

NATIONAL EXCHANGE CARRIER ASSOCIATION, INC.

BUSINESS DATA SERVICES ACCESS SERVICE

TARIFF F.C.C. No. 6

TRANSMITTAL NO. 1615

DESCRIPTION AND JUSTIFICATION

I. INTRODUCTION

The National Exchange Carrier Association, Inc. (NECA) hereby files revisions to its Tariff F.C.C. No. 6 Business Data Services (BDS) rates to account for changes in cost recovery due to updated exogenous cost factors, in conformance with the Commission's rules, the *2020 Tariff Review Plan Order*¹ and the Commission's *RoR Exogenous Cost Public Notice*.²

II. BACKGROUND

BDS provides customers with dedicated, high-capacity point-to-point data transmission capabilities at guaranteed speeds and service levels.³ The Commission's *RoR BDS Order*⁴ allows

¹ *July 1, 2020 Annual Access Charge Tariff Filings*, WC Docket No. 20-55, Order, 35 FCC Rcd. 3531 (2020); *Material to be Filed in Support of 2020 Annual Access Tariff Filings*, WC Docket No. 20-55, Order, 35 FCC Rcd. 4802 (2020) (*2020 Tariff Review Plan Order*).

² *Wireline Competition Bureau Announces Posting of 2020 Tariff Review Plan for Exogenous Cost Filings by Rate-of-Return Carriers That Elected Incentive Regulation for Business Data Services*, WC Docket No. 20-55, Public Notice, DA 20-1023 (rel. Sept. 4, 2020) (*RoR BDS Exogenous Cost Public Notice*).

³ See 47 C.F.R. § 69.801(a).

⁴ *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-

rate-of-return (RoR) carriers receiving model-based or other fixed high-cost USF support to move certain BDS offerings to incentive regulation. NECA Tariff F.C.C. No. 6 contains study area-specific interstate BDS rates for certain carriers who have elected to continue participating in a NECA tariff without associated cost and revenue pooling.⁵

BDS rates for carriers participating in NECA Tariff F.C.C. No. 6 were developed according to the rules set forth in the Commission's *RoR BDS Order*⁶ and were submitted in the *2020 Annual BDS Filing*. NECA is filing the revisions herein to incorporate final exogenous cost factors for FCC regulatory fees, fees associated with Telecommunications Relay Service (TRS), and North American Numbering Plan Administration (NANPA) expenses. These factors, which were not available prior to the *2020 Annual BDS Filing*, are required to be reflected in rates effective October 1, 2020.⁷

A. EXOGENOUS COST ADJUSTMENTS

This filing uses final factors for FCC regulatory fees, TRS contributions, and NANPA fees as described below. These factors are also displayed in the *Exogenous Costs* tab of the NECA's filed TRP.⁸ Also reflected in this filing is the change to the TRS contribution base as

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*).

⁵ See NECA Tariff F.C.C. No. 6, Transmittal No. 1608 (filed June 16, 2020) (*2020 Annual BDS Tariff Filing*).

⁶ *RoR BDS Order* ¶ 33 *et. seq.*

⁷ See *2020 Tariff Review Plan Order*, ¶ 39. See also *RoR BDS Exogenous Cost Public Notice*.

⁸ See *RoR BDS Exogenous Cost Public Notice*, which includes a link to the filed TRP: <https://www.fcc.gov/tariff-review-plan-incentive-regulation-rate-return-carriers>.

directed by the *June 2020 TRS Order*⁹ and refinements in the revenue contribution bases on which these fees are assessed. The use of more precise revenue contribution bases was developed in conjunction with FCC staff and is reflected in the TRP developed by NECA and referenced in the *RoR BDS Exogenous Cost Public Notice*. Both the prior period¹⁰ and proposed contribution bases for each exogenous cost category are detailed in the NECA filed TRP.

1. North American Numbering Plan Administration (NANPA) Fees

The effect of the change in NANPA fees for the July 2020 – June 2021 period was calculated using an updated factor of 0.0001267 per an FCC Public Notice announcing the estimated NANP fund size and contribution factor for Fiscal Year 2021.¹¹

2. Regulatory Fees

The effect of the change in regulatory fees for the July 2020 – June 2021 period was calculated using an updated factor of 0.00321 per the August 2020 Report and Order.¹²

3. Telecommunications Relay Service (TRS) Contributions

⁹ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Order, 35 FCC Rcd. 6649 (2020) (*June 2020 TRS Order*) ¶ 26.

¹⁰ National Exchange Carrier Association, Inc., Tariff F.C.C. No. 6, Transmittal No. 1587 (filed Sep. 16, 2019).

¹¹ *Wireline Competition Bureau Announces the Proposed North American Numbering Plan Administration Fund Size Estimate and Contribution Factor for October 2020 Through September 2021*, CC Docket No. 92-237, Public Notice, DA 20-856 (rel. Aug. 10, 2020).

¹² *Assessment and Collection of Regulatory Fees for Fiscal Year 2020*, MD Docket No. 20-105, Report and Order and Further Notice of Proposed Rulemaking, FCC 20-120 (rel. Aug. 31, 2020).

The effect of exogenous TRS contribution rate changes was calculated using factors of 0.01360 for support of non-Internet Protocol (non-IP) Captioned Telephone Services (CTS) TRS and 0.00962 for support of Internet Protocol (IP) CTS, per the FCC Order adopting the projected TRS funding requirement and contribution factor for the fund year.¹³ The exogenous cost adjustment amount was “grossed up” by a factor of twelve divided by nine to spread the entire test period adjustment over the remaining nine months in the 2020-2021 tariff test period, as required by the *2020 Tariff Review Plan Order*.¹⁴

B. ELIGIBLE BDS RATES

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.¹⁵ 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.¹⁶

NECA accordingly provided carriers participating in Tariff F.C.C. No. 6 the opportunity to choose adjusted BDS rates to recover the appropriate amount of costs recalculated using updated exogenous cost factors. Carriers were not required to modify existing rates if the

¹³ *June 2020 TRS Order*.

¹⁴ *2020 Tariff Review Plan Order* ¶ 39.

¹⁵ *See RoR BDS Order* ¶ 77.

¹⁶ *Id.*

cumulative change in exogenous cost factors resulted in increased costs. In the case of a resulting decrease in costs, carriers were not required to adjust rates if their current rates still produced results within allowable limits.¹⁷

Rates were 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 prior period Price Cap Index (PCI) and Service Band Limit Indices (SBI Limits) from the *2020 Annual BDS Filing* were adjusted to reflect the incremental exogenous costs (denoted as Z in the PCI formula) for each company to produce revised PCI and SBI Limits for the remainder of the test period as detailed in NECA's filed TRP.¹⁸ Demand at the rate element level for the 2019 base period from the *2020 Annual BDS Filing*, excluding contract tariff demand, were used for the calculation of revenue at current rates (denoted as R in the PCI formula). It should be noted, adjustments for inflation and productivity factors were not applied in this filing because they are applied only at the annual filings.¹⁹

NECA developed an online system to collect rate level decisions from carriers participating in F.C.C. Tariff No. 6 enabling them to set BDS rates in compliance with FCC rules and the *RoR BDS Order* requirements. Carriers used the online system to select their revised test period rates subject to the constraints described above.

¹⁷ See 47 C.F.R. §§ 61.42 - 61.49.

¹⁸ See *supra* note 8.

¹⁹ See *RoR BDS Order* ¶ 33. See also 47 C.F.R. §§ 61.45-61.47.

C. TRP FILING

Data, exogenous cost factors, calculations, and demonstrations of compliance with BDS incentive pricing rules underlying the development of these rates are detailed in NECA's filed TRP.²⁰

III. CONCLUSION

The rates proposed in new NECA Tariff F.C.C. No. 6 are filed in compliance with the Commission's rules and requirements of the *RoR BDS Order*, the *2020 Tariff Review Plan Order*, and the *RoR BDS Exogenous Cost Public Notice*, and should be allowed to become effective on October 1, 2020, the scheduled date.

²⁰ See *supra* note 8.