



PUBLIC NOTICE

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DA 09-2300

Release Date: November 13, 2009

NOTICE OF RELEASE OF NUMBERING UTILIZATION/FORECAST DATA, LOCAL NUMBER PORTING DATA TO GOVERNMENT ACCOUNTABILITY OFFICE

CC Docket No. 99-200
CC Docket No. 95-116

This Public Notice gives notice, as required by the Commission's regulations,¹ that the Commission has provided to the U.S. Government Accountability Office (GAO) the Numbering Resource Utilization/Forecast (NRUF) data that the Commission has collected on FCC Form 502, as well as disaggregated, carrier-specific local number porting (LNP) data related to wireless telecommunications services, as of December 31, 2008.

Section 251 of the Communications Act grants the Commission jurisdiction over the North American Numbering Plan (NANP) and related telephone numbering issues.² In order to better monitor the way numbering resources are used within the NANP and efficiently allocate NANP resources, the Commission requires telecommunications carriers to provide the Commission with a utilization report of their current inventory of telephone numbers and a five-year forecast of their numbering resource requirements.³ LNP data is collected by the LNP Administrator, and provided to the Commission. The Commission has recognized that disaggregated, carrier-specific forecast and utilization data should be treated as confidential and should be exempt from public disclosure under 5 U.S.C. § 552(b)(4).⁴

Pursuant to an ongoing review of competition in the wireless industry, GAO requested access to the NRUF and LNP data that the Commission uses to calculate wireless penetration rates, including the identity of reporting carriers that serve customers in each geographic area.⁵ The Commission's regulations permit disclosure to the Comptroller General (*i.e.*, GAO) of records submitted in confidence without prior notice to the submitting parties, but require the Commission to notify those parties of the disclosure.⁶

¹ See 47 C.F.R. § 0.442(d)(3).

² 47 U.S.C. § 257.

³ See *In the Matter of Numbering Resource Optimization*, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574, 7578-79 para. 5 (2000).

⁴ *Id.* at 7607, para. 78.

⁵ Letter to Steven VanRoekel, Managing Director, Federal Communications Commission, from Mark Goldstein, Director, Physical Infrastructure, Government Accountability Office, dated October 14, 2009.

⁶ See 47 C.F.R. § 0.442(d)(3).

GAO's request for the data is made pursuant to 31 U.S.C. § 716, under which federal agencies must provide GAO with access to records held by such agencies. GAO notes in its request that it is required by that section to maintain the same level of confidentiality for records provided as is required of the head of the agency from which they are obtained, and that GAO is precluded by 18 U.S.C. § 1905 from disclosing confidential business information. Although the statutory proscription is not applicable to disclosures GAO may make to Congress, GAO explains that it is GAO's policy to respect business confidential information and to protect the competitive positions of individual companies in a manner consistent with its reporting responsibilities. GAO also indicates that, as a general matter, it excludes proprietary and confidential business information from its congressional reports. If transmittal of that information becomes necessary, GAO states that it will transmit any such information separately and alert the recipient in Congress to the sensitivity of the information and advise that release of it may be prohibited by 18 U.S.C. § 1905. Finally, GAO states that it does not disclose to the public any records in its files that originate in another agency and that it will refer any such requests to the originating agency.

Commission 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, 5 U.S.C. § 552.⁷ We note that GAO has committed to protect the Form 502 NRUF and LNP data in a manner consistent with the Commission's regulations and with the Commission's finding that disaggregated, carrier-specific forecast and utilization data should be treated as confidential and should be exempt from public disclosure under 5 U.S.C. § 552(b)(4).⁸

If you have any questions, please contact Jeremy Miller in the Wireline Competition Bureau at (202) 418-0940.

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⁷ See 47 C.F.R. §§ 0.457, 0.459.

⁸ *Numbering Resource Optimization*, CC Docket No. 99-200, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574, 7577, para. 78 (2000).