



PUBLIC NOTICE

Federal Communications Commission
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DA 13-709
Released: April 12, 2013

PLEADING CYCLE ESTABLISHED FOR NATIONAL EXCHANGE CARRIER ASSOCIATION PETITION FOR EXPEDITED CLARIFICATION OR WAIVER OF REQUIREMENTS IN SECTION 51.909(a)(4) OF THE COMMISSION'S RULES

CC Docket Nos. 96-45, 01-92; GN Docket No. 09-51;
WC Docket Nos. 03-109, 05-337, 07-135, 10-90; WT Docket No. 10-208

Comment Date: April 22, 2013

On April 9, 2013, the National Exchange Carrier Association (NECA) filed a petition on behalf of its rate-of-return member carriers seeking expedited clarification or, in the alternative, a waiver of requirements in section 51.909(a)(4) of the Commission's rules.¹ Specifically, NECA requests that the Commission clarify that section 51.909(a)(4) does not require adjustments to NECA's capped interstate switched access rates when pool participation changes result in *de minimis* impacts.² NECA states that the costs of strictly adhering to this new rule clearly outweigh the benefits in such circumstances.³ NECA further states that such a clarification would avoid the need for waivers in 2013 and in future years when companies enter or exit the NECA pool, or when offsetting pool participation changes do not have significant net impacts on rates.⁴ In the alternative, NECA requests that the Commission waive section 51.909(a)(4) for the 2013-2014 tariff period.⁵ NECA states that such a waiver would avoid the need for tariff revisions at the federal and state levels required to effectuate *de minimis* changes in rates associated with 2013 pool election changes.⁶

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments on or before the date indicated above. All filings should refer to CC Docket Nos. 96-45, 01-92, GN Docket No. 09-51, WC Docket Nos. 03-09, 05-337, 07-135, 10-90, and WT Docket No. 10-208. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

¹ See Petition of the National Exchange Carrier Association for Expedited Clarification or Waiver, WC Docket No. 10-90 et. al at 1 (filed April 9, 2013). See also *Connect America Fund et al.*, WC Docket No. 10-90 et al., Order, DA 13-564 (Wireline Comp. Bur. rel. Mar. 27, 2013).

² *Id.* at 2.

³ *Id.* at 2, 6.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.⁷ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

⁷ 47 C.F.R. §§ 1.1200 *et seq.*

For further information, please contact Robin Cohn, Wireline Competition Bureau, Pricing Policy Division, at (202) 418-1520 or *via* email at Robin.Cohn@fcc.gov.

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