



60 Columbia Road
Building A – 2nd Floor
Morristown, NJ 07960

Jennifer Leonard
Senior Director
Access Tariffs & Costs
PH 973-884-8068
FX 973-599-6612
jleonard@neca.org

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

June 16, 2020

Transmittal No. 1608

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 1, 2020, consists of tariff pages as indicated on the following check sheet:

Tariff F.C.C. No. 6

3rd Revised Page 1

This filing is made in response to the Commission’s *RoR BDS Order*¹ and *2020 TRP Order* related to 2020 annual access tariff filings.² This filing revises rates and charges applicable to the provision of BDS Access Service for interstate access service provided by Telephone Companies participating in NECA Tariff F.C.C. No. 6, pursuant to section 69.3 of the Commission’s Rules. With this filing, seventy-five carriers electing incentive regulation for BDS effective July 1, 2020 are added to the Issuing Carriers listed on the Title pages.

This filing removes packet-based and time division multiplexing greater than DS3 access services for East Buchanan Telephone Coop. (SAC 351156) based on the company’s decision to detariff those services as permitted by the *RoR BDS Order*³. This filing also removes Wyoming Mutual Telephone Company (SAC 351343) entirely from the tariff.

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. This

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, 2020 Annual Access Charge Tariff Filings, WC Docket No. 20-55, Order, DA 20-413 (rel. April 15, 2020) (*2020 Procedures Order*) and Material to be Filed in Support of 2020 Annual Access Tariff Filings, WC Docket No. 20-55, Order, DA 20-502 (rel. May 12, 2020) (*2020 TRP Order*).

³ See *RoR BDS Order*, para. 144.

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

Of the ninety-nine tariff participants, thirty-seven operate under one of the eight holding companies listed below and chose to price their *ex ante* rate elements at the holding company level:

- Alliance Communications Cooperative, Inc. (SACs 351405, 361405, 391405, 391642, 391657)
- Consolidated Companies (SACs 371530, 371532, 371536, 371562)
- Farmers Mutual Cooperative Telephone Company (SACs 351149, 351168, 351235)
- Golden West Telecommunications Cooperative, Inc. (SACs 391640, 391659, 391667, 391677, 391684, 391686)
- Hanson Communications, Inc. (SACs 300633, 300659, 361370, 361476, 361487, 361515, 391660)
- Marne & Elk Horn Telephone Company (SACs 351237, 351326)
- Northwest Telephone Cooperative Association (SACs 351105, 351261)
- Townes Telecommunications (SACs 170200, 210335, 401739, 411807, 421807, 421893, 421935, 462190)

Twenty-five 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 period⁵. Two tariff participants deemed competitive by the Commission's competitive market test⁶, North State Telephone Company d/b/a North State Communications (SAC 230491) and Pymatuning Independent Tel. Co. (SAC 170200), opted to keep their End User Channel Terminations at DS3 and below tariffed at this time, as permitted during the transition period⁷.

NECA seeks confidential treatment of this data pursuant to the *Protective Order* designated for use in this proceeding.⁸

Accordingly, the confidential data files have been marked, **"CONTAINS PRIVILEGED AND CONFIDENTIAL INFORMATION – DO NOT RELEASE (PER DA 20-604 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.

⁴ See 47 CFR § 61.50.

⁵ See *RoR BDS Order*, para. 143.

⁶ See Wireline Competition Bureau Releases Supplemental Lists of Counties Served by Price Cap Carriers and Rate-of-Return Study Areas Newly Deemed Competitive Pursuant to Competitive Market Tests for Business Data Services, WC Docket Nos. 17-144, 16-143, and 05-25; RM 10593, Public Notice, DA 20-114 (rel. January 31, 2020).

⁷ See *RoR BDS Order*, para. 105.

⁸ See Announcing Procedures for Obtaining Confidential Information for 2020 Annual Access Charge Tariff Filings, Public Notice Attachment, WC Docket No. 20-55, DA 20-604 (rel. June 9, 2020).

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 (1682)
Attachment A
Attachment B
Supporting Documentation

Request for Confidential Treatment

NECA seeks confidential treatment under the *Protective Order* designated for use in this proceeding⁹ 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. 1608. This data is required by the Commission to monitor rate of return exchange carrier compliance with incentive regulation rules for BDS electing carriers.¹⁰

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).¹¹ NECA designates 60 Columbia Road, Building A – 2nd Floor, Morristown, NJ 07960 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.¹² 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:

TRPs containing individual data for sixty-two study areas:

- TRPBDS_Confidential_Track1.xlsx
- TRPBDS_Confidential_Track2.xlsx

Holding Company TRPs containing data for thirty-seven study areas:

- TRPBDS_Alliance_Confidential.xlsx
- TRPBDS_Consolidated_Confidential.xlsx
- TRPBDS_Farmers_Confidential.xlsx
- TRPBDS_GoldenWest_Confidential.xlsx
- TRPBDS_Hanson_Confidential.xlsx
- TRPBDS_MarneElk_Confidential.xlsx

⁹ See Announcing Procedures for Obtaining Confidential Information for 2020 Annual Access Charge Tariff Filings, Public Notice Attachment, WC Docket No. 20-55, DA 19-604. (rel. June 9, 2020) (*Protective Order*).

¹⁰ See Material to be Filed in Support of 2020 Annual Access Tariff Filings, WC Docket No. 20-55, Order, DA 20-502 (rel. May 12, 2020) (*2020 TRP Order*).

¹¹ See *Protective Order*, ¶ 1.a.

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

- TRPBDS_NorthWest_Confidential.xlsx
- TRPBDS_Townes_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. 1608 in WC Docket No. 20-55.

- 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.¹³

¹³ See *Protective Order*, ¶ 16.

- Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentially 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.

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 20-604 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

0004311627	0003764735	0015034358	0002432672
0003745940	0003745940	0003745940	0002432672
0001726488	0003722949	0003773504	0002723336
0002598464	0003773520	0002598407	0004341855
0003795697	0002549392	0004928792	0003733029
0004381422	0004329611	0003772787	0001678044
0002594125	0002388247	0004961272	0004961231
0002588192	0003714904	0002557627	0003741956
0003726759	0004776464	0003748068	0004776464
0004776464	0004338489	0002550309	0004329587
0002652519	0004320164	0003720968	0002430684
0003716446	0002426559	0003745981	0003716438
0003749199	0005077342	0003736238	0003707767
0002008043	0001616200	0003721008	0002721629
0002392249	0003741550	0003741550	0003741436
0002594752	0003721495	0005066063	0002430536
0003734951	0004928750	0004928750	0004337721
0003737194	0003745734	0003757432	0002388882
0003722998	0004324620	0003733847	0007183619
0002644953	0004337374	0001565316	0003193000
0003742384	0005059092	0004328472	0004329629
0003709458	0005084058	0004329652	0002924777
0002924751	0003774430	0002430916	0002713626
0001730126	0003749645	0002589307	0002592392
0002590073	0003774494	0003724655	0004328134