

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Development of Nationwide Broadband Data to)	
Evaluate Reasonable and Timely Deployment of)	WC Docket 07-38
Advanced Services to All Americans, Improvement)	
of Wireless Broadband Subscribership Data, and)	
Development of Data on Interconnected Voice over)	
Internet Protocol (VoIP) Subscribership)	

**REPLY COMMENTS OF THE
MICHIGAN PUBLIC SERVICE COMMISSION**

Introduction

On June 12, 2008, the Federal Communications Commission (FCC) released a *Report and Order and Further Notice of Proposed Rulemaking (FNPRM)* adopted on March 19, 2008 in WC Docket No. 07-38. The Michigan Public Service Commission (PSC) commends the FCC for working to improve the data it collects on broadband availability and other issues, specifically through the use of Form 477. The Michigan PSC also strongly commends the FCC’s decision to “design and implement a voluntary system that households may use to report availability and speed of broadband Internet access service at their premises.” (*Report and Order and FNPRM*, §III.A. ¶18) Accurate, granular data regarding the actual availability of broadband service to customers is an important first step in ensuring that all Americans have access to affordable high speed internet service. The Michigan PSC shares the FCC’s goal of enhanced broadband availability.

In the *FNPRM*, the FCC sought additional comment in six areas related to improving data collection to assess broadband availability. The Michigan PSC hereby provides the following reply comments. The bulk of the comments are focused specifically on §IV.E. of the *Report and Order and FNPRM*, where the FCC sought comment on

...ways in which we can preserve confidentiality when sharing the information collected on Form 477, the voluntary registry, and other sources with agencies such as the Department of Agriculture's Rural Utilities Service and with public-private partnerships such as ConnectKentucky and similar ventures, for example by sharing the data in a less granular or aggregated form that the level at which it is collected.
(Report and Order and FNPRM, §IV.E. ¶39)

On those issues noted in the FNPRM but not specifically addressed in these comments, the Michigan PSC expresses its support of all efforts to collect additional information on the availability and service characteristics of broadband as long as the process is not unnecessarily burdensome to providers.

Current Access to Certain Form 477 Data

The Michigan PSC has been able to receive certain FCC Form 477 Data pursuant to a signed Data Sharing Agreement with the FCC. The Michigan PSC receives the company-specific data for those companies filing data for the state of Michigan operations. The Michigan Telecommunications Act and Michigan law have specific provisions which allow for the protection of sensitive provider data. Michigan Compiled Law 484.2210 Section 210(1) provides as follows:

“Except under the terms of a mandatory protective order, trade secrets and commercial or financial information submitted under this act are exempt from the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.”

Additionally, under the current Data Sharing Agreement with the FCC, if federal law imposes a higher standard than state law, the federal law must be followed. The Michigan PSC has been receiving Form 477 data for companies filing data for Michigan since 2000 and has afforded proper protection to this information.

Continued Need for Access for Certain Form 477 Data and Other Broadband Data

Form 477 collects detailed telecommunications and broadband information that is otherwise unavailable to many state commissions, including the Michigan PSC. State commissions generally do not have authority over broadband issues, and therefore often times do not have data sharing relationships with broadband providers. However, telecommunications policy decisions should take into account the state of broadband. The Michigan PSC, for example, is charged by state law to update the Michigan legislature annually on the status of telecommunications competition in Michigan. The legislature uses the Michigan PSC's *Status of Telecommunications Competition in Michigan* report in determining whether additional legislative or policy positions are necessary. Competition in the telecommunications market is no longer limited to wireline voice technologies. As technologies such as VoIP, which rely on broadband, continue to be embraced by more Michigan customers, data regarding whether and what types of broadband are available in Michigan becomes more important in determining the levels of competition faced by incumbent local exchange carriers. However, as valuable as such information is, state commissions do not have many options for obtaining detailed data on broadband due to a lack of jurisdiction over broadband services/providers.

As more and more providers seek to report less public information regarding their networks,¹ the opportunity for state commissions to obtain data collected on Form 477 is imperative.

Additionally, information submitted by customers regarding the characteristics, such as speed and price, of their actual broadband service would be important information to supplement the carrier-provided data reported on Form 477. As noted above, the Michigan PSC is pleased about the FCC's decision to develop a "voluntary system that households may use to report availability and speed of broadband Internet access service at their premises." By including information collected on this voluntary survey in this FNPRM, the Michigan PSC is hopeful that the FCC will also make state specific data collected via this survey available to state commissions under similar protection requirements as Form 477 data is made available.

Preserving Confidentiality

Under the Data Sharing Agreement the Michigan PSC has with the FCC for Form 477 data, the state is charged with affording the Form 477 data with protections equal to or greater than those afforded under Federal confidentiality statutes and rules, including the Freedom of Information Act, the Trade Secrets Act, and Section 0.457, 0.459, and 0.461 of the Commission's rules. To any extent that federal confidentiality law/rules impose a higher standard than state law, the federal standard must be adhered to. The Michigan PSC believes that the current process that offers the successful sharing of Form 477 data under this type of agreement can be continued for the revised Form 477. Data is shared only for the state in which the requesting state commission has authority. This

¹ For example, WC Docket 07-139 *In the Matter of Petition of AT&T, Inc. for Forbearance Under 47 U.S.C. §160 (c) from Enforcement of Certain of the Commission's ARMIS Reporting Requirements.*

prevents any extraneous data requests which do not directly pertain to the requesting state commission, as well as narrowing the focus of the admittedly large amount of data that is collected through the use of Form 477. The Michigan PSC believes that a current signed Data Sharing Agreement with the FCC for Form 477 data affords sufficient protection for confidentiality in the sharing of information collected on the revised Form 477. The Michigan PSC advocates a similar procedure for sharing information collected on the voluntary survey. A Data Sharing Agreement for information collected on the voluntary survey would be an appropriate way for the FCC to share important data with state commissions, while at the same time preserving the confidentiality of the data. To further protect the confidentiality of consumers who respond to the voluntary survey, the FCC should limit state commissions, or other requesting parties, with data specific to the requesting parties' purposes (for example, the Michigan PSC would only receive data related to Michigan), and/or aggregated by region, preferably regions large enough to ensure confidentiality of responses, but granular enough so as to be useful in policy making—for example, data aggregated at the county level.

Conclusion

The Michigan PSC urges the FCC to continue to make certain state specific data from Form 477 available to state commissions. The Michigan PSC has been a recipient of previous Form 477 data under the FCC's signed Data Sharing Agreement. Form 477 data, including broadband data, provides the most complete picture of the telecommunications market in Michigan. Access to the more detailed data collected on the revised Form 477 is necessary for the Michigan PSC to ascertain the state of broadband rollout in Michigan, and can help to guide policy decisions at the state level

that impact the Michigan telecommunications/broadband markets. The FCC should continue to make this valuable information, much of which the Michigan PSC would have no other way of obtaining, available to state commissions under the appropriate confidentiality agreements. The Michigan PSC recommends that the FCC continue to share Form 477 data with interested parties pursuant to a signed Data Sharing Agreement and urges the FCC to use a similar methodology for sharing with state commissions state-specific, aggregated broadband data collected via the voluntary registry.

Respectfully Submitted,

MICHIGAN PUBLIC SERVICE COMMISSION

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