



PUBLIC NOTICE

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FCC ENFORCEMENT ADVISORY

ALL FACILITIES-BASED BROADBAND INTERNET ACCESS SERVICE PROVIDERS MUST TIMELY FILE COMPLETE AND ACCURATE DATA IN THE BROADBAND DATA COLLECTION

Broadband Data Collection Filings Due by September 1, 2022

WC Docket Nos. 19-195, 11-10

The Enforcement Bureau issues this Advisory to remind all facilities-based providers of fixed or mobile broadband internet access service of their duty to timely file complete and accurate data in the Broadband Data Collection (BDC) on a biannual basis.¹ Providers may begin submitting their data on June 30, 2022, and must complete their submissions **no later than September 1, 2022**.² This Advisory highlights the BDC filing obligations and reiterates that a failure to timely file the required data in the new BDC system may lead to enforcement action and/or penalties as set forth in the Communications Act of 1934, as amended, and other applicable laws, absent circumstances beyond a filer's control.³

The BDC consists of a set of interrelated systems and processes to collect, validate, and publish complete, granular, and reliable data on broadband availability nationwide.⁴ Federal and state policymakers, in

¹ 47 CFR §§ 1.7001(a), 1.7004. The BDC was formerly known as the Digital Opportunity Data Collection, or DODC.

² See *Broadband Data Task Force and Office of Economics and Analytics Announce Inaugural Broadband Data Collection Filing Dates*, WC Docket Nos. 19-195, 11-10, Public Notice, DA 22-182, at 9, para. 22 (OEA Feb. 22, 2022) (*BDC Filing Window Public Notice*). Pursuant to Commission rules, providers have a continuing duty to submit BDC filings “each year on or before March 1 (reporting data as of December 31 of the prior year) and September 1 (reporting data as of June 30 of the current year).” 47 CFR § 1.7004(b).

³ See 47 CFR § 1.7009(b); *BDC Filing Window Public Notice* at 10, para. 25.

⁴ See *BDC Filing Window Public Notice* at 1, para. 2. See generally *Broadband Deployment Accuracy and Technological Availability Act*, Pub. L. No. 116-130, 134 Stat. 228 (2020) (codified at 47 U.S.C. §§ 641-646) (*Broadband DATA Act*); *Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 19-195, 11-10, Second Report and Order and Third Further Notice of Proposed Rulemaking, 35 FCC Rcd 7460 (2020) (*Second Order and Third Further Notice*); *Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 19-195, 11-10, Third Report and Order, 36 FCC Rcd 1126 (2021) (*Third Report and Order*).

addition to the general public, have an urgent and compelling need for these broadband availability data, particularly given that they are a prerequisite to the distribution of broadband deployment funds made available through various funding programs, including most recently funds appropriated by Congress in the Infrastructure Investment and Jobs Act (IIJA).⁵ Further, as the National Telecommunications and Information Administration (NTIA) stated in its recently released Notice of Funding Opportunity for the Broadband Equity, Access, and Deployment Program, a prospective subgrantee that has provided a voice and/or broadband service and seeks to receive deployment funds through the program “must certify that it has timely filed Commission Form 477s and the Broadband DATA Act submission . . . and otherwise has complied with the Commission’s rules and regulations.”⁶ Accordingly, it is critical that all providers subject to BDC filing requirements timely file accurate and comprehensive data on the availability of their services. The Enforcement Bureau, working with the Broadband Data Task Force, the Office of Economics and Analytics, the Wireline Competition Bureau, and the Wireless Telecommunications Bureau will monitor compliance and take action where necessary to support the success of the BDC.

Entities Required to File in the Broadband Data Collection.⁷ All facilities-based providers of fixed or mobile broadband internet access service who have one or more end user connections in service on June 30, 2022, must file BDC data no later than September 1, 2022.⁸ An entity is a facilities-based provider if it supplies broadband service using any of five types of facilities enumerated in the Commission’s *Third Report and Order* in the BDC proceeding.⁹ The Commission adopted the definition of broadband internet access service in the Broadband DATA Act,¹⁰ which adopts by reference the meaning given to that term in section 8.1(b) of the Commission’s rules, limiting the BDC requirements to providers of mass-market retail service only.¹¹

How to File in the Broadband Data Collection. Filers must submit data in the BDC system via file upload and/or web form. Detailed specifications for the biannual BDC filings are available at <https://www.fcc.gov/BroadbandData/resources#data-specifications>.

Filers are encouraged to submit their data as early as possible in the filing window. The BDC system includes automatic checks and validations that will prevent filers from submitting data with patent errors, such as reporting subscribers in an area with no service availability; filers must correct errors *prior* to

⁵ *BDC Filing Window Public Notice* at 10, para. 25; see Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, div. F, tit. I, § 60102(c)(1), (c)(3) (2021), <https://www.govinfo.gov/content/pkg/BILLS-117hr3684enr/pdf/BILLS-117hr3684enr.pdf>.

⁶ NTIA, Broadband Equity, Access, and Deployment Program, Notice of Funding Opportunity, at 74 (May 13, 2022), <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>.

⁷ See 47 CFR §§ 1.7001(a), 1.7004(a).

⁸ See *BDC Filing Window Public Notice* at 9, para. 22.

⁹ *Third Report and Order*, 36 FCC Rcd at 1130-31, para. 10. Specifically, an entity is facilities-based if it provides services using “(1) physical facilities that the entity owns and that terminate at the end-user premises; (2) facilities that the entity has obtained the right to use from other entities, such as dark fiber or satellite transponder capacity as part of its own network, or has obtained from other entities; (3) unbundled network element (UNE) loops, special access lines, or other leased facilities that the entity uses to complete terminations to the end-user premises; (4) wireless spectrum for which the entity holds a license or that the entity manages or had obtained the right to use via a spectrum leasing arrangement or comparable arrangement pursuant to subpart X of Part 1 of [the Commission’s] Rules (47 CFR §§ 1.9001-1.9080); or (5) unlicensed spectrum.” *Id.*; see also 47 CFR § 1.7001(a)(2).

¹⁰ *Second Report and Order and Third Further Notice*, 35 FCC Rcd at 7465, para. 12 & n.26; see 47 CFR § 1.7001(a)(6).

¹¹ See 47 U.S.C. § 641(1); 47 CFR § 8.1(b); *Third Report and Order*, 36 FCC Rcd at 1134-35, para. 19 (declining to collect non-mass market broadband service data in addition to mass-market service data).

submitting and certifying a BDC filing, which they must do before the filing deadline. Filing early in the window will afford filers an opportunity to make any necessary corrections in advance of the deadline and ensure that their submissions are accurate and timely filed.

The Commission is providing various technical assistance resources to assist filers in preparing their biannual BDC submissions. Self-help resources such as data specifications, a user guide, video tutorials, and help articles, as well as an online form to request additional support, can be found in the BDC Help Center, which filers can access through the BDC webpage at <https://www.fcc.gov/BroadbandData>. Pursuant to the Broadband DATA Act, the Commission has set up a process through which filers may request and receive assistance with geographic information system (GIS) data processing and formatting to ensure that the filer can comply with the requirements of the BDC.¹² Such requests should be submitted through the Help Center on the BDC webpage.

Enforcement Authority. In addition to the Commission’s general enforcement authority in the Communications Act and other applicable laws,¹³ section 803 of the Broadband DATA Act makes it “unlawful for an entity or individual to willfully and knowingly, or recklessly, submit information or data under this title that is materially inaccurate or incomplete with respect to the availability of broadband internet access service or the quality of service with respect to broadband internet access service.”¹⁴

The Commission’s rules define “materially inaccurate or incomplete” as “a submission that contains omissions or incomplete or inaccurate information that the Commission finds has a substantial impact on its collection and use of the data collected” through the BDC.¹⁵ The Commission has established a base forfeiture of \$15,000 per violation for providers that file materially inaccurate or incomplete information in the BDC.¹⁶ If a provider discovers any inaccuracy, omission, or significant reporting error in the original data it submitted, whether through self-discovery, the BDC challenge, crowdsourcing, or verification processes, or otherwise, that provider is required to file corrected data within 30 days of the discovery or notification of the inaccuracy or omission.¹⁷ In addition, corrected filings must be accompanied by both corporate and engineering certifications.¹⁸ The requirement to file corrected data is independent of the obligation to timely file accurate and complete data as part of the biannual BDC submission.

¹² 47 U.S.C. § 644(d).

¹³ See *Third Report and Order*, 36 FCC Rcd at 1182, para. 144.

¹⁴ 47 U.S.C. § 643; see *Third Report and Order*, 36 FCC Rcd at 1181-82, para. 143.

¹⁵ 47 CFR § 1.7009(c). The Commission also noted in the *Third Report and Order* that it would determine whether conduct is “willful and knowing or reckless” on a case-by-case basis, consistent with Commission precedent. *Third Report and Order*, 36 FCC Rcd at 1178-79, para. 136.

¹⁶ 47 CFR § 1.80(b)(10), tbl. 1; *Third Report and Order*, 36 FCC Rcd at 1180, para. 140.

¹⁷ 47 CFR § 1.7009(d)(1); *Third Report and Order*, 36 FCC Rcd at 1182-83, 1183-84, paras. 145, 147; see also 47 CFR §§ 1.7006(d)(3)(i), (d)(4), (e)(6)(iii), (f)(7). “We will not excuse providers from updating their data for non-significant reporting errors.” *Third Report and Order*, 36 FCC Rcd at 1183, para. 145.

¹⁸ 47 CFR § 1.7009(d)(2); *Third Report and Order*, 36 FCC Rcd at 1183, para. 147. The contents of the corporate and engineering certifications shall be consistent with the Commission’s rules and any clarification of the rules that the Bureaus and Offices may deem necessary in response to any requests for clarification and/or waiver of the Commission’s rules. See, e.g., Petition of Competitive Carriers Association (CCA) for Declaratory Ruling or Limited Waiver, WC Docket No. 19-195 (filed May 13, 2022).

Finally, all covered entities must submit complete and accurate filings by the **September 1, 2022** deadline. A late filing—even if complete and accurate—is still subject to enforcement action.¹⁹

Continuing Form 477 Obligation. Form 477 filers that submit fixed broadband deployment and subscription data, mobile broadband deployment and subscription data, and mobile voice deployment and subscription data in Form 477 must submit data as of June 30, 2022 in two systems: the Form 477 filing interface and the BDC system.²⁰ As the Broadband Data Task Force stated in the *BDC Filing Window Public Notice*, “[u]ntil the Commission announces a sunset date for the submission of Form 477 broadband deployment data, all service providers required to submit these data under Form 477 must continue to do so.”²¹ The Enforcement Bureau has previously advised providers of voice and broadband internet services of their continuing duty to timely file complete and accurate FCC Form 477 reports.²²

Need more information? Filers can find additional information, including links to the BDC Help Center, which contains resources such as video tutorials and FAQs, as well as a portal to request additional support services, at <https://www.fcc.gov/BroadbandData>. For further information, contact Raphael Sznajder, Enforcement Bureau, Raphael.Sznajder@fcc.gov, or Will Holloway, Broadband Data Task Force, William.Holloway@fcc.gov.

Media inquiries should be directed to Anne Veigle, Office of Media Relations, at anne.veigle@fcc.gov.

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Issued by: Acting Chief, Enforcement Bureau

¹⁹ See generally *Third Report and Order*, 36 FCC Rcd at 1182, para. 144 (“[F]ailure to *timely* file required data in the new Digital Opportunity Data Collection may lead to enforcement action and/or penalties as set forth in the Communications Act and other applicable laws.” (emphasis added)).

²⁰ See FCC, *Broadband Data Collection—Data Specifications for Biannual Submission of Subscription, Availability, and Supporting Data* at 3 (2022), <https://us-fcc.app.box.com/v/bdc-availability-spec>. Providers of fixed voice service that do not also offer broadband internet access service may file their Form 477 fixed voice subscription data as of June 30, 2022, in the BDC system but are not required to do so. *Id.*

²¹ *BDC Filing Window Public Notice* at 11, paras. 29-30.

²² See *FCC Enforcement Advisory: Form 477 Rules: Providers Must File a Complete and Accurate Form 477 Report Every Six Months*, 30 FCC Rcd 10853, DA 15-1140 (EB 2015).