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January 9, 2014

VIA ECFS

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Special Access, WC Docket No. 05-25

Dear Ms. Dortch:

On January 8, 2014, the American Cable Association (ACA) submitted the attached comments to the Office of Management and Budget. We respectfully request that these comments be included in the record of the above-referenced proceeding.

Please contact the undersigned should you have any questions concerning this filing.

Sincerely,

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REDACTED - FOR PUBLIC INSPECTION

Before the
Office of Management and Budget
Washington, DC

Comprehensive Market Data Collection for Interstate Special Access Services	)	FCC 12-153
	)	OMB Control Number: 3060-XXXX

PAPERWORK REDUCTION ACT COMMENTS OF THE AMERICAN CABLE ASSOCIATION ON FCC 12-153, OMB CONTROL NO. 3060-XXXX

I. INTRODUCTION AND SUMMARY – BECAUSE THE MANDATORY SPECIAL ACCESS DATA COLLECTION IMPOSES EXCESSIVE BURDENS ON SMALL CABLE OPERATORS IN RELATION TO THE VALUE OF THE INFORMATION REQUESTED, IT VIOLATES THE PAPERWORK REDUCTION ACT

The American Cable Association ("ACA") submits these Paperwork Reduction Act ("PRA")[1] comments in response to the notice[2] seeking comment on the information the Federal Communications Commission ("Commission") proposes to collect about the market for

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1 44 U.S.C. §§ 3501-3520. The PRA's purposes include: minimizing the federal paperwork burden on individuals, small businesses, and other governmental entities; ensuring the greatest public benefit from information collected by the federal government; coordinating federal information resources management policies; and improving the quality of federal information and the use thereof. *See* 44 U.S.C. § 3501(1). The statute defines the term "burden" broadly, including "time, effort, and financial resources expended by persons to generate, maintain, or provide information." 44 U.S.C. § 3502(2). In addition, the statute requires federal agencies to reduce the burden to the extent practicable with respect to small entities. *See* 44 U.S.C. § 3506(c)(3)(C).

2 Information Collection Being Submitted for Review and Approval to the Office of Management and Budget, Federal Register Notice, Federal Register, Vol. 78. No. 236, at 73861-73862 (Dec. 9, 2013) ("*FR Notice*").

interstate special access services pursuant to its December 2012 Report and Order[3] and its Wireline Competition Bureau's September 2013 Report and Order.[4] The proposed mandatory information collection is contained in Appendix B of the *Bureau Order* and instructions for the request are in Appendix A. The Commission submits that the collection of "the data, information, and documents acquired through this new collection will aid the Commission in conducting a comprehensive evaluation of special access competition and updating its rules for pricing flexibility for special access services."[5]

The Commission's proposed comprehensive special access data collection is mandatory for providers of Dedicated Services and Best Efforts Internet Service to business customers. The *FR Notice* states that approximately 6,400 entities are expected to respond and that the average time required for each respondent to complete the request is 146 hours.[6] The *FR Notice* provides no background on how the Commission arrived at these numbers. The *FR Notice* states, among other things, that comment is requested on "the accuracy of the Commission's burden estimates," "ways to minimize the burden of the collection of information on the respondents," and "ways to

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3 *See Special Access for Price Cap Local Exchange Carriers et al.*, WC Docket No. 05-25 et al., Report and Order and Further Notice of Proposed Rulemaking, FCC 12-253 (Dec. 18, 2012) ("*FCC Order*").

4 *Special Access for Price Cap Local Exchange Carriers et al.*, WC Docket No. 05-25 et al., Report and Order, DA 13-1909 (Sept. 18, 2013) ("*Bureau Order*"). The *Bureau Order* sought to clarify the original data collection request and reduce it "where doing so is consistent with our delegated authority and not impact the Commission's ability to analyze the data." *FR Notice* at 73862. As discussed herein, because the Bureau's action was pursuant to sharply defined delegated authority which restricted its ability to amend the data collection in response to comments about the enormous burdens it would impose on smaller providers, its changes were at most modest.

5 *FR Notice* at 73862.

6 This is an increase from the estimate of 134 hours contained in the Federal Register Notice published earlier this year. *See* Information Collection(s) Being Reviewed by the Federal Communications Commission Comments Request, Federal Register Notice, Federal Register, Vol. 78. No. 29, at 9911-9912 (Feb. 12, 2013).

further reduce the information burden on small business concerns with fewer than 25 employees."[7]

ACA represents approximately 850 small cable providers offering communications service throughout the United States. Based on the attributes of members sampled for purposes of these comments, it estimates that between 100 to 150 of its members provide Dedicated or Best Efforts services to business customers and will need to respond to the Commission's data collection. Nearly all of these operators would qualify as small cable companies.[8] As such, it has a substantial interest in the outcome of PRA review. To understand the burdens of the data collection, ACA has had lengthy exchanges with its members who have carefully reviewed the questions in the collection request. As part of this submission, ACA includes declarations from four of its members – three of whom qualify as small business concerns – who have reviewed the tasks required to comply with the request and estimated the time and resources required to respond.[9]

The proposed collection of information is set forth in great detail in the 31 pages of Appendix B with a series of highly technical definitions and set of complex, often multi-part,

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7 *FR Notice* at 73861.

8 *See FCC Order*, Appendix B, ¶ 54.

9 *See* Exhibit containing Declaration of Michael Edl, Chief Technology Officer, ImOn Communications ("ImOn Declaration"); Declaration of John Higginbotham, Superintendent Cable/Telecommunications, Frankfort Plant Board ("Frankfort Declaration"); Declaration of Richard Sjoberg, ¶ 4 ("Sjoberg Declaration"); and Declaration of Ryan Pearson, Harron Communications, L.P. d/b/a MetroCast Communications ("MetroCast Declaration"). The ImOn and Frankfort Declarations were prepared earlier in the year and were filed at the FCC. Even though they were prepared in response to the data collection request in the *FCC Order*, because the request did not change materially in the *Bureau Order*, they remain relevant, especially in regard to questions related to fiber maps, building locations, and billing records.

questions. The instructions in Appendix A run 79 pages. As discussed at length herein, the average estimate of the time to respond – 146 hours – is significantly below that of the members ACA has sampled. Based on lengthy reviews of Appendix B by its members, ACA estimates the average small operator will take between 500-1500 hours to respond. In large measure, this is due to the fact that small cable operators do not collect and store in the normal course of business much of the information the Commission seeks and so will need to generate it for the first time in response to the data collection. This would be in addition to the time required to read the request and instructions, understand the terminology (which is alien to many small cable operators who only recently began to offer Dedicated Services, may use different technologies to provide the services, and may be subject to different regulatory requirements), and determine what it will take to comply. One cable operator with approximately **CONFIDENTIAL** [redacted] **CONFIDENTIAL** customers had informed ACA that its staff spent 100 hours to understand the data collection in the *FCC Order* and that did not contain the lengthy instructions.[10] Another cable operator with fewer than **CONFIDENTIAL** [redacted] **CONFIDENTIAL** customers spent 60 hours to just review data collection and determine how it would respond.[11]

Since the *FR Notice* provides no support for the estimates and the Commission has yet to provide any, ACA can only surmise as to the reason for the large discrepancy between the estimates of ACA members and that contained in the notice. First, it appears that the Commission estimated the burden by taking an average for the 6,400 respondents. Since most of these respondents likely can respond relatively quickly, the average estimated time per response

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10 *See* ImOn Declaration, ¶ 4. MetroCast states that it has spent 71 hours so far. *See* MetroCast Declaration, ¶ 4.

11 *See* Sjoberg Declaration, ¶ 4.

vastly understates and distorts the actual burdens on the other respondents, including small cable operators. In addition, as noted above, it may be that the Commission did not understand and account for the fact that most all small operators do not collect the information requested by the Commission in the normal course of business, *e.g.* Shapefiles of fiber maps. That is, the information is not the operator's current data base and will need to be created for the first time in response to the Commission's mandate.

The cost of gathering, collating, and formatting much of the data in the information collection, including the information on fiber routes and nodes, business locations, and billing records, will be very large for small cable operators – in fact disproportionately large in comparison to the revenues from Dedicated Services that these operators receive. From the declarations of ACA members attached hereto, the total effective cost for these small operators to respond is estimated to range from approximately $35,000 for the smallest operator to well over $1 million for the largest of these smaller providers. This cost is clearly excessive –

- in absolute terms for smaller entities
- in terms of the value of the information produced for this cost
    - because much of the information required for the Commission's analysis can be found in information kept by these operators in their normal course of business
    - because it represents a considerable portion of revenues these operators receive from their provision of Dedicated and Best Efforts services
    - because it will lessen their ability to build networks to provide additional or improved Dedicated and Best Efforts services.[12]

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12 These substantial costs also are troublesome since these small operators did not request the Commission's examination of the special access market, and few, if any, that compete in this market will benefit from any Commission regulation of special access services.

Not only does the data collection impose such large burdens on small cable operators, these operators have limited market presence and are willing to produce information that they collect in the normal course of business. As such, ACA submits the proposed data collection is not compliant with PRA, especially the directive to minimize the paperwork burden for smaller entities. It needs to be extensively revised before it is issued.[13]

In sum, because the Commission has largely abdicated its responsibilities under the PRA to balance the need for the information in the data collection with the burdens imposed, OMB needs to undertake this task. Moreover, OMB should find that the key parts of the proposed data collection impose undue burdens on small cable operators in violation of the PRA – especially in light of the limited value of the information sought by the collection – and that the Commission should not proceed with those parts of the data collection. In the remainder of this submission, ACA provides greater detail on those burdens of the data collection on small cable operators and proposes how OMB could alleviate these burdens consistent with the Commission's desire to gather the information.

II. SPECIFIC BURDENS IMPOSED ON SMALL CABLE OPERATORS BY THE PROPOSED DATA COLLECTION

So that it could provide more accurate information to OMB and the Commission about the burden imposed by the mandatory data collection, ACA reached out to many of its members

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[13] A central purpose of the PRA is to minimize the "paperwork" burden for reporting entities, and the Commission has an obligation to ensure this objective is achieved. Unfortunately, the Commission has not provided any background information on how it arrived at its estimates and whether it attempted to select the least intrusive means of collecting the information, especially from smaller entities. Because of this lack of transparency, ACA is unable to match with any precision the time its members believe will be required to respond to each question with that estimated by the Commission.

that provide Dedicated Services and Best Efforts service to business customers and thus need to comply with the data collection. As indicated above, included as an exhibit to this filing are declarations from four smaller cable operators, MetroCast Communications ("MetroCast"), Sjoberg's Inc. ("Sjoberg"), Frankfort Plant Board ("Frankfort"), and ImOn Communications ("ImOn"). In these declarations, the four operators provide their estimates of the time and resources required to respond to the data collection and the reasons for these estimates. ACA also sought to confirm whether the information provided in these declarations reflects the concerns of other ACA members. It therefore canvassed another dozen members on the issues raised by the four operators. These other members confirmed that they too would generally suffer the same burdens as those identified by these four operators.

Background on the Four Small Cable Operator Declarants

MetroCast provides video, voice, broadband services and other communications services in nine states to approximately **CONFIDENTIAL** [redacted] **CONFIDENTIAL** customers overall, approximately **CONFIDENTIAL** [redacted] **CONFIDENTIAL** of whom take broadband service.[14] From the provision of Dedicated Services, it has annual revenues of approximately **CONFIDENTIAL** [redacted] **CONFIDENTIAL** and from Best Efforts service to business customers, approximately **CONFIDENTIAL** [redacted] **CONFIDENTIAL**.[15]

Sjoberg provides video, voice, broadband services and other communications services to approximately **CONFIDENTIAL** [redacted] **CONFIDENTIAL** customers overall,

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14 *See* MetroCast Declaration, ¶¶ 1, 2.

15 *See id.*, ¶ 3.

CONFIDENTIAL [redacted] **CONFIDENTIAL** of whom take broadband service.[16] From the provision of Dedicated Services, it has annual revenues of approximately **CONFIDENTIAL** [redacted] **CONFIDENTIAL** and from Best Efforts service to business customers, approximately **CONFIDENTIAL** [redacted] **CONFIDENTIAL.**[17]

Frankfort is a municipal utility providing video, voice, and broadband services to approximately **CONFIDENTIAL** [redacted] **CONFIDENTIAL** customers overall, **CONFIDENTIAL** [redacted] **CONFIDENTIAL** of whom take broadband service.[18] From the provision of Dedicated Services, it has annual revenues of approximately **CONFIDENTIAL** [redacted] **CONFIDENTIAL**; from Best Efforts service to business customers, approximately **CONFIDENTIAL** [redacted] **CONFIDENTIAL.**[19]

ImOn provides video, voice, and broadband services to approximately **CONFIDENTIAL** [redacted] **CONFIDENTIAL** customers, Best Efforts service to approximately **CONFIDENTIAL** [redacted] **CONFIDENTIAL** business customers and Dedicated Services to approximately **CONFIDENTIAL** [redacted] **CONFIDENTIAL** customers.[20] It is unable to breakout revenues from Dedicated Services or Best Efforts service to business customers.

The Burdens Begin in Just Understanding the Data Collection

Before delving into the problems faced by MetroCast, Sjoberg, Frankfort, ImOn, and other ACA members in gathering and submitting the information required by the request, it is

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16 *See* Sjoberg Declaration, ¶ 2.

17 *See id.*, ¶ 3.

18 *See* Frankfort Declaration, ¶ 2.

19 *See id.*, ¶ 3.

20 *See* ImOn Declaration, ¶ 2.

important for the OMB to understand that the burden on these smaller operators begins from the outset, when they read and attempt to understand the information request.[21] This is far from a trivial exercise, particularly for entities like MetroCast, Sjoberg, Frankfort and ImOn that do not have staff dedicated to regulatory compliance. As a result, these providers were not familiar with terminology used in the request, and they were overwhelmed by the complexity of the questions. This caused these small cable operators to reference frequently the 31 page data collection and 79 page instructions and have lengthy internal discussions and follow-up calls with ACA about what was required to comply. For instance, ImOn declared that it took about 100 hours to evaluate the information request and determine the time and cost to respond,[22] and Sjoberg took 60 hours.[23] From any objective standpoint, this by itself is excessive for small providers.

Details of the Major Burdens of the Data Collection

The fundamental problem MetroCast, Sjoberg, Frankfort, ImOn, and other ACA

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21 Smaller cable operators are not the only respondents that have difficulty understanding the information request. A number of major telecommunications providers, which have many individuals dedicated solely to dealing with federal regulatory matters and which frequently advocate before the Commission, including in the special access proceeding, have visited Commission staff over the past months trying to clarify and understand the information request. *See e.g.*, *Ex Parte* Letter from Frederick E. Moacdieh, Verizon, WC Docket No. 05-25 and RM-10593 (Apr. 10, 2013); *Ex Parte* Letter from Jay Bennett, AT&T, WC Docket No. 05-25 and RM-10593 (Jan. 15, 2013); *Ex Parte* Letter from Maggie McCready, Verizon, WC Docket No. 05-25 and RM-10593 (Jan. 15, 2013); *Ex Parte* Letter from Thomas Jones, Attorney for tw telecom, inc., WC Docket No. 05-25 and RM-10593 (Jan. 10, 2013); *Ex Parte* Letter from Eric Branfman, Counsel for Level 3 Communications, LLC, WC Docket No. 05-25 and RM-10593 (Jan. 9, 2013); and *Ex Parte* Letter from Paul Margie, Counsel for Sprint Nextel Corporation, WC Docket No. 05-25 and RM-10593 (Jan. 9, 2013).

22 *See* ImOn Declaration, ¶ 4.

23 *See* Sjoberg Declaration, ¶ 4.

members have with the information collection is that they do not collect much of the information in the normal course of business. As such, to comply with the data collection, these small operators will need to spend significant time and resources to create it for the first time. These new efforts lie principally in three areas: fiber maps, location information, and billing and revenues information.

Fiber Maps

The data collection (Question II.A.5) requires respondents to provide maps of their networks, including fiber that is owned or leased pursuant to an IRU agreement and all Nodes used to interconnect to third party networks, and the year the Node went live. The Bureau clarified that it was seeking "data on streets and paths traversed by fiber," and it stated that it expected cable operators "would know the streets and names where their fiber runs without having to conduct site surveys."[24] The Bureau continued to require that cable operators submit Shapefile mapping data.[25] The Bureau rejected the request of NCTA and ACA to provide existing maps, finding this would "substantially increase the burden on Commission staff" and "divert resources from analyzing the data."[26]

The Bureau's assumption that cable operators know where their fiber traverses without conducting a site survey is not accurate. In many instances, cable operators do not install fiber themselves but rely on third party construction entities, and they largely leave the particular routes to the discretion of those entities so long as the proper points are connected and the proper authorizations are received. Not only may they not have maps, the field crews for these third

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24 *Bureau Order*, ¶ 38.

25 *See id.*

26 *Id.*, ¶ 39.

parties do not often accurately map their routes.

A recent example highlights this problem.[27] In Storm Lake, Iowa, a contractor installing sewer pipe unexpectedly found it had to deal with a fiber cable from the local cable operator. Apparently, the cable operator hired a contractor to install the line, and the contractor contracted that job to a subcontractor who did not place the line in the intended location. The cable operator admitted this was not the first time this occurred.

The problem that an operator building the network does not collect and store adequate or accurate information becomes exacerbated when these networks are acquired by other entities. This is the case for MetroCast, which acquired multiple systems in the past 15 years. Since its engineering unit did not oversee the initial network design or construction for most of its networks, it only has the information provided by the seller, which in many instances is just a paper map and which may be out of date.[28]

Even assuming the maps are accurate, the Bureau also vastly underestimates the time and resources required to turn them into Shapefile mapping data. None of the four declarants have maps in this format. MetroCast contacted a contractor to estimate what was required to perform this task, including the location of Nodes, and found it would take approximately 29,760 person hours and cost approximately $1.5 million.[29] From any objective viewpoint, as MetroCast states, this is a "monumental and incredibly costly task."[30] For the smaller operator Sjoberg, the cost to

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27 *See* "Knology cable intrudes, City has to pay," Pilot-Tribune (Oct. 11, 2013) available at: http://www.stormlakepilottributne.com/story/2013158.html.

28 *See* MetroCast Declaration, ¶ 5.

29 *See id.* While the time and costs for MetroCast may seem inordinately high, MetroCast is much larger than the other declarants, and so they should not be viewed as anomalous.

30 *Id.*

produce the Shapefile map was approximately $62,000 and Node data an additional $1,875.[31] Frankfort determined it would need, among other activities, to review its many end user agreements to determine routes, Nodes, and dates of service initiation for each Node. The entire exercise of gathering data and generating the maps would take Frankfort approximately 180 hours.[32] ImOn "has some maps of its fiber routes showing its most recent hubs (3 out of the 26), but it does not currently have the maps required by the mandatory data request."[33] ImOn estimates it would need to spend 80 hours on the fiber map tasks.[34]

Of the ACA members surveyed, almost none had Shapefile mapping data. Further, no operator had complete information about nodes. Thus, their experience does not differ much from the four declarants, and this information would need to be generated for the first time to respond to the information request.

Location Information

The data collection (Question II.A.4) requires respondents to provide a variety of specific information about locations where they provide a connection for Dedicated Services. The Bureau clarified that if a respondent does not know the "location type," it can report it as "unknown," and respondents can report "a location geocode derived from a postal address through use of a geocoding platform."[35]

None of the declarants currently has the relevant location information in the proper

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31 *See* Sjoberg Declaration, ¶ 4.

32 *See* Frankfort Declaration, ¶ 7.

33 ImOn Declaration, ¶ 7.

34 *See id.*

35 *Bureau Order*, ¶ 33.

format, and thus it would need to be created, including by examination of billing records and customer contracts. Sjoberg estimates the task would require about 160 hours and cost over $4,500,[36] Frankfort estimates this work would take at least 60 hours, and ImOn estimates these activities would require nearly 200 hours.

Of the ACA members surveyed, all maintain information about their customers' addresses, but, with one exception, none had geocode (longitude/latitude) information for these locations.

Billing and Revenues Information

The data collection (Questions II.A.12-14 and 15-19) requires respondents to provide a large amount of data related to billing and revenues. The Bureau made only "minor revisions" to these questions.[37]

On this issue, from ACA's survey of its members, small cable operators have a greater diversity of capabilities to respond. Many have automated billing records. Of these, approximately 50 percent are able to track billing and revenues for Dedicated Services but generally not by rate element or by speed. ImOn is an example of such an operator. It has automated billing records, but it still estimates it would need to review many of its records manually to respond to the questions. For example, it estimates it would need 16 hours to compile responses on the question about closing dates of monthly billing cycles (Question II.A.12) and another 16 hours to obtain the information to provide its revenues from Dedicated

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36 *See* Sjoberg Declaration, ¶ 4.

37 *See Bureau Order*, ¶ 46.

Services based on bandwidth speeds (Question II.A.16).[38]

On the other hand, many other small cable operators have the data only in manual format and will need to create it to be in compliance. Sjoberg determined that it would take almost 300 hours to respond to these inquiries, including by developing a new system to track and document the data, training staff, and then identifying the customers. Its cost is estimated to be over $35,000.[39] For Frankfort, to generate the information required to respond to Questions II.A.12-16 would take "hundreds of hours" to review each customer contract.[40]

Total Effects of the Information Request

In aggregate, either using its own employees or outside contractors, MetroCast estimates it would "spend approximately 30,000 person hours collecting data and responding to the mandatory data collection at a cost approaching $1.6 million."[41] This is clearly excessive – even though MetroCast is one of the larger small cable operators. This cost far exceeds the Commission's estimate and amounts to approximately **CONFIDENTIAL** [redacted] **CONFIDENTIAL** of its annual revenues from Dedicated Services.[42]

For Sjoberg, the cost to comply is approximately $130,000 and the time exceeds 1,300 hours.[43] For a company with only **CONFIDENTIAL** [redacted] **CONFIDENTIAL** subscribers and

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38 *See* ImOn Declaration, ¶ 8.

39 *See* Sjoberg Declaration, ¶ 4.

40 *See* Frankfort Declaration, ¶ 8.

41 MetroCast Declaration, ¶ 7. MetroCast also estimates that it will require approximately 537 hours to respond to questions II.A.8 through 12 at a cost of over $71,000. *See id.*, ¶ 6.

42 *See id.*

43 *See* Sjoberg Declaration, ¶ 1.

such limited revenues from Dedicated Services,[44] this is an enormous burden. It would not only harm immediate operators but curb Sjoberg's ability to deploy new networks to expand its offering of Dedicated and Best Efforts services to commercial customers.

Frankfort estimates that it will take approximately 765 hours of employee time[45] – five times as much as the Commission estimates to develop the information to respond to the request.[46] In addition, it expects to use outside assistance because it has no employee with the necessary skills to review certain documentation. It believes the total cost it will incur to respond to be in excess of $50,000.[47] But, this understates the burden on the company since Frankfort's team working on the project would be its only internal attorney, IT employee and billing clerk.[48] Each of these people already have a "day job," and so the data request would take them away from (or be in addition to) their normal duties.

ImOn estimates it will spend over 560 hours of employee time responding to the request – four times the Commission's estimate.[49] It also will need external assistance and support. It expects the total cost to be approximately $35,000.[50] Further, like Frankfort, it has no employees that devote their full (or even part) time to regulatory work. As a result, employees working on the responses will still need to carry out their normal, full-time duties. ImOn believes this would

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44 *See id.*, ¶¶ 2-3.

45 This does not include the time Frankfort has spent so far to understand the information request and the scope of the time and resources required to respond.

46 *See* Frankfort Declaration, ¶ 9.

47 *See id.*

48 *See id.*, ¶ 10.

49 See ImOn Declaration, ¶ 10.

50 *See id.*

"negatively impact" its business.[51]

Sjoberg, Frankfort, and ImOn are among the smaller ACA members that provide Dedicated or Best Efforts services to business customers. As demonstrated herein, ACA's larger members, such as MetroCast, would require more time and resources to respond to the data collection. As a result, ACA expects that the total effective cost for its members would range from $50,000 to well over $1.5 million. This is clearly excessive in absolute terms and in terms of the value of the information required to perform the analysis and is inconsistent with the PRA's directive to minimize the paperwork burden, especially on smaller entities. ACA requests that OMB be responsive to these concerns and act to alleviate these burdens so as to avoid the grave harm they would cause to these businesses.

III. OMB CAN ALLEVIATE THE BURDENS ON SMALL CABLE OPERATORS CONSISTENT WITH THE COMMISSION'S NEED TO COLLECT INFORMATION

In the interest of proposing solutions to address these flaws and lessen the burden, ACA asked the Commission in its PRA Comments filed earlier this year to alter the data collection and establish as a general rule that small cable operators not be required to produce information that they do not collect in the normal course of business.[52] More specifically, at the very least, no small cable operator should be required to –

- create a new Shapefile map of its fiber deployments
- develop new information regarding building locations (i.e. by geocode or building-type)

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51 *See id.*, ¶ 11.

52 *See* Paperwork Reduction Act Comments of the American Cable Association on FCC 12-153, WC Docket No. 05-25 et al., at 14 (Apr. 15, 2013).

- develop new information regarding customer billings and revenues from Dedicated Services or Best Efforts service.

The Commission is required by the PRA to balance its need for this specific data with the burdens imposed.[53] However, the Commission made only minimal responses to demonstrated burdens in adopting the *FCC Order*, and it only delegated "limited authority to the Bureau to...amend the data collection based on feedback received through the PRA process."[54] In fact, the Commission was even more explicit in limiting Bureau discretion to respond to PRA comments that provided evidence that the request was unduly burdensome. For instance, the Commission stated that "even if the PRA process suggested that it would be less burdensome to collect special access facilities deployment at the census block level, it would be inconsistent with this Report and Order for the Bureau to amend this data collection to require census block information rather than location-by-location information required by paragraph 31 about such facilities."[55] Accordingly, the Bureau believed its actions on delegated authority were sufficiently constrained that it could not take account of the comments submitted by ACA and others and address the great burdens imposed by the mandatory data request.[56] As a result, the

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53 *See also* Reducing Reporting and Paperwork Burdens, Memorandum from Cass R. Sunstein, Administrator, Office of Management and Budget (June 22, 2012). While this Memorandum stems from Executive Order 13610 regarding the elimination of unjustified regulatory requirements, its directives are applicable to newly adopted regulations as well. Specifically, the Commission should follow the directive and, for small operators, reduce "cumulative burdens," provide exemptions when a collection may "disproportionately" burden small entities, and use sampling when it is not "desirable to collect data from every member of the population of interest."

54 *FCC Order*, ¶52.

55 *Id.*, n. 112.

56 *See e.g. Bureau Order*, n. 109 ("Given concerns about the Bureau's delegated authority, we do not deviate from the approach in the Commission's order.").

modifications adopted by the Bureau in its order, while numbering more than 30,[57] are relatively minor and do not materially affect the burden of the request on small operators. The declarations attached hereto and the discussion above demonstrate the validity of this conclusion.

In effect, because the full Commission barely reviewed and responded to the burdens imposed by the data collection and because the Bureau's hands were tied, the Commission effectively "punted" the PRA review to OMB. This conclusion is further supported by the Commission's directive to the Bureau "to proceed with the remainder of the collection should it not be able to obtain OMB approval for any part."[58] Thus, OMB has a major onus. It needs to conduct a *de novo* review of the Commission's mandatory special access data collection to ensure it complies with the PRA by properly balancing the need for the information with the enormous burdens imposed on small operators.

In balancing the need for the information with the burden imposed, OMB should recognize that small cable operators are relatively new entrants in the provision of Dedicated Services, a market the incumbents have dominated for decades and where long term customer contracts, which are often regionally based, play a key role.[59] The local market presence of

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57 *See Bureau Order*, ¶ 53.

58 *FCC Order*, n. 111. Given the Commission's extensive statements that its market analysis depends upon collection of each and every bit of information from each and every provider, this statement is baffling. Does it mean some information is not required for the market analysis? And, which information since the Commission believes all information is required? It certainly implies that the Commission finds it acceptable for OMB to eliminate any part of the information request where it finds undue burdens outweigh the benefits.

59 The Commission has determined that the special access revenues of the price cap LECs total approximately $16 billion annually. *See* Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission, Statistics of Common Carriers (2008), Table 2.11 (2006 data). "According to self-reported data by four of the largest sellers of special access services, combined revenues from special

small cable operators is not significant enough to warrant the Commission's far-reaching information request. In contrast, as ACA sets forth herein, the burdens in complying with the data collection are great, far beyond what the Commission estimates.

In addition to its own proposal, ACA endorses the specific revisions proposed by the National Cable & Telecommunications Association ("NCTA") in a filing to the Commission earlier last year.[60] In these proposals, NCTA recommended:

- For maps of fiber deployments (Question A 5), the Commission should not require any provider to create a new map and should eliminate the obligation to provide information about nodes used as interconnection points.
- For pricing data (Questions A 12-14), the Commission should not collect that data from competitors since it is not necessary to determine an ILEC's market power; but, if such information is collected, it should only be data in the provider's automated billing records.
- For marketing materials (Question A 10), the Commission should only seek information for 2013.
- For RFP Responses (Question A 11), the Commission should only require information on "wins" that are not yet operational, and, for "losses," it should only require location data.
- For location type (Question A 4d), the Commission should require the provider to produce only information in existing records.
- For purchaser data (Question F3 – Tariff), the Commission should not burden competitive purchasers with any requirement to produce data since the best source of data is the incumbent local exchange carrier ("LEC") providers.

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access services exceeded twelve billion dollars in 2010 alone." Special Access: The Harm of Premature Deregulation in Telecommunications, *Cardozo Arts & Entertainment*, Vol. 31:113, at 114 (Nov. 2012). These revenues are an aggregate of all local markets.

60 *See Ex Parte* from Steven F. Morris, Vice President and Associate General Counsel, National Cable & Telecommunications Association, WC Docket No. 05-25 (Mar. 22, 2013).

- For revenue data (Question A 16) and purchaser data (Question F 6-7) about bandwidth, the Commission should only require the submission of data collected in the normal course of business.

- For data about the headquarters location and affiliate relationships (Question A 9), the Commission should not collect data, or at least limit the collection to 2010 and 2012.

- For data comparing competitors' offering to incumbent LEC offerings (Question A 18), the Commission should eliminate the requirement or make it voluntary.

- For purchaser data about terms and conditions (Question F 8), the Commission should eliminate the requirement or make it voluntary.[61]

ACA also endorses NCTA's just filed Application for Review[62] of the *Bureau Order* in which it identified the many shortcomings in that decision, including:

- Network Maps – While the Bureau clarified the scale and format for reporting fiber routes, it did not address the basic, underlying fact that few cable operators have these maps in the requested format. Thus, it would cost cable operators tens of millions of dollars to comply. Further, the Commission can collect granular level information about competition through other means.

- Billing Data – The Bureau will permit cable operators to use their own billing codes, but this is of only marginal benefit since it does not reduce the quantity of data to be provided or eliminated the need to engage in manual review of billing records. In addition, the Bureau added new reporting obligations.

- RFP Responses and Marketing Materials – The Bureau did not alter the original request despite being presented with evidence regarding the burden and showing that more limited RFP information would be sufficient and backward-looking marketing information was irrelevant and forward-looking information was too speculative.

- Revenue Categories – The Bureau did not alter the original request despite the fact that many cable operators do not track sales or purchases based on the bandwidth categories in the request.

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61 *See id.*

62 *See Special Access for Price Cap Local Exchange Carriers*, Application for Review of the National Cable & Telecommunications Association, WC Docket No. 05-25 (Dec. 9, 2013).

- Location Information – The Bureau amended the request "to substantially increase the burden of providing information on 'locations' serviced by dedicated connections" because information must now be supplied a month-by-month versus year-end basis.[63]

While ACA would prefer OMB to exempt smaller cable operators from complying with the data collection, it should at least reduce the burden by not requiring these providers to produce information that they do not keep in the normal course of business. Just requiring them to produce this information would take well over the 146 hours estimated by the Commission – and would still require these operators to take employees from their normal duties for a significant amount of time.

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63 *Id.* at 11. Three parties opposed NCTA's Application for Review. One, Sprint, alleged that the burdens in the data collection are "consistent with PRA statutes and regulations" but provided no evidence supporting this contention. *See* Opposition of Sprint Corporation to the National Cable & Telecommunications Association's Application for Review, WC Docket No. 05-25 et al., at 4 (Dec. 24, 2013). Another, US Telecom, alleged that "similar burdens will fall on every entity that must comply with this data collection," but it too provides no evidence that the burdens are reasonable, which, as discussed herein, is not accurate for small operators. *See* Opposition of the United States Telecom Association, WC Docket No. 05-25 et al., at 2 (Dec. 24, 2013). As for the third opposition, filed by the Independent Telephone & Telecommunications Alliance ("ITTA"), it at least recognized that "the mandatory data request requires submission of a vast array of data, information, and documents" and "the Commission has, without a doubt, drastically underestimated the amount of time it will take for all respondents to comply with the mandatory special access data collection." *See* Opposition of the Independent Telephone & Telecommunications Alliance, WC Docket No. 05-25 et al., at 2,3 (Dec. 24. 2013). It asked that should the Commission grant any relief from the burdens of the request, it should apply to all parties. *Id.* ITTA also added: "As ITTA previously pointed out, compliance will require its members and other respondents to devote thousands of hours to gathering the requested data while diverting internal company resources away from other important functions in areas such as network improvement and optimization, carrier services, toll fraud, billing, and systems integration. In many cases respondents have not previously been required to comply with recordkeeping or reporting obligations with respect to the data now being requested, so gathering, creating, compiling, and submitting the requested information will require a substantial effort and time commitment from employees in addition to the other roles and functions they are expected to perform within their companies."). *Id.* at 3.

Respectfully submitted,

Thomas Cohen

Matthew M. Polka President and Chief Executive Officer American Cable Association One Parkway Center Suite 212 Pittsburgh, Pennsylvania 15220 (412) 922-8300 Ross J. Lieberman Vice President of Government Affairs American Cable Association 2415 39th Place, NW Washington, DC 20007 (202) 494-5661 January 8, 2014	Thomas Cohen Joshua Guyan Kelley Drye & Warren LLP 3050 K Street, NW Suite 400 Washington, DC 20007 Tel. (202) 342-8518 Fax (202) 342-8451 tcohen@kelleydrye.com Counsel to the American Cable Association

REDACTED – FOR PUBLIC INSPECTION

EXHIBIT

REDACTED – FOR PUBLIC INSPECTION

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

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

DECLARATION OF MICHAEL EDL

1. My name is Michael Edl, and I am Chief Technology Officer of ImOn Communications, LLC ("ImOn"), which is a member of the American Cable Association and a smaller provider of communications services. I submit this Declaration in support of the Paperwork Reduction Act Comments of the American Cable Association to the Office of Management and Budget in the above-captioned proceeding. As I discuss in this declaration, ImOn does not have much of the information required by the Federal Communications Commission's ("FCC's") mandatory data collection contained in Appendix A to the December 18, 2012 Report and Order (FCC 12-153) readily available and collecting, analyzing and organizing that information in the manner required would impose an excessive burden on the company with respect to time and expense.

2. ImOn services approximately **REDACTED** XXXXXXXXXX **REDACTED** customers around Cedar Rapids, Iowa with communications services including cable television, high-speed Internet and telephone service. ImOn provides broadband Internet

service to about **REDACTED** XXXXXXXXXXXXXXXX **REDACTED**. It provides Dedicates Services (including as point to point transport, Ethernet dedicated Internet connections, Primary Rate Interfaces and T-1s circuits) to **REDACTED** XXXXXX **REDACTED** customers.

3. ImOn has annual revenues of approximately **REDACTED** XXXXXXX **REDACTED** from providing broadband services to business and residential customers. However, ImOn cannot easily break out revenues from Best Efforts Business Broadband Internet Access Service and Dedicated Services to business customers. Those revenue numbers would have to be generated by an ImOn employee researching each billing cycle and adding the numbers for each category for each customer.

4. I, along with my staff, have already spent approximately 100 hours reviewing the extensive requirements in Appendix A to determine how to comply, and the resources and expenditures required for compliance. This process was complicated because, as an entity that has not needed to comply with such requests previously and does not have any dedicated compliance staff, we had difficulty understanding some of the data collection requirements. This has caused us to expend significant time in discussions internally and with counsel of the American Cable Association. The following provides our current best estimate of the burdens imposed by the mandatory data collection as it is currently written.

5. For most of the information requested by the Commission in the mandatory data request, ImOn does not have the information immediately or easily available in databases or computer systems. As a result, in many cases ImOn's limited staff will be required to review contracts manually and extract, compile and analyze the information for submission to the FCC or confirm information with site visits. Some of the contracts are available

electronically and some are only available in paper records, but all would have to be reviewed manually. That process is the most important reason for the number of hours and the high costs that will be necessary to respond to the FCC's mandatory data request.

6. As an example, the mandatory data request requires detailed location information, including address, geocode and location type, for every Connection provided by ImOn. ImOn estimates that this response would require nearly 200 hours since the company serves at least **REDACTED** XXXXXXXX **REDACTED** Connections. First, ImOn will be required to review all of its customer agreements and obtain the latitude and longitude manually for each location by using generally available sources. Further, ImOn would have to determine the location type for each location, which is often not apparent from the contract and such information may need to be obtained through site visits.

7. In addition, the mandatory data request requires that ImOn provide maps of its network, including its fiber routes, all Nodes and, most importantly, the year that each Node went live. ImOn has some maps of its fiber routes showing its most recent hubs (3 out of the 26), but it does not currently have the maps required by the mandatory data request, and it estimates that it would have to spend approximately 80 hours compiling the information for the maps and generating them. The most difficult and time-consuming aspect of creating the maps would be identifying the year each Node went live and including that information in the map. The maps would have to be generated only for purposes of responding to the mandatory data request and would not be of use for ImOn's business purposes. ImOn would be required to review approximately **REDACTED** XXXXXXXX **REDACTED** customer agreements and other records to determine the routes, Nodes and dates of service initiation for each Node. Once it has that information, it can then generate the maps.

8. Further, ImOn would be required to expend at least 40 hours to identify the month and year that ImOn first provided a Connection to each of the Locations that it serves. This is because ImOn was spun off from another company and may not have the records required to respond.

9. ImOn has automated billing systems, but much of the information requested would need to be obtained manually by reviewing paper records. For example, ImOn estimates that it would take 16 hours to compile the responses to the question requiring closing dates of monthly billing cycles and another 16 hours to compile a response to the question regarding revenues from Packet-Based Dedicated Services based on bandwidth speeds due to the need to obtain information manually.

10. As a result of all these activities, ImOn expects to spend over 560 hours of employee time collecting data and responding to the mandatory data collection. Assuming an average rate of $35 per hour, that is an internal cost of $19,600. In addition, ImOn expects to require external advice and support that will cost approximately $15,000. Therefore, the total expected cost to respond to the mandatory data request is $34,600.

11. ImOn does not expect to realize any benefit from the regulatory processes based on market analysis to be conducted using the data. Nevertheless, it would likely be necessary for ImOn to devote time from eight or nine of its employees to respond to the mandatory data request. This includes me, a controller and finance employees and none of us are devoted primarily or substantially to regulatory work. The burden of responding to this mandatory data request would be in addition to each employee's full-time duties trying to operate a successful communications company. Responding to this mandatory data request

would therefore negatively impact ImOn's business because it would take employee time away from their normal duties.

12. In sum, requiring a small company like ImOn that does not have much of the information requested available in its automated records or billing systems, and would have to obtain much of the required information manually, is extremely onerous. I urge the Commission to revisit its mandatory data collection request and exempt smaller providers from having to comply. If the Commission continues to insist that smaller providers comply, it should seek to collect only that information that ImOn keeps in the normal course of business. Further, the information should be collected in its existing format or in another manner that does not require smaller providers to manually review and analyze records to respond.

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

Executed on 12 April, 2013

Michael Edl

REDACTED – FOR PUBLIC INSPECTION

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

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

DECLARATION OF JOHN HIGGINBOTHAM

1. My name is John Higginbotham, and I am Superintendent of Cable/Telecommunications for Frankfort Plant Board ("Frankfort"), which is a smaller provider of communications services and a member of the American Cable Association. I submit this Declaration in support of the Paperwork Reduction Act Comments of the American Cable Association to the Office of Management and Budget in the above-captioned proceeding. As I discuss in this declaration, the Federal Communications Commission's ("FCC's") mandatory data collection contained in Appendix A to the December 18, 2012 Report and Order (FCC 12-153) would require Frankfort to expend an enormous amount of time and money to complete. As such, it would impose an excessive burden on the company.

2. Frankfort is a small municipal utility. It provides utilities including electric, water, cable television, high-speed Internet and telephone service to approximately CONFIDENTIAL XXXXX CONFIDENTIAL customers in Frankfort, Kentucky. Frankfort provides communications services (i.e., television, broadband and voice service) to

approximately **CONFIDENTIAL** XXX **CONFIDENTIAL** customers, and broadband Internet specifically to about **CONFIDENTIAL** XXX **CONFIDENTIAL** customers.

3. Frankfort has annual revenues of approximately **CONFIDENTIAL** XXXXX **CONFIDENTIAL** from providing Best Efforts Business Broadband Internet Access Service (as defined in the mandatory data collection) to business customers. It has annual revenues of approximately **CONFIDENTIAL** XXXXX **CONFIDENTIAL** from providing Dedicated Services (as defined in the mandatory data collection) to business customers.

4. I, along with my staff, have already spent many hours reviewing the extensive requirements in Appendix A to determine how to comply, and the resources and expenditures required for compliance. This process was complicated because, as an entity that has not needed to comply with such requests previously and that has only one internal attorney that is not dedicated solely to regulatory compliance, we had difficulty understanding some of the data collection requirements. This has caused us to expend significant time in discussions internally and with counsel of the American Cable Association. The following provides our current estimate of the burdens imposed by the mandatory data collection.

5. For most of the information requested by the Commission in the mandatory data request, Frankfort does not have the information immediately or easily available in databases or computer systems. As a result, Frankfort's limited staff will be required to review at least **CONFIDENTIAL** XXX **CONFIDENTIAL** individual contracts and extract, compile and analyze the information for submission to the FCC. That process is the most important reason for the number of hours and the high costs that will be necessary to respond to the FCC's mandatory data request.

6. As an example, the mandatory data request requires detailed location information for every Connection provided by Frankfort, including address, geocode and location type. Frankfort estimates that it serves at least **CONFIDENTIAL** XXXX **CONFIDENTIAL** Connections and expects this response to require at least 60 hours. First, Frankfort will be required to review all of its customer agreements and obtain the latitude and longitude manually for each location (by using Google Maps or other generally available sources). Further, Frankfort will have to determine the location type for each location, which is often not apparent from the contract and such information may need to be obtained from each customer or through site visits. In addition, Frankfort provides several different types of services (e.g., dark fiber, Dedicated Services, Best Efforts Business Internet Access Service) in a single fiber bundle to various types of customers (e.g., businesses, schools). Frankfort will be required to parse out those services from each fiber bundle to respond to the FCC's specific questions. Frankfort would accomplish this through various time-consuming methods, including reviewing contracts or other hard copy maps and records, or through site visits.

7. In addition, the mandatory data request requires that Frankfort provide maps of its network, including its fiber routes, all Nodes and the year that each Node went live. Frankfort does not currently have such maps, and it estimates that it would have to spend approximately 180 hours compiling the information for the maps and generating them. The maps would have to be generated only for purposes of responding to the mandatory data request and would not be of use for Frankfort's business purposes. Frankfort would be required to review each of the **CONFIDENTIAL** X **CONFIDENTIAL** customer agreements to determine the routes, Nodes and dates of service initiation for each Node. Once it has that information, it can then generate the maps.

8. Frankfort uses manual record retention and billing systems – it does not have automated billing systems that would allow it to generate the billing and revenue information requested in Sections A 12 – A 16 of the mandatory data request. To respond it would be required to review each contract with its customers, as well as potentially each of the **CONFIDENTIAL** XX **CONFIDENTIAL** bills sent each month, which would require hundreds of hours of effort.

9. As a result of all these activities, Frankfort expects to spend approximately 765 hours of employee time collecting data and responding to the mandatory data collection. Assuming an average rate of $50 per hour, that is an internal cost of $38,250. In addition, Frankfort expects to require external advice and support that will cost approximately $15,000 - $20,000. Therefore, the total expected cost to respond to the mandatory data request is $53,250 – $58,250. That cost is approximately **CONFIDENTIAL** XX **CONFIDENTIAL** percent of Frankfort's annual revenue for the Dedicated Services.

10. Frankfort has one internal attorney, one IT employee and one billing clerk that maintains its bills. Along with me, these three employees make up the team that would likely be tasked with responding to the mandatory data request. This burden would be in addition to each employee's full-time duties trying to operate a successful municipal utility company. Responding to this mandatory data request will therefore take employee time away from their normal duties and negatively impact Frankfort's business. Further, Frankfort does not expect to realize any benefit from the regulatory processes based on market analysis to be conducted using the data.

11. In sum, requiring a small company like Frankfort that does not have automated records or billing systems, and would have to obtain the required information by

manually reviewing dozens of individual contracts, to respond to the FCC's mandatory data request is tremendously burdensome. I urge the Commission to revisit its mandatory data collection request and exempt smaller providers from having to comply. If the Commission continues to insist that smaller providers comply, it should drastically decrease the information collection requirements and seek to collect only that information that Frankfort keeps in the normal course of business. Further, the information should be collected in its existing format or in another manner that does not require smaller providers to manually review and analyze paper records to respond. Finally, the Commission should eliminate any requirements that impose significant confidentiality and privacy concerns.

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

Executed on 12 April, 2013

John Higginbotham

Before the
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C.

OMB Control No. 3060-XXXX Comprehensive Market Data Collection for Interstate Special Access Services	)	FCC 12-153

DECLARATION OF RICHARD SJOBERG

1. My name is Richard Sjoberg. I am President of Sjoberg's Inc. ("Sjoberg"), which provides voice, video, broadband and other communications services in and around Thief River, Minnesota. Sjoberg is a member of the American Cable Association. I submit this Declaration in support of the Comments of the American Cable Association to the Office of Management and Budget ("OMB") on the Information Collection submitted to OMB for its review and approval by the Federal Communications Commission ("FCC") in the above-captioned proceeding. As I discuss in this declaration, the FCC's mandatory data collection contained in Appendix B to the September 18, 2013 Report and Order (DA 13-1909) would require Sjoberg to expend far in excess of the Commission's estimate of 146 hours to respond and would cost it approximately $130,000. Given the size of Sjoberg and the limited number of locations we serve with Dedicated Services (as defined in the mandatory data collection), it would impose an unfair burden on the company.

2. Sjoberg provides communications services (i.e., cable television, high-speed Internet and telephone) to approximately CONFIDENTIAL [redacted] CONFIDENTIAL

customers, and broadband Internet specifically to about **CONFIDENTIAL** [redacted] **CONFIDENTIAL** residential and business customers.

3. Sjoberg has annual revenues of approximately **CONFIDENTIAL** [redacted] **CONFIDENTIAL** from providing Best Efforts Business Broadband Internet Access Service (as defined in the mandatory data collection) to business customers. It provides Dedicated Services to approximately 150 locations and has annual revenues of approximately **CONFIDENTIAL** [redacted] **CONFIDENTIAL** from providing these services (as defined in the mandatory data collection) to business customers.

4. I, along with my staff, have already spent more than 60 hours reviewing the extensive data collection and submission requirements in Appendix B to determine how to comply, and the resources and expenditures required for compliance. The following provides our current estimate of the cost and resources required to respond to the most onerous questions in the mandatory data collection:

QUESTION		**TIME**	**RATE**	**COST**
II.A. 1 Affiliated Companies Resources		10 minutes	$25/hour	$2.50
II.A.2 Facilities Requiring Additional Information		10 minutes	$25/hour	$2.50
II.A.3 Locations Data		10 hours	$25/hour	$250
II.A.4 Locations Data Zip+4		10 hours	$25/hour	$250
	On-Site Lat./Long.	75 hours	$35/hour	$2,625
	Customer Record Info.	75 hours	$25/hour	$1,875
II.A.5 Fiber Network Map for 124 Miles of fiber			$500/mile	$62,000
	Node Information (45 Nodes)		$35/hour	$1,575
II.A.6 Sample History of Competitive Connections (unknown at this time)				

II.A.7 Collocation by Wire Center (None)			$0
II.A.8 Business Rules for Deployment	40 hours	$150/hour	$6,000
II.A.9 Not applicable			
II.A.10 Develop Marketing Plan	40 hours	$150/hour	$6,000
II.A.11 Requests for Proposals – Research	50 hours	$25/hour	$1,250
Business Rules for RFPs	40 hours	$150/hour	$6,000
II.A.12 Part 1 Price by Circuit Element			
Develop new system to track and document	--Software		$4,000
	--Training/data gathering/ops		$10,000
Part 2 Identifying Customers	50 hours	$25/hour	$1,250
II.A.13 Billing Adjustments	30 hours	$25/hour	$750
II.A.14 Billing Code Description	15 hours	$25/hour	$375
II.A.15 Sales Revenues for CBDS	30 hours	$25/hour	$750
II.A.16 Sales Revenues for PBDS	30 hours	$25/hour	$750
II.A.17 Revenue Generated Prior Purchase	1 hour	$25/hour	$25
II.A.18 Comparison of Terms & Conditions	80 hours	$150/hour	$12,000
II.A.19 Business Justification for Commitments	50 hours	$150/hour	$7,500
II.D.1 Strategies	50 hours	$150/hour	$7,500
II.D.2 Location of Recorded Policies	1 hour	$25/hour	$25

8. As a result of all these activities, Sjoberg either directly or through contractors expects to spend approximately 1,346 person hours collecting data and responding to the mandatory data collection at a cost of over $130,000. That cost is approximately

CONFIDENTIAL [redacted] **CONFIDENTIAL** of Sjoberg's annual revenue from its provision of Dedicated Services. It also is approximately **CONFIDENTIAL** [redacted] **CONFIDENTIAL** of Sjoberg's annual construction budget. Thus, spending to respond to the data request will significantly curtail Sjoberg's ability to deploy new fiber plant to provide high-speed broadband service.

9. Responding to this mandatory data request will require employees to cease performing their normal duties and, in general, harm Sjoberg's business. Further, Sjoberg does not expect to realize any benefit from the regulatory processes based on market analysis to be conducted using the data.

10. In sum, requiring Sjoberg to respond to the FCC's mandatory data request is tremendously burdensome. If the Commission continues to insist that smaller providers like Sjoberg comply, it should drastically decrease the information collection requirements and seek to collect only that information that Sjoberg keeps in the normal course of business. Further, the information should be collected in its existing format or in another manner that does not require smaller providers to manually review and analyze paper records to respond.

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

Executed on January 2, 2014

Richard Sjoberg
President, Sjoberg's Inc.

Before the
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C.

In the Matter of	)	
	)	
Special Access 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 RYAN F. PEARSON

1. My name is Ryan F. Pearson. I am the Executive Vice President and General Counsel of Harron Communications, L.P. d/b/a MetroCast Communications ("MetroCast"), which provides voice, video, broadband and other communications services in Alabama, Connecticut, Maryland, Mississippi, Maine, New Hampshire, Pennsylvania, South Carolina and Virginia. MetroCast is a member of the American Cable Association. I submit this Declaration in support of the Comments of the American Cable Association to the Office of Management and Budget ("OMB") on the Information Collection submitted to OMB for its review and approval by the Federal Communications Commission ("FCC") in the above-captioned proceeding. As I discuss in this declaration, the FCC's mandatory data collection contained in Appendix B to the September 18, 2013 Report and Order (DA 13-1909) would require MetroCast to expend far in excess of the Commission's estimated 146 hours to respond and would cost it more than $1 million, which is 10% of the Commission's total estimated cost burden for the entire industry. In sum, it would impose an unfair burden on MetroCast.

2. MetroCast provides communications services (i.e., cable television, high-speed Internet and telephone) to approximately **CONFIDENTIAL** [redacted] **CONFIDENTIAL** customers, and broadband Internet specifically to approximately **CONFIDENTIAL** [redacted] **CONFIDENTIAL** customers. It is important to note that MetroCast did not build each of its systems, but rather, purchased its systems through acquisitions starting in 1998. As such, it has had to deal with the challenge of integrating different formats and levels of often limited information available for these acquired assets.

3. MetroCast has annual revenues of approximately **CONFIDENTIAL** [redacted] **CONFIDENTIAL** from providing Best Efforts Business Broadband Internet Access Service (as defined in the mandatory data collection) to business customers. It has annual revenues of approximately **CONFIDENTIAL** [redacted] **CONFIDENTIAL** from providing Dedicated Services (as defined in the mandatory data collection) to business customers.

4. I, along with my staff, have already spent more than 71 hours reviewing the extensive data collection and submission requirements in Appendix B to determine how to comply, and the resources and expenditures required for compliance. The following provides our current estimate of the cost and resources required to respond to the questions contained in the mandatory data collection.

5. Question II.A.5. requires MetroCast to provide a detailed ERSI Shapefile map showing the fiber routes it owns, including the Fiber Connections to Locations and the locations of all Nodes. As noted above, because the vast majority of MetroCast's networks were acquired, for most of its networks, MetroCast engineering did not oversee the initial network design or construction. MetroCast requested any and all available information regarding the physical networks it acquired, but in many cases, very limited information was available. At

times, only outdated paper prints of the networks were available. Thus, MetroCast does not have detailed information for many of its fiber routes at the level of detail and in the format requested by the Commission. Additionally, MetroCast does not use the ERSI Shapefile format for any of its limited fiber cable data creating the need to convert existing data to the required Shapefile format. To comply with the request, MetroCast discussed with a construction contractor it has used in the past, which recently performed a similar task for a major cable operator, the task of collecting and entering MetroCast's fiber route information into a computer program (AutoCad) and converting it into an ERSI Shapefile. The construction contractor estimated it could take a four person crew up to 930 work days (29,760 person hours) to undertake this task to allow MetroCast to submit the information in compliance with Question II.A.5. At a rate of $50 per person per hour, the total cost for MetroCast would be approximately $1.5 million. In sum, this would be a monumental and incredibly costly task, in effect imposing an enormous "tax" on MetroCast.

6. In addition, the mandatory data request requires, among other required disclosures, that MetroCast explain its business rules to determine whether to provide a Dedicated Service to a location (Question II.A.8), to provide extensive corporate and operations, marketing, and billing information (Questions II.A.9, II.A.10, and II.A.12), and to provide data about Request for Proposal responses (Question II.A.11). Most of these tasks require extensive business data mining and then collation of this data and preparation of the response. MetroCast anticipates using its employees and a consultant to complete these tasks and estimates that in aggregate the tasks would require approximately 537 person hours and would occur over a six week period. With the cost for the consultant of $125 per hour, and the cost for the MetroCast

employee of approximately $135 per hour, the total cost to MetroCast in addition to the cost of the fiber-mapping referred to above, is estimated at approximately $71,000.

7. As a result of all these activities, MetroCast either directly or through contractors expects to spend approximately 30,000 person hours collecting data and responding to the mandatory data collection at a cost approaching $1.6 million. That cost is approximately **CONFIDENTIAL** [redacted] **CONFIDENTIAL** percent of MetroCast's annual revenue from its provision of Dedicated Services.

8. Responding to this mandatory data request will also take employees away from their normal duties and negatively impact MetroCast's business. Further, MetroCast does not expect to realize any benefit from the regulatory processes based on market analysis to be conducted using the data.

9. In sum, requiring MetroCast to respond to the FCC's mandatory data request is tremendously burdensome. If the Commission continues to insist that smaller providers like MetroCast comply, it should drastically decrease the information collection requirements and seek to collect only that information that MetroCast keeps in the normal course of business. Further, the information should be collected in its existing format or in another manner that does not require smaller providers to manually review and analyze paper records to respond.

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

Executed on 7 January, 2014

Ryan F. Pearson