

NATIONAL EXCHANGE CARRIER ASSOCIATION, INC.

BUSINESS DATA SERVICES ACCESS SERVICE TARIFF REVISIONS TARIFF F.C.C. NO. 6 TRANSMITTAL NO. 1702

Description and Justification

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I. INTRODUCTION

The National Exchange Carrier Association, Inc. (NECA) hereby files revisions to its Tariff F.C.C. No. 6 Business Data Services (BDS) Access Service rates to account for changes in cost recovery due to updated exogenous cost factors, in conformance with the Commission's rules, the *2023 Tariff Review Plan Order*¹ and the Commission's *RoR BDS Exogenous Cost Public Notice*.²

II. COMPONENTS OF FILING

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 allowed 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 that have elected to continue participating in a NECA tariff without associated cost and revenue pooling.⁵

¹ See *July 1, 2023 Annual Access Charge Tariff Filings*, WC Docket No. 23-9, Order, DA 23-386 (rel. May 11, 2023) (*2023 Tariff Review Plan Order*).

² *Wireline Competition Bureau Announces Posting of 2023 Tariff Review Plan for Exogenous Cost Filings by Rate-of-Return Carriers That Elected Incentive Regulation for Business Data Services*, WC Docket No. 23-9, Public Notice, DA 23-772 (rel. Sep. 1, 2023) (*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. 16-143, *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. 1695 (filed June 16, 2023) (*2023 Annual BDS Tariff Filing*).

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 *2023 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 in time for use in the *2023 Annual BDS Filing*, are required to be reflected in rates effective October 3, 2023.⁷

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 NECA's filed TRP.⁸

1. North American Numbering Plan Administration (NANPA) Fees

The effect of the change in NANPA fees for the July 2023 – June 2024 period was calculated using an updated factor of 0.0001047 in accordance with the FCC Public Notice announcing the estimated NANPA fund size and contribution factor for Fiscal Year 2023.⁹

⁶ *RoR BDS Order* ¶ 33 *et. seq.*

⁷ *See 2023 Tariff Review Plan Order* ¶ 41. *See also RoR BDS Exogenous Cost Public Notice.*

⁸ *See RoR BDS Exogenous Cost Public Notice*, which includes a link to the TRP template:

<https://www.fcc.gov/wireline-competition/ty-2023-2024-midcourse-bds-trps-incentive-regulation-ilecs>

⁹ *Wireline Competition Bureau Announces the Proposed North American Numbering Plan Administration Fund Size Estimate and Contribution Factor for October 2023 Through September 2024*, CC Docket No. 92-237, Public Notice, DA 23-675 (rel. Aug. 10, 2023).

2. FCC Regulatory Fees

The effect of the change in FCC regulatory fees for the July 2023 – June 2024 period was calculated using an updated factor of 0.005400 in accordance with the FCC’s August 2023 Report and Order and Notice of Inquiry.¹⁰

3. Telecommunications Relay Service Contributions

The effect of exogenous TRS contribution rate changes was calculated using factors of 0.000250 for support of non-Internet Protocol Captioned Telephone Services (CTS) TRS and 0.016150 for support of Internet Protocol CTS, in accordance with the FCC Order adopting the projected TRS funding requirement and contribution factor for the fund year.¹¹ The exogenous cost adjustment amount was “grossed up” by adding three divided by nine of the TRS increment to the total TRS increment to spread the entire test period adjustment over the remaining nine months in the 2023-2024 tariff test period, as required by the *2023 Tariff Review Plan Order*.¹²

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 Time Division Multiplex (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

¹⁰ *Assessment and Collection of Regulatory Fees for Fiscal Year 2023*, MD Docket No. 23-159, *Review of the Commission’s Assessment and Collection of Regulatory Fees*, MD Docket No. 22-301, Report and Order and Notice of Inquiry, FCC 23-66 (rel. Aug. 10, 2023).

¹¹ *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, DA 23-577 (rel. June 30, 2023).

¹² *2023 Tariff Review Plan Order* ¶ 41.

areas deemed non-competitive.¹³ 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.¹⁴

NECA accordingly provided carriers participating in NECA 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 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.¹⁵

Rates were set so the actual price index, calculated pursuant to FCC rules 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 FCC rules 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 *2023 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.¹⁶ Demand at the rate element level for the 2022 base period from the *2023 Annual BDS Filing*, excluding contract tariff demand, were used for the calculation of revenue at current rates (denoted as R in the PCI

¹³ See *RoR BDS Order* ¶ 77.

¹⁴ *Id.*

¹⁵ See 47 C.F.R. §§ 61.42 - 61.49.

¹⁶ See *supra* note 8.

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.¹⁷

NECA developed an online system 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. Carriers used the online system to select their revised test period rates subject to the constraints described above.

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.¹⁸

III. CONCLUSION

The rates proposed in NECA Tariff F.C.C. No. 6 are filed in compliance with the Commission's rules and requirements of the *RoR BDS Order*, the *2023 Tariff Review Plan Order*, and the *RoR BDS Exogenous Cost Public Notice*, and should be allowed to become effective on October 3, 2023, the scheduled date.

¹⁷ See *RoR BDS Order* ¶ 33. See also 47 C.F.R. §§ 61.45-61.47.

¹⁸ See *supra* note 8.