

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

_____)	
In the Matter of)	
)	
Establishing the Digital Opportunity Data Collection)	WC Docket No. 19-195
)	
Modernizing the FCC Form 477 Data Program)	WC Docket No. 11-10
_____)	

REPLY COMMENTS OF CTIA

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CTIA submits these reply comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) Fourth Further Notice of Proposed Rulemaking concerning the Broadband Data Collection (“BDC”) process.¹

I. INTRODUCTION

CTIA continues to support the Commission’s ongoing efforts to improve the BDC process and applauds the Commission for seeking comment on ways to do so. The record supports adopting minor changes, including (1) a flexible restoration process for removed locations or areas that encourages the use of non-infrastructure data as appropriate and a drop-down menu for fixed wireless “conceded” locations, and (2) permanently eliminating the Professional Engineer (“PE”) requirement. These targeted changes will improve the restoration process and result in a more transparent, efficient, and accurate National Broadband Map.

There is no evidentiary support that more comprehensive changes would increase the accuracy of maps. Moreover, such reforms would unnecessarily increase burdens on providers.

¹ *In re Establishing the Digital Opportunity Data Collection*, Fourth Report and Order, Declaratory Ruling, and Fourth Further Notice of Proposed Rulemaking, WC Docket Nos. 19-195, 11-10, FCC 24-72 (rel. July 12, 2024) (“*Declaratory Ruling*” or “*FNPRM*”).

In particular, there is no reasonable basis to impose additional requirements on fixed wireless providers—whether it be the submission of infrastructure data, spectrum authorization details, or other unnecessary evidence. Similarly, the Commission should not effectively eliminate the ability of fixed wireless providers to submit locations in a comma-separated values (“CSV”) file as permitted by Congress in the Broadband DATA Act and in the Commission’s rules, nor should it make BDC filers’ confidential information widely accessible to potential challengers.

II. THE RECORD SUPPORTS ADOPTING A FLEXIBLE RESTORATION PROCESS.

In the *FNPRM*, the Commission sought comment on the restoration process and possible data requirements.² In response, there is consensus to adopt CTIA’s recommendations, including a flexible restoration process that is voluntary, avoids a one-size-fits-all approach, accounts for the various different reasons a location may have been removed, and allows for non-infrastructure data to support a restoration.³

Regarding fixed wireless locations previously removed as “conceded” due to a “service change,” USTelecom agreed with CTIA that “restoration of fixed wireless locations previously removed as due to a challenge ‘conceded’ because of ‘service change[s]’ should not require additional data support” because a conceded service change does not mean the filing was inaccurate, but reflects a change in service availability after the filing.⁴ WISPA similarly recommended that providers be able to restore fixed locations previously removed in a lost fixed availability challenge via a drop-down menu in the BDC portal that includes a list of potential

² See *FNPRM* ¶¶ 110-114.

³ Comments of USTelecom – The Broadband Association at 7-8, WC Docket Nos. 19-195, 11-10 (Oct. 7, 2024) (“USTelecom Comments”); Comments of WISPA – The Association for Broadband Without Boundaries at 5, WC Docket Nos. 19-195, 11-10 (Oct. 7, 2024) (“WISPA Comments”); Comments of T-Mobile USA, Inc. at 5-6, WC Docket Nos. 19-195, 11-10 (Oct. 7, 2024) (“T-Mobile Comments”).

⁴ USTelecom Comments at 7-8.

reasons why the provider “is providing service at the later date or can do so within 10 days.”⁵ WISPA’s suggested default options for the drop-down menu included new deployment, upgraded service, use of different spectrum or technology (*e.g.*, spectrum replaced with fiber), marketing of service to new locations, and addition of an actual customer.⁶ T-Mobile also supported the use of a drop-down menu to explain the basis for a change and argued that no additional evidentiary support should be required.⁷ The Commission should adopt this streamlined process, as it balances the burdens on providers and encourages them to participate in the restoration process, which ultimately will result in more accurate maps.

For the restoration process generally, commenters also agreed with CTIA that the Commission should include a non-exhaustive list of examples of non-infrastructure data that providers may elect to use to support the submission.⁸ Affording providers flexibility to use non-infrastructure data is consistent with the Commission’s recognition that infrastructure data may not be relevant to the restoration of locations removed under certain fixed availability challenge codes.⁹ Like CTIA, USTelecom and T-Mobile urged the Commission to allow providers to submit supporting information other than infrastructure data to support a restoration request, including screenshots of websites showing current availability or a certification by a provider that the

⁵ WISPA Comments at 5.

⁶ *Id.* at 5.

⁷ T-Mobile Comments at 5-6.

⁸ Comments of CTIA at 6, WC Docket Nos. 19-195, 11-10 (Oct. 7, 2024) (“CTIA Comments”) (noting that the Commission’s “non-exhaustive list of examples of non-infrastructure data . . . may include screenshots of providers’ websites showing current availability, or a certification by the provider that a location has an existing, active subscriber.”); *see also* USTelecom Comments at 8; T-Mobile Comments at 6.

⁹ *See* CTIA Comments at 6; *see also* FNPRM ¶ 113 (observing that “when seeking to restore a location lost or conceded to fixed Challenge Category Codes 1, 2, and 3 . . . infrastructure data would not be informative”).

location has an active subscriber.¹⁰ T-Mobile similarly suggested that providers could submit “screenshots, subscriber bills, or certifications regarding active subscribers.”¹¹

A flexible approach is also consistent with the Commission’s observation that the Data Specifications for Provider Infrastructure Data in the Challenge, Verification, and Audit Processes are merely “indicative of the kind of information [the Commission] expect[s] to be persuasive” in restorations.¹² NCTA, for example, also recognized that there should be flexibility and information should not be required when it does not carry probative value. For example, NCTA observed that requiring the “in-service date” of a hub should not be required for the restoration process and explained that the burdens of gathering that information far outweigh any benefit to the Commission.¹³

In short, the record shows that adopting a flexible approach for the restoration process will encourage providers to restore locations and help to ensure that the National Broadband Map is accurate while minimizing excessive burdens on providers.

¹⁰ USTelecom Comments at 8; T-Mobile Comments at 6.

¹¹ T-Mobile Comments at 3. To the extent that providers submit infrastructure data or other confidential or sensitive data, the Commission should reiterate that such information must be afforded confidential treatment. *See In re Establishing the Digital Opportunity Data Collection*, Third Report and Order, 36 FCC Rcd 1126, 1148-49 ¶ 55 (2021). Any probative data that relies on subscriber-specific information should be kept confidential. *See* T-Mobile Comments at 6 n.11 (explaining that “the Commission should also presume that any subscriber-specific information is confidential”); *see also* 47 C.F.R. § 1.7005.

¹² *Declaratory Ruling* ¶ 42. NTCA’s concerns about maximum advertised speeds provide no basis for collecting infrastructure data. *See* Comments of NTCA–The Rural Broadband Association at 4, WC Docket Nos. 19-195, 11-10 (Oct. 7, 2024) (“NTCA Comments”). NTCA claimed that “availability reporting should be driven by reference to more detailed technical standards” instead of what providers market as the maximum speeds available. *Id.* at ii. To the extent NTCA is concerned that maximum advertised speed is not the appropriate BDC reporting standard, the solution is to evaluate other potential reporting standards for fixed service, not rewrite the rules generally. There is no basis for requiring infrastructure data based on a concern about maximum advertised speeds. Moreover, the Commission would need to seek comment before requiring providers to submit different information pursuant to a new standard as part of the BDC filings. *See generally* 5 U.S.C. § 551 *et seq.*

¹³ Comments of NCTA – The Internet & Television Association at 3-4, WC Docket Nos. 19-195, 11-10 (Oct. 7, 2024) (“NCTA Comments”).

III. THE RECORD CONFIRMS THERE IS NO REASONABLE BASIS FOR IMPOSING UNIQUE FILING BURDENS, SUCH AS SPECTRUM AUTHORIZATION DETAILS OR OTHER UNNECESSARY INFORMATION, ON LICENSED FIXED WIRELESS PROVIDERS.

In the *FNPRM*, the Commission asked about requiring terrestrial licensed fixed wireless providers to submit additional information about their spectrum authorization.¹⁴ CTIA and other commenters opposed this proposal as unnecessary, not technology-neutral, and burdensome.¹⁵ The Commission should not require terrestrial licensed fixed wireless providers to submit information that is already in the Commission’s possession, including call signs, lease IDs, and FCC Registration Numbers (“FRNs”) because such a requirement represents a solution to a problem that does not exist, and, even if it did, would not actually address concerns about overstated coverage by *unlicensed* fixed wireless providers in the record.

There is no evidence in the record suggesting that CTIA members—*licensed* fixed wireless providers—are offering broadband internet access services in areas where they lack authorization. As the record makes clear, this is not unsurprising given that the Commission has strict rules against unauthorized operation.¹⁶ It is also undisputed that information about call signs and lease IDs is already available to the Commission via ULS or the relevant Spectrum Access Systems.¹⁷ It would be redundant and an unnecessary burden to require providers to submit information that is already publicly accessible and inconsistent with the Commission’s creation of ULS to be the sole repository for this type of information.¹⁸ Even commenters that nominally support requiring

¹⁴ See *FNPRM* ¶¶ 58-64.

¹⁵ CTIA Comments at 14-16; USTelecom Comments at 4; T-Mobile Comments at 11-14.

¹⁶ See USTelecom Comments at 4 (arguing that “there is no evidence that licensed fixed wireless providers are reporting service availability outside of their licensed areas”); T-Mobile Comments at 3 (“There is no evidence or concerns that licensed providers are operating outside of their licensed areas. And collecting this information will do nothing to confirm coverage.”); see also CTIA Comments at 14.

¹⁷ See USTelecom Comments at 4; T-Mobile Comments at 3; CTIA Comments at 14-15.

¹⁸ T-Mobile Comments at 12-13; CTIA Comments at 15 n.37.

submission of call signs, lease IDs, and FRNs¹⁹ fail to explain how or why such information is probative or necessary when it is already available with ULS. Nor do they (or could they) explain how this information could address concerns about overstated coverage by unlicensed fixed wireless providers.²⁰

Moreover, given the lack of evidence that the existing Commission processes are insufficient, it would be arbitrary and capricious for the Commission to impose further data collection requirements for fixed wireless providers.²¹ Commenters that support the submission of additional information do not provide a foundation showing that the proposed requirements will achieve the Commission’s goals of more accurate maps.²² Poka Lambro and Totelcom, for example, suggested that technical information about how service is being provided and the number of current subscribers should be collected, and that even this information would not go “far

¹⁹ See Comments of the National Rural Electric Cooperative Association (NRECA) at 2, WC Docket Nos. 19-195, 11-10 (Oct. 7, 2024) (“NRECA Comments”); Comments of Poka Lambro Telecommunications, Ltd. and Totelcom Communications, LLC at 4, WC Docket Nos. 19-195, 11-10 (Oct. 7, 2024) (“Poka Lambro and Totelcom Comments”); WISPA Comments at 2.

²⁰ WISPA stated that collecting information about all base station transmission equipment from unlicensed wireless providers “would not provide the Commission with direct information to verify coverage, as it would just be an equipment list that would require the provider to expend time creating.” WISPA Comments at 3. Although WISPA expressed nominal support for the related information collection for licensed wireless providers, such support is undermined by recognizing that base stations do not demonstrate coverage.

²¹ 5 U.S.C. § 706(2)(A). Under the Administrative Procedure Act, courts will hold unlawful agency action if it is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” *Id.* Agency action must be the product of “reasoned decisionmaking.” *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto Ins. Co.*, 463 U.S. 29, 52 (1983); *Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 28-29 (2020) (holding that rescission of the full Deferred Action for Childhood Arrivals program was arbitrary and capricious because the agency failed to provide adequate grounds for its decision); *Pub. Citizen v. Fed. Motor Carrier Safety Admin.*, 374 F.3d 1209, 1216 (D.C. Cir. 2004) (finding that because the agency “wholly failed to comply with [a] specific statutory requirement, this single objection from petitioners is sufficient to establish an arbitrary-and-capricious decision requiring vacatur of the rule”); see also *Citizens to Pres. Overton Park, Inc. v. Volpe*, 401 U.S. 402 (1971), *abrogated by Califano v. Sanders*, 430 U.S. 99 (1977).

²² See Comments of ACA Connects at 4-5, WC Docket Nos. 19-195, 11-10 (Oct. 7, 2024) (“ACA Connects Comments”); NTCA Comments at 3-5; Poka Lambro and Totelcom Comments at 5-6.

enough.”²³ Yet, they fail to explain why this information is necessary for the Commission’s evaluation of service availability. Nor do these commenters explain why or how the Commission’s existing processes, including audit and enforcement authorities, are somehow insufficient to investigate and address concerns about potential claims of service availability based on unauthorized operations in any providers’ biannual submissions.²⁴ Nor can they do so because there is no evidence that the Commission lacks the ability to take corrective action.

IV. THERE IS SUPPORT FOR PERMANENTLY ELIMINATING THE PE CERTIFICATION REQUIREMENT.

Commenters representing providers large and small across the industry, including cable, wireline, and wireless providers, agreed with CTIA that the Commission should permanently eliminate the PE certification requirement.²⁵ Doing so would provide certainty to providers, avoid imposing unnecessary costs, and eliminate the need to continue using piecemeal waivers to address this persistent concern of the broadband industry and Radio Frequency (“RF”) engineering workforce.

There is broad consensus that there is a shortage of licensed PEs with expertise in RF engineering and broadband network design.²⁶ For example, CCA specifically highlighted the

²³ Poka Lambro and Totelcom Comments at 4.

²⁴ *See* 47 C.F.R. § 1.7006. There is no need to collect information that would supposedly provide insight about service availability at specific locations, even if applied across all providers, as SpaceX suggested. *See* Comments of Space Exploration Technologies Corp. at 3-4, WC Docket Nos. 19-195, 11-10 (Oct. 7, 2024). As SpaceX initially observed, “system capacity and coverage are fundamentally different questions.” *Id.* There similarly would be no benefit to collecting such information from fixed wireless providers.

²⁵ Comments of Competitive Carriers Association at 4-8, WC Docket Nos. 19-195, 11-10 (Oct. 7, 2024) (“CCA Comments”); ACA Connects Comments at 2-4; NCTA Comments at 1-3; USTelecom Comments at 6-7; WISPA Comments at 4; Comments of Next Century Cities et al. at 9-10, WC Docket Nos. 19-195, 11-10 (Sept. 16, 2024) (“Next Century Cities et al. Comments”).

²⁶ *See* T-Mobile Comments at 15-16 (noting that the “Commission’s proposal recognizes the realities of the ongoing shortage of licensed PEs with expertise in RF engineering and broadband network design”); CCA Comments at 4-5 (noting that “PE licensure is uncommon among the RF engineering Workforce”);

“challenges providers face with hiring a third-party PE” and argued that “very little has changed in the availability of licensed PEs with requisite RF engineering training.”²⁷ ACA Connects similarly explained that “there remains an insufficient supply of certified PEs with the requisite and relevant expertise to provide the required certifications.”²⁸ Other commenters identified the cost of satisfying the PE certification requirement and how such costs outweigh potential benefits. For example, Next Century Cities stated that maintaining the requirement harms municipalities that cannot afford to engage a professional engineer.²⁹

While a few commenters opposed eliminating the PE requirement,³⁰ their arguments are unavailing and fail to counter providers’ on-the-ground experiences and the Commission’s recognition that there have been substantial difficulties in obtaining PEs in the prior cycles, necessitating the prior waivers. For example, while the Association of Communication Engineers (“ACE”) represented that its members “are available” to help meet the professional engineering certification requirement, and provide this service to “most of the smaller carriers across the [country],”³¹ ACE does not offer any data to suggest the issue confronting providers has been addressed, and this statement is undermined by evidence demonstrating that providers seeking to meet the PE certification requirements have encountered persistent difficulties. Similarly, while

see also USTelecom Comments at 6-7; NRECA Comments at 5; NCTA Comments at 1-2; ACA Connects Comments at 2-4.

²⁷ CCA Comments at 2.

²⁸ ACA Connects Comments at 3.

²⁹ *See* Next Century Cities, et al. Comments at 9-10; *see also* CCA Comments at 8-9 (noting “the significant costs providers would have to take on to seek out and contract with a PE”); USTelecom Comments at 6 (noting that “[i]t remains true that so few companies can afford to employ a PE”).

³⁰ *See* Comments of ACE – Association of Communication Engineers at 2-3, WC Docket Nos. 19-195, 11-10 (Oct. 7, 2024) (“ACE Comments”); NTCA Comments at 13-15; Comments of the Rural Wireless Association, Inc. at 5-6, WC Docket Nos. 19-195, 11-10 (Oct. 7, 2024); Comments of NANA Regional Corporation, Inc. at 10, WC Docket Nos. 19-195, 11-10 (Oct. 7, 2024).

³¹ *See* ACE Comments at 2.

NTCA suggested that the Commission “reinstate” the certification requirement for one cycle,³² there is no need for such an experiment. The Commission should not invite a deluge of waiver petitions from individual providers, which would only further demonstrate the need for universal relief via the elimination of the PE certification requirement altogether. Finally, the Commission should eliminate the PE certification requirement without imposing any additional obligations such as the retention of providers’ infrastructure data that was included as part of the PE waiver.³³

V. THE COMMISSION SHOULD DECLINE TO ADOPT OTHER COMPREHENSIVE CHANGES THAT LACK MERIT.

Finally, efforts to turn this proceeding into a mechanism to fundamentally alter the BDC processes, such as eliminating fixed wireless providers’ ability to submit locations in a CSV file and making BDC filers’ confidential information accessible to potential challengers, are unwarranted and should be rejected.

First, what NTCA refers to as a so-called “CSV loophole”³⁴ is based on the faulty premise that submitting a list of locations where service is available as a CSV file is a problem that requires supplementation with other information. This is not a “loophole,” but a statutory option provided by Congress. The DATA Act and the Commission’s rules explicitly permit all fixed providers (including fixed wireless providers) to submit availability data as a list of broadband serviceable locations *or* polygon shapefiles.³⁵ NTCA’s proposal would effectively rewrite the statute and

³² NTCA Comments at 15.

³³ See *In re Establishing the Digital Opportunity Data Collection*, Declaratory Ruling and Limited Waiver, 37 FCC Rcd 7836, 7846-47 ¶ 19 (WCB, OEA & WTB 2022); *In re Establishing the Digital Opportunity Data Collection*, Order, 38 FCC Rcd 11075, 11078-79 ¶ 8 (WTB, WCB & OEA 2023). There is no support in the record for the Commission to retain infrastructure data. And, as CTIA has explained, it would not be appropriate to adopt a rule of general applicability for all providers that submit BDC filings. See CTIA Comments at 19-20.

³⁴ See NTCA Comments at 5-6.

³⁵ See 47 U.S.C. § 642(b)(2); 47 C.F.R. § 1.7004(c)(1).

require a list of locations *and* polygon shapefiles, which limits the flexibility that Congress gave to fixed broadband providers.³⁶

Moreover, the Commission should not require providers to submit propagation model details, base station locations and height, and link budget parameters, as suggested by NTCA,³⁷ if they are otherwise meeting their obligations under the DATA Act by submitting a list of locations. To require such information would be inconsistent with Congress’s intent to give providers the choice to submit a list of broadband serviceable locations.

Second, NTCA asked that the Commission give potential or “would-be” challengers, as NTCA terms them, access to BDC filers’ proprietary and confidential information.³⁸ The Commission should not indulge this severely overbroad and problematic request. NTCA properly recognized that the information sought (propagation models, base station information, etc.) is confidential and proprietary, and suggested that the Commission use its protective order processes to safeguard against disclosure.³⁹ Providing the universe of “would-be” challengers—which is an unlimited class—with access to confidential information about providers’ most sensitive information is a tremendous risk that offers no commensurate benefits.

While NTCA claimed that access to this information would “almost certainly” reduce the number of challenges because it would “allay[]” concerns about “overstated coverage,”⁴⁰ NTCA

³⁶ See Letter from Amy E. Bender, Vice President, Regulatory Affairs, CTIA, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 19-195, 11-10, at 2 n.8 (June 26, 2024) (“Requiring fixed wireless providers to use the data specifications, which include the use of propagation modeling, would undermine this flexibility provided by Congress by effectively shifting providers away from the location list option.”); T-Mobile Comments at 7 & n.17 (noting that “Commission rules permit fixed wireless providers to submit a list of locations, rather than propagation maps and models” and citing CTIA’s June 26, 2024 letter).

³⁷ NTCA Comments at 6.

³⁸ See *id.* at 6-7.

³⁹ *Id.* at 7.

⁴⁰ *Id.* at 6-7.

did not specifically identify any problems with the challenge process aside from a generalized “difficult[y]” with challengers assessing coverage.⁴¹ The challenge process has generally been working as intended,⁴² and the Commission has access to the relevant data and can evaluate coverage in a challenge adjudication. Moreover, potential widespread dissemination of providers’ sensitive information, even when subject to confidentiality protections via a protective order, presents both competitive concerns, as well as significant network and national security risks.

VI. CONCLUSION

CTIA appreciates the Commission’s continued work to iterate and refine the BDC process. There is consensus that targeted updates to create a flexible restoration process and eliminate the PE requirement are warranted. Other changes should be rejected because they are unnecessary, lack a reasonable basis, and fail to show that these burdensome proposals would help achieve more accurate maps. CTIA looks forward to further engaging with the Commission to achieve a transparent, efficient, and accurate National Broadband Map.

Respectfully submitted,

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⁴¹ NTCA Comments at 6.

⁴² See Comments of CTIA at 4, WC Docket Nos. 19-195, 11-10 (Feb. 20, 2024) (describing the Commission’s challenge processes as “already successful”).

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