

**STATEMENT OF
COMMISSIONER ROBERT M. McDOWELL**

Approving in Part; Dissenting in Part

Re: Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscribership, WC Docket No. 07-38, Report and Order and Further Notice of Proposed Rulemaking

Today, we take steps to update and refine the Commission's efforts to determine the current state of broadband deployment in the U.S. It is imperative that we continually improve and sharpen our data collection efforts through revisions in the Form 477 to reflect technological advances in the marketplace. As I stated earlier, the Commission should take great care to seek accurate and complete information that it needs to have an accurate picture of the current state of broadband deployment. We must always keep foremost in mind the objective of this data collection effort—to provide a basis for sound policies that foster broadband deployment for all Americans. What we should avoid is imposing data reporting requirements on all providers that may be unduly burdensome or which may put one provider at a competitive advantage. In those instances where initiatives are undertaken by providers in the marketplace or by public-private entities, the federal government should not stand in their way.

On a positive note, we are revising the form to seek broadband deployment data on a Census Tract basis and at more specific upload and download speeds. This should provide more complete and useful information about the current state of broadband availability. It should also provide a useful tool to expand advanced telecommunications services to those areas that are underserved.

But unfortunately, today the majority is playing with fire by attaching subjective and, perhaps, misleading terminology and definitions to various speeds. In short, what started out with a sleepy bureaucratic Order may end up being a change of tectonic proportions. The majority has not thought through the unintended consequences of its actions today. Instead of allowing consumers to determine what is a sufficient speed for their desired purposes, the government is drawing an arbitrary line that may favor some technologies that are currently considered "broadband." While the concept of what is "broadband" should constantly improve and evolve, these decisions are best left to consumers and the marketplace, not unelected bureaucrats. It certainly should not be a political decision. I fear that what the majority has wrought this morning may very well come back to haunt us. Accordingly, I respectfully dissent from this portion of the item.

Fortunately we have a Further Notice where we seek comment on adoption of a national broadband availability mapping program. Already, public-private partnerships, such as ConnectKentucky and Connected Nation, are underway that use helpful mapping

methodologies on a statewide basis and have been exceedingly successful. There may be differences in the approach taken by these entities that cannot be easily replicated by the federal government. I look forward to reviewing the comments on this important issue before we consider whether to adopt a national broadband mapping program.

On the other hand, the majority adopts a separate reporting category for mobile service providers to delineate the number of subscribers whose devices and subscription permit them to access Internet content of their choice, and “to exclude subscribers whose choice of content is restricted to only customized-for-mobile content, and to exclude subscribers whose subscription does not include. . . a data plan providing the ability to transfer . . . either a specified or an unlimited amount of data to and from Internet sites of the subscriber’s choice.” Wireless broadband Internet access service holds great potential to bring service to customers throughout America. We should be encouraging these offerings and recognize that they will maximize innovation and consumer benefits as wireless services continue to flourish and evolve. By excluding them, we are penalizing wireless consumers who have not purchased data plans. In addition, consumers who use wireless devices to access broadband do not expect their experience to duplicate the wired, desktop experience of broadband access. Those wireless offerings should be included in our statistics that reflect broadband deployment.

For these reasons, I also dissent to this part of the order.