



# PUBLIC NOTICE

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## WIRELINER COMPETITION BUREAU ANNOUNCES THAT PARTIES' WORK PRODUCT WILL NO LONGER BE ARCHIVED IN THE SECURE DATA ENCLAVE IN THE BDS AND USTELECOM FORBEARANCE PROCEEDINGS

WC Docket Nos. 18-141, 17-144, 16-143, 05-25; RM 10593

By this Public Notice, the Wireline Competition Bureau (Bureau) announces that as of July 3, 2020 it will no longer archive work products created by participants in the business data services (BDS, formerly special access) and USTelecom Forbearance Petition proceedings in the secure data enclave established for that purpose.<sup>1</sup> All data and work products currently archived in “virtual lockers” in the secure data enclave will be destroyed. The Bureau will continue to store copies of the highly-confidential data submitted in response to the Commission’s data request in the above-captioned proceedings pursuant to federal records retention laws.

The Commission contracted with the National Opinion Research Center, dba NORC, at the University of Chicago (NORC) to provide authorized participants in the BDS proceedings remote access to the *2015 Data Collection* through a secure data enclave. The secure data enclave also provided authorized participants remote access to the data, the analytical software to analyze the stored data, and “virtual lockers” for storing individual parties’ notes and analysis results, while at the same time ensuring the security of the highly confidential data. These procedures provided authorized parties with a full opportunity to analyze the highly confidential data, and to present the results of their analysis and arguments based on those results to the Commission in the BDS and USTelecom Forbearance proceedings.

On June 30, 2019, the Bureau closed access to the secure data enclave, finding that doing so would “not affect parties’ meaningful participation” in the relevant proceedings.<sup>2</sup> Parties were able to remove their work product from their “virtual lockers” at any point prior to that date, consistent with NORC’s procedures and subject to the relevant Commission protective orders.<sup>3</sup> At the Bureau’s direction, NORC archived parties’ data and work product stored in the secure data enclave as of June 30,

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<sup>1</sup> The secure data enclave was created to provide access to highly confidential data submitted in the 2015 Data Collection in the price cap business data services (BDS) proceedings. See generally Business Data Services in an Internet Protocol Environment, WC Docket No. 16-143; Special Access for Price Cap Local Exchange Carriers, WC Docket No. 5-25; AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Service, RM-10593; Regulation of Business Data Services for Rate-of-Return Local Exchange Carriers, WC Docket No. 17-144; Petition of USTelecom for Forbearance under 47 U.S.C. § 160(c) to Accelerate Investment in Broadband and Next-Generation Networks, WC Docket No. 18-141.

<sup>2</sup> *Wireline Competition Bureau Announces Closure and Archiving of Secure Data Enclave in Price Cap Business Data Services and USTelecom Forbearance Petition Proceedings, et al.*, WC Docket Nos. 18-141 et al., Public Notice, 34 FCC Rcd 5086 (WCB 2019).

<sup>3</sup> See, e.g., *Special Access for Price Cap Local Exchange Carriers et al.*, WC Docket No. 05-25 et al., Order and Data Collection Protective Order, 29 FCC Rcd 11657 (WCB 2014).

2019, pending potential judicial or administrative review. Since that date, parties have not had access to the archived data and we have not received any requests for access to any party's virtual locker.

The Commission subsequently released an order addressing issues remanded to the Commission in the BDS proceedings and raised in the USTelecom Forbearance Petition proceeding.<sup>4</sup> No party sought judicial review or administrative reconsideration of that order and the Commission has instituted no further proceedings to review or reconsider the issues addressed in those proceedings. There are also no other open proceedings that are dependent on access to the contents of the secure data enclave.

In these circumstances, we find there is little, if any, utility in continuing to archive the business data services dataset via the secure data enclave. The Commission's contract with NORC to archive data and analysis in the secure data enclave is set to expire July 3, 2020. Renewing the contract would entail additional administrative burdens and expenses that we find to be unnecessary and unjustified. There is no evidence in the record that parties will suffer harm if the Bureau no longer archives parties' work product in the secure data enclave after July 3, 2020. Closure of the secure data enclave will not affect authorized parties' access to confidential and highly confidential information that is accessible outside the secure data enclave. Authorized parties will continue to be able to discuss and share the contents of confidential and highly confidential documents with other authorized parties, as appropriate, and to access unredacted highly confidential data in comments, reply comments, and in confidential versions of the Commission's orders, pursuant to the relevant protective orders.

Accordingly, we find it is no longer in the public interest to archive outside parties' work product in the secure data enclave and therefore close it effective July 3, 2020. Any notes, analysis results or other documents, programs or files saved to virtual lockers will be deleted. The Bureau will continue to store copy sets of all confidential and highly confidential data and information in the *2015 Data Collection* in a manner consistent with the relevant National Institute of Standards and Technology (NIST) Federal Information Processing Standards (FIPS) standards for such data and in compliance with federal records retention laws.<sup>5</sup>

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<sup>4</sup> *Business Data Services in an Internet Protocol Environment et al.*, WC Docket Nos. 16-143 et al., Report and Order on Remand and Memorandum Opinion and Order, 34 FCC Rcd 5767 (2019).

<sup>5</sup> The *2015 Data Collection*, unlike parties' work products, is a federal record and will be maintained and disposed of consistent with Title 44, Chapter 33 of the U.S. Code and National Archives and Records Administration (NARA)-imposed schedules.