



80 South Jefferson Road
Whippany, NJ 07981

Jennifer Leonard
Senior Director
Access Tariffs & Costs

**This material is being filed on 15 days'
notice under Section 204(a)(3) of the
Communications Act.**

Voice: 973-884-8068
Fax: 973-599-6612
E-mail: Tariff6@neca.org

June 17, 2019

Transmittal No. 1580

Secretary
Federal Communications Commission
Washington, D.C. 20554

Attention: Wireline Competition Bureau

The accompanying tariff material, issued on behalf of the National Exchange Carrier Association, Inc. (NECA) bearing Tariff F.C.C. No. 6, Business Data Services (BDS) Access Service, is sent to you for filing, in compliance with the Communications Act of 1934, as amended.

The filing, to become effective July 2, 2019, consists of tariff pages as indicated on the following check sheet:

Tariff F.C.C. No. 6

Original Page 1

This filing is made in response to the Commission's *RoR BDS Order*¹ and orders related to the 2019 annual access tariff filing.² This filing sets forth regulations, rates and charges applicable to the provision of BDS Access Service within the operating territories of the Issuing Carriers listed on the Title pages, pursuant to section 69.3 of the Commission's Rules.

Participants in this tariff elected incentive *ex ante* pricing regulation for BDS Time Division Multiplexing (TDM) and End User Channel Termination (EUCT) services with a bandwidth of DS3 or below, except for one tariff participant, Telephone Service Company (SAC 300659), which is deemed competitive by the Commission's competitive market test³ and opted to detariff its EUCTs at DS3 and below.

This filing includes data to support the calculation of each participating Telephone Company's BDS rate elements subject to *ex ante* pricing regulation, as prescribed by the Commission's rate of return BDS rules.⁴

¹ See Regulation of Business Data Services for Rate-of-Return Local Exchange Carriers, WC Docket No. 17-144, Business Data Services in an Internet Protocol Environment, WC Docket No. 16-143, Special Access for Price Cap Local Exchange Carrier, WC Docket No. 05-25, Report and Order, 33 FCC Rcd. 10403 (2018) (*RoR BDS Order*).

² See July 1, 2019 Annual Access Charge Tariff Filings, WC Docket No. 19-47, Order, DA 19-246 (rel. April 4, 2019) (*2019 Procedures Order*) and Material to be Filed in Support of 2019 Annual Access Tariff Filings, WC Docket No. 19-47, Order, DA 19-343 (rel. May 1, 2019) (*2019 TRP Order*).

³ See Wireline Competition Bureau Publicly Releases List of Study Areas Deemed Competitive if Rate-of-Return Carriers Elect Incentive Regulation for Those Areas, WC Docket Nos. 17-144, 16-143; 05-25, Public Notice, 33 FCC Rcd. 10169 (2018).

⁴ See 47 CFR § 61.50.

Of the 25 Tariff No. 6 participants, 16 operate under one of the four holding companies listed below and chose to price their *ex ante* rate elements at the holding company level:

- Consolidated Companies (SACs 371530, 371532, 371536, 371562)
- Farmers Mutual Cooperative Telephone Company (SACs 351149, 351168, 351235)
- Hanson Communications, Inc. (SACs 300633, 300659, 361370, 361476, 361487, 361515, 391660)
- Northwest Telephone Cooperative Association (SACs 351105, 351261)

Four tariff participants elected to also tariff their non-*ex ante* rate elements for packet-based and TDM BDS greater than DS3, as permitted by the *RoR BDS Order* during the transition period:

- Campti-Pleasant Hill Telephone Company (SAC 270426)
- Cass Telephone Company (SAC 340984)
- East Buchanan Telephone Company (SAC 351156)
- Western Iowa Telephone Association (SAC 351334)

NECA seeks confidential treatment of this data pursuant to the *Protective Order* designated for use in this proceeding.⁵

Accordingly, the confidential data files have been marked, “**CONTAINS PRIVILEGED AND CONFIDENTIAL INFORMATION – DO NOT RELEASE (PER DA 19-509 PROTECTIVE ORDER).**” Attachment A of this Transmittal Letter contains detailed information regarding NECA’s request for confidential treatment. This filing also includes a redacted version of the files identified in Attachment A marked, “**REDACTED – FOR PUBLIC INSPECTION.**”

Attachment B to this transmittal includes the listing of FCC Registration Numbers (FRNs) for the Telephone Companies on whose behalf this tariff filing is being made.

In compliance with section 61.14 of the Commission’s Rules, the transmittal, associated files, required Form 159 and \$960.00 filing fee are being transmitted electronically today via the Commission’s Electronic Tariff Filing System.

All correspondence and inquiries concerning this filing should be directed to me at the above address or faxed to 973-599-6612.

Jennifer Leonard

Attachments

Tariff Pages (392)
Attachment A
Attachment B
Supporting Documentation

⁵ See Announcing Procedures for Obtaining Confidential Information for 2019 Annual Access Charge Tariff Filings, Public Notice Attachment, WC Docket No. 19-47, DA 19-509 (rel. June 4, 2019).

Request for Confidential Treatment

NECA seeks confidential treatment under the *Protective Order* designated for use in this proceeding¹ for the data provided in the files identified below. This data is filed electronically via ETFS as part of the Tariff Review Plan for NECA's Tariff F.C.C. No. 6 Annual Tariff filing, made under Transmittal No. 1580. This data is required by the Commission to monitor rate of return exchange carrier compliance with incentive regulation rules for BDS electing carriers.²

Pursuant to the terms of the *Protective Order*, signed declarations requesting access to the confidential information should be sent to the attention of Jennifer Leonard, NECA Senior Director Access Tariffs & Costs, via email to Tariff6@neca.org or via facsimile at 973.599.6612. NECA will provide an electronic copy of the un-redacted files to Authorized Representative(s).³ NECA designates 80 South Jefferson Rd., Whippany, NJ 07981 and 1325 G Street, NW, Suite 500, Washington, DC 20005 as its public inspection locations.

Notwithstanding the *Protective Order*, the information provided in the files listed below is entitled to confidential, non-public treatment under the Freedom of Information Act (FOIA) and related provisions of the Commission's rules.⁴ The information satisfies the requirement of FOIA Exemption 4 (trade secrets or commercial/financial information).

NECA submits the following information pursuant to section 0.459 in support of its request for confidential treatment of the data in the identified files.

- Identification of the specific information for which confidential treatment is sought:

NECA seeks confidential treatment for certain information in the following files, which contain confidential and proprietary financial information of NECA Tariff No. 6 participants:

TRP containing individual data for nine study areas:

- TRPBDS_Confidential.xlsx

Holding Company TRPs containing data for sixteen study areas:

- TRPBDS_Consolidated_Confidential.xlsx
- TRPBDS_Farmers_Confidential.xlsx
- TRPBDS_Hanson_Confidential.xlsx
- TRPBDS_Northwest_Confidential.xlsx

- Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission:

This information is filed electronically via ETFS in conjunction with NECA Tariff F.C.C. No. 6 Annual Access Charge Filing, Transmittal No. 1580 in WC Docket No. 19-47.

¹ See Announcing Procedures for Obtaining Confidential Information for 2019 Annual Access Charge Tariff Filings, Public Notice Attachment, WC Docket No. 19-47, DA 19-509. (rel. June 4, 2019) (*Protective Order*).

² See Material to be Filed in Support of 2019 Annual Access Tariff Filings, WC Docket No. 19-47, Order, DA 19-343 (rel. May 1, 2019).

³ See *Protective Order*, ¶ 1.a.

⁴ 47 C.F.R. §§ 0.457 and 0.459; 5 U.S.C. § 552, et. seq.

- Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged:

The information in the files contains sensitive study area-specific information for NECA Tariff No. 6 participants as required by Commission rules for monitoring compliance with the BDS incentive pricing model. At the study area and exchange level, the information is granular and highly confidential to the reporting Tariff No. 6 participants. The financial data is treated as a confidential trade secret by Tariff No. 6 participants.

- Explanation of the degree to which the information concerns a service that is subject to competition:

Rural telephone service has historically lent itself to “cherry picking” by competitors that choose to serve only the low-cost areas within a study area. Detailed information about revenues, expenses, and demand may help prospective competitors to gain insight to the participating Telephone Companies’ market strategies and gain competitive advantage.

- Identification of any measures taken by the submitting party to prevent unauthorized disclosure:

The information provided in the files is maintained on a confidential basis and made available only to NECA representatives on a need to know basis. Any public information is only made available on an aggregate basis.

- Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties:

The information in the identified files is not publicly available.

- Justification of the period during which the submitting party asserts that material should not be available for public disclosure:

NECA requests that all Tariff No. 6 participant data provided in the TRP files identified above be treated as confidential indefinitely. Because of the sensitive nature of the data, it would not be appropriate for public disclosure at any time in the foreseeable future.

The *Protective Order* places additional requirements on Authorized Representative(s) to destroy or return all confidential information, as well as copies and derivative materials, within two weeks after final resolution of this proceeding.⁵

- Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted:

NECA is submitting this information on behalf of the Telephone Companies that participate in NECA’s Tariff No. 6. The Commission should take care to not deprive those Telephone Companies of the opportunity to speak for themselves in the event of a FOIA request for access to data. NECA requests that the Commission notify carriers of any FOIA request and allow them to be given a reasonable opportunity to file detailed information supporting continued confidential treatment of their respective data.

⁵ See *Protective Order*, ¶ 16.

Accordingly, NECA requests confidential treatment of the Tariff No. 6 participant data provided in the files identified above pursuant to section 0.457 and 0.459 of the Commission's rules and paragraph 2 of the *Protective Order*. Pursuant to the *Protective Order*, NECA has marked each page of the non-redacted version of the identified files as follows:

**CONTAINS PRIVILEGED AND CONFIDENTIAL INFORMATION – DO NOT
RELEASE (PER DA 19-509 PROTECTIVE ORDER)**

NECA has also complied with the requirement of the *Protective Order* for providing a redacted copy of the files identified above, which are marked: **REDACTED – FOR PUBLIC INSPECTION**.

FCC Registration Number for Tariff 6 Participants

0003722949	0004341855	0003795697	0004329611
0002388247	0004961272	0004961231	0003714904
0002557627	0004776464	0004776464	0004776464
0004329587	0003720968	0003721008	0005066063
0003737194	0003722998	0004329629	0004329652
0002924777	0002924751	0002590073	0003724655
0004328134			