



PUBLIC NOTICE

Federal Communications Commission
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COMMENTS SOUGHT ON PETITION FOR EXTENSION OF WAIVER OF THE REQUIREMENT FOR A CERTIFIED PROFESSIONAL ENGINEER TO CERTIFY BROADBAND DATA COLLECTION AVAILABILITY DATA

WC Docket No. 19-195

Comment Date: 10 days after publication in the Federal Register

Reply Comment Date: 20 days after publication in the Federal Register

The Broadband Data Task Force, Wireless Telecommunications Bureau, Wireline Competition Bureau, and the Office of Economics and Analytics (Bureaus), seek comment on a Petition for Extension of Waiver (Petition) filed by the Competitive Carriers Association (CCA) and USTelecom – The Broadband Association (USTelecom and, together with CCA, Petitioners).¹ Petitioners request that the Bureaus renew for an additional three filing cycles the *BDC Limited Waiver*, which temporarily waives the requirement that Broadband Data Collection (BDC) filings be verified by a licensed Professional Engineer (PE), thus allowing BDC submissions to be certified by an otherwise qualified engineer who does not hold the PE credential.²

The Commission's rules require that a certified PE or a corporate engineering officer review and certify the accuracy of the broadband availability data submitted by mobile and fixed providers as part of the BDC.³ This requirement was adopted to ensure that filers have engaged in the analysis necessary to meet Congress's objective of developing more accurate broadband coverage data.⁴ In particular, the Commission requires each mobile and fixed service provider to include certifications as to the accuracy of its data submissions by a certified PE or corporate engineering officer, in which the engineer certifies

¹ Petition for Extension of Waiver of Competitive Carriers Association and USTelecom – The Broadband Association, WC Docket No. 19-195 (filed August 4, 2023), <https://www.fcc.gov/ecfs/search/search-filings/filing/10804811316251>.

² *Establishing the Digital Opportunity Data Collection; Competitive Carriers Association Petition for Declaratory Ruling or Limited Waiver Regarding the Requirement for a Certified Professional Engineer to Certify Broadband Data Collection Maps*, WC Docket No. 19-195, Declaratory Ruling and Limited Waiver, DA 22-733 (July 8, 2022) (*BDC Limited Waiver*). The *BDC Limited Waiver* waived for three BDC filing cycles (i.e., data as of June 30, 2022, December 31, 2022, and June 30, 2023) the requirement that BDC certification be completed by a licensed PE, and instead allow wireless carriers that do not have access to a licensed PE to certify data with a radio frequency engineering professional with specified qualifications. *Id.* The *BDC Limited Waiver* also applied to government entities and third parties to the extent they choose to file verified broadband availability data. *Id.* The Petition asks that the *BDC Limited Waiver* be renewed or extended for an additional three filing cycles (i.e., data as of December 31, 2023, June 30, 2024, and December 31, 2024). Petition at 7-8.

³ 47 CFR § 1.7004(d).

⁴ *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, 1145, para. 45 (2021) (*Third Order*).

“that he or she has examined the information contained in the submission and that, to the best of the engineer’s actual knowledge, information, and belief, all statements of fact contained in the submission are true and correct and in accordance with the service provider’s ordinary course of network design and engineering.”⁵ This certification is in addition to the corporate officer certification required by the Broadband DATA Act and the Commission’s *Second Order and Third Further Notice*.⁶

In the July 2022 *BDC Limited Waiver*, the Bureaus found that granting a limited waiver of the rule was “consistent with the policy objectives of the rule because providers will still be required, under the terms of the limited waiver we adopt, to have an engineer review and certify their BDC submissions to help ensure the accuracy of the broadband data they submit” and that the limited waiver “only modifies the engineering certification requirement to allow providers to use otherwise-qualified engineers who are not certified PEs to make the required certifications.”⁷

Petitioners assert that the “BDC process under the waiver has been effective, with no impact to the quality or accuracy of the BDC filings, and there remains an ongoing industry need for a waiver of the PE requirement.”⁸ The Petition says the industry, particularly smaller providers, is still experiencing hardships regarding the scarcity of PE licensure in the workforce and continues to face “significant challenges” meeting the PE certification requirement.⁹ The Petition also asserts that broadband providers can provide accurate broadband data without certification by licensed PEs.¹⁰ Petitioners therefore request that the Commission renew or extend the *BDC Limited Waiver*, or otherwise grant a new waiver, of the requirement that BDC certification be completed by a licensed PE for three additional data filing cycles and continue to allow providers that do not have access to licensed PEs to certify data with an engineering professional with the same qualifications specified in the *BDC Limited Waiver*.¹¹

We seek comment on these and other issues raised by the Petition as they may impact both fixed and mobile broadband service providers.

⁵ 47 CFR § 1.7004(d); 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); 47 U.S.C. § 642(b)(4); *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, 7486, para. 61 (2020).

⁶ *Third Order*, 36 FCC Rcd at 1144-45, para. 43; 47 U.S.C. § 642(b)(4). For government and other third-party entities who submit verified broadband availability data, the engineering certification must also include a certification by a certified professional engineer that he or she is employed by the government or other third-party entity submitting the verified broadband availability data and has direct knowledge of, or responsibility for, the generation of the government or other entity’s Broadband Data Collection coverage data. *Id.* at 1152, para. 63; *see also* 47 CFR § 1.7004(d).

⁷ *BDC Limited Waiver* at 9.

⁸ Petition at 2.

⁹ Petition at 4.

¹⁰ Petition at 5.

¹¹ Petition at 7-8. *See supra* note 2.

Filing Requirements. Interested parties may file comments on or before the date indicated on the first page of this document.¹² All filings must refer to **WC Docket No. 19-195**. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS).¹³

- Electronic Filers: Comments may be filed electronically using the Internet by accessing ECFS: <https://www.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
 - Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington DC 20554.
 - Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.¹⁴

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Government Affairs Bureau at (202) 418-0530.

Ex Parte Rules. This proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.¹⁵ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must: (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made; and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenters written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with section 1.1206(b) of the Commission’s rules. In proceedings governed by section 1.49(f) of the rules or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be

¹² See 47 CFR §§ 1.2, 1.405, and 1.419.

¹³ See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

¹⁴ See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (Mar. 19, 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>.

¹⁵ See 47 CFR §§ 1.1200 *et seq.*

filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf).¹⁶ Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

For further information regarding this proceeding, please contact Will Holloway, Broadband Data Task Force, at william.holloway@fcc.gov.

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¹⁶ *Id.* § 1.1206(b).