



# PUBLIC NOTICE

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DA 09-2286

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## COMMENT SOUGHT ON NARUC PETITION FOR CLARIFICATION OR DECLARATORY RULING REGARDING STATE AUTHORITY TO OBTAIN BROADBAND-RELATED DATA

PLEADING CYCLE ESTABLISHED

WC Docket No. 09-193

SEARCHED

OCT 27 2009

Comment Date: November 2, 2009

Reply Comment Date: November 9, 2009

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On September 25, 2009, the National Association of Regulatory Utility Commissioners (NARUC) filed a petition for clarification or declaratory ruling regarding state authority to obtain broadband-related data.<sup>1</sup> Specifically, NARUC requests that the Commission clarify that no Commission order or regulation “limits State authority to collect any data from any broadband infrastructure or service provider.”<sup>2</sup>

We invite comment on NARUC’s petition. We note that it is unclear what basis, if any, there might be for a claim that the Commission has preempted state-mandated collection of data regarding broadband infrastructure and services. Indeed, one of the express purposes of the Broadband Data Improvement Act (BDIA)<sup>3</sup> is “[t]o improve the quality of Federal and State data regarding the availability and quality of broadband services.”<sup>4</sup> We ask that any party claiming that such state data collection is preempted to explain in detail the basis for its claim. This explanation should cite to each statutory provision and Commission decision that the party claims has preempted state broadband information

<sup>1</sup> National Association of Regulatory Utility Commissioners, Petition for Clarification or Declaratory Ruling that No FCC Order or Rule Limits State Authority to Collect Broadband Data (filed Sept. 25, 2009) (Petition).

<sup>2</sup> *Id.* at 1 (emphasis deleted).

<sup>3</sup> Broadband Data Improvement Act of 2008, Pub. L. No. 110-385, 122 Stat. 4096 (2008) (codified in part at 47 U.S.C. §§ 1301-04).

<sup>4</sup> BDIA, Preamble, 122 Stat. at 4096; *see also* BDIA, § 103(a) (codified at 47 U.S.C. § 1302(a)) (requiring that the Commission collect demographic information regarding geographic areas that lack broadband service); BDIA, § 106(b) (codified at 47 U.S.C. § 1304(b)) (establishing a state broadband data and development grant program); American Recovery and Reinvestment Act of 2009, § 6001(l), Public Law No. 111-5, 123 Stat. 115, 516 (2009) (requiring the National Telecommunications and Information Administration (NTIA) to develop and maintain a comprehensive, interactive, and searchable nationwide inventory map depicting the extent to which broadband service capability is deployed and available throughout each state).

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This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. See 47 C.F.R. §§ 1.1200, 1.1206. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required. See 47 C.F.R. § 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in Section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b).

For further information, contact William A. Kehoe, Competition Policy Division, Wireline Competition Bureau (202) 418-1580.

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