



# PUBLIC NOTICE

Federal Communications Commission  
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DA 12-116  
February 2, 2012

## NOTICE OF REQUEST FOR ACCESS TO DATA FILED IN FCC FORM 499-A

### PLEADING CYCLE ESTABLISHED

WC Docket No. 09-15

**Comment Date: February 13, 2012**

The United States Department of Labor, Bureau of Labor Statistics (BLS), seeks access to certain carrier revenue information for 2009 that the Commission collected from wireless carriers on FCC Form 499-A (Form 499-A).<sup>1</sup> In particular, BLS requests all data for 2009 that wireless carriers reported in blocks 3 (Carrier's Carrier Revenue Information) and 4 (End-User and Non-Telecommunications Revenue Information, and Total Revenue and Uncollectible Revenue Information) of that form.<sup>2</sup>

The Commission collects revenue data on Form 499-A for purposes of determining the amounts telecommunications providers need to contribute to the Universal Service Fund (USF), interstate Telecommunications Relay Services, North American Numbering Plan administration, and local number portability administration.<sup>3</sup> The Commission recognizes that the disaggregated, filer-specific data collected on this form may be the type of privileged or confidential commercial or financial information that should be exempt from public disclosure under 5 U.S.C. § 552(b)(4).<sup>4</sup>

In general, the Commission may share information it has collected with another government agency.<sup>5</sup> Although the Commission's regulations provide that proprietary and commercially sensitive information will be withheld from public disclosure, subject to the public's right to seek disclosure under the Freedom of Information Act (FOIA) and implementing regulations,<sup>6</sup> the Commission may disclose to

<sup>1</sup> See Letter to Sharon Gillett, Chief, Wireline Competition Bureau, FCC, from David M. Friedman, Vice Commissioner, United States Department of Labor, Bureau of Labor Statistics, WC Docket No. 09-15 (received December 21, 2011; filed January 31, 2012) (*BLS Letter*).

<sup>2</sup> *Id.*

<sup>3</sup> Instructions to Telecommunications Reporting Worksheet, FCC Revised Form 499-A-A, <http://transition.fcc.gov/Forms/Form499-A-A/499-A-2011.pdf>, at 2 (2011) (*Form 499-A-A Worksheet*).

<sup>4</sup> See *id.* at 28 (instructions for line 605).

<sup>5</sup> 44 U.S.C. § 3510.

<sup>6</sup> 5 U.S.C. § 552; 47 C.F.R. §§ 0.457(d), 0.459(d).

other federal agencies records that have been submitted to the Commission in confidence upon the other agencies' requests.<sup>7</sup>

In its request, BLS states that it is revising the Producer Price Index (PPI) for wireless telecommunications carriers, which measures the monthly changes in prices received for the provision of residential and business wireless telecommunications services.<sup>8</sup> That price index, according to BLS, is an aggregate that represents industry-wide data and is available on its website.<sup>9</sup> BLS also states that it will use the Form 499-A data in addition to publicly available survey data to revise the PPI and that the revenue data for individual companies will allow BLS to sample proportionate to economic size.<sup>10</sup>

BLS states further that it will maintain the confidentiality of the data under the Confidential Information Protection and Statistical Efficiency Act's protection from release pursuant to FOIA requests.<sup>11</sup> BLS also states that it will disclose no company-specific or region-specific data and that it will not disclose its sample sizes, which will prevent Form 499-A filers from being identified based on their relative sizes.<sup>12</sup> BLS also indicates that there will be no direct use of the data in index calculations or PPI publications.<sup>13</sup>

Pursuant to the Commission's regulations, affected parties have until February 13, 2012 to oppose the disclosure of Form 499-A data to BLS.<sup>14</sup> If the Commission receives no opposition from affected parties within 10 days of this notice, the Commission will disclose the information requested above to BLS. If disclosure is opposed, the procedures set forth in 47 C.F.R. § 0.442 shall apply. All pleadings should reference WC Docket No. 09-15.

All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Suite TW-A325, Washington, D.C. 20554. Parties should also send a copy of their filings to Susan Lee, Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission, 445 12<sup>th</sup> Street, S.W., Room 6-B145, Washington, D.C. 20554, or by email address to [susan.lee@fcc.gov](mailto:susan.lee@fcc.gov).

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<sup>7</sup> 47 C.F.R. § 0.442(a) ("The acceptance [by the Commission] of materials in confidence under § 0.457 or § 0.459, or any other statute, rule or Commission order, does not preclude their disclosure to other federal agencies."); *see also* 47 C.F.R. § 0.442(d).

<sup>8</sup> *BLS Letter* at 1.

<sup>9</sup> *Id.* (citing [www.bls.gov/ppi](http://www.bls.gov/ppi)).

<sup>10</sup> *Id.*

<sup>11</sup> CIPSEA is reproduced at 44 U.S.C. § 3501 note.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *See* 47 C.F.R. § 0.442(d)(1), which provides that parties requesting confidential treatment of records shall have ten calendar days after notification to submit an opposition to disclosure under § 0.442. *See also* 47 C.F.R. § 1.4(j), which provides that, where a filing date falls on a holiday, the document shall be due on the next business day, in this case, February 13, 2012.

Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies.<sup>15</sup>

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>.
- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing. **Paper filers are strongly encouraged to contact Susan Lee of the Industry Analysis and Technology Division at 202-418-1590 to inform her of their filings.**

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail).

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., S.W., Room TW-A325, Washington, D.C. 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building. The filing hours are 8:00 a.m. to 7:00 p.m.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12<sup>th</sup> Street, SW, Washington, D.C. 20554.

Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW, Room CY-B402, Washington, D.C. 20554 or via e-mail to [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com).

Documents in WC Docket No. 09-15 will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, D.C. 20554. The documents may also be purchased from BCPI, telephone 202-488-5300, facsimile 202-488-5563, TTY 202-488-5562, or via e-mail at [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com).

**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](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.<sup>16</sup> Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and

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<sup>15</sup> See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

<sup>16</sup> 47 C.F.R. §§ 1.1200 *et seq.*

arguments presented generally is required.<sup>17</sup> Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules.<sup>18</sup>

For further information regarding this proceeding, contact Susan Lee, Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission, by telephone at 202-418-1590 or by email to [susan.lee@fcc.gov](mailto:susan.lee@fcc.gov).

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<sup>17</sup> See 47 C.F.R. § 1.1206(b)(2).

<sup>18</sup> 47 C.F.R. § 1.1206(b).