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June 16, 2023

Transmittal No. 4

Secretary  
Federal Communications Commission  
445 12th Street, SW, TW-A-325  
Washington, DC 20554

Attention: Wireline Competition Bureau

The accompanying tariff material issued on behalf of the Brightspeed Operating Companies (BLOC) and bearing BLOC Tariff F.C.C. Nos. 1, 2, 3, 4, 6, 7, and 8 is sent for filing in compliance with the requirements of the Communications Act of 1934, as amended.

These revisions, scheduled to become effective July 1, 2023, consist of tariff pages as indicated on the following check sheets:

<u>Tariff</u>	<u>Check Sheet No.</u>
BLOC F.C.C. Tariff No. 1	3rd Revised Page 0-1 1st Revised Page 0-1.2 1st Revised Page 0-1.3
BLOC F.C.C. Tariff No. 2	3rd Revised Page 0-1 1st Revised Page 0-1.4 3rd Revised Page 0-1.8
BLOC F.C.C. Tariff No. 3	3rd Revised Page 0-1 3rd Revised Page 0-1.1 1st Revised Page 0-1.2
BLOC F.C.C. Tariff No. 4	3rd Revised Page 0-1 3rd Revised Page 0-1.1 1st Revised Page 0-1.2
BLOC F.C.C. Tariff No. 6	3rd Revised Page 0-1 3rd Revised Page 0-1.3
BLOC F.C.C. Tariff No.7	3rd Revised Page 0-1 3rd Revised Page 0-1.1 1st Revised Page 0-1.4 1st Revised Page 0-1.5
BLOC F.C.C. Tariff No. 8	3rd Revised Page 0-1 3rd Revised Page 0-1.2



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This filing is being made on 15 days' notice under the Federal Communications Commission's streamlined filing procedures and in compliance with the requirements of the *2023 TRP Notice*<sup>1</sup>, adjusts the level of interstate access service rates for the Brightspeed Operating Companies. This filing also complies with the Report and Order and Further Notice of Proposed Rulemaking in the Matter of Connect America Fund et al., WC Docket No. 10-90 et al., (USF/ICC Transformation Order) and the Report and Order in the Matter of 8YY Access Charge Reform, WC Docket No. 18-156 (FCC 20-143) et al., (8YY Access Order).

Certain data being submitted in connection with this filing requires confidential treatment consistent with the Commission's rules. Specifically, Brightspeed has redacted:

- Revenue, volume/demand data by component of access service from the Access Recovery Charge Worksheet **BLOCARC23**, and
- Tariff Rate Comparison Worksheet **BLOCTRC23**
- Summary Eligible Recovery Worksheet **BLOCSUMER23**
- Access Recovery Charge True-Up Worksheet **BLOCTUP23**

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<sup>1</sup> *In the Matter of Material to be Filed in Support of 2023 Annual Access Tariff Filings*, WC Docket No. 23-9, (DA 23-386), released May 11, 2023 (2023 TRP Notice).



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For the non-redacted version of these documents, pursuant to the Standard Protective Order and Declaration for use in § 402(b) Streamlined LEC Tariff Proceedings (Protective Order) adopted by the Commission in the Tariff Streamlining Order and published in Appendix B thereof,<sup>2</sup> each page has been marked “**CONTAINS PRIVILEGED AND CONFIDENTIAL INFORMATION – DO NOT RELEASE.**” Brightspeed requests that the non-redacted versions of these documents be withheld from public inspection.

Brightspeed also notes that, notwithstanding the Protective Order, there are separate legal bases for not making the confidential information available for public inspection; specifically, Commission Rule 0.457 and Exemption 4 of the Freedom of Information Act (“FOIA”) and Commission Rule 0.459.<sup>3</sup> The confidential information included in this filing is competitively sensitive information and thus should not be available for public inspection. Such information would not ordinarily be made available to the public. Release of the confidential information in the submission would have a substantial negative competitive impact on Brightspeed. Accordingly, the non-redacted information in question should be withheld from disclosure under sections 0.457(d) and 0.459 of the Commission’s rules. Brightspeed provides further justification for the confidential treatment of this information, pursuant to 47 C.F.R. § 0.459(b) and otherwise, in the Appendix to this letter. If the Commission denies this request for confidential treatment, Brightspeed requests that these documents be returned.

It was not feasible to separate out the materials contained in this filing to which this confidentiality request applies from materials to which the request does not apply without destroying the integrated nature of the information presented in this filing. Thus, consistent with 47 C.F.R. § 0.459(a), Brightspeed identifies the materials to which the request applies above and in the attached Appendix and is including in the publicly available version of this filing uploaded via Electronic Tariff Filing System (ETFS) a redacted version of each document identified. The redacted version of each document is marked “**REDACTED – FOR PUBLIC INSPECTION,**” with the confidential information omitted. The non-redacted version of each document is being uploaded separately via the not-for-public access function of ETFS.

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<sup>2</sup> Implementation of Section 402(b)(1)(A) of the Telecommunications Act of 1996, CC Docket No. 96-187, Report and Order, 12 FCC Rcd 2170 (1997) (Tariff Streamlining Order), Appendix B. *See also*, Public Notice, " Announcing Procedures for Obtaining Confidential Information for 2023 Annual Access Charge Tariff Filing", DA 23-470, WC Docket No. 23-9.

<sup>3</sup> 47 C.F.R. §§ 0.457, 0.459; 5 U.S.C. § 552(b)(4).



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This filing also updates the Federal Universal Service Contribution factors for the third quarter 2023. This update applies the factor as adopted in Public Notice DA 23-507, released June 14, 2023.

The support material for this filing, as required by Section 61.41 through 61.49 of the Commission's Rules, is outlined in Attachment A.

In accordance with the requirements of Section 61.15(a)(4) of the Commission's Rules, the FCC Registration Number (FRN) for Brightspeed is 0032-8024-72. Brightspeed is filing this transmittal on behalf of issuing carriers on Attachment B.

The Tariff filing fee in the amount of \$7,300.00 is being paid by credit card through the appropriate entries in Section E of the ETFS generated Form 159.

All correspondence and inquiries in connection with this filing should be addressed to me at [chantel.miller@brightspeed.com](mailto:chantel.miller@brightspeed.com) or (704) 314-2353.

A handwritten signature in black ink that reads "Chantel Miller".

Chantel Miller  
Director-Government Operations  
Brightspeed

Attachments

Attachment A  
Revised Tariff Pages  
D&J

## APPENDIX

### Confidentiality Justification

Brightspeed requests confidential treatment of certain data being submitted in connection with their 2023 Annual Access Filing because certain of this information is competitively sensitive and its disclosure would have a negative competitive impact on Brightspeed. Such information would not ordinarily be made available to the public and should be afforded confidential treatment under the Standard Protective Order and Declaration for use in § 402(b) Streamlined LEC Tariff Proceedings (Protective Order) adopted by the Commission in the Tariff Streamlining Order and published in Appendix B thereof.<sup>4</sup>

#### 47 C.F.R. § 0.457 and 5 U.S.C. 552 (b)(4)

Specific information in the Brightspeed 2023 Annual Access Filing is confidential and proprietary to Brightspeed as “commercial or financial information” under section 0.457(d). Disclosure of such information to the public would risk revealing company-sensitive proprietary information in connection with Brightspeed’s ongoing business plans and operations. Therefore, in the normal course of Commission practice, this information should be considered, “Records not routinely available for public inspection.”

#### 47 C.F.R. § 0.459

Specific information in the Brightspeed 2023 Annual Access Filing is also subject to protection under 47 C.F.R. § 0.459, as demonstrated below.

#### Information for which confidential treatment is sought

Brightspeed requests that specific information in its 2023 Annual Access Filing (with confidentiality markings) be treated on a confidential basis under Exemption 4 of the Freedom of Information Act. This information is competitively sensitive data that Brightspeed maintains as confidential and does not normally make available to the public. Release of the information would have a substantial negative competitive impact on Brightspeed. The confidential information contained in the non-redacted version of the Brightspeed 2023 Annual Access Filing is marked “**CONTAINS PRIVILEGED AND CONFIDENTIAL INFORMATION – DO NOT RELEASE.**”

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<sup>4</sup> Tariff Streamlining Order, 12 FCC Rcd 2170 at Appendix B. *See also*, Public Notice, "Announcing Procedures for Obtaining Confidential Information for 2023 Annual Access Charge Tariff Filing", DA 23-470, WC Docket No. 23-9.

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### Commission proceeding in which the information was submitted

The information is included in the Brightspeed 2023 Annual Access Tariff Filing. This filing is being made by Brightspeed to comply with Commission Rule 69.3 that requires local exchange carriers to submit annual price cap tariff filings that propose rates for the upcoming year and make adjustments to price cap indices. This filing also complies with the Commission's Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, *Access Charge Reform and Price Cap Performance Review for Local Exchange Carriers*, Report and Order in CC Docket No. 99-249, *Low-Volume Long Distance Users*, Eleventh Report and Order in CC Docket No. 96-45, *Federal-State Joint Board on Universal Service*, FCC 00-193 (CALLS Order), Report and Order and Further Notice of Proposed Rulemaking in the Matter of Connect America Fund et al., WC Docket No. 10-90 et al., (USF/ICC Transformation Order); *In the Matter of July 2, 2013 Annual Access Charge Tariff Filings*, Order, DA 13-553, WC Docket No. 13-76 (rel. March 26, 2013); *In the Matter of Material to be Filed in Support of 2023 Annual Access Tariff Filings*, Order, DA 23-386, WC Docket No. 23-9 (rel. May 11, 2023).

### Degree to which the information in question is commercial or financial, or contains a trade secret or is privileged

The competitive information designated as confidential in this filing is the following: (1) revenue, volume/demand data by component of access service from the **BLOCARC23 (Access Recovery Charge Worksheet)**, **BLOCTRC23 (Tariff Rate Comparison Worksheet)**, **BLOCSUMER23 (Summary Eligible Recovery Worksheet)** and **BLOCTRU23 (Access Recovery Charge True-Up Worksheet)** worksheets. This information is all competitively sensitive information that would not normally be released to the public, as such release would have a substantial negative competitive impact on Brightspeed. By way of example, the volume/demand data by component of access service and per line Universal Service support calculation provide valuable information at a granular level regarding Brightspeed customers and their services and Brightspeed operations in those areas.

### Degree to which the information concerns a service that is subject to competition; and manner in which disclosure of the information could result in substantial competitive harm

This type of commercial information would generally not be subject to routine public inspection under the Commission's rules (47 C.F.R. § 0.457(d)), demonstrating that the Commission already anticipates that the release of this kind of information likely would

## APPENDIX (Cont'd)

produce competitive harm. Indeed, the Commission and reviewing courts have frequently permitted confidential treatment of the type of information in question.<sup>5</sup>

Brightspeed confirms that release of the information designated as confidential in this filing would cause it substantial competitive harm by allowing its competitors to become aware of sensitive proprietary information regarding the operation of Brightspeed businesses. Brightspeed is subject to actual and potential competition with regard to all of the relevant services. Unless this data is given confidential treatment, competitors will obtain an unfair competitive advantage – for example, by obtaining a detailed picture of Brightspeed’s performance at a granular level in different geographic areas enabling competitors to target their efforts in these areas in an unfair manner.

### Measures taken by Brightspeed to prevent unauthorized disclosure; and availability of the information to the public and extent of any previous disclosure of the information to third parties

Brightspeed has treated and treats the non-public information disclosed in this filing as confidential and has protected it from public disclosure to parties outside the company.

### Justification of the period during which Brightspeed asserts the material should not be available for public disclosure

Brightspeed cannot determine at this time any date on which this information should not be considered confidential or would become stale for purposes of the current matters, except that the information would be handled in conformity with general Brightspeed records retention policies, absent any continuing legal hold on the data.

### Other information that Brightspeed believes may be useful in assessing whether its request for confidentiality should be granted

Under applicable Commission and court rulings, the information in question should be withheld from public disclosure. Exemption 4 of the Freedom of Information Act shields information that is (1) commercial or financial in nature; (2) obtained from a person outside government; and (3) privileged or confidential. The information in question satisfies this test.

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<sup>5</sup> See, e.g., *Cox Communications, Inc.; Request for Confidentiality for Information Submitted on Forms 325 for the Year 2003*, 19 FCC Rcd 12160, ¶ 12 (2004); *National Parks and Conservation Ass’n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974); and *Critical Mass Energy Project v. NRC*, 830 F.2d 278, 873 (D.C. Cir. 1987).



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## ATTACHMENT A

### LIST OF MATERIAL SUBMITTED WITH BRIGHTSPEED OPERATING COMPANIES JULY 2023 ANNUAL ACCESS CHARGE TARIFF FILING

1. Brightspeed Operating Companies Transmittal No. 4
2. Revised Tariff Pages
3. Support Material
  - Description and Justification
  - Tariff Review Plan and Certification
  - Rate Detail
  - Access Recovery Charge
  - Eligible Recovery Worksheet
  - Tariff Rate Comparison
  - Summary Eligible Recovery
  - Access Recovery Charge True-Up

**ATTACHMENT B**Federal Registration Numbers for  
**BRIGHTSPEED LOCAL OPERATING COMPANIES**BLOC Tariff F.C.C. No. 1 Participants0002-7744-87  
0002-7672-83  
0002-8537-11  
0002-3903-26  
0004-2533-73  
0004-3122-29BLOC Tariff F.C.C. No. 6 Participants0001-7308-86  
0004-2533-81  
0003-9369-52  
0001-7724-82  
0005-7862-23  
0004-0850-98  
0001-6775-41  
0004-5470-71  
0001-7323-38  
0001-7738-11  
0004-5470-06  
0001-7435-41  
0004-3122-45  
0004-5470-48  
0004-5472-95  
0004-5470-22  
0001-7484-66  
0001-7684-49  
0001-6854-29  
0004-3122-11  
0004-3121-53  
0006-1607-41  
0004-5470-14BLOC Tariff F.C.C. Nos. 2 and 3 Participants0005-8277-87  
0005-8277-12BLOC Tariff F.C.C. No. 7 Participants0004-3337-79  
0004-3337-53  
0004-3336-88  
0004-3337-95BLOC Tariff F.C.C. No. 4 Participants0004-1465-85  
0004-1404-22  
0002-9015-51  
0005-0517-43  
0002-5952-47  
0002-3420-38  
0002-3372-44  
0005-0517-68  
0001-6851-48  
0001-9523-40  
0002-3825-70  
0002-9388-43  
0001-7701-22  
0004-1839-19  
0001-7770-36BLOC Tariff F.C.C. No. 8 Participants0004-5470-55  
0001-7127-51  
0004-5470-06  
0004-5470-89