

NATIONAL EXCHANGE CARRIER ASSOCIATION, INC.

BUSINESS DATA SERVICES ACCESS SERVICE

TARIFF F.C.C. No. 6

TRANSMITTAL NO. 1651

**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 implement one study area's decision to detariff its non-*ex ante* rate elements, and to reflect changes to *ex ante* rates resulting from a study area merger.

**II. BACKGROUND**

BDS provides customers with dedicated, high-capacity point-to-point data transmission capabilities at guaranteed speeds and service levels.<sup>1</sup> The Commission's *RoR BDS Order*<sup>2</sup> allows 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

---

<sup>1</sup> See 47 C.F.R. § 69.801(a).

<sup>2</sup> *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*).

area-specific interstate BDS rates for certain carriers who have elected to continue participating in a NECA tariff without associated cost and revenue pooling.<sup>3</sup>

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*<sup>4</sup> and were submitted in the *2021 Annual BDS Tariff Filing*. *Ex ante* rates were subsequently modified to reflect adjustments for exogenous cost updates.<sup>5</sup>

### III. RATE CHANGES

NECA is filing the revisions herein to incorporate one study area's decision to detariff its non-*ex ante* services for effect January 1, 2022. In addition, *ex ante* rates are modified to reflect the merger of two study areas, as described in Section B below.

#### A. DETARIFF OF NON-*EX ANTE* RATES

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, and the end user channel terminations of carriers deemed competitive) 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.<sup>6</sup>

---

<sup>3</sup> See NECA Tariff F.C.C. No. 6, Transmittal No. 1636 (filed June 16, 2021) (*2021 Annual BDS Tariff Filing*).

<sup>4</sup> *RoR BDS Order* ¶ 33 *et. seq.*

<sup>5</sup> NECA Tariff F.C.C. No. 6, Transmittal No. 1643 (filed Sept. 16, 2021) (*2021 BDS Exogenous Cost Filing*).

<sup>6</sup> *RoR BDS Order* ¶ 106.

One study area, Peetz Cooperative Telephone Company (study area code 462196), electing incentive regulation for July 2019 and participating in NECA Tariff F.C.C. No. 6, opted to detariff its packet-based and higher speed TDM services greater than DS3 for effect January 1, 2022.<sup>7</sup> The remaining study areas in the non-*ex ante* portion of NECA Tariff F.C.C. No. 6 opted to continue tariffing these rates at this time, as permitted during the transition period established in the *RoR BDS Order*.

## **B. CHANGE TO *EX ANTE* RATES TO REFLECT STUDY AREA MERGER**

The study area merger of Marne & Elk Horn Telephone Company (study area code 351237) and Walnut Telephone Company (study area code 351326) is scheduled to become effective January 1, 2022.<sup>8</sup> The surviving study area will be Marne & Elk Horn Telephone Company. In coordination with Wireline Competition Bureau staff, a methodology was created to develop BDS *ex ante* rates for the surviving study area.

For this filing, NECA used existing information from the holding company TRP filed for effect October 1, 2021 in the *2021 BDS Exogenous Cost Filing*. That previously filed TRP already encompassed both study areas' data because the two study areas had developed their *ex ante* rates on a holding company basis. In addition, the PCI already reflected the study area merger because it was developed on a holding company basis. Therefore, NECA retained and

---

<sup>7</sup> Letter from Josh Fiscus, General Manager, Peetz Cooperative Telephone Company, to Kris Monteith, Chief, Wireline Competition Bureau, WC Docket Nos. 17-144, 16-143, 05-25 (filed Dec. 1, 2021).

<sup>8</sup> *Marne Elk Horn Telephone Company Petition for Waiver of Sections 51.909(a), 51.917(b)(1) and 51.917(b)(7) of the Commission's Rules to modify access rate bands and charges, and 2011 Interstate Switched Access Revenue Requirement and 2011 Base Period Revenue in connection with the merger of affiliated study areas in Iowa*, WC Docket No. 21-281, Order, DA 21-1246 (rel. Oct. 4, 2021).

used the same proposed PCI in the holding company TRP filed in the *2021 BDS Exogenous Cost Filing* to develop BDS *ex ante* rates for the surviving study area. Further, NECA also retained and used the same current SBI upper limits in the holding company TRP filed in the *2021 BDS Exogenous Cost Filing* to limit BDS *ex ante* rates for the surviving study area's service bands.

For each rate element, demand for the two separate study areas was summed to represent demand for the surviving study area. The company was then required to enter NECA's online system used to collect rate level decisions from carriers participating in NECA Tariff F.C.C. No. 6, enabling them to set BDS rates in compliance with FCC rules and the *RoR BDS Order* requirements and modify rates as necessary while remaining under the caps. Details are displayed in NECA's filed TRP.

NECA Tariff F.C.C. No. 6 *ex ante* rate pages have been modified to remove rates listed for Walnut Telephone Company and to reflect the newly selected rates under the surviving study area Marne & Elk Horn Telephone Company. The study areas do not participate in the non-*ex ante* portion of NECA Tariff F.C.C. No. 6.

#### **IV. CONCLUSION**

The rate adjustments proposed for NECA Tariff F.C.C. No. 6 are filed in compliance with the Commission's rules and requirements and should be allowed to become effective on January 1, 2022, the scheduled date.