Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	**)**	
Establishing the Digital Opportunity Data Collection	**)**	**WC Docket No. 19-195**

COMMENTS OF NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION (NRECA)

The National Rural Electric Cooperative Association (NRECA) hereby submits these reply comments in response to the Public Notice[1] seeking comment on a Petition for Declaratory Ruling or Limited Waiver ("Petition") filed in the above-captioned Federal Communications Commission ("Commission") docket.[2] The Petition seeks clarification of Section 1.7004(d) of the Commission's rules,[3] the provision that sets forth the engineering certification requirement for Broadband Data Collection ("BDC") filings and that was established by the *Third Report and Order* in this proceeding[4].

[1] *Broadband Data Task Force, Wireless Telecommunications Bureau, Wireline Competition Bureau, and the Office of Economics and Analytics Seek Comment on Competitive Carriers Association Petition for Declaratory Ruling or Limited Waiver Regarding the Requirement for a Certified Professional Engineer to Certify Broadband Data Collection Maps*, WC Docket No. 19-195, Public Notice, DA 22-543 (rel. May 17, 2022).
[2] Petition of Competitive Carriers Association ("CCA") for Declaratory Ruling or Limited Waiver, WC Docket No. 19-195 (fil. May 13, 2022) ("Petition").
[3] 47 C.F.R § 1.7004(d).
[4] Establishing the Digital Opportunity Data Collection, WC Docket No. 19-195, Modernizing the FCC Form 477 Data Program, WC Docket No. 11-10, Third Report and Order, FCC 21-20 (rel. Jan. 19, 2021) ("Third Report and Order"), ¶¶ 42-46.

NRECA is the national service organization for more than 900 not-for-profit rural electric cooperatives that provide electric power to 56% of the nation's landmass, approximately 42 million people in 48 states, or approximately 12 percent of electric customers. Rural electric cooperatives serve 88% of the counties of the United States, including 327 of the nation's 353 "persistent poverty counties," which is 92% of these persistent poverty counties. All NRECA's member distribution cooperatives are small business entities as classified by the Small Business Administration.

NRECA and its members are deeply committed to promoting the deployment of advanced telecommunications capabilities within the rural communities and areas in which electric cooperatives provide electric service. About 200 NRECA members provide fixed broadband service today, deploying fiber-based, fixed wireless or combined fiber and fixed wireless technologies. NRECA estimates that another 100 or so are currently exploring the feasibility of providing broadband, either on their own or through partnerships. Many more are exploring ways they can assist other providers in deploying vital broadband service to their unserved and underserved communities.

NRECA recognizes the FCC's desire to protect the integrity of the Broadband Data Collection (BDC) process by requiring the data be certified by a certified professional engineer.[5] NRECA shares this desire as faulty and misrepresented data negatively impairs the ability of the Commission and other policymakers to address the digital divide. Inaccurate data on broadband deployment unequivocally had a negative impact on the ability of many electric cooperatives to participate in the CAF II and RDOF auctions, not to mention accessing other federal and state

[5] 47 C.F.R § 1.7004(d). See also, *Establishing the Digital Opportunity Data Collection*; *Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 19-195, 11-10, Third Report and Order, 36 FCC Rcd 1126, 1145, para. 45 (2021).

broadband funding programs. Under the Form 477 data collection regime, many areas were deemed "served" and not eligible for broadband funding despite them actually not receiving the level of service reported by the incumbent carrier. For this reason, NRECA and our member electric cooperatives fully support efforts to improve the granularity, accuracy, and veracity of the BDC. Every inaccurate data point in the BDC will represent a home or business that will be denied adequate broadband service, potentially for years. Therefore, it is imperative that the BDC be as accurate as possible.

DISCUSSION:

As stated, NRECA has long supported improving the granularity, accuracy and veracity of broadband data and mapping. The rules adopted by the Commission seek to do just that. In particular, the technical specifications underlying providers' coverage claims (such as the "buffers" for fixed wireline services[6] and the cell edge parameters, etc. for fixed wireless services)[7] set forth by the *Second Report and Order* should, if properly applied and enforced, help ensure that coverage claims accurately reflect the true capabilities of broadband networks based upon their design and consistent with what can realistically be expected under real world conditions.

Ostensibly, a goal of the requirement that submissions be certified by a professional engineer (PE) is to add another safeguard that the Commission believes will compel filers to submit accurate data. However, this requirement can be viewed as shifting enforcement for accurate filings, to some extent, from the Commission to PE licensing boards. This is not a proper course of action. The BDC is a Commission program, and the Commission should

[6] *Establishing the Digital Opportunity Data Collection*, WC Docket No. 19-195, *Modernizing the FCC Form 477 Data Program*, WC Docket No. 11-10, Second Report and Order and Third Further Notice of Proposed Rulemaking, FCC 20-94 (rel. Jul. 17, 2020) ("Second Report and Order"), ¶¶ 16-24.
[7] Id., ¶¶ 24-32.

establish a rigorous and effective mechanism to compel accurate submissions and to deter willful and repeated inaccurate data submissions.

As in any large data filing, errors can be made. As such, any single submission that reports an inaccuracy above a certain threshold (NRECA recommends 20% of locations reported) should trigger a more in-depth verification process for that submission and for the next two data submissions by that filer. Such a requirement will do two things: First, it will deter inaccurate filings. Second, for submissions in which inaccuracies are discovered over the set threshold then the triggered enhanced review will result in correcting inaccuracies in a timely manner.

Fines should be levied on filers that submit egregious inaccuracies or that repeatedly submit inaccurate data and those fines should be of sufficient value to be a deterrent. The fines should escalate in line with the severity of the inaccuracy and with each additional inaccurate submission. The Commission should also consider publicly releasing rankings of the accuracy of BDC submissions for each filing round. Making such information publicly available would align with the Commission's goals in the broadband consumer label proceeding. Providers whose filings consistently rank high for accuracy of their BDC submissions could use their high-ranking in their marketing materials. Such information would provide potential customers with useful information when choosing between competing providers.

Requiring certification by a licensed PE will be onerous and costly for small entities, such as electric cooperatives. NRECA supports the goal of the PE certification, but it will be a burden, especially for smaller entities. Certification of the technology used to service locations can be done by an engineer, but they should not be required to be licensed PEs for the reasons stated above. Commission precedent demonstrates an alternative approach that can achieve the

goal of accurate reporting without the explicit requirement of certification by none other than a licensed PE. Specifically, the Rural Digital Opportunity Fund (RDOF) Order[8] required a PE to certify the network design. However, the Auction 904 Long-Form Instructions modified that requirement. The instructions say:

> "The professional engineer must certify that he or she has reviewed each state network diagram and that the network is capable of delivering, to at least 95% of the required number of locations in each relevant state, voice and broadband service that meets the requisite performance requirements. While it is not necessary for this requirement that the professional engineer have a Professional Engineer license, the certification should describe the professional engineer's qualifications such that the certifier's network design and performance expertise is apparent."[9]

The goal of this adjustment was to provide accurate information to the Commission by accountable parties without an undue burden. A similar adjustment in BDC procedures, provided strong accountability provisions for accurate reporting are in place, is consistent with Commission precedent and is warranted.

In order to ensure accountability, an additional BDC certification the Commission can consider is requiring a "authorized signatory" of the filing entity to also certify the submission, such as a CEO, COO, CFO. This would ensure that top level executives are engaged with the BDC submission and give them a stake in the accuracy of the filings since their name would be attached to it.

CONCLUSION:

NRECA is a staunch supporter of granular and accurate broadband data collection and mapping. However, as outlined above there are better ways to ensure accurate data submissions

[8] *Rural Digital Opportunity Fund Phase I Auction Scheduled For October 29, 2020*, Notice and Filing Requirements and Other Procedures for Auction 904, AU Docket No. 20-34 et. al., (rel. June 11, 2020), ¶ 90.
[9] *FCC Form 683 Application for Rural Digital Opportunity Fund Phase I Support, Auction 904, Instructions*, OBM Control No. 3060-1256, (p.24) available at: https://docs.fcc.gov/public/attachments/DA-20-1422A4.pdf.

than requiring certification by a PE. NRECA laid out other avenues by which the Commission can encourage and compel accurate submissions in the BDC regime. The Commission should eliminate the PE certification requirement and implement the recommendations contained herein.

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