

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

In the Matter of)
)
 Protecting Against National Security Threats to the) PS Docket No. 19-351
 Communications Supply Chain—Huawei)
 Designation)
)

ORDER

Adopted: June 16, 2020

Released: June 16, 2020

By the Chief, Public Safety and Homeland Security Bureau:

1. By this Order, the Public Safety and Homeland Security Bureau (Bureau) of the Federal Communications Commission (Commission) denies the Motion for Extension of Time filed by Huawei Technologies Co., Ltd., and Huawei Technologies USA, Inc. (collectively “Huawei”) on June 11, 2020.

2. The Commission’s initial designation of Huawei pursuant to section 54.9 of the Commission’s rules was published in the *Federal Register* on January 3, 2020, and the Bureau announced by Public Notice issued on that date that Huawei’s response and any other comments would be due 30 days thereafter, on February 3, 2020.¹ On May 1, the Bureau issued a Public Notice extending the 90-day timeframe for determining whether to issue final designations of Huawei and ZTE Corporation (ZTE) from May 4 to June 30, 2020. The Bureau concluded that the extension was warranted due to the passage of the Secure and Trusted Communications Networks Act of 2019 while the initial designations were pending and by the importance of fully and adequately considering the records in these proceedings, particularly Huawei’s submission, which totaled over 5,000 pages.² The Bureau has until June 30, 2020, to consider whether to finalize the designations of Huawei and ZTE.

3. On June 9, 2020, the National Telecommunications and Information Administration (NTIA) submitted a letter on behalf of the Executive Branch of the U.S. government offering additional views on the designation of Huawei as well as on the designation of ZTE Corporation and on the Commission’s proposal in the *Further Notice of Proposed Rulemaking* in WC Docket No. 18-89. That day, the Bureau issued a Public Notice providing an opportunity for responses to NTIA’s filing.³

4. On June 11, 2020, Huawei filed a Motion for Extension of Time to respond to NTIA’s filing. Huawei seeks an additional seven days, until June 26, arguing that “the 10-day comment deadline

¹ *Public Safety and Homeland Security Bureau Announces Comment Date on the Initial Designation of Huawei Technologies Company as a Covered Company in the National Security Supply Chain Proceeding*, DA 20-13, PS Docket No. 19-351 (Jan. 3, 2020).

² *Public Safety and Homeland Security Bureau Extends Timeframe for Determining Whether to Finalize Designations of Huawei and ZTE Pursuant to 47 CFR § 54.9*, DA 20-471, PS Docket Nos. 19-351 and 19-352 (May 1, 2020).

³ *Public Safety and Homeland Security Bureau Seeks Comment on the June 9, 2020 Filing by the National Telecommunications and Information Administration in PS Dockets 19-351 and 19-352*, DA 20-603, PS Docket Nos. 19-351 and 19-352 (June 9, 2020).

is wholly insufficient to allow Huawei to digest, investigate and respond to the substantive and legal issues raised in the NTIA Letter,”⁴ and that the delay would not cause prejudice to any person.⁵

5. It is the policy of the Commission that extensions of time shall not be routinely granted.⁶ For miscellaneous pleadings in adjudications, the Commission’s default rule allows oppositions to be filed within 10 days after the original pleading is filed.⁷ The deadline set by the Bureau in the June 9 Public Notice is consistent with this general rule and should provide sufficient time for Huawei to respond to NTIA’s arguments, most of which reflect facts about Chinese law or Huawei’s operations that ought to be within the knowledge of officers of the company and readily available, and have been echoed in other submissions throughout this proceeding. Furthermore, we find that an extension of time is not warranted given the programmatic and national security interests at stake. As the Commission discussed in the *Protecting Against National Security Threats Report and Order*, E-Rate and Rural Health Care recipients apply for funding to cover specific service and equipment, with funding tied to a particular funding year.⁸ The Commission put in place a process to ensure that the Bureau would have time to consider whether the initial designations of Huawei and ZTE should be made final in time for any final designations to apply to Funding Year 2020, which begins on July 1, 2020.⁹ Given the programmatic and national security interests that underlie the *Order*, we conclude that it is important that any final designation decisions made in these proceedings apply to the next fiscal year; otherwise, the potential would exist for federal subsidies to flow to networks with security vulnerabilities for another year, to the detriment of American consumers and our national security interests. Given the Commission’s decision that designations are to have effect only prospectively,¹⁰ we conclude that we are bound to issue a decision in these two proceedings no later than June 30. Extending Huawei’s deadline until June 26 would not provide adequate time for the Bureau to consider its submission before that date.

6. Accordingly, IT IS ORDERED, pursuant to sections 0.204, 0.392, and 1.46 of the Commission’s rules, 47 CFR §§ 0.204, 0.392, 1.46, that the Motion for Extension of Time filed by Huawei on June 11, 2020, is DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Lisa M. Fowlkes
Chief
Public Safety and Homeland Security Bureau

⁴ Huawei Motion for Extension of Time at 2 (filed June 11, 2020).

⁵ *Id.* at 3.

⁶ 47 CFR § 1.46(a).

⁷ 47 CFR § 1.45(b).

⁸ *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Report and Order, Further Notice of Proposed Rulemaking, and Order, FCC 19-121, 34 FCC Rcd 11423, 11456-57, para. 86 (2019).

⁹ *Id.*

¹⁰ *Id.* at 11455-57, paras. 84-86.