



PUBLIC NOTICE

Federal Communications Commission
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NOTICE OF REQUEST FOR ACCESS TO DATA FILED IN FCC FORM 499-A **PLEADING CYCLE ESTABLISHED**

WC Docket No. 06-122

Comment Date: September 27, 2019

The United States Department of Labor, Bureau of Labor Statistics (BLS), seeks access to certain carrier revenue information for 2017 that the Commission collected from wired carriers on FCC Form 499-A (Form 499-A).¹ In particular, BLS requests all data for 2017 that wired carriers reported in blocks 3 (Carrier's Carrier Revenue Information) and 4 (End-User and Non-Telecommunications Revenue Information, and Total Revenue and Uncollectible Revenue Information) of that form.²

The Commission collects revenue data on Form 499-A for purposes of determining the amounts telecommunications providers need to contribute to the Universal Service Fund (USF), interstate Telecommunications Relay Services, North American Numbering Plan administration, and local number portability administration.³ The Commission recognizes that the disaggregated, filer-specific data collected on this form may be the type of privileged or confidential commercial or financial information that should be exempt from public disclosure under 5 U.S.C. § 552(b)(4).⁴

In general, the Commission may share information it has collected with another government agency.⁵ Although the Commission's regulations provide that proprietary and commercially sensitive information will be withheld from public disclosure, subject to the public's right to seek disclosure under the Freedom of Information Act (FOIA) and implementing regulations,⁶ the Commission may disclose to other federal agencies records that have been submitted to the Commission in confidence upon the other agencies' requests.⁷

¹ See Letter to Ryan Palmer, Division Chief, Wireline Competition Bureau, FCC, from Jeffrey Hill, Assistant Commissioner, Producer Price Index, United States Department of Labor, Bureau of Labor Statistics, WC Docket No. 06-122 (filed September 16, 2019) (*BLS Letter*).

² *Id.*

³ 2019 Telecommunications Reporting Worksheet Instructions (FCC Form 499-A), <https://docs.fcc.gov/public/attachments/DA-19-84A3.pdf>, at 2 (2019).

⁴ See *id.* at 47 (instructions for line 605).

⁵ 44 U.S.C. § 3510.

⁶ 5 U.S.C. § 552; 47 C.F.R. §§ 0.457(d), 0.459(d).

⁷ 47 C.F.R. § 0.442(a) ("The acceptance [by the Commission] of materials in confidence under § 0.457 or § 0.459, or any other statute, rule or Commission order, does not preclude their disclosure to other federal agencies."); see also 47 C.F.R. § 0.442(d).

In its request, BLS states that it is revising the Producer Price Index (PPI) for wired telecommunications carriers, which measures the monthly changes in prices received for the provision of residential and business wired telecommunications services.⁸ That price index, according to BLS, is an aggregate that represents industry-wide data and is available on its website.⁹ BLS also states that it will use the Form 499-A data in addition to publicly available survey data to revise the PPI and that the revenue data for individual companies will allow BLS to sample proportionate to economic size.¹⁰

BLS states further that it will maintain the confidentiality of the data under the Confidential Information Protection and Statistical Efficiency Act's protection from release pursuant to FOIA requests.¹¹ BLS also states that it will disclose no company-specific or region-specific data and that it will not disclose its sample sizes, which will prevent Form 499-A filers from being identified based on their relative sizes.¹² BLS also indicates that there will be no direct use of the data in index calculations or PPI publications.¹³

Pursuant to the Commission's regulations, affected parties have until September 27, 2019 to oppose the disclosure of Form 499-A data to BLS.¹⁴ If the Commission receives no opposition from affected parties within 10 days of this notice, the Commission will disclose the information requested above to BLS. If disclosure is opposed, the procedures set forth in 47 C.F.R. § 0.442 shall apply. All pleadings should reference WC Docket No. 06-122.

All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Suite TW-A325, Washington, D.C. 20554. Parties should also send a copy of their filings to Susan Lee, Industry Analysis Division, Office of Economics and Analytics, Federal Communications Commission, 445 12th Street, S.W., Room 6-A461, Washington, D.C. 20554, or by email address to susan.lee@fcc.gov.

Parties may file comments on or before the date indicated on the first page of this document.¹⁵ All filings must reference WC Docket No. 06-122. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).¹⁶

- Electronic Filers: Comments may be filed electronically using the Internet by accessing ECFS: <https://www.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. Paper filers are strongly encouraged to contact Susan Lee of the Industry Analysis Division at 202-418-1590 to inform her of their filings.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

⁸ *BLS Letter* at 1.

⁹ *Id.* (citing www.bls.gov/ppi).

¹⁰ *Id.*

¹¹ CIPSEA is reproduced at 44 U.S.C. § 3501 note.

¹² *Id.*

¹³ *Id.*

¹⁴ See 47 C.F.R. § 0.442(d)(1), which provides that parties requesting confidential treatment of records shall have ten calendar days after notification to submit an opposition to disclosure under § 0.442.

¹⁵ 47 CFR § 1.2.

¹⁶ See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

People with Disabilities. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 844-432-2275 (videophone), or 202-418-0432 (TTY).

This Public Notice establishes certain procedural requirements relating to consideration of BLS's request. The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.¹⁷ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

For further information regarding this proceeding, contact Susan Lee, Industry Analysis Division, Office of Economics and Analytics, Federal Communications Commission, by telephone at 202-418-1590 or by email to susan.lee@fcc.gov.

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¹⁷ 47 C.F.R. §§ 1.1200 *et seq.*