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

In the Matter of	)
	)
Protecting and Promoting the Open Internet	) GN Docket No. 14-28
	)

COMMENTS
OF
WTA – ADVOCATES FOR RURAL BROADBAND

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TABLE OF CONTENTS

COMMENTS OF WTA – ADVOCATES FOR RURAL BROADBAND.....1

I. WTA – Advocates for Rural Broadband.....2

II. Internet Access Issues, Including Blocking and Unreasonable Discrimination.....3

III. Proposed Enhanced Transparency Rules.....7

IV. Conclusion.....10

SUMMARY

WTA – Advocates for Rural Broadband ("WTA"), a national trade association representing more than 250 rural incumbent local exchange carriers ("RLECs"), supports the Commission's goal of protecting and promoting the openness of the Internet. In addition to restricting the blocking of access by edge providers to customers, limiting the imposition of commercially unreasonable prices and practices with respect to such access, and providing assistance to address the growing problem of video streaming congestion on rural broadband networks, WTA believes that the Commission should also promote Internet openness by ensuring that the customers of RLECs and other small carriers have high quality and affordable access to the Internet via IP interconnection and middle mile arrangements.

WTA further believes that Internet openness will be promoted and enhanced as service providers are encouraged and enabled to invest in the deployment of higher and higher broadband capacities that enable their customers to obtain faster and more affordable access to new content, applications and services. In this vein, WTA opposes the proposed new enhanced transparency requirements because their potential informational benefits are outweighed by the significant drain they impose upon RLEC financial and staff resources that are urgently needed to invest in broadband infrastructure and to deploy new Internet Protocol services. Such new monitoring and reporting requirements are particularly burdensome at a time when broadband capacity needs are increasing while federal high cost support is stagnant and uncertain and intercarrier compensation revenues are decreasing.

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WTA – Advocates for Rural Broadband ("WTA") submits its initial comments with respect to the Commission's *Notice of Proposed Rulemaking*, FCC 14-61, released May 15, 2014, in the captioned proceeding ("*NPRM*").

WTA fully supports the Commission's goal of protecting and promoting the openness of the Internet. In addition to precluding service providers from blocking the access of edge providers to their customers and limiting service providers from imposing commercially unreasonable prices and practices with respect to such access, WTA believes that the Commission should also promote Internet openness by ensuring that the customers of rural incumbent local exchange carriers ("RLECs") and other small carriers have high quality and affordable access to the Internet.

WTA further believes that Internet openness will be promoted and enhanced as service providers are encouraged and enabled to invest in the deployment of higher and higher broadband capacities that enable their customers to obtain faster and more affordable access to new content, applications and services. In this vein, WTA opposes the proposed new enhanced transparency requirements because their potential informational benefits are outweighed by the significant drain they impose upon RLEC financial and staff resources that are urgently needed

to invest in broadband infrastructure and to deploy new Internet Protocol services, particularly at a time when federal high cost support is stagnant and uncertain and intercarrier compensation is decreasing.

I
WTA – Advocates for Rural Broadband

WTA is a trade association that represents more than 250 RLECs that are generally small companies serving sparsely populated rural areas with per-customer service costs much higher than the national average.

Most WTA members serve fewer than 3,000 access lines in the aggregate and fewer than 500 access lines per exchange, and employ staffs of between 10 and 15 full-time employees. Their primary service areas are comprised of sparsely populated farming and ranching regions, isolated mountain and desert communities, and Native American reservations. They must construct, operate and maintain their networks under conditions of climate and terrain ranging from the deserts of Arizona to the lakes of Minnesota to the vast wilderness and frozen tundra of Alaska, and from the valleys of Oregon to the plains of Indiana to the mountains of Wyoming. The major common feature of these diverse areas is that the per-customer costs of constructing, operating and maintaining both voice and broadband networks therein are much higher than in urban and suburban America.

Nonetheless, WTA members have made significant progress in deploying fiber optic and hybrid fiber-copper Digital Subscriber Line ("DSL") facilities, and in making IP and other advanced services available to their rural customers. In fact, until recent years, most WTA members had evolved significantly down the path from traditional voice telephone companies to broadband providers of advanced voice, data and video services, and have been providing broadband access services to substantial portions of their rural customers. WTA members are

eager to move beyond the intervening period of economic recession and regulatory uncertainty to resume their investment in the broadband networks and services that are so urgently needed by their rural service areas.

II
Internet Access Issues, Including Blocking and Unreasonable Discrimination

For WTA members, the most pressing current and long-term Internet openness issue is their ability to obtain and maintain the Internet Protocol ("IP") interconnection and middle mile arrangements necessary to provide their rural customers with quality and affordable access to Internet content, applications and services. In this respect, WTA members share with edge providers the need to rely upon AT&T, Verizon, Comcast, Sprint, Level 3, CenturyLink and other large Internet backbone, transport and service providers to connect customers with the content and applications they desire.

Since 1996, Sections 251 and 252 of the Communications Act have been remarkably successful in enabling a growing variety of telecommunications carriers to connect directly and indirectly with each other and with the Public Switched Telecommunications Network as a whole. Whereas the transition to a competitive telecommunications industry could have left many people unable to communicate with their relatives, friends and business associates for long periods, the negotiation, arbitration, interconnection and pricing provisions of Sections 251 and 252 kept such disruptions to a minimum and limited their duration and extent.

WTA believes that Sections 251 and 252 apply to the interconnection of IP networks as well as Time Division Multiplexing ("TDM") networks. In particular, Internet backbone and transport providers (including middle mile transport providers, whether or not they employ special access services) meet the definition of "telecommunications carriers" in that they offer for a fee directly to the public or classes thereof, transmission services for information of the

users' own choosing between or among points specified by the users without change in the form or content of the information. Whether or not the Commission determines to subject some or all retail Internet access services to Title II common carrier regulation, it should make it clear that the Internet backbone providers and transport providers that connect service providers to the emerging Public Broadband Network are telecommunications carriers subject to Title II of the Act, particularly Sections 251 and 252.

WTA is aware that AT&T and others argue that Sections 251 and 252 do not apply to IP interconnection. This interpretation disregards the actual operations of Internet backbone and transport providers, as well as the clear purposes of Sections 1, 2 and 201 of the Communications Act to establish and maintain a nationwide public communications network (whether a switched telecommunications network or a broadband network) that is available to all Americans on a just and reasonable basis. Moreover, it poses real and substantial dangers that the Internet will become the exclusive or near-exclusive domain of large peering entities, and that RLECs and other smaller broadband service providers and their customers will be unable to obtain sufficient and affordable access to all of the information, services and people that should be available to all Americans over the public network. WTA members are concerned that, in the absence of Section 251 and 252 protections, they will not be allowed to connect to the Internet at the closest technically feasible point, but will be required instead to pay for transporting the traffic of their customers to distant urban hubs. For many WTA members, this could mean being required to pay for the transport of the traffic to and from their rural customers over hundreds or thousands of miles. WTA members are also concerned that they will be unable to obtain middle mile transport of sufficient quality and capacity to meet the latency needs of their customers as well as the Commission's latency standards, or that such middle mile transport will become so expensive

that significant numbers of their rural customers will be unable to afford Internet access service. In fact, in the absence of Section 251 and 252 protections, many WTA members fear that they are so small relative to most Internet backbone and transport providers that they may be unable to get the larger providers even to participate in *bona fide* negotiations to establish reasonable interconnection and transport arrangements with them.

Whereas it is a major problem if edge providers cannot reach customers over the Internet, it is equally a major problem if the rural customers of RLECs cannot reach edge providers and others over the Internet in an affordable manner with acceptable quality. Hence, Internet openness needs to encompass just and reasonable IP interconnection and middle mile transport as well as prohibitions against blocking and limitations upon commercially unreasonable standards.

WTA members have been, and remain, focused upon showing their rural customers the services they can access and the benefits they can obtain from adopting broadband. They have absolutely no interest in discouraging their customers from purchasing and using their broadband services by blocking their access to certain content and application providers. Whereas it is conceivable that, in very rare instances, access to a particular site may need to be blocked due to viruses or malware that endanger an RLEC's entire network rather than being limited to the particular customer that may elect to access them, WTA members generally support the Commission's proposed "No-Blocking" rule. They do not presently block, and have no intention of blocking, lawful content, applications, services, or non-harmful devices, subject to reasonable management of their networks.

The several thousand customers of most WTA members have not constituted a large enough market to prevail upon national or regional content and application providers to negotiate

specific access or commercially reasonable service agreements with them. Looked at from another perspective, WTA members lack sufficient size and market presence to induce or convince large national and regional content and application providers to negotiate access or service arrangements, or to get them to comply with various terms, conditions or prices for access to their rural networks and customers. Hence, not only are WTA members currently unable to negotiate service arrangements with, or impose service conditions upon, edge providers, they do not wish to do so at this time. Rather, WTA reiterates that its members are eager to increase broadband adoption among their rural customers, and hence wish to encourage as much contact as possible by their customers with a wide variety of content, application and other edge providers.

WTA notes that, at some future date, some of its members may have to take commercially reasonable network management steps to accommodate the substantial bandwidth requirements of video streaming and downloaded movies while avoiding crippling congestion that degrades the service of their other customers. For many WTA members, video streaming from content providers such as Netflix and YouTube can consume as much as 80 percent of their bandwidth during peak usage hours. Some WTA members are already experiencing congestion problems from video streaming on their own local broadband networks as well as on the middle mile facilities they must use. WTA is aware that Netflix has been discussing or entering into arrangements with some larger broadband service providers to address congestion, but is not aware of any such discussions or arrangements with smaller service providers at this time. If negotiated solutions are not possible, WTA believes some of its members eventually may have to adopt commercially reasonable network management practices to preserve quality broadband service for all of their customers. Such practices would be designed to comply with proposed

Section 8.7 of the Commission's Rules. In the alternative, WTA suggests that the Commission conduct workshops and/or encourage negotiations among video streaming entities and rural broadband providers looking toward the development of new mechanisms and practices that can address video congestion in an effective and equitable manner so that rural customers can continue to enjoy the video content they desire without disrupting the broadband services used by their neighbors.

III
Proposed Enhanced Transparency Rules

WTA members have supported and complied with the Commission's 2010 transparency rule. They or their Internet service provider affiliates have posted on their websites or otherwise publicly disclosed the network management practices, performance and commercial terms of their Internet access services so that their customers and edge providers could make informed choices regarding their use of such services.

The managers and employees of WTA members generally live in the same rural communities as their customers, and have frequent contact with such customers as they go about their day-to-day activities both during and after business hours. These constant customer interactions enable WTA members to find out quickly and directly from their customers if there have been reliability, congestion, quality or other problems with their Internet access and other services. Finally, if relatives, friends and neighbors are complaining about service issues, WTA members have more than adequate incentives to investigate and address such problems expeditiously.

In contrast, WTA is aware of no reported instances of inquiries by content, application, service or device providers to its members regarding their posted network management practices, performance and commercial terms. The likely explanation for this silence is that virtually all

edge providers are focusing upon larger markets, and have not (or, at least, have not yet) explored the use of the services of WTA members and other small Internet access providers.

WTA is very concerned about the increased costs and uncertain benefits of the proposed enhanced transparency requirements for small carriers and their customers. For example, the monitoring and test equipment necessary to measure and report on a frequent or constant basis the effective download speeds, upload speeds, latency, packet loss, packet corruption and/or jitter on a RLEC or other small provider's network can cost as much as the underlying data transmission equipment deployed to provide the broadband service.[1] The recurring costs of inspecting, maintaining and recalibrating such monitoring equipment (*e.g.*, service contracts and/or monitoring services) constitute an additional substantial expense. Also, given that RLEC-affiliated and other small Internet service providers have limited staffing resources (as noted above, the typical WTA member has a staff of 10-to-15 people for its entire operation), the need to hire an additional qualified employee to conduct and report upon such monitoring can constitute a severe hardship for a small service provider.

Similarly, requirements to identify specific types of traffic and application-specific usage (whether for individual customers, classes of customers, or in the aggregate) are time-consuming and entail additional employee and consultant expense. Whereas constant network monitoring and website reporting may or may not improve provider-customer interaction and understanding in urban areas, it is unnecessary in rural communities where customers will tell RLEC managers and employees when they see them during the day if they are having Internet service problems. Finally, it is the experience of most WTA members that many of the congestion and latency

[1] For example, one commercially available broadband monitoring system that gathers usage and congestion information for smaller Internet service providers costs approximately $150,000.

problems encountered by their rural customers are caused by problems on middle mile transport facilities over which they have no control.

WTA members want their rural customers to be able to use the services of Google, Amazon and other edge providers, and believe that they are currently able to do so. However, until there is some evidence that these edge providers actually research and make decisions on the basis of the posted network management practices, performance and commercial terms of RLEC-affiliated Internet service providers, it makes no sense to require these small providers to bear the considerable expense of constantly monitoring, compiling and disclosing additional information for edge providers.

During a period when the broadband infrastructure investment needs of RLECs are increasing while critical high-cost support is limited and intercarrier compensation revenues are decreasing by five percent per year, the Commission should minimize the regulatory and reporting costs of high-cost support recipients as much as practicable to ensure that as much support as possible goes directly to the improvement of the intended facilities and services. Unfortunately, the proposed enhanced transparency rules consume financial and staff resources that can and should be used much more effectively for broadband infrastructure deployment and the development of new broadband service offerings.

Therefore, WTA strongly opposes the adoption of the proposed enhanced transparency requirements and their imposition upon RLECs, their Internet service provider affiliates and other small carriers. In the alternative, the Commission should expressly exempt RLECs, their Internet service provider affiliates and other similarly situated small entities from its proposed enhanced transparency requirements and instead leave them subject only to the existing 2010 transparency requirement.

IV
Conclusion

WTA reiterates its support for the Commission's goal of protecting and promoting the openness of the Internet. In addition to the proposed No Blocking and Commercially Reasonable Practices rules (and some future assistance in addressing the growing problems of video streaming congestion of rural broadband networks), WTA urges the Commission to promote Internet openness by ensuring that the customers of rural incumbent local exchange carriers ("RLECs") and other small carriers have high quality and affordable access to the Internet via continued application of Title II regulation (particularly, the Section 251/252 process) to IP interconnection and middle mile transport. At the same time, WTA opposes the application of the proposed new enhanced transparency requirements to RLECs and other small entities because their potential informational benefits are outweighed by the significant drain they impose upon financial and staff resources that are urgently needed to invest in broadband infrastructure and to deploy new Internet Protocol services, particularly at a time when federal high cost support is stagnant and uncertain and intercarrier compensation is decreasing.

Respectfully submitted,
WTA – ADVOCATES FOR RURAL BROADBAND

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