
Special Access Rates for Price Cap Local Exchange Carriers	WC Docket No. 05-25
AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services	RM-10593

Declaration of Robert Hattori

1. My name is Robert Tod Hattori. I am Senior Director of Operations for Cox Business, a division of Cox Communications, Inc. ("Cox"). My current area of responsibility covers billing and revenue assurance. I have been employed at Cox for 18 years in various roles. Prior to joining Cox, I worked at Rockwell International in the Telecommunications Division. I started there in 1989, after graduating with a degree in Electrical Engineering from Southern Methodist University. In 1995, I began my career with Cox Fibernet in the Hampton Roads, Virginia location, where I was responsible for both network operations and customer care. My job responsibilities included management of the Hampton Roads transport and switching network. In addition, I oversaw back office functions that included order management, customer care, and billing. In 2002, I transferred to Cox Business' corporate office in Atlanta, Georgia with responsibility for nationwide back office and customer care functions. In my various positions, I have gained substantial experience and exposure to the processes that are used to order, provision, install, maintain, and bill telecommunications services. Based on this experience, Cox has assigned me primary responsibility for the collection and presentation of data to the Federal Communications Commission ("FCC" or "Commission") in response to its special access services mandatory data request if that request is approved by the OMB.

Introduction and Summary

2. I prepared this declaration to provide an estimate of the time and resources that Cox will be required to expend in order to respond to the special access mandatory data collection set forth in Appendix A to the FCC's December 18, 2012 Report and Order and Notice of Proposed Rulemaking, FCC 12-153 ("Order").

3. Based on my experience, I estimate that responding to the mandatory data collection will take approximately **8,400 hours** and entail costs of approximately **$1.5 million**. This is only a partial estimate. I was unable to estimate a response time for some of the most burdensome questions because the language of those requests was ambiguous or inapplicable to or irreconcilable with the type of record keeping Cox performs in the ordinary course of its

business. The costs include approximately $1.2 million in labor costs and approximately $350,000 to acquire and install additional software that may be required to cull and produce the requested data from Cox's existing databases. Substantial hours are needed to document software requirements, install the software on Cox's infrastructure, configure the database, conduct software training, develop reports, and perform quality checks to ensure data integrity.

4. The total time and resources identified above underestimate the ultimate burden. It not only excludes certain questions, as noted above, but also does not include the time needed to present the data in a form that may be requested by the Commission, nor does it include estimates from departments within Cox that may have to participate in preparation of the responses but have not yet been identified. As of the date of this declaration, the FCC has not made available information on the format that will be required for the submission of the data responses.

5. I understand that the FCC has estimated that, on average, carriers will only require 134 hours to respond to the data request. The Commission has not provided information on how it derived this estimate. Regardless, based on my assessment, the Commission's initial estimate is drastically less than the time required by Cox to provide the information requested.

6. To estimate the burden of this mandatory data collection, I reviewed each of the 37 specific questions applicable to Cox as (1) a provider of dedicated services; (2) a provider of best effort services; and (3) a purchaser of dedicated services. Most of the questions include numerous subparts. For example, question II.F.13, which requests information regarding the tariffs under which Cox may purchase special access services, has 25 subparts. Moreover, many questions call for information for two years -- 2010 and 2012. In developing my estimate, I analyzed the extent to which responsive data may exist in one of Cox's business databases and then estimated the time necessary to extract responsive data from one or more of those databases, including drafting queries or scripts as necessary to distill the relevant information. As further detailed in this declaration, a significant amount of the information requested does not exist in any of the Cox databases. To collect such information, Cox will be required to undertake extensive manual reviews of voluminous paper files, including carrier contracts, tariffs, and marketing materials, and/or conduct extensive interviews with engineers or marketing personnel in each of Cox's 21 markets. Finally, Cox does not possess some of the information requested in any form.

Cox's Business and Record Keeping Systems

7. Cox provides dedicated services, as that term is defined in the Commission's Order, in 21 markets across the United States. Cox has deployed thousands of fiber connections in those markets. Cox also provides best efforts business broadband Internet access services ("best efforts services"), as defined by the FCC, to small and medium-sized businesses utilizing its hybrid fiber coaxial ("HFC") cable and Ethernet over HFC. Cox also has deployed a relatively small number of dedicated service connections using its HFC cable plant or Ethernet over HFC. Cox is also a purchaser of dedicated services from other carriers that Cox uses to supplement its own facilities-based services. Cox has agreements to obtain such dedicated circuits in the form of indefeasible rights of use ("IRUs"), leases pursuant to tariffs or individual case basis ("ICB")

agreements, or as unbundled network elements ("UNEs"). Cox purchases such services or facilities from more than one hundred different carriers.

8. To respond to the various data requests, Cox would have to collect information from eight different databases that it uses to track its network inventory, enter and track orders, bill its retail business and wholesale carrier customers, and pay for and track circuits that Cox leases from other carriers. Each of these is a stand-alone database that is not integrated with the others because there is no need to do so in the normal course of business. Of the eight databases referenced above, Cox uses two separate databases to track network information. One database maintains information regarding active electronic equipment, such as circuit or packet switches, routers, and customer premises equipment, located in Cox facilities, collocation sites or customer locations. The other database contains an inventory of outside plant, both coaxial and fiber. Cox also utilizes two additional and unique databases for billing its customers. One is used to generate billing information for retail business customers, and another is used to generate bills for wholesale carrier customers. Order entry and workflow information is maintained in yet different databases. One database is used for markets outside California, while another maintains order and workflow information solely for Cox's three California markets. Cox utilizes another database to track leased circuit information. Cox also utilizes an Oracle database to generate certain types of business reports from the data maintained in Cox's network and billing databases. The FCC's mandatory data collection requires Cox to search, filter, and collect information from all of these different databases. Additionally, the information in the databases is only the starting point for completing the responses to the FCC's data request. Data extracts must be supplemented by manual review of paper documentation and personnel interviews, as specified below, in order to provide complete responses.

Burden Estimates Related to Specific Requests

9. The remainder of this declaration will provide estimates for the time required to respond to specific data requests and the basis for the estimate. I do not discuss each and every question or subpart. Instead, I will focus on those requests that I estimate will impose the greatest burdens.

Mandatory Data Collection Questions Posed to Competitive Providers

Location Information

10. The questions set forth at II.A.3 and II.A.4 of the FCC's mandatory data collection seek extremely detailed information regarding the *locations* where Cox has a *connection* capable of being used to provide a *dedicated service*. Each of the italicized terms in the preceding sentence is specifically defined in the FCC Order. The first step in attempting to respond to this set of questions, therefore involves analyzing, understanding, and then applying these specific definitions to the way Cox does business.

11. In preparing this burden estimate, I have assumed that Cox's best efforts services or other cable modem-based mass market broadband Internet access services provided over Cox's HFC network that do not provide *dedicated service* need not be counted as *connections* to *locations* based on the instructions in the data request. However, if Cox were required to make a

determination of whether such services were capable of providing a *dedicated service* and then provide the requested information regarding each *location* to which such a service terminates, this burden estimate would materially increase.

12. I estimate that total time to identify and collect the *location* and *connection* information required in question II.A.3 for 2010 and 2012 to be approximately 160 hours. This question asks for the number of *locations* to which Cox provided a *connection* as of December 31, 2010 and as of December 31, 2012 and is broken into several parts. It requires that *location/connection* information be separated into connections that Cox owns, connections using circuits leased under IRU arrangements, and connections using UNEs. The latter, in turn, requires the information to be provided separately for DS1 UNEs, DS3 UNEs and Unbundled Copper Loops. All of these different breakouts require additional time to write scripts and queries needed to sort and filter the data that is located in multiple databases in order to provide separate counts of locations served by Cox-owned facilities, IRUs, or UNEs. Moreover, because the FCC's definition of *connection* specifies that multiple dedicated communication paths serving one or more end users at a *location* should be counted as a single *connection*, additional time will be needed to identify and eliminate duplication for multiple circuits terminating to the same *location*.

13. The most time-consuming aspect of this specific data collection for Cox, however, is identifying and separately counting *locations* that Cox serves using circuits leased under IRU agreements. Cox's databases that will be used to identify *connections* to specific *locations* do not flag whether the circuit is leased pursuant to an IRU. Cox must, therefore, manually pull IRU paper records and/or interview regional engineers or sales managers that might have an "institutional memory" of locations served with circuits obtained from IRUs. The additional, time consuming steps of reviewing IRU paper records and interviewing knowledgeable personnel applies to a number of the FCC's proposed data collections, including the collection below, which requires Cox to identify not only where it is using an IRU (or UNE) but also to provide the name of the company leasing the fiber to Cox.

14. After providing information on the total number of *locations*, the FCC's data collection asks a number of questions relating to the nature of the *connection* and the *location* for each specific site. Specifically, question II.A.4 asks, for each location, the unique identification code, address, and "geocode" (*i.e.*, the longitude and latitude) of the *location*, the type of facility used to provide the *connection*, the total bandwidth provided to the *location* and, for multitenant *locations*, the bandwidth sold to each separate customer at the *location*. Altogether, question II.A.4 requests 10 separate items of data for each of Cox's locations for each of two years. I estimate that the time for collecting the numerous data points requested by question II.A.4 will total approximately 550 hours.

15. For Cox, the most onerous aspect of this data collection is the requirement to identify the type of *location* to which the *connection* terminates, for example, a building, a cell site, or a cell site on a building. Cox's databases do not contain this information; therefore, a physical visit would be the only way to definitively confirm the type of location at many sites. As a first step, Cox would need to pull a location address or geocode from its databases -- a task that, alone, I estimate would take approximately 220 hours total for both years. Cox would then need to look up that location on a web-based map site such as Google Maps. This process, however, would not provide definitive information regarding the nature of the location. For example, although

Google Maps might show a commercial office building associated with a street address or geocode coordinates, the map would not necessarily indicate whether there is a cell site on the roof that is being served at the location.

16. Moreover, some stand-alone cell sites, particularly in rural areas, may actually be located some distance from the street address or geocode. Unfortunately, based on my experience, cross-checking a location site with customer information would not necessarily provide accurate information. For example, identifying that a wireless carrier is a customer at a *location* would not confirm the existence of a cell site at that *location*. The wireless carrier customer could be purchasing a *dedicated service* from Cox for reasons other than cell-site backhaul. Thus, the only way to verify the type of *location* in many instances would be physically to visit the site.

Fiber Maps

17. Question II.A.5 of the mandatory data collection would require Cox to provide maps of its fiber network. It requests two types of fiber maps. One map would show fiber routes excluding routes followed by fiber to end user locations. I will call this a "backbone" fiber map. The FCC also asks for a separate map that shows fiber that connects to end user locations, which I call a "lateral" fiber map. Cox does not maintain separate maps for backbone fiber routes and lateral fiber routes. The maps that Cox maintains, and which it has produced in response to the FCC's prior voluntary data requests, show all of Cox's fiber. Cox does not have the ability reasonably to produce separate backbone and lateral maps because Cox's databases do not identify all of the splice points where the lateral fiber splits off from the backbone.

18. Similarly, Cox cannot reasonably identify every node on the network used to interconnect with any third party networks and the year that each node "went live," as the FCC requests. The FCC defines a node as "an aggregation point, a branch point, or a point of interconnection" and includes "LEC central offices, remote terminal locations, splice points (including, for example, at manholes), controlled environmental vaults, cable system headends, cable modem termination system (CMTS) locations, and facility hubs."

19. Cox's databases do not have information on where all nodes are located or when nodes "went live." Cox has tens of thousands of potential nodes, as that term is defined in the Order, on its network, but no information about all such nodes has been captured or maintained in its databases. Compliance with this request would, thus, require Cox personnel to walk substantial portions of the thousands of route miles in Cox's network and check each manhole or other possible splice point where Cox might interconnect with a third party.

20. As one example of the difficulty, Cox has entered into an agreement with a third party in its Virginia market to lease fiber. Pursuant to that agreement, every time Cox deploys a lateral connection from that fiber ring to a particular location, Cox must make that lateral connection available to the third party by splicing into that third party's fiber. That third-party splice location is not contained in any Cox database. Cox would thus have to walk portions of the route to check for all splice points and/or interview local personnel responsible for the relationship with that third party to attempt to determine where splice points might be located and when the splice point went live. Assuming all node locations could be identified, Cox maps would then have to be updated to reflect all such locations. Cox would have to undertake similar steps to

those in this example with respect to its entire network in order to produce separate backbone and lateral fiber maps.

21. Given the substantial uncertainties regarding the scope of this request, the steps likely to be required, including subsequent map revisions and scrubbing for accuracy, I did not include an estimate for the time and resources needed for compliance with this particular question in my 8400 hour time estimate.

Marketing and RFPs

22. Question II.A.10 of the FCC's mandatory data collection would require Cox to provide "data, maps, information, marketing materials, and/or documents identifying those geographic areas" in which Cox advertised or marketed *dedicated services* over existing, leased, or planned to be built facilities. The question calls for Cox to search its files for this information as of December 31, 2010 and as of December 31, 2012. Additionally, the question requires Cox to search its files for marketing materials as of December 31, 2010 that included plans to advertise or market Cox services in markets through December 31, 2012. It must then search its files as of December 31, 2012 for marketing materials containing that same analysis up through December 31, 2014.

23. Cox does not maintain this information in any one database or any one location. At best, Cox may be able to identify some marketing campaigns based on information it maintains in a database that is used when Cox conducts direct marketing campaigns for all of its services. To comply with this request, Cox will have to supplement whatever information it may be able to extract from this database and conduct a search of files and/or interview marketing managers for each of its 21 markets. I have conservatively estimated that this search and interview process will take approximately 120 hours. Even then, the reliability of the information may be suspect, particularly historical information going back a few years.

24. The FCC's data request also asks for extensive information relating to Cox's responses to RFPs. Specifically, question II.A.11 would require Cox to identify the five most recent successful RFPs and to provide this information separately for *dedicated services*, for best efforts services, and, finally, for any other form of high-capacity data service to business customers that differs from *dedicated services* or best effort services. The question would also require Cox to identify the five largest (by number of *connections*) RFPs for which Cox submitted an unsuccessful bid between 2010 and 2012 for each of *dedicated services*, best efforts services, or high capacity services that differ from *dedicated services* or best efforts services. Then, for each RFP identified, which could include up to 30 different RFPs, Cox must provide a description of the RFP, the area covered, the price offered, and "other competitively relevant information" as Cox may subjectively determine to be responsive. Finally, Cox must also identify the business rules it relied upon to determine whether to bid in response to an RFP.

25. The RFP data collection is extraordinarily burdensome. Cox does not maintain a centralized file of RFPs. To begin the process, Cox must consult with the marketing managers of each of its markets. Some markets have a person dedicated to RFPs, others do not. Cox must then conduct searches of files to locate RFPs and then must analyze the RFPs to respond to numerous questions posed. Because the information on RFPs is kept on a market-by-market

basis, the most recent RFPs for *dedicated services* and for best efforts services must be identified for each market and then a comparison made to determine overall the five most recent RFPs on a company-wide basis.

26. The burden for identifying successful RFPs, however, pales in comparison to the difficulties posed by the second part of the question regarding RFPs that Cox did not win. Cox may not have such information in many of its markets going all the way back to 2010. Nevertheless, Cox would have to undertake the search to check. For those RFPs submitted but not awarded that Cox can locate and identify through interviews or file searches, Cox must do a market-by-market assessment to isolate the "five largest" unsuccessful RFPs in each market measured by connections. Cox does not rank its RFPs generally and certainly does not do so in terms of number of connections, which is the metric that the FCC requires. As a result, some manipulation or judgment may be required to determine, subjectively, which were the "largest" RFPs by number of connections.

27. The burden is compounded by requiring RFPs not only for *dedicated services* but also for best effort services. Cox annually responds to hundreds of RFPs from schools, universities, hospitals, and other organizations seeking internet access services. Finally, assuming that the five largest unsuccessful RFPs can be identified for each market, then these must be compared against all other markets to determine the five largest unsuccessful RFPs for the company as a whole. In light of these difficulties, I have conservatively estimated 530 hours to respond to data collection related to RFPs. Although I have made this estimate, I cannot confirm at this point whether Cox has responsive information relating to the RFPs going all the way back to 2010 in all of its markets.

Billing Information

28. The FCC's mandatory request would require Cox to review 24 months of detailed billing information for *dedicated services* for calendar years 2010 and 2012. Question II.A.12, for example, would require Cox to submit 16 separate pieces of information "by rate element by circuit billed for each month from January 1 to December 31 for the years 2010 and 2012." The data request does not define a rate element but does reference common rate elements that incumbent local exchange carriers use in their own billing systems. Cox does not utilize the same rate element terminology in its billing systems that the ILECs use.

29. The first data point the FCC's data collection would require Cox to provide is the closing date of the monthly billing cycle, question A.12.a of the mandatory data request. Cox does not utilize a common bill closing date across all markets. Instead, each of its 21 markets utilizes multiple bill closing dates so as to not overwhelm the billing and IT groups. Thus, even a seemingly innocuous question such as the closing bill date requires filtering and culling from Cox's database used for billing retail customers and its separate billing database used for wholesale, carrier customers. I estimate providing closing billing dates "by rate element by circuit billed" will take about 250 hours for 2010 and 250 hours for 2012.

30. As noted, the requirement that Cox provide billing information by rate element creates ambiguity for a number of the questions included in this part of the data request. Cox utilizes thousands of unique billing codes that, among other things, identify specific service features.

The data request would appear to require Cox to attempt to match Cox's unique billing codes with a long list of rate elements that incumbent local exchange carriers use but Cox does not. Question II.A.14 provides that "[f]or each unique billing code, please provide . . . the billing code for each rate element." Cox would be required to "[s]elect the phrase that best describes [Cox's] rate element" from a long list of rate elements that the incumbent local exchange carriers utilize.

31. Among the rate elements used by ILECs that the FCC identifies are channel terminations, channel mileage, interoffice mileage, cross connects, multiplexing, special transport, customer port connections, and clear channel capability. Many of the unique billing codes that Cox uses do not fit any of those "phrases." Where Cox is unable to match one of its billing codes with one of the enumerated rate elements, the FCC data request would require Cox to provide a brief description of the rate element or billing code. Once the unique billing code has either been matched with one of the ILEC rate elements, or, if no match is possible, briefly described, the FCC requires this information to be inserted in response to question II.A.12.f (provide a "unique billing code for the rate element (*see* Questions II.A.14))" for each rate element for each month for calendar years 2010 and 2012.

32. Another of the billing-related data collection questions, question A.12.d, would require Cox to provide a "circuit ID common to all elements purchased in common for a particular circuit." I have estimated that providing this data will take approximately 500 hours for both years. Although a basic circuit identification can be pulled from Cox's network databases, it will take substantial time to eliminate internal circuits and undertake further scrubbing to accurately associate all billing elements for each specific circuit. All told, to the extent I have been able to provide estimates for the various requests contained in question II.A.12, I estimate approximately 2,000 hours to identify and collect the requested data.

33. The billing data requested in questions II.A.12.p and II.A.13 is particularly problematic. This question would require Cox to provide several specific data points for any instance in which a billing adjustment, true up, or rebate was provided with respect to any rate element for the 24 months of billing data requested. An adjustment, rebate, or true up may occur, for example, if the customer fails to satisfy a volume or term commitment or takes other action that would require some modification of a billed amount. Question II.A.12.p would require Cox to provide the "adjustment ID (or multiple adjustment IDs) linking [a] rate element to the unique out-of-cycle billing adjustments in question II.A.13.a. (below) if applicable." This question is too ambiguous to allow me to provide a time estimate at this point.

34. The set of questions in II.A.13, to the extent responsive information appears to be available to Cox, would require approximately 440 hours to compile. This is just for 2012. The information request would require Cox to pull information from each of its separate billing and order entry and workflow databases for each month for all of Cox's thousands of fiber circuits. My estimate would leave just minutes per circuit to identify, cull, analyze and present the information. The specific requests incorporated into this question include identifying when the adjustment began and ended, whether the adjustment applied to the entire circuit or just to certain rate elements, the dollar amount of the adjustment, and a brief description of the adjustment.

Mandatory Data Collection Posed to Purchasers

35. In addition to providing dedicated and best efforts services, Cox is a purchaser of *dedicated services*, both in the form of leased *dedicated services* purchased via tariffs or individual case basis arrangements, and UNEs. Cox purchases such services or facilities from more than 100 different providers. Cox must, therefore, address the 14 separate questions posed to purchasers of special access services.

36. Among the most problematic aspects of the FCC's data collection from purchasers are questions relating to the specific volume or term discount arrangements applicable to the different types and capacities of *dedicated services* purchased. For example, question F.3 would require Cox to calculate for DS1s, DS3s, and any packet-switched dedicated service the total dollar volume of purchases from ILECs. Cox would be required to provide separate responses depending on the nature of the provider's tariff or contract. Specifically, Cox would be required to separate purchases for one-month term rates only, tariff plans generally, contract-based tariffs, tariff plans that had term commitments but not volume commitments, tariff plans that have volume commitments but not term commitments, and tariff plans and contract tariffs that contain prior purchase-based commitments (and, for these commitments, calculate the average discount from month-by- month rates).

37. Cox's databases do not identify purchased services by these different categories. Therefore, Cox would have to manually review each purchased circuit to determine under which type of tariff plan it is purchased and then review the tariff to determine if the tariff has a volume commitment but not a term commitment or some form of prior purchase plan, etc. Cox will then have to total the dollar amount for all of these different categories of tariff plans separately for each of the DS1s, DS3s, and packet-switched services. At least for some of these services, Cox must then determine what the one-month term rate is under the tariff in order to inform the FCC of the price differential between the purchased price and a standard one month rate for a similar circuit. For purposes of this comparison, a circuit would have to be of the same capacity, roughly same mileage between end points and located in the same pricing zone as set forth in the applicable tariff. Finally, this must be done for 2010 and 2012, even though it may not be possible to determine what the tariff terms, which change constantly, were in 2010. The complexity of the questions is staggering. At this time, I am, therefore, unable to provide a good faith estimate for the length of time it might take Cox to respond.

38. In addition to the time estimates for actually collecting and presenting the requested data, Cox has spent approximately 102 hours preparing the estimates contained herein, over three-fourths of the average time the FCC has estimated for responding to the actual data request. I also consulted with approximately 20 different Cox employees across multiple functions to prepare the estimates and utilized significant outside counsel resources to guide the review.

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on April 15, 2013

Robert T. Hattori
Senior Director of Operations

EXHIBIT B

DECLARATION OF LISA PANEPINTO

COMCAST CORPORATION

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	
Special Access Rates for Price Cap Local Exchange Carriers	WC Docket No. 05-25
AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services	RM-10593

DECLARATION OF LISA PANEPINTO

1. I am Lisa Panepinto. I currently serve as Vice President of Performance Management for Comcast Business Services. I submit this declaration on behalf of the Comcast Corporation subsidiaries and affiliates whose operations are relevant to this proceeding (collectively "Comcast").

2. I have been with Comcast since 2000, serving in positions of increasing responsibility during my tenure with the company. In my current role, I lead business performance reporting and analysis for several business services operations, including technical operations, customer care, and service delivery. My responsibilities cut across operational units, and include all products and services we provide to small and medium sized businesses. I have been charged with project managing Comcast's assessment of the feasibility of and potential burdens associated with responding to the Commission's data collection questions in this proceeding.

3. Based on research conducted by 19 different management personnel (including myself), spanning a dozen functions within Comcast, I estimate that producing the data requested

in Appendix A of FCC No. 12-153 (at pp. 47-51) will require **more than 30,000 man hours** at a cost **in excess of $1.5 million**. If maps must be prepared in accordance with question II.A.5, then the total **man hours increase more than 15 times to over 500,000** and the expense increases more than **30 times to over $50 million.** This estimate does not include the additional man hours and expense associated with providing the data in the as-yet-to-be-specified format required by the FCC.

4. The estimated burdens and costs set forth herein are based on comprehensive (and painstaking) analyses conducted over a period of more than two months by Comcast's subject matter experts in the following areas: (1) engineering; (2) commercial sales; (3) business operations; (4) product deployment; (5) product management; (6) intercarrier billing; (7) end-user billing; (8) finance; (9) marketing; (10) legal; (11) order entry; and (12) provisioning. These experts have, in turn, analyzed the burdens and costs to extract the requested information from a myriad of back office systems including those used for: (1) order entry; (2) provisioning; (3) end user billing; (4) intercarrier billing; (5) inventory; and (6) financial reporting.

5. Under my management, Comcast subject matter experts were assigned the task of estimating the availability of the requested information, the hours required to extract the available information, and the cost of extracting the available information for: (1) the 19 questions (and more than 50 subparts) in section II.A.; (2) the 2 questions and their various subparts in section II.C; (3) the 3 questions and their various subparts in section II.D; and (4) the 7 questions and their subparts in section II.F. The questions relate to Comcast's provision of high-capacity services and best efforts broadband Internet access services, as well as our purchase of high-capacity services on a wholesale basis.

6. Several items contained in the request for data are not currently maintained and would be particularly burdensome in terms of both cost and man hours to produce.

7. **Section II.A.5**: Comcast does not maintain maps with this level of detail and such maps would require extensive effort and financial resources to create. There is no single inventory system that contains all of the company's network elements to this level of granularity, nor is there a map that contains such elements in conjunction with all points used to interconnect with third party networks. The production of such maps would require individuals to physically survey the Comcast service territory in each of our approximately 6,400 franchise areas. The cost of these surveys could be in excess of $50 million based on costs per mile of several hundred dollars depending upon whether the plant is underground or aerial.

8. **Section II.A.12-13**: Much of the billing information requested in these sections is unavailable or could only be extracted at significant expense. Comcast has three bill cycles per month for the affected services and each will need to be evaluated for the impacted product sets. Additional efforts may also be required to restore archived data for historical information. Finally, Comcast would have to manually ensure that each data extract tied to a particular invoice, a significant and time-consuming effort. This effort alone could require as much as 6 months to complete using 3 dedicated internal resources. Our estimate equates to a total in excess of 3,100 hours.

9. **Section II.A.16**: To break down revenues into the bandwidth categories requested in this question would be extremely burdensome, and potentially impossible. Comcast personnel or contractors would need to look up each individual customer's sales order materials manually to determine the bandwidth purchased, and then correlate that back to the revenue

reported on financial statements. A substantial number of employees would be required to conduct this collection, and using full time employees would prevent those individuals from performing their normal daily work tasks. I estimate that the cost of producing this information could be as high as $500,000 and would require approximately 8,750 man hours to complete.

10. **Section II.A.4**: While some of the information requested in this question is obtainable from Comcast systems, the information requested in part (d) is not currently tracked in any Comcast system. As a result, it would require a site visit to each individual location to be able to ascertain the location type. Likewise, parts (e), (f), and (g) would require manual intervention to review each location. In addition, part (c) of the request would require Comcast to contract with a third-party vendor to determine the geocode associated with each location. It is my understanding that gathering the data for this request could result in expenses close to $450,000 and would require in excess of 15,000 man hours.

11. **Section II.A.10**: Answering this question would require Comcast personnel to cull through hard copy marketing materials. Because of the manual nature of the work, it could take in excess of 1,400 man hours to gather the requested information from our 16 regions.

12. **Miscellaneous, Including Section II.A.9**: Numerous other data requests seek information that is not readily available or normally maintained, such as the affiliate information sought in Section II.A.9. Simply attempting to assess the burdens and costs associated with those requests would be significant.

13. In addition to the specific questions addressed above, Comcast would also be required to provide information about its best-efforts Internet access service as well as the services that Comcast purchases as a consumer of dedicated services. While I have not

addressed those requests specifically in this declaration, the retrieval of this information will place significant time and expense burdens on Comcast because Comcast does not track its purchases or expenses according to whether they were made pursuant to tariffs or contracts, nor do its databases contain information regarding volume or term discounts.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

/s/ *Lisa Panepinto*

_____

Lisa Panepinto

Dated: April 15, 2013

EXHIBIT C

NCTA PROPOSED REVISIONS TO

SPECIAL ACCESS DATA REQUEST

National Cable & Telecommunications Association
25 Massachusetts Avenue, NW – Suite 100
Washington, DC 20001
(202) 222-2300

www.ncta.com

Steven F. Morris
Vice President and Associate General Counsel

(202) 222-2454
(202) 222-2446 Fax

March 22, 2013

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Special Access for Price Cap Local Exchange Carriers, WC Docket No. 05-25

Dear Ms. Dortch:

On March 21, 2013, James Assey, Jennifer McKee and the undersigned, on behalf of the National Cable & Telecommunications Association (NCTA), along with Grace Koh of Cox, met with Michael Steffen, Legal Advisor to Chairman Genachowski, and Julie Veach, Deena Shetler, Eric Ralph, Jamie Susskind, Rachel Kazan, and William Layton of the Wireline Competition Bureau regarding the mandatory data request the Commission adopted in the above-referenced proceeding.

NCTA reiterated its concern that the data request contained in Appendix A of the Commission's *Report and Order and Further Notice of Proposed Rulemaking* would impose extremely costly and excessive burdens on the cable industry that violate the requirements of the Paperwork Reduction Act. To address this concern, NCTA distributed the attached document – ***NCTA Proposed Revisions to Special Access Data Request*** – which proposes a number of revisions to the data request that are intended to reduce the burden on cable operator respondents while still providing the Commission with the information needed to analyze the state of the special access marketplace. NCTA also discussed the importance of making clear that cable operator respondents will not be expected to provide material that they do not possess or that they cannot easily compile, and that penalties will not be imposed on entities that make a good faith effort to comply with the data request.

Respectfully submitted,

/s/ Steven F. Morris

Steven F. Morris

cc: Michael Steffen
Deena Shetler
William Layton
Jamie Susskind
Julie Veach
Eric Ralph
Rachel Kazan

NCTA PROPOSED REVISIONS TO SPECIAL ACCESS DATA REQUEST

- The following proposal is offered in an effort to provide the Commission with meaningful data about the cable industry's role in the marketplace for high-capacity business services while reducing the extreme burden on cable operators attributable to the current version of the data request (preliminary estimates approach $100 million).
- Because the Commission never solicited comment on the specific questions contained in the mandatory data request,[1] it is particularly important for the Bureau to exercise its delegated authority to "amend the data collection based on feedback received through the PRA process."[2]

ISSUE	CONCERN	PROPOSAL
A. Maps (A5)	The current requirement asks for maps that are more detailed than what our companies currently use in operating their business and it would cost tens of millions of dollars to create responsive maps. In particular, identifying fiber routes and interconnection points at the street/manhole level requires expensive site visits. Aggregating such detailed maps at the Commission also raises data security concerns.	The Commission should eliminate the obligation to identify nodes used as interconnection points and the date when nodes were placed in service. It also should clarify that companies have no obligation to create new maps and that they may submit (1) existing network maps that are in their possession; or (2) a list or "airline" map showing the network footprint (headend locations and customer locations served by those headends).

[1] The 2005 NPRM specifically stated that it "does not contain proposed information collection(s) subject to the Paperwork Reduction Act" and the 2012 FNPRM adopted the data request without seeking comment.

[2] FNPRM at ¶ 52.

ISSUE	CONCERN	PROPOSAL
B. Pricing Data (A12-14)	We believe the Commission can analyze the reasonableness of incumbent LEC pricing without requiring competitive providers to submit information on every rate they charge to every single commercial customer in America. The questions seek far more detail than is reasonable, such as requiring data for each month of the year (Q12) and information on each "adjustment, rebate, or true-up" to a bill (Q13), which will require companies to review every single bill they have sent.	We believe that competitors' prices are not necessary to determine whether an ILEC has market power in a given area, but if the Commission collects pricing data, it only should require submission of data as it exists in a provider's automated billing records. It also should clarify that companies that do not bill for individual rate elements need not provide data at the rate element level.
C. Marketing Materials (A10)	We read the question to require the submission of all past and future marketing activities and plans through the end of 2014. We think backward-looking information on marketing is irrelevant because the request seeks information on the customers and locations that are actually served. We also think future marketing plans, particularly plans two years in the future, generally are too speculative to use as the basis for regulation or deregulation. We note that in the CAF context the Commission has said that any future plans are too speculative to consider.	The Commission should revise the question to seek only information on marketing plans for 2013.

ISSUE	CONCERN	PROPOSAL
D. RFP Responses (A11)	The request requires competitive providers to submit up to 15 winning RFP responses and 15 losing RFP responses. The submission of winning responses seems unnecessary as the services provided to these customers should be reflected in the responses to other questions. While the existence of a losing RFP response arguably could be relevant because it demonstrates where a competitor might be able to serve, the terms of the losing offer would seem to be irrelevant.	With respect to winning RFP bids, the Commission only should require the submission of information on wins that are not yet operational and therefore not reflected in customer/location data. With respect to losing RFP bids, the Commission should limit the request solely to identifying the location of losing RFP proposals, but not the terms, which are irrelevant.
E. Location type (A4d)	This question seeks information on the type of location that is being served (e.g., building v. other structure, cell site or not). In some cases, however, a provider may not have the information needed to respond to this question without a site visit or a request to the customer, both of which would be unnecessarily burdensome.	The Commission should clarify that there is no obligation to answer this question in cases where the provider does not possess such information in its existing records.
F. Purchaser Data – Tariff Category (F3)	This question asks for a detailed breakdown of how much service is purchased through seven different types of tariffs. Most companies do not routinely track the type of tariff based on these categories and therefore answering the question would require a manual review of all tariffs to determine which category applies. Questions F4 and F5 ask similar questions based on three different types of CLEC tariffs (F4) and three different types of contracts (F5).	The best source for the data in Question F3 is the incumbent LECs and the Commission should not burden purchasers with submitting the same data. If the Commission does not eliminate the question, it should establish a far more limited set of categories and it should give respondents the option of simply identifying (rather than categorizing) the tariff through which service is purchased.

ISSUE	CONCERN	PROPOSAL
G. Revenue Data – Bandwidth Category (A16) **H. Purchaser Data – Bandwidth Category (F6, F7)**	Question A9 asks for revenue broken down by five different categories of bandwidth. Questions F6 and F7 ask for purchase information based on these same categories. Most companies do not routinely track the bandwidth level of their sales or purchases based on these categories (in part because it may change during the contract term) and therefore answering these questions would require a manual review of all tariffs and contracts to determine which category applies.	The Commission should clarify that companies only are required to provide these breakdowns where such data is tracked in the normal course of business. Where a company does not track sales or purchases based on the bandwidth level, there should be no obligation to break down revenue or expense data by these categories.
I. Headquarters location and affiliate relationships (A9)	The question seeks information on the headquarters location and affiliate structure of the company going back to 1995. It is inconceivable that the Commission needs data of this nature going back to 1995 to perform an analysis of the special access market in 2013. Moreover, given consolidation in the industry since that time, it could be tremendously burdensome to find or create this information.	The Commission should eliminate the requirement to report this data or, at a minimum, limit it to 2010 and 2012.
J. Comparison to ILEC offerings (A18)	The question asks for a comparison of competitors offerings to similar ILEC offerings. The requested information is highly subjective and may not be within the ability of companies to provide.	The Commission should eliminate this question or make it voluntary.

ISSUE	CONCERN	PROPOSAL
K. Purchaser Data – Terms and Conditions (F8)	The question asks whether terms and conditions in ILEC tariffs constrain the purchaser's ability to take certain actions. The requested information is highly subjective and potentially burdensome because it requires detailed analysis by business executives.	The Commission should eliminate this question or make it voluntary.
L. Instructions and Data System	Without seeing the instructions for submitting data and in the absence of any public information about the data system the Commission is developing, we are in the dark on significant aspects of the data collection process.	We would like a commitment from the Commission that we will be provided this information in a timely manner and that the Commission will be open to considering changes as needed to eliminate unnecessary burdens.