



# PUBLIC NOTICE

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**DA 19-421**

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## **WIRELINE COMPETITION BUREAU EXTENDS REPLY COMMENT DEADLINE AND ACCESS TO SECURE DATA ENCLAVE IN BUSINESS DATA SERVICES AND USTELECOM FORBEARANCE PETITION PROCEEDINGS**

**WC Docket Nos. 18-141, 17-144, 16-143, 05-25; RM-10593**

### **Reply Comments Due: May 28, 2019**

By this Public Notice, the Wireline Competition Bureau (Bureau) extends the deadline for interested parties to file reply comments in response to a public notice seeking focused comment on data tables in the price cap business data services (BDS) and USTelecom Forbearance Petition proceedings from May 16, 2019 to **May 28, 2019**.<sup>1</sup> The Bureau also extends access to the Secure Data Enclave, which houses these data tables, until June 30, 2019.<sup>2</sup>

In the *April 15 Public Notice*, the Bureau announced that it was supplementing the record in the price cap BDS and USTelecom Forbearance Petition proceedings with *April Data Tables* derived from highly confidential data submitted in the *2015 Data Collection*.<sup>3</sup> The Bureau sought focused public comment on the extent to which these *April Data Tables* inform the *Second Further Notice* in the price cap BDS proceedings<sup>4</sup> and, separately, provide relevant information to evaluate USTelecom's request for forbearance from the requirements to provide transport as an unbundled network element (UNE).<sup>5</sup> Further, the Bureau announced that it would

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<sup>1</sup> See *Wireline Competition Bureau Seeks Focused Additional Comment in Business Data Services and USTelecom Forbearance Petition Proceedings and Reopens Secure Data Enclave*, WC Docket Nos. 18-141, 17-144, 16-143, 05-25, Public Notice, DA 19-281 (WCB Apr. 15, 2019) (*April 15 Public Notice*); see also *Wireline Competition Bureau to Incorporate Business Data Services Data and Second Further Notice and Further Notice Record into USTelecom Forbearance Proceeding*, WC Docket Nos. 18-141, 17-144, 16-143, 05-25, RM-10593, Public Notice, DA 19-249, at 1 & n.1 (WCB Apr. 3, 2019).

<sup>2</sup> See *April 15 Public Notice* at 1.

<sup>3</sup> *Id.*

<sup>4</sup> See *id.* at 1; *Regulation of Business Data Services for Rate-of-Return Local Exchange Carriers; Business Data Services in an Internet Protocol Environment; Special Access for Price Cap Local Exchange Carriers*, WC Docket Nos. 17-144, 16-143, 05-25, Report and Order, Second Further Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 33 FCC Rcd 10403, 10453-57, paras. 148-56 (2018).

<sup>5</sup> See *April 15 Public Notice* at 2; Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) to Accelerate Investment in Broadband and Next-Generation Networks, WC Docket No. 18-141 (filed May 4, 2018) (USTelecom Forbearance Petition).

reopen access to the Secure Data Enclave<sup>6</sup> upon publication of the *April 15 Public Notice* in the Federal Register and close it at the end of the comment and reply period, unless an interested party demonstrates a continuing need for access.<sup>7</sup>

On April 25, 2019, the *April 15 Public Notice* was published in the Federal Register announcing a May 9, 2019 deadline to file comments and a May 16, 2019 deadline to file reply comments.<sup>8</sup> Accordingly, on April 26, 2019 the Bureau reopened access to the Secure Data Enclave. INCOMPAS filed a Motion for Extension of Time to File Reply Comments on May 13, 2019, arguing that an extension is necessary to allow parties an opportunity to respond to the full range of matters raised in the comments, and asking for such extension until no earlier than May 28, 2019.<sup>9</sup> INCOMPAS served copies by email on May 13, 2019 to parties that had filed comments in response to the *April 15 Public Notice* and provided a copy to USTelecom, petitioner in the forbearance proceeding. INCOMPAS represents that it has been notified by USTelecom that USTelecom does not oppose the INCOMPAS Motion.<sup>10</sup>

Requests for extensions of time are not routinely granted,<sup>11</sup> however in the price cap BDS proceedings, the Bureau on its own motion and in response to requests made by parties extended comment and reply deadlines several times to allow interested parties to have timely access to the *2015 Data Collection* to prepare comments and reply comments.<sup>12</sup> In the interest of providing interested parties additional time to access the *2015 Data Collection*, including *April Data Tables*, and a greater opportunity to respond to comments filed in these proceedings pursuant to the May 9, 2019 comment deadline, the Bureau extends the deadline to file reply comments from May 16, 2019 to May 28, 2019.<sup>13</sup> We find that granting this extension serves the

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<sup>6</sup> The Secure Data Enclave contains the data and information submitted in the *2015 Data Collection*, including *April Data Tables*, as well as software for parties to analyze the data. The Commission contracted with NORC at the University of Chicago (NORC) to host the Secure Data Enclave, which is available remotely via a virtual private network.

<sup>7</sup> *April 15 Public Notice* at 1.

<sup>8</sup> Wireline Competition Bureau Seeks Focused Additional Comment in Business Data Services and USTelecom Forbearance Petition Proceedings and Reopens Secure Data Enclave, 84 Fed. Reg. 17371 (Apr. 25, 2019) (Public Notice).

<sup>9</sup> INCOMPAS, Motion for Extension of Time, WC Docket Nos. 18-141, 17-144, 16-143, 05-25 (filed May 13, 2019) (INCOMPAS Motion). INCOMPAS also seeks a waiver, to the extent necessary, of the Commission's rule requiring motions for requests for extension of time to be filed seven days before the filing date. *Id.* At 4-5, n.11; 47 § CFR 1.46(b). INCOMPAS explains that compliance with this rule was not possible because all of the May 9, 2019 comments were not made publicly available until after such deadline for filing an extension request had passed. See INCOMPAS Motion at 4-5.

<sup>10</sup> See Letter from Henry Shi, Counsel to INCOMPAS, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 18-141, 17-144, 16-143, & 05-25 (filed May 14, 2019).

<sup>11</sup> See 47 C.F.R. § 1.46(a).

<sup>12</sup> See *Special Access for Price Cap Local Exchange Carriers; AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, WC Docket No. 05-25, RM-10593, Order, 30 FCC Rcd 14467 (WCB 2015); *Wireline Competition Bureau Further Extends Comment Deadlines in Special Access Proceeding*, WC Docket No. 05-25, RM-10593, Public Notice, 30 FCC Rcd 10047 (WCB 2015); *Comment Deadlines Further Extended in Special Access Proceeding*, WC Docket No. 05-25, RM-10593, Public Notice, 30 FCC Rcd 2716 (WCB 2015).

<sup>13</sup> See *April 15 Public Notice* at 1; Public Notice, 84 Fed. Reg. at 17371.

public interest by allowing for a more robust record without unreasonably delaying these proceedings. The Bureau also extends access to the Secure Data Enclave until June 30, 2019 to allow interested parties additional time to access the data and supplement the record with further analysis of the data in their reply comments or pursuant to our *ex parte* rules.<sup>14</sup>

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<sup>14</sup> See 47 CFR § 1.1206.