



# PUBLIC NOTICE

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## **SECURE DATA ENCLAVE FOR ACCESSING HIGHLY CONFIDENTIAL BUSINESS DATA SERVICES DATA TO REOPEN**

**WC Docket Nos. 16-143, 05-25; RM-10593**

In this Public Notice, the Wireline Competition Bureau (Bureau) announces that the secure data enclave hosted by NORC at the University of Chicago (NORC Data Enclave) used by authorized parties for accessing and analyzing highly confidential data filed in the price cap business data services (BDS) proceeding will reopen for purposes of commenting on the *Second Further Notice of Proposed Rulemaking (Second Further Notice)*.<sup>1</sup> The NORC Data Enclave will reopen after the summary of the *Second Further Notice* is published in the Federal Register and will close 14 days after reply comments on the *Second Further Notice* are due, unless at least one interested party provides a timely and compelling argument demonstrating that continued access to the data is necessary to their meaningful participation in the proceeding.

The NORC Data Enclave contains market data that the Commission collected from BDS providers and purchasers and certain “best efforts” providers in price cap areas for the BDS proceeding (*2015 Collection*).<sup>2</sup> Pursuant to protective orders in the BDS proceeding, the NORC Data Enclave is the exclusive method for authorized parties to access and analyze highly confidential data submitted in the *2015 Collection*.<sup>3</sup> After the Commission released the *BDS Order* evaluating the record before it,

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<sup>1</sup> See *Regulation of Business Data Services for Rate-of-Return Local Exchange Carriers et al.*, WC Docket Nos. 17-144, 16-143, 05-25, GN Docket No. 13-5, RM-10593, Report and Order, Second Further Notice of Proposed Rulemaking, and Further Notice of Proposed Rulemaking, FCC 18-146, at 51-55, paras. 147-156 (rel. Oct. 24, 2018) (*Second Further Notice*).

<sup>2</sup> See *Business Data Services in an Internet Protocol Environment et al.*, WC Docket Nos. 16-143, 15-247, 05-25, RM-10593, Tariff Investigation Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 4723, 4737-43, paras. 29-37, 39-43 (2016) (in-depth discussion on the *2015 Collection*).

<sup>3</sup> *Special Access for Price Cap Local Exchange Carriers et al.*, WC Docket No. 05-25, RM-10593, Order and Data Collection Protective Order, 29 FCC Rcd 11657, 11657, para. 1 (WCB 2014) (*Protective Order*); Order and Modified Data Collection Protective Order, 30 FCC Rcd 10027 (WCB 2015); *Business Data Services in an Internet Protocol Environment et al.*, WC Docket Nos. 16-143, 15-247, 05-25, RM-10593, Order, 31 FCC Rcd 7104 (WCB 2016).

including the *2015 Collection*, and comprehensively reforming BDS regulation in price cap areas,<sup>4</sup> the Bureau closed the NORC Data Enclave and archived parties' analysis and other work product.<sup>5</sup>

On appeal, the U.S. Court of Appeals for the Eighth Circuit largely affirmed the *BDS Order* but found the Commission did not provide adequate notice on the narrow issue of whether to relieve price cap carriers' TDM transport services from ex ante pricing regulation.<sup>6</sup> In response to this decision, in the *Second Further Notice*, the Commission proposed eliminating ex ante pricing regulation of transport services offered by price cap carriers and sought comment on this proposal.<sup>7</sup> The Commission directed the Bureau to make the *2015 Collection* data available again to interested parties using the same procedures previously used because this data was part of the original record and the most comprehensive data source for purposes of addressing the issues raised in the *Second Further Notice*.<sup>8</sup>

Accordingly, as noted, we will reopen the NORC Data Enclave after the summary of the *Second Further Notice* is published in the Federal Register, to enable authorized parties to analyze highly confidential data submitted in the *2015 Collection* for purposes of commenting on the *Second Further Notice* consistent with the protective orders.<sup>9</sup> Parties who were previously authorized by the Commission to access highly confidential data in the NORC Data Enclave do not need to resubmit their signed Acknowledgments of Confidentiality (Acknowledgments).<sup>10</sup> Authorized parties may request renewed access to the NORC Data Enclave by emailing [SpecialAccess@fcc.gov](mailto:SpecialAccess@fcc.gov). Authorized parties will once again be able to access highly confidential data, analytical software, and their archived work product contained in "virtual lockers."<sup>11</sup>

Parties that were not previously authorized to access highly confidential data in the NORC Data Enclave and now seek access must file signed Acknowledgments electronically through the Commission's Electronic Comment Filing System (ECFS), or by hand delivery to the Commission, in WC Docket Nos. 16-143 and 05-25, and send a copy to [SpecialAccess@fcc.gov](mailto:SpecialAccess@fcc.gov).<sup>12</sup> We will release public notices identifying new parties that have filed Acknowledgments seeking access after which parties that submitted data in the *2015 Collection* will have five business days to object to the access sought by the requesting party.<sup>13</sup> In order to timely access the NORC Data Enclave for purposes of this proceeding, we encourage new parties to submit their Acknowledgments as soon as possible.

For further information, please contact Christopher Koves, Pricing Policy Division, Wireline Competition Bureau, at (202) 418-8209 or via email at [Christopher.Koves@fcc.gov](mailto:Christopher.Koves@fcc.gov).

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<sup>4</sup> *Business Data Services in an Internet Protocol Environment et al.*, WC Docket Nos. 16-143, 05-25, GN Docket No. 13-5, RM-10593, Report and Order, 32 FCC Rcd 3459, 3501, para. 91 (2017) (*BDS Order*), remanded in part sub nom., *Citizens Telecomms. Co. of Minn., LLC v. FCC*, 901 F.3d 991 (8th Cir. 2018) (*Citizens Telecomms.*).

<sup>5</sup> *Secure Data Enclave for Accessing Highly Confidential Business Data Services (Special Access) Data Will Close on December 31, 2017*, WC Docket Nos. 16-143, 15-247, 05-25; RM-10593, Public Notice, 32 FCC Rcd 7357 (WCB 2017); *Wireline Competition Bureau to Archive Secure Data Enclave for Accessing Highly Confidential Business Data Services (Special Access) Data*, WC Dockets Nos. 16-143, 15-247, 05-25, RM-10593, Public Notice, 32 FCC Rcd 10362 (WCB 2017).

<sup>6</sup> *Citizens Telecomms.*, 901 F.3d at 1004.

<sup>7</sup> *Second Further Notice* at 51, para. 147; *id.* at 51-55, paras. 148-56.

<sup>8</sup> *Id.* at 55, para. 156.

<sup>9</sup> *Protective Order*, 29 FCC Rcd at 11657, para. 1; *id.* at 11670-71, Appx. A at para. 1.

<sup>10</sup> *See id.* at 11680, Appx. C.

<sup>11</sup> *See NORC Archiving Public Notice*.

<sup>12</sup> *See Protective Order*, 29 FCC Rcd at 11665, para. 23; *id.* at 11673, Appx. A at para. 5; *id.* at 11680, Appx. C.

<sup>13</sup> *See id.* at 11665, para. 23; *id.* at 11673, Appx. A at para. 5; *see Wireline Competition Bureau Now Receiving Acknowledgements of Confidentiality Pursuant to Special Access Data Collection Protective Order*, WC Docket No. 05-25, RM-10593, Public Notice, 30 FCC Rcd 6421, 6422 (WCB 2015).

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