



# PUBLIC NOTICE

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## WIRELINE COMPETITION BUREAU TO CLOSE AND ARCHIVE SECURE DATA ENCLAVE IN PRICE CAP BUSINESS DATA SERVICES PROCEEDINGS

WC Docket Nos. 16-143, 05-25

By this Public Notice, the Wireline Competition Bureau (Bureau) announces that access to the secure data enclave containing highly confidential data filed in the price cap business data services (BDS) proceedings will close after March 22, 2019, unless an interested party demonstrates that continued access to the data is necessary to their meaningful participation in the proceeding, and all parties' data and work product stored in the secure data enclave will be saved and archived as of March 22, 2019, pending judicial or administrative review.

Pursuant to the Protective Orders, the secure data enclave is the exclusive method for authorized parties to access and analyze highly confidential data submitted in a data collection that is part of the record in the price cap BDS proceedings.<sup>1</sup> The Commission has contracted with NORC at the University of Chicago (NORC) to host the secure data enclave. On December 5, 2018, the Bureau reopened the secure data enclave so that parties could analyze the BDS data for purposes of commenting on the *Second Further Notice* in the price cap BDS proceedings.<sup>2</sup> In a public notice released on February 21, 2019, the Bureau announced that it would allow access to the secure data enclave until March 22, 2019, "unless an interested party demonstrates that 'continued access to the data is necessary to their meaningful participation in the proceeding.'"<sup>3</sup>

To date, no party has submitted a filing demonstrating that continued access to the data contained in the secure data enclave is necessary to their meaningful participation in the price cap BDS

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<sup>1</sup> See *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 (WCB 2014) (*Data Collection 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 No. 16-143 et al., Order, 31 FCC Rcd 7104 (WCB 2016) (collectively "the Protective Orders").

<sup>2</sup> See *Wireline Competition Bureau Announces Comment Deadlines on Second Further Notice and Further Notice in Business Data Services Proceedings and Reopening of Secure Data Enclave*, WC Docket No. 17-144 et al., DA 18-1212 (WCB Nov. 29, 2018) (*November 29 Public Notice*); see *Regulation of Business Data Services for Rate-of-Return Local Exchange Carriers et al.*, WC Docket No. 17-144 et al., Report and Order, Second Further Notice of Proposed Rulemaking, and Further Notice of Proposed Rulemaking, 33 FCC Rcd 10403, 10454-57, paras. 148-56 (2018) (*Second Further Notice*).

<sup>3</sup> *Wireline Competition Bureau Extends Access to the Secure Data Enclave for Commenters in the Business Data Services Proceedings*, WC Docket Nos. 17-144 et al., Public Notice, DA 19-106, at 1 (WCB Feb. 21, 2019) (*February 21 Public Notice*) (quoting *Secure Data Enclave for Accessing Highly Confidential Business Data Services Data to Reopen*, WC Docket No. 16-143 et al., Public Notice, DA 18-1133 (WCB Nov. 5, 2018)); see *November 29 Public Notice*.

proceedings.<sup>4</sup> There is no evidence in the record that parties will suffer a harm if the secure data enclave closes after March 22, 2019. Parties have had since December 5, 2018 to access the data in the secure data enclave for purposes of preparing comments due February 8, 2019 and reply comments due March 11, 2019.<sup>5</sup> Maintaining access would entail significant public expense and require continued oversight by Commission staff. Even after the secure data enclave is closed, authorized parties will still be able to access unredacted highly confidential data in comments and reply comments filed in the record of this proceeding pursuant to the Protective Orders.<sup>6</sup> In sum, we find that the financial and administrative burdens to the Commission and the public of maintaining the secure data enclave outweigh the benefits of providing parties with access to the data for analysis.<sup>7</sup> Accordingly, access to the secure data enclave will close after March 22, 2019, unless an interested party demonstrates that continued access to the data is necessary to their meaningful participation in the proceeding.<sup>8</sup>

Up until March 22, 2019, parties may remove their notes, analysis results or other documents from the secure data enclave subject to NORC's release process consistent with the Protective Orders.<sup>9</sup> After March 22, 2019, the Bureau and NORC will no longer process requests to access the secure data enclave. Closure of the secure data enclave, however, will not affect authorized parties' access to confidential and highly confidential information that is accessible outside the secure data enclave, and the Bureau will continue to process requests to access this information subject to the Protective Orders.<sup>10</sup> The Commission will retain the BDS data consistent with applicable statutory requirements.<sup>11</sup>

Consistent with past practice, as of March 22, 2019 the Bureau will archive all parties' data and work product contained in the secure data enclave.<sup>12</sup> Because parties are prohibited from removing raw highly confidential data from the secure data enclave, they have saved information, notes, and analysis for purposes of commenting on the price cap BDS proceedings in "virtual lockers" located in the secure data enclave.<sup>13</sup> After March 22, 2019, parties will no longer have access to the secure data enclave including their virtual lockers. Archiving data and virtual lockers will protect highly confidential data, and allow the Commission to provide parties access to the data and their related work product in the virtual lockers should doing so become necessary as a result of judicial or administrative review.<sup>14</sup> Accordingly, as of March 22, 2019 all parties' data contained in the secure data enclave, including all data, notes and analysis stored in the virtual lockers, will be saved and archived pending judicial review or reconsideration of an order adopted in the price cap BDS proceedings.

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<sup>4</sup> See *February 21 Public Notice* at 1.

<sup>5</sup> See *February 21 Public Notice*; *November 29 Public Notice*.

<sup>6</sup> See *Secure Data Enclave for Accessing Highly Confidential Business Data Services (Special Access) Data to Close on December 31, 2017*, WC Docket No. 16-143 et al., Public Notice, 32 FCC Rcd 7357 (WCB 2017).

<sup>7</sup> See *id.* at 7359-60.

<sup>8</sup> See *February 21 Public Notice*.

<sup>9</sup> See *Data Collection Protective Order*, 29 FCC Rcd at 11664, para. 21.

<sup>10</sup> See *id.* at 11664-65, 11673, paras. 23-24 & Appx. A at para. 5.

<sup>11</sup> See *id.* at 11668, para. 28; 44 U.S.C. §§ 3301, *et seq.*

<sup>12</sup> See *Wireline Competition Bureau to Archive Secure Data Enclave for Accessing Highly Confidential Business Data Services (Special Access) Data*, WC Docket No. 16-143 et al., Public Notice, 32 FCC Rcd 10362 (WCB 2017) (*December 18, 2017 Public Notice*).

<sup>13</sup> *Data Collection Protective Order*, 29 FCC Rcd at 11673, para. 6.

<sup>14</sup> See *December 18, 2017 Public Notice*, 32 FCC Rcd at 10363.

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