

ZINGARETTI ENTERPRISES, LLC

BUSINESS DATA SERVICES ACCESS SERVICE

TARIFF F.C.C. No. 1

TRANSMITTAL NO. 1

JUNE 16, 2020

DESCRIPTION AND JUSTIFICATION

I. INTRODUCTION

Zingaretti Enterprises, LLC (Zingaretti) hereby files its original Tariff F.C.C. No. 1, setting forth regulations, rates and charges applicable to the provision of Business Data Services (BDS) within the operating territories of the Issuing Carriers listed on Title Page 2 of the accompanying tariff.

BDS provides customers with dedicated, high-capacity point-to-point data transmission capabilities at guaranteed speeds and service levels. Zingaretti is filing this new tariff pursuant to the Commission's *RoR BDS Order*,¹ which allows rate-of-return (RoR) carriers receiving model-based or other fixed high-cost USF support to move certain of their business data services to incentive regulation. While electing carriers are required to remove their BDS and other special access services from NECA Tariff F.C.C. No. 5 and the special access portion of the

¹ *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*)

traffic sensitive pool, they may continue to participate in a joint tariff for such services and some have elected to have their rates listed in Zingaretti Tariff F.C.C. No. 1.²

Zingaretti Tariff F.C.C. No. 1 contains study area specific rates applicable to interstate BDS access services provided by issuing carriers in their respective states of operation and references NECA Tariff F.C.C. No. 5 for its terms and conditions. Initial rates for carriers participating in Zingaretti Tariff F.C.C. No. 1 have been developed according to the rules set forth in the Commission's *RoR BDS Order*³ as described herein.

The following sections explain in detail the methods used to determine initial rate levels for lower speed BDS services subject to ex ante pricing regulation and adjustments to the initial price cap and service band indexes to reflect the Commission's established productivity factor, inflation factor and other adjustments, as required under the Commission's BDS rules.

Information is also provided on the detariffing of eligible rate elements in areas deemed competitive under the competitive market test adopted in the *RoR BDS Order*,⁴ as well as information on non-*ex ante* rates filed on behalf of companies electing to include such rates in this filing.

II. BACKGROUND

As noted above, the *RoR BDS Order* allows RoR carriers receiving model-based or other fixed high-cost USF support to elect to move certain of their BDS offerings to incentive regulation.

² *Id.* ¶¶ 29, 34, n. 91.

³ *Id.* ¶ 33 *et. seq.*

⁴ *Id.* ¶¶ 82-93.

The *RoR BDS Order* grants two opportunities for carriers to elect to move their BDS offerings out of RoR regulation—one to be effective as of July 1, 2019, and a second effective as of July 1, 2020.⁵

Carriers must elect incentive regulation at the holding company level for study areas in all states where that carrier receives fixed support.⁶ Electing carriers are prohibited from returning their study areas to RoR regulation. Electing carriers are, however, permitted to continue offering switched access services subject to the multi-year transition provided for in the Commission’s 2011 *USF/ICC Transformation Order*.⁷

While the *RoR BDS Order* requires electing carriers participating in NECA Tariff F.C.C. No. 5 to remove costs and revenues associated with their BDS and special access offerings from the NECA traffic sensitive pool, they may continue to participate in Tariff F.C.C. No. 5 for switched access services and participate in the switched access portion of the traffic sensitive pool.⁸

Following adoption of the *RoR BDS Order*, Zingaretti informed its A-CAM companies of the options available to them under the Commission’s revised BDS rules. Zingaretti gathered company-specific data and prepared a model to expedite the rate development process. This process is described in Section VI.A.

⁵ *Id.* ¶ 23

⁶ *Id.* ¶ 22

⁷ *Id.* ¶ 27. See also *Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, *High-Cost Universal Service Support*, WC Docket No. 05-337, *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Federal-State Joint Board on Universal Service*, CC Docket No. 96- 45, *Lifeline and Link-Up*, WC Docket No. 03-109, *Universal Service – Mobility Fund*, WT Docket No. 10-208, Report and Order and FNPRM, 26 FCC Rcd. 17663 (2011). (*USF/ICC Transformation Order*), *petitions for review denied In re: FCC 11-161*, No. 11-9900 (10th Cir. May 23, 2014).

⁸ *Id.*

Carriers also had the option to have Zingaretti file their non-*ex ante* rates for competitive special access services in the new Zingaretti Tariff F.C.C. No. 1. NECA previously modified its tariff election and pooling procedures to permit companies electing the new BDS framework to participate in the switched access portion of NECA Tariff F.C.C. No. 5 and NECA's traffic sensitive pool. All of the companies in the Zingaretti Tariff F.C.C. NO. 1 participate in NECA Tariff F.C.C. No. 5 and the NECA traffic sensitive pool for switched access billing and settlements.

III. TARIFF 1 PARTICIPANTS

Two companies electing BDS, representing two study areas, opted to have Zingaretti file their lower speed BDS rates subject to *ex ante* pricing. These study areas are listed in Table 1.

None of these study areas chose to tariff in Zingaretti F.C.C. Tariff No. 1 their non-*ex ante* rates for higher speed TDM (greater than DS3) and packet- based BDS, as permitted by the *RoR BDS Order* during the transition period.

Table 1	
Study Area Code	Study Area Name
170175	Summit Telephone and Telegraph Company of Alaska
170175	The North-Eastern Pennsylvania Telephone Company

IV. SEPARATIONS CATEGORY RELATIONSHIPS

The *RoR BDS Order* permits electing carriers to unfreeze and update their category relationships in conjunction with setting their initial rates.⁹ Neither electing carrier included in this filing previously elected to freeze their category relationships. As such, no changes to category relationships or revised cost studies are included in this filing.

⁹ *RoR BDS Order* ¶ 50

V. PRICING FLEXIBILITY

The *RoR BDS Order* grants pricing flexibility (contract tariff pricing and volume and term discounts) to electing carriers for their lower speed TDM transport and end user channel termination services similar to the pricing flexibility the Commission granted to price cap carriers' lower speed TDM end user channel terminations in areas deemed non-competitive.¹⁰ This is conditioned on the requirement that electing carriers remove contract tariff demand from the relevant incentive regulation basket for purposes of determining their price cap indexes and actual price indexes.¹¹

Rates included in this filing are based upon demand that does not include contract tariff demand.

VI. LOWER SPEED SERVICES SUBJECT TO EX ANTE PRICING

RoR carriers participating in the NECA Tariff F.C.C. No. 5 and traffic sensitive pool that elected incentive regulation effective July 2020 are required to develop initial BDS rate levels for lower speed TDM transport and end user channel termination services by first using NECA traffic sensitive special access pool rates in effect as of January 1, 2020.¹² These rates are then adjusted by a net contribution or net recipient factor calculated using special access revenue requirements calculated at 10.25% rate of return factor¹³ and revenues settlement data reported to the NECA

¹⁰ *Id.* ¶ 77

¹¹ *Id.*

¹² *Id.* ¶ 33,38

¹³ *Id.* ¶ 39.

pool from the last six months of 2019,¹⁴ reflecting the fact that carriers who are net contributors to the pool have individual rates that are higher than costs, while net recipients have individual rates below costs.

Rates are then set so the actual price index, calculated pursuant to section 61.46, does not exceed the price cap index, and so the service band indexes for each service category or subcategory calculated pursuant to section 61.47 do not exceed the pricing band limits for each category or subcategory. The following paragraphs explain how rates filed in this tariff comply with the *RoR BDS Order* and rule requirements.¹⁵

A. INCENTIVE PRICING MODEL

Zingaretti collected all special access billing for participating carriers for calendar year 2019. Using an internally developed Incentive Pricing Model to collect input data from participating companies and to work individually with each company to enable them to set BDS rates that ensure compliance with the *RoR BDS Order's* requirements.

The initial Price Cap Index (PCI) and Service Band Indices (SBI) were set at 100 to represent initial BDS rate levels. Initial PCI and SBI values were then adjusted by applying the X-factor (2.0%), inflation factor (GDP-PI), and any required exogenous cost changes¹⁶ to produce test period PCI and SBI limits for each company as detailed in Zingaretti's filed Tariff Review Plan (TRP). Each company's demand and proposed rates were entered in the model to ensure the test period rates satisfied the constraints in compliance with FCC rules and the *RoR BDS Order's* requirements.

¹⁴ *Id.* ¶ 33,38

¹⁵ *Id.*

¹⁶ *Id.*

B. LOWER SPEED TDM BDS OFFERINGS IN COMPETITIVE MARKETS

The Commission's *RoR BDS Order* removes *ex ante* pricing regulation for lower speed (DS3 or below) TDM end user channel termination services when carriers face competition or potential competition in their study area as determined by a competitive market test.¹⁷ Neither company participating in Zingaretti F.C.C. No. 1 qualified for this change in regulation. As such, their tariffed rates are controlled by Zingaretti F.C.C. No. 1.

C. EXOGENOUS COST ADJUSTMENTS

Exogenous cost factors for FCC regulatory fees, fees associated with Telecommunications Relay Service (TRS), and North American Numbering Plan Administration (NANPA) expenses, are set at the factors in effect as of May 1, 2020.¹⁸ Since updated factors will not be available until after this filing, the PCI does not include any exogenous cost impacts. A subsequent filing may be made once revised factors affecting the 2020/2021 test period become available. In preparation for that filing, carriers will have the opportunity to select adjusted rates to recover the appropriate amount of exogenous costs through their lower speed BDS rates.

D. TRP FILING

Data, calculations and demonstrations of compliance with BDS incentive pricing rules underlying the development of these rates are detailed in Zingaretti's filed TRP.

¹⁷ *Id.*

¹⁸ Material to be Filed in Support of 2020 Annual Access Tariff Filings, WC Docket No. 20-55, DA 20-502 (rel. May 12, 2020) ¶ 38

VII. PACKET-BASED AND HIGHER SPEED TDM SERVICES

Under the *RoR BDS Order*, electing carriers' packet-based and higher capacity TDM services greater than DS3 (including both higher speed TDM end user channel terminations and transport) are no longer subject to *ex ante* pricing regulation, and electing carriers are required to detariff these services within 36 months of the effective date associated with electing BDS pricing.¹⁹ To allow small businesses and other customers time to adjust to the Commission's new regulatory framework, electing carriers are required to freeze currently tariffed rates for such BDS services for a six-month period, beginning on the effective date associated with adopting BDS regulation.²⁰

Both of the companies participating in Zingaretti F.C.C. Tariff No. 1 opted to detariff their packet-based and higher speed TDM services greater than DS3 for effect July 2020. These rates are no longer subject to *ex ante* pricing regulation concurrent with this filing.

VIII. CONCLUSION

The rates proposed in new Zingaretti Enterprises Tariff F.C.C. No. 1 are filed in compliance with the Commission's rules and requirements of the *RoR BDS Order* and should be allowed to become effective on July 1, 2020, the scheduled date.

¹⁹ *RoR BDS Order* ¶ 106

²⁰ *Id.* ¶ 39.