

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
July 1, 2024)	WC Docket No. 24-41
Annual Access Charge Tariff Filings)	
)	

ORDER

Adopted: September 9, 2024

Released: September 9, 2024

By the Chief, Pricing Policy Division, Wireline Competition Bureau:

1. In this Order, the Wireline Competition Bureau (Bureau), on our own motion, provides a limited waiver to price cap local exchange carriers and rate-of-return carriers that elected incentive regulation for their business data services (BDS) (collectively “carriers”) extending the October 1, 2024 effective date for the mid-year tariff filing reflecting exogenous cost adjustments.¹ Generally, the Commission’s rules may be waived for good cause shown.² We find that special circumstances warrant an extension of the effective date of the mid-year exogenous cost tariff filing from October 1, 2024 to November 1, 2024 to allow carriers sufficient time to calculate and tariff rate changes based in part on the Commission’s fiscal year 2024 regulatory fee for interstate telecommunications service providers.³

2. In the *2024 Tariff Review Plan Order*, the Bureau required carriers to reflect any exogenous cost adjustments for changes in telecommunications relay service (TRS) fees, regulatory fees, and North American Numbering Plan Administration (NANPA) fees in tariffed rates to be effective October 1, 2024.⁴ Carriers are required to file adjustments to their tariffed BDS rates to reflect the effect

¹ See *July 1, 2024 Annual Access Charge Tariff Filings*, WC Docket No. 24-41, Order, DA 24-434, at 11-12, 15, paras. 34, 46 (WCB/PPD May 10, 2024) (*2024 Tariff Review Plan Order*).

² 47 CFR § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166. Waiver of a filing deadline in the Commission’s rules is appropriate when (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest. *Northeast Cellular*, 897 F.2d at 1166.

³ See *Review of the Commission’s Assessment and Collection of Regulatory Fees for Fiscal Year 2024 et al.*, MD Docket No. 24-86 et al., Second Report and Order, FCC 24-93, at 57, Appx. C (Sept. 6, 2024) (*2024 Regulatory Fees Order*); *Review of the Commission’s Assessment and Collection of Regulatory Fees for Fiscal Year 2024 et al.*, MD Docket No. 24-86 et al., Second Notice of Proposed Rulemaking, FCC 24-68, at 33, Appx. A (June 13, 2024) (*2024 Regulatory Fees Second NPRM*).

⁴ *2024 Tariff Review Plan Order* at 11-12, 15, paras. 34, 46; see 47 CFR § 61.45(a), (b)(1)(1), (d); *id.* § 61.50(c). Exogenous costs are those costs incurred by the carrier that are “triggered by administrative, legislative or judicial action beyond the control of the carriers...that should result in an adjustment to the cap in order to ensure that the price cap formula does not lead to unreasonably high or unreasonably low rates.” *Policy and Rules Concerning Rates for Dominant Carriers*, CC Docket No. 87-313, Second Report and Order, 5 FCC Rcd 6786, 6807, para. 166 (1990); see generally *id.* at 6808-10, paras. 166-190.

of exogenous cost changes in a mid-year tariff filing.⁵ Price cap carriers also are required to file adjustments to their tariffed common line rates to reflect the effect of exogenous cost changes in a mid-year tariff filing.⁶ Carriers submit tariff review plan (TRP) workbooks to support adjustments to rates based on factors determined by the TRS fees, regulatory fees, and NANPA fees.⁷ This mid-year tariff filing has an effective date of October 1, 2024.⁸ To be effective on October 1, 2024, mid-year tariff filings filed on 15-days' notice would be due September 16, 2024, and mid-year tariff filings filed on 7-days' notice would be due September 24, 2024.⁹

3. In addition, certain carriers are required to submit tariff revisions to reflect the fourth quarter 2024 federal universal service fund (FUSF) contribution factor.¹⁰ Every quarter, the Commission's Office of Managing Director adopts a FUSF contribution factor that determines the charges carriers may recover from their end user customers to satisfy their universal service fund (USF) obligations.¹¹ Carriers submit tariff revisions effective October 1 to reflect the fourth quarter FUSF contribution factor.¹² Carriers typically submit one tariff filing to be effective October 1 implementing both the FUSF contribution factor and exogenous cost adjustments.

4. Carriers recover the assessment of regulatory fees imposed by Section 9 of the Communications Act of 1934, as amended (the Act), through exogenous cost adjustments to their rates.¹³ Pursuant to Section 9 of the Act, the Commission is required to assess and collect regulatory fees reasonably expected to recover its annual appropriation.¹⁴ As part of this process the Commission adopts a final regulatory fee for interstate telecommunications service providers.¹⁵ The Bureau specifies that this

⁵ See *2024 Tariff Review Plan Order* at 11-12, 15, paras. 34, 46; 47 CFR § 61.45(a) ("Price cap local exchange carriers...shall maintain updated PCIs to reflect the effect of mid-year exogenous cost changes"); see *id.* § 61.50(c) (Rate-of-return carriers subject to section 61.50 "shall employ the procedures outlined in §§ 61.42 through 61.49 to calculate rates for its business data services and adjust its indexes for those rates.").

⁶ See *2024 Tariff Review Plan Order* at 11-12, paras. 33-34.

⁷ See *id.* at 11-12, 15, paras. 34, 46.

⁸ *Id.*

⁹ See 47 U.S.C. § 204(a)(3) (Streamlined tariff filings "shall be deemed lawful and shall be effective 7 days (in the case of a reduction in rates) or 15 days (in the case of an increase in rates) after the date on which it is filed with the Commission"); 47 CFR § 61.58(a)(2)(i) (pursuant to section 204(a)(3) of the Act, local exchange carriers may file streamlined tariffs on 7-days' notice for rate decreases, and on 15-days' notice for rate increases).

¹⁰ See 47 CFR § 69.158 ("To the extent the company makes contributions to the Universal Service Support Mechanisms pursuant to §§ 54.706 and 54.709 of this chapter and the local exchange carrier seeks to recover some or all of the amount of such contribution, the local exchange carrier shall recover those contributions through a charge to end users other than Lifeline users....").

¹¹ *Proposed Fourth Quarter 2023 Universal Service Contribution Factor*, CC Docket No. 96-45, Public Notice 38 FCC Rcd 8362, 8367 (WCB 2023); 47 CFR § 54.712.

¹² See 47 CFR § 69.158; see generally *Federal-State Joint Board on Universal Service, et al.*, CC Docket No. 96-45, Report and Order and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 24952 (2002).

¹³ See *Price Cap Treatment of Regulatory Fees Imposed by Section 9 of the Communications Act*, Order, 9 FCC Rcd 6060 (Comm. Car. Bur. 1994), Erratum, 9 FCC Rcd 6487 (Comm. Car. Bur. 1994). Carriers recover through exogenous cost adjustments to BDS rates the portion of regulatory fees attributable to these services. Price cap carriers also recover through exogenous cost adjustments to common line rates the portion of regulatory fees attributable to common line services.

¹⁴ See *2024 Regulatory Fees Order* at 2, para. 1; *2024 Regulatory Fees Second NPRM* at 2-3, para. 3.

¹⁵ See *2024 Regulatory Fees Order* at 57, Appx. C; *2024 Regulatory Fees Second NPRM* at 33, Appx. A.

fee be used as the regulatory fee factor to adjust rates reflected in the mid-year tariff filing.¹⁶ Because this fee was recently adopted by the Commission¹⁷ and the Bureau has yet to release 2024 TRP workbooks calculating rate adjustments based in part on this fee,¹⁸ carriers do not have sufficient time to prepare their mid-year exogenous cost tariff filings adjusting their rates to correctly reflect the cost impact of the fee and calculating necessary rate adjustments in advance of the tariff filing deadlines. This presents a special circumstance warranting deviation from the October 1 effective date that will serve the public interest.

5. We find good cause to waive the October 1, 2024 exogenous cost tariff filing effective date this year. We find that a limited one-time waiver of the October 1, 2024 effective date is warranted and necessary to allow carriers sufficient time to accurately prepare their mid-year exogenous cost tariff filing. Taking hardship, equity, and overall implementation of policy into consideration, we conclude that the administrative burdens imposed on carriers to comply with the October 1 effective date for the limited purpose of the exogenous cost adjustments in these circumstances outweighs the need to strictly enforce this effective date. At the same time, since FUSF charges, unlike the regulatory fee, are tariffed items, appearing as either a separate rate to be assessed or a percentage to be applied to interstate end user rates or revenues on a customer's bill, **October 1, 2024** will remain the effective date for the FUSF contribution factor tariff filing. FUSF contribution factor tariff filings submitted on 15-days' notice are due on **September 16, 2024** to be effective October 1, 2024, and FUSF contribution factor tariff filings submitted on 7-days' notice are due on **September 24, 2024** to be effective October 1, 2024.¹⁹

6. For the reasons explained above, on our own motion, we find good cause exists to grant a limited one-time waiver extending the effective date for the mid-year exogenous cost tariff filing adopted by the Bureau in the *2024 Tariff Review Plan Order* from October 1, 2024 to November 1, 2024.²⁰ Under this limited waiver, carriers submitting mid-year exogenous cost tariff filings on 15-days' notice must submit their tariff filings on **October 17, 2024** to be effective November 1, 2024, and carriers submitting mid-year exogenous cost tariff filings on 7-days' notice must submit their tariff filings on **October 25, 2024** to be effective November 1, 2024.²¹ Carriers shall reflect an exogenous cost adjustment for TRS fees, regulatory fees, and NANPA fees in rates to become effective **November 1, 2024**. The payment of TRS fees is a tariff year obligation thus the exogenous cost adjustment for TRS shall be "grossed up" to spread the entire adjustment over the remaining eight months in the tariff year.²² The payments of regulatory fees and NANPA fees are fiscal year obligations and, as a result, the exogenous cost adjustments for regulatory fees and NANPA fees shall be "grossed up" to spread the entire adjustment over the 11 months between November 1, 2024 and September 30, 2025. Consistent with past practice,

¹⁶ See, e.g., *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*, Public Notice, 38 FCC Rcd 7801, 7801 (WCB 2023) (*2023 Exogenous Costs PN*); FCC, TY 2023-2024 Midcourse BDS TRPs for Incentive Regulation ILECs, <https://www.fcc.gov/wireline-competition/ty-2023-2024-midcourse-bds-trps-incentive-regulation-ilecs> (last visited Sept. 9, 2024).

¹⁷ *2024 Regulatory Fees Order* at 57, Appx. C (adopting a fiscal year 2024 regulatory fee (per revenue dollar) for interstate telecommunications service providers of 0.005420).

¹⁸ See *2023 Exogenous Costs PN*, 38 FCC Rcd at 7801.

¹⁹ See 47 U.S.C. § 204(a)(3); 47 CFR § 61.58(a)(2)(i).

²⁰ See *2024 Tariff Review Plan Order* at 11-12, 15, paras. 34, 46; 47 CFR § 1.3.

²¹ See 47 U.S.C. § 204(a)(3); 47 CFR § 61.58(a)(2)(i).

²² See *2024 Tariff Review Plan Order* at 11-12, 15, paras. 34, 46.

the Bureau will release a forthcoming Public Notice with the mid-year 2024 TRP workbooks for use by rate-of-return carriers that elected BDS incentive regulation for their exogenous cost tariff filings.²³

7. Finally, carriers historically file both the FUSF contribution factor and exogenous costs adjustments to be effective October 1. Due to the unique circumstances this year, we will allow the limited number of carriers filing a November 1 tariff adjustment to treat both the October and November tariff filings as a single tariff transmittal. Thus, a carrier making an FUSF contribution factor tariff filing effective October 1, 2024 may treat its subsequent exogenous cost tariff filing effective November 1, 2024 as a tariff transmittal amending the FUSF contribution factor tariff filing effective October 1, 2024. In their amended transmittal letters, carriers should refer to the original tariff transmittal number implementing the FUSF contribution factor effective October 1, 2024. Amended transmittals do not require submission of a standard tariff filing fee since such fee would have already been paid as part of the original tariff transmittal.²⁴ If the carrier did not submit the FUSF contribution factor tariff filing effective October 1, 2024 and submits the exogenous cost tariff filing effective November 1, 2024, the carrier would be required to submit the standard tariff filing fee for a tariff revision. We remind carriers that they are required to submit a new base document within the first five business days of the following month incorporating the prior month tariff revisions.²⁵

8. For more information about this Order, please contact either Christopher S. Koves, Pricing Policy Division, Wireline Competition Bureau, Christopher.Koves@fcc.gov, or Richard Kwiatkowski, Economic Analysis Division, Office of Economics and Analytics, Richard.Kwiatkowski@fcc.gov.

9. Accordingly, IT IS ORDERED, pursuant to sections 0.91, 0.291, 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, and 1.3, that the October 1, 2024 effective date for annual exogenous cost adjustments to tariffed rates adopted in the *2024 Tariff Review Plan Order* IS WAIVED until November 1, 2024, as described herein.

10. IT IS FURTHER ORDERED, that pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.102(b)(1), this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Victoria S. Goldberg
Chief, Pricing Policy Division
Wireline Competition Bureau

²³ See, e.g., *2023 Exogenous Costs PN* at 7801.

²⁴ See 47 CFR §§ 1.1105, 61.15.

²⁵ See 47 CFR § 61.16.