

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Investigation of Certain Price Cap Local Exchange) WC Docket No. 15-247
Carrier Business Data Services Tariff Pricing Plans)

ORDER

Adopted: December 14, 2015

Released: December 14, 2015

New Direct Case Date: January 8, 2016
New Opposition Date: February 5, 2016
New Rebuttal Date: February 26, 2016

By the Associate Chief, Wireline Competition Bureau:

1. In this Order, the Wireline Competition Bureau (Bureau) grants in part a request jointly filed by AT&T Inc., Verizon, CenturyLink, and Frontier (collectively, incumbent Local Exchange Carriers or LECs)¹ seeking an extension of time to submit their respective direct cases in response to the *Designation Order* released by the Bureau on October 16, 2015.² As discussed below, we extend the deadline to submit direct cases to January 8, 2016, oppositions to February 5, 2016, and rebuttals to February 26, 2016.

2. The *Designation Order* opened an investigation into the terms and conditions of certain tariff pricing plans for business data (special access) services offered by AT&T, CenturyLink, Frontier, and Verizon. The *Designation Order* directed these four carriers to submit targeted data and information as part of their direct cases to enable the Commission to assess the reasonableness of the pricing plan terms and conditions under investigation. The date for the submission of direct cases was set by the *Designation Order* at December 18, 2015.³

3. On October 23, 2015, the incumbent LECs filed a motion to modify the protective orders in the business data services rulemaking proceeding to permit parties in the tariff investigation to use the confidential and highly confidential data submitted in the rulemaking.⁴ On December 4, 2015, the Bureau adopted and released the *Order and Protective Orders* that granted in part the incumbent LECs' request.⁵

¹ Joint Request for Extension of Time of AT&T Inc., Verizon, CenturyLink, and Frontier, WC Docket No. 15-247 (filed Dec. 9, 2015) (Joint Request), <http://apps.fcc.gov/ecfs/document/view?id=60001353632>.

² *Investigation of Certain Price Cap Local Exchange Carrier Business Data Services Tariff Pricing Plans*, WC Docket No. 15-247, Order Initiating Investigation and Designating Issues for Investigation, DA 15-1194 (Wireline Comp. Bur. rel. Oct. 16, 2015) (*Designation Order*).

³ *Id.* at para. 108.

⁴ Motion of AT&T Inc., Verizon, CenturyLink, and Frontier to Modify Protective Orders, WC Docket Nos. 15-247, 05-25 (filed Oct. 23, 2015) (Motion), <http://apps.fcc.gov/ecfs/comment/view?id=60001304911>.

⁵ *Investigation of Certain Price Cap Local Exchange Carrier Business Data Services Tariff Pricing Plans; 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 Nos. 15-247, 05-25, (continued...)

On December 9, 2015, the incumbent LECs filed the Joint Request seeking an extension of time for the filing of their direct cases. The incumbent LECs seek a twelve-week extension of the deadline for submission of their direct cases in this proceeding or, in the alternative, a 60-day extension.⁶ They claim a need for an extension “to allow the parties time to incorporate into their Direct Cases analyses of the data set that the Commission placed in the record on December 4, 2015.”⁷ On December 11, 2015, XO filed an opposition to the Joint Request, claiming that “the tasks that the ILECs claim they will undertake relating to the Data do not warrant additional time” and that “delaying the investigation . . . would prejudice XO and other competitive carriers, as well as consumers”⁸

4. Requests for extensions of time are not routinely granted.⁹ Filing periods in proceedings have been extended, however, considering the circumstances of the request.¹⁰ The incumbent LECs predicate their extension requests on an asserted need to conduct a specific type of analysis of the data submitted in response to the data collection in the business data services rulemaking proceeding.¹¹ While we take no position on the relevance to this investigation of any specific type of data or analysis apart from those already sought in the *Designation Order*, the incumbent LECs have not established a need for a delay of this magnitude. The incumbent LECs and other parties to the business data services rulemaking proceeding have had access to the secure data enclave hosted by the National Opinion Research Center at the University of Chicago (NORC) in Bethesda, Maryland since September 18, 2015, and were provided training and remote access by NORC no later than October 23, 2015.¹² The Opposition asserts that the extension sought by the incumbent LECs is not necessary since “the ILEC representatives who are entitled to access the Data are already familiar with it and the process for accessing it as a result of the Special Access Reform proceeding.”¹³ The Opposition further asserts that

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RM-10593, Order and Protective Orders, DA 15-1387 (Wireline Comp. Bur. rel. Dec. 4, 2015) (*Order and Protective Orders*).

⁶ Joint Request at 1.

⁷ *Id.*

⁸ Opposition to Joint Request for Extension of Time of AT&T Inc., Verizon, CenturyLink, and Frontier, WC Docket No. 15-247, at 1 (filed Dec. 11, 2015) (Opposition) <http://apps.fcc.gov/ecfs/document/view?id=60001354911>.

⁹ See 47 C.F.R. § 1.46(a) (“It is the policy of the Commission that extensions of time shall not be routinely granted.”).

¹⁰ See, e.g., *Amendment of Parts 0, 1, 2, 15 and 18 of the Commission’s Rules regarding Authorization of Radiofrequency Equipment; Request for the Allowance of Optional Electronic Labeling for Wireless Devices*, ET Docket No. 15-170, RM-11673, Order, 30 FCC Rcd 8498, 8499, para. 3 (OET 2015) (extension to “provide sufficient time to address the complex technical issues”); *Lifeline and Link Up Reform and Modernization; Telecommunications Carriers Eligible for Universal Service Support; Connect America Fund*, WC Docket Nos. 11-42, 09-197, 10-90, Order, 30 FCC Rcd 8233, 8234, para. 5 (Wireline Comp. Bur. 2015) (extension to the reply comment filing deadline “will facilitate more thorough and deliberate consideration of the issues raised in this proceeding”).

¹¹ See, e.g., Joint Request at 1 (“a twelve-week extension would be necessary, at a minimum, for a comprehensive geospatial analysis of the data”).

¹² The incumbent LECs point out that, for the purposes of this investigation, they will gain access to the data in the business data services data collection no sooner than December 16, 2015. See *id.* at 1. We note, however, that while the incumbent LECs and other parties will not have had access to the data specifically for use in this proceeding until December 16, 2015 or later, the subject matter of the two proceedings is sufficiently related that the incumbent LECs are likely to have already had a number of weeks to begin conducting any analyses they find relevant. Any analysis already being prepared by the incumbent LECs would be usable in the tariff proceeding immediately upon gaining access to the business data services proceeding data collection for purposes of the tariff investigation.

¹³ Opposition at 2 (noting that the incumbent LECs “are using the same economists to review the Data for the investigation that have been reviewing it in the Special Access Reform proceeding”).

“the relevant Data is limited and readily accessible, and any analysis the ILECs contend to be related to this investigation can be performed quickly.”¹⁴ Additionally, we note that the incumbent LECs will have additional opportunities to present evidence in this proceeding subsequent to the filing of the direct cases. The incumbent LECs will have an opportunity to file rebuttal analyses and are also free to supplement any analyses they submit with their direct cases during the investigation.¹⁵

5. While we do not find the duration of the incumbent LECs’ specific requests for extension warranted, we find some extension of time is justified given the significant size and complexity of data in the business data services data collection, and given our interest in ensuring a full and complete record for evaluating the pricing plans under investigation. Such an extension of time will give the incumbent LECs and other parties valuable, additional time to review and analyze the sizeable amount of data collected in the business data services proceeding, and formulate their record submissions to inform the Commission’s review of the pricing plans under investigation in this proceeding. XO urges that “the Commission investigate these allegations [of unreasonable incumbent LEC pricing plan practices] and adopt appropriate relief expeditiously.”¹⁶ Consistent with our approach in the *Order and Protective Orders*, we believe that allowing this extension “will not unnecessarily harm or delay the investigation”¹⁷ and will therefore not prejudice the interests of any party or the public interest generally.

6. Accordingly, IT IS ORDERED, pursuant to sections 1, 2, 4(i), 4(j), and 5(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 154(j), and 155(c), and sections 0.91, 0.291, and 1.46 of the Commission’s rules, 47 C.F.R. §§ 0.91, 0.291, and 1.46, that the request for extension of time filed by the incumbent LECs IS GRANTED to the extent described herein. The deadline for the submission of the incumbent LECs’ direct cases is extended to **January 8, 2016**, the deadline for oppositions is extended to **February 5, 2016**, and the deadline for rebuttals is extended to **February 26, 2016**.

7. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission’s rules, 47 C.F.R. § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Deena M. Shetler
Associate Chief
Wireline Competition Bureau

¹⁴ *Id.*

¹⁵ The Joint Request points out that the Bureau has previously stated that “relying on unscheduled submissions could have the effect of adding further delay if analysis is submitted without deadlines common to all.” Joint Request at 6 (citing *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, DA 15-1239, at para. 7 (Wireline Comp. Bur. rel. Nov. 2, 2015)). Given the incumbent LECs’ description of the analyses they intend to conduct, however, the later submission of additional results of these analyses would likely supplement any analyses they may initially produce for their direct cases, thereby reducing the risk of delay in this instance.

¹⁶ Opposition at 3.

¹⁷ *Order and Protective Orders* at para. 8.