

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

In the Matter of

Establishing the Digital Opportunity Data
Collection

Modernizing the FCC Form 477 Data Program

WC Docket No. 19-195

WC Docket No. 11-10

**COMMENTS OF
THE MASSACHUSETTS DEPARTMENT OF
TELECOMMUNICATIONS AND CABLE**

Commonwealth of Massachusetts
Department of Telecommunications and Cable

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Dated: September 8, 2020

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The Massachusetts Department of Telecommunications and Cable (“MDTC”)¹ appreciates the opportunity to comment on the Third Further Notice of Proposed Rulemaking released by the Federal Communications Commission (“FCC”) on July 17, 2020, in the above-captioned dockets.² The MDTC agrees with the FCC that the Form 477 is an inadequate broadband reporting method given its faulty assumption that if one part of a census block has adequate broadband access, the entire census block has adequate broadband access. The result of this assumption is that many unserved premises are considered served, rendering them ineligible for the support needed to bring them into the 21st century. With broadband service being essential to economic development, new reporting and collection methods are needed. The FCC’s new data collection method (the “polygon method”) (1) requires broadband providers to submit granular and detailed coverage data, (2) compares this coverage data to a fabric of locations that are or

¹ The MDTC regulates telecommunications and cable services within Massachusetts and represents the Commonwealth before the FCC. MASS. GEN. LAWS ch. 25C, § 1; MASS. GEN. LAWS ch. 166A, § 16.

² *In re Establishing the Digital Opportunity Data Collection*, WC Docket No. 19-195, FCC 20-94, Second Rep. & Order & Third Further Notice of Proposed Rulemaking (July 17, 2020) (“Second Report and Order”).

could be served by a broadband connection, and (3) permits interested entities, including state and local governments, to provide feedback to the FCC on the accuracy of this data.³ The MDTC supports this three-pronged approach as a way to ensure that all stakeholders can identify unserved and underserved areas so that they can ultimately become served.

The COVID-19 crisis has crystalized how crucial broadband access is for telework, telehealth, and online learning, among many other things. The MDTC advocates the following four viewpoints with the belief that if adopted they will effectively enable the expansion of such access in rural and other traditionally unserved and underserved areas: (1) the FCC should include providers' business-only services in the data collection; (2) the FCC should be flexible regarding the types and sources of third-party broadband data it collects; (3) the FCC must avoid sunseting Form 477 reporting until the polygon method is fully implemented and understood; and (4) the FCC should collect mobile broadband infrastructure data.

I. THE FCC SHOULD COLLECT BUSINESS-ONLY BROADBAND DATA.

The ultimate purpose of the FCC's data collection should be to ensure that not only consumers but also businesses and other entities that do not buy mass-market services, such as healthcare organizations, schools, and libraries have appropriate broadband access.⁴ To accomplish this goal, the FCC must collect business-only broadband data. Excluding business-only data would devalue the collection because stakeholders would be unaware of the total broadband picture in a given area. "As more industries and day-to-day operations rely on fast and reliable connectivity, areas that lack the essential tool are increasingly left in the dust."⁵ The FCC

³ *Id.* ¶ 1.

⁴ *See id.* ¶ 90.

⁵ Abigail Thorpe, *Absence of High-speed Internet in Rural Areas Stunts Business Growth*, NATIONAL FEDERATION OF INDEPENDENT BUSINESS, June 12, 2018, <https://www.nfib.com/content/resources/start-a-business/absence-of-high-speed-internet-in-rural-areas-hurts-business-growth/>.

should collect information on business-only service as an important step in facilitating wider disbursement of this vital tool. Indeed, the FCC has already found that fixed providers must submit broadband coverage polygons, including a “differentiation between residential-only, business-only, or residential-and-business broadband services.”⁶ There is no reason for the FCC to go back on this finding.

II. THE FCC SHOULD LIBERALLY ACCEPT BROADBAND AVAILABILITY DATA FROM STATES AND OTHER THIRD PARTIES.

The FCC and other stakeholders would be best served by an open and evolving approach to third-party information. The Broadband DATA Act requires the FCC to develop a process for the submission of data from state agencies that have the primary responsibility to track broadband internet service coverage.⁷ This obligation should be a minimum standard and should not be used to impose strict submission methodology guidelines or limit third-party collections from a specific pool of state authorities in the early phases of the FCC’s new data collection initiative. State and other third-party submissions may contain methodologies the FCC has not previously considered or may not strictly meet FCC-developed standards, and yet could yield very useful information. Allowing states to act as laboratories can only benefit the general understanding of broadband coverage.⁸ The FCC, other government agencies, broadband

⁶ See *id.* (quoting *In re Establishing the Digital Opportunity Data Collection*, WC Docket No. 19-195, FCC 19-79, Rep. & Order & Second Further Notice of Proposed Rulemaking, ¶ 12 (Aug. 6, 2019)).

⁷ See Broadband Deployment Accuracy and Technology Availability Act, Pub. L. No. 116-130, 134 Stat. 228 (2020) (codified at 47 U.S.C. §§ 641-646) (“Broadband DATA Act”), § 802(A)(1)(a).

⁸ See, e.g., Ga. Dep’t of Cmty. Affairs, Georgia Broadband Deployment Initiative, <https://broadband.georgia.gov/maps> (identifying served and unserved locations throughout the state); *In re Rural Digital Opportunity Fund*, WC Docket 19-126, MDTC Letter in Support of Vermont’s Petition for Reconsideration (Apr. 15, 2020) (“Federal-state partnerships enable the FCC . . . to better achieve the ultimate goal of bridging the digital divide.”).

providers, and the public will benefit from the recognition that broadband service affects a broad array of interested parties. The FCC should welcome third-party data with open arms.⁹

The Broadband DATA Act requires the FCC to create “a common dataset of all locations in the United States where fixed broadband Internet access service can be installed, as determined by the Commission.”¹⁰ However, the FCC notes it has not been given the resources necessary to undertake such an effort, but is attempting to create standards before any procurement.¹¹ Rather than wait for contracting resources to develop its own broadband fabric, the FCC should begin collecting from and harmonizing existing public geospatial data for broadband mapping. Further, even after funds are available for this initial fabric, the FCC may have trouble continually maintaining an updated location fabric just for itself. Collecting geospatial data from a variety of third parties both initially and on an ongoing basis would minimize the resources required to build and maintain a fabric while creating a useful set of standards for the same. As soon as practicable, the FCC should begin to identify public sources of location data and encourage any third party with existing geospatial data to submit such data.¹²

III. THE FCC SHOULD BE CAUTIOUS WHEN SUNSETTING THE FORM 477 CENSUS BLOCK REPORTING.

Although Form 477 reporting is not as granular as the polygon method, it still has merit because it provides an overarching view of which census blocks have at least some service and

⁹ The availability of broadband service is limited by both physical access and functional access. The City of Worcester Regional Research Bureau recently released a study quantifying the number of student households that cannot afford broadband service physically available in the city. This report is available at <http://www.wrrb.org/wp-content/uploads/2020/07/Broadening-Broadband-FINAL.pdf>.

¹⁰ Second Report and Order, ¶ 52 (quoting 47 U.S.C. § 642(b)(1)(A)(i)).

¹¹ *Id.* ¶ 167.

¹² For example, the U.S. Department of Transportation has been developing a National Address Database for accurate geocoded locations in support of Next Generation 911. *See* U.S. Dep’t of Transp., National Address Database, <https://www.transportation.gov/gis/national-address-database/national-address-database-0>.

which do not. In fact, the FCC recently acknowledged in another proceeding that until the polygon method is fully implemented, the Form 477 method will help supplement the polygon method for an enhanced understanding of broadband access.¹³ In the Second Report and Order, the FCC suggests potentially sunseting Form 477 reporting after just one polygon collection.¹⁴ That short timeframe may be too hasty to enable a full understanding of the polygon method's accuracy and allow for resolution of appropriate challenges. The FCC should not rush to sunset Form 477 reporting prematurely.

IV. THE FCC SHOULD COLLECT MOBILE INFRASTRUCTURE DATA.

Collecting mobile infrastructure data¹⁵ is critical to comprehending whether areas receive adequate mobile broadband access. As mobile data signifies the present and the future, it would be helpful to formulate a granular view of the infrastructure used to support these mobile networks. Indeed, the MDTC concurs that this information will assist the FCC to “verify the accuracy of provider coverage propagation models and maps” submitted, thus providing a clearer picture of the location and quality of that service.¹⁶ Mobile infrastructure data will also help the FCC verify the claims of recipients of Universal Service Fund (USF) money and enable it to conduct an analysis as to whether a reasonable correlation exists between the dollars awarded and the existing coverage.¹⁷

¹³ See *In re Inquiry Concerning Deployment of Advanced Telecomms. Capability to All Ams. In a Reasonable & Timely Fashion*, GN Docket No. 20-269, FCC 20-112, Sixteenth Broadband Deployment Report Notice of Inquiry, ¶ 20 (Aug. 19, 2020) (noting that Form 477 deployment data enables assessment of “the level of deployment by providing a consistent unit of measurement” and “provide[s] a means of validating new broadband coverage data”).

¹⁴ Second Report and Order, ¶ 191.

¹⁵ See *id.* ¶¶ 100-102.

¹⁶ *Id.* ¶ 101.

¹⁷ See, e.g., *In re Establishing a 5G Fund for Rural America*, GN Docket No. 20-32, Comments of the MDTC at 12-13 (June 24, 2020).

V. CONCLUSION

The MDTC supports the FCC's adoption of the polygon method. This new method will provide all interested parties with data that can be used to bridge the digital divide. Increasing broadband access for unserved and underserved areas is critical for economic development. In order to do that, it is crucial that the FCC collect business-only service data and mobile broadband infrastructure data. In doing so, the FCC must work with states, which often have the best knowledge about where broadband access exists and where it is lacking. Finally, the MDTC urges the FCC to be cautious in sunseting the Form 477. Until the full benefits of the polygon method are realized, the Form's data still has value. In taking these steps, the FCC will continue to make progress toward closing the digital divide for the millions of Americans who live in traditionally unserved and underserved areas.

Respectfully submitted,

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