



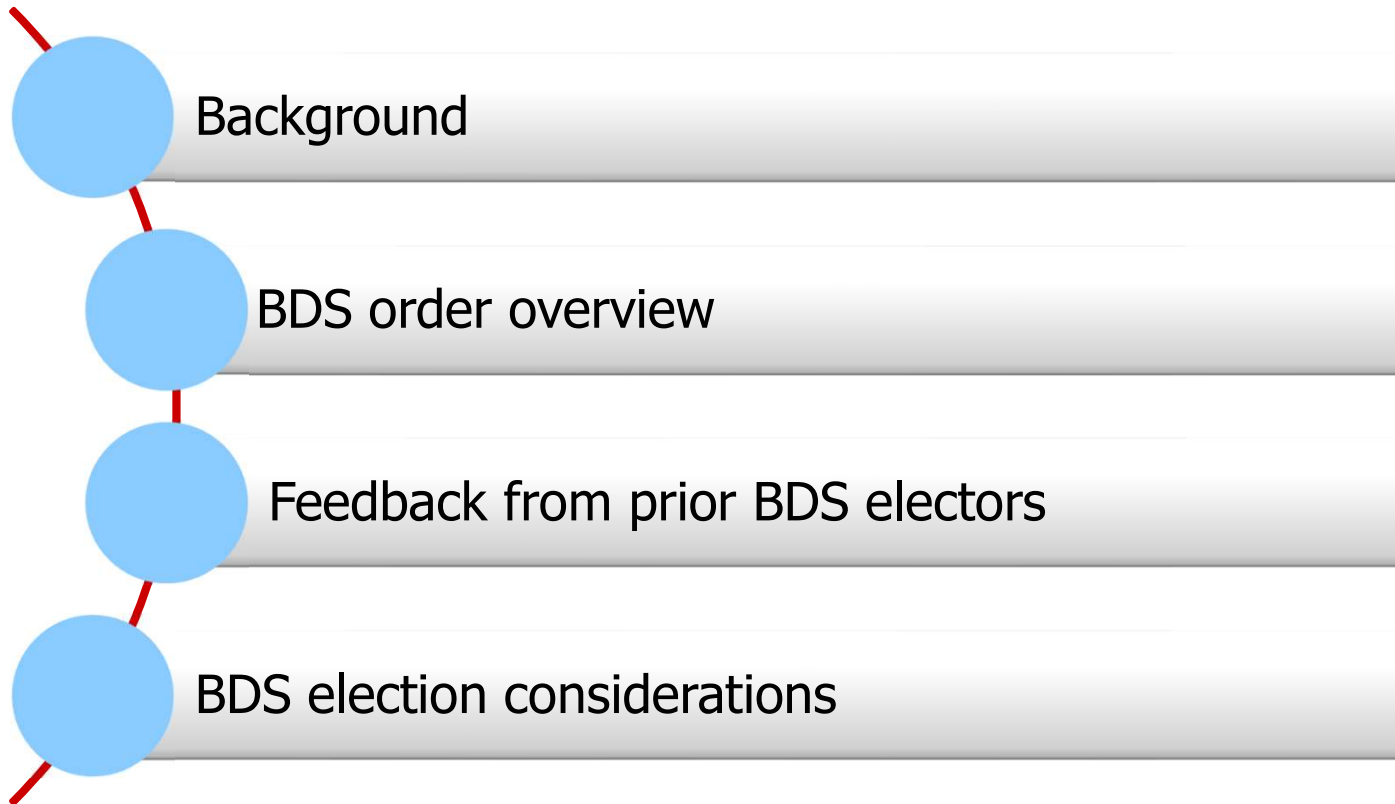
BDS Election Considerations

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Class objective

- The FCC's BDS option offers benefits that may be appealing to your company
- Before making an irreversible BDS election, companies should examine benefits gained versus the benefits lost
 - Both in the near and long term
- This session is designed to help your company more fully examine the BDS option's pros and cons before finalizing your election decision

Agenda



Background

What are business data services?

- Business data services – dedicated point-to-point transmission of data at guaranteed speeds and service levels using high-speed connections (aka special access)
 - Lower speed (DS3 and below) services
 - Higher speed (OC3 and above) services
 - Includes all packet-based services (e.g., ethernet transport service)

Background

Rate-of-return pricing

- RoR regulation pricing – rates are developed based on forecasted revenue requirement **at authorized earnings levels** and demand
 - Rates = prospective RRQ/demand
 - RRQ for cost companies is based on a cost study
 - RRQ for average schedule companies is based on NECA-developed formulas (no cost study is required)

Background

Incentive regulation pricing

- Incentive regulation pricing (e.g., price cap) – rates are set at or below caps developed based on Part 61 rules
 - Adjustments for productivity, inflation and exogenous cost changes
 - Additional adjustments for initial rates of those who were in the NECA TS pool
 - Earnings are not prescribed
 - Earnings may increase or decrease

Background

Ex ante versus non-ex ante pricing

- Ex ante pricing
 - Rates are subject to rate-of-return or incentive pricing regulations
 - Rates are filed in a tariff
- Non-ex ante pricing
 - Rates are not subject to rate-of-return or incentive pricing regulation
 - Electing companies must detariff services subject to non-ex ante pricing within three years
 - Sections 201, 202 and 208 of the Communications Act still apply to ensure rates/practices remain just and reasonable

Background

Communications Act requirements

- Section 201 – every common carrier must furnish communication services upon reasonable request
 - All charges, practices, classifications and regulations for communication service shall be just and reasonable
- Section 202 – it shall be unlawful for any common carrier to make any unjust or unreasonable discrimination or to give any undue or unreasonable preference or advantage to any particular person or entity
- Section 208 – allows a party to file a complaint for violation of the Communications Act, including sections 201 and 202

BDS order overview

- BDS order (FCC 18-146, 33 FCC Rcd 10403) provides the option for RoR carriers receiving fixed high-cost universal service support to elect to migrate their BDS offerings to a lighter touch regulatory framework via forbearance of certain rules
- Removes ex ante pricing regulation for higher speed BDS (including packet-based BDS services) for electing carriers
- Lower speed BDS moves from rate-of-return to incentive regulation for electing carriers
 - Electing carriers who pass a competitive market test are also relieved of ex ante pricing regulation for lower speed BDS end user channel termination rates

BDS order overview

2024 BDS eligibility treatment

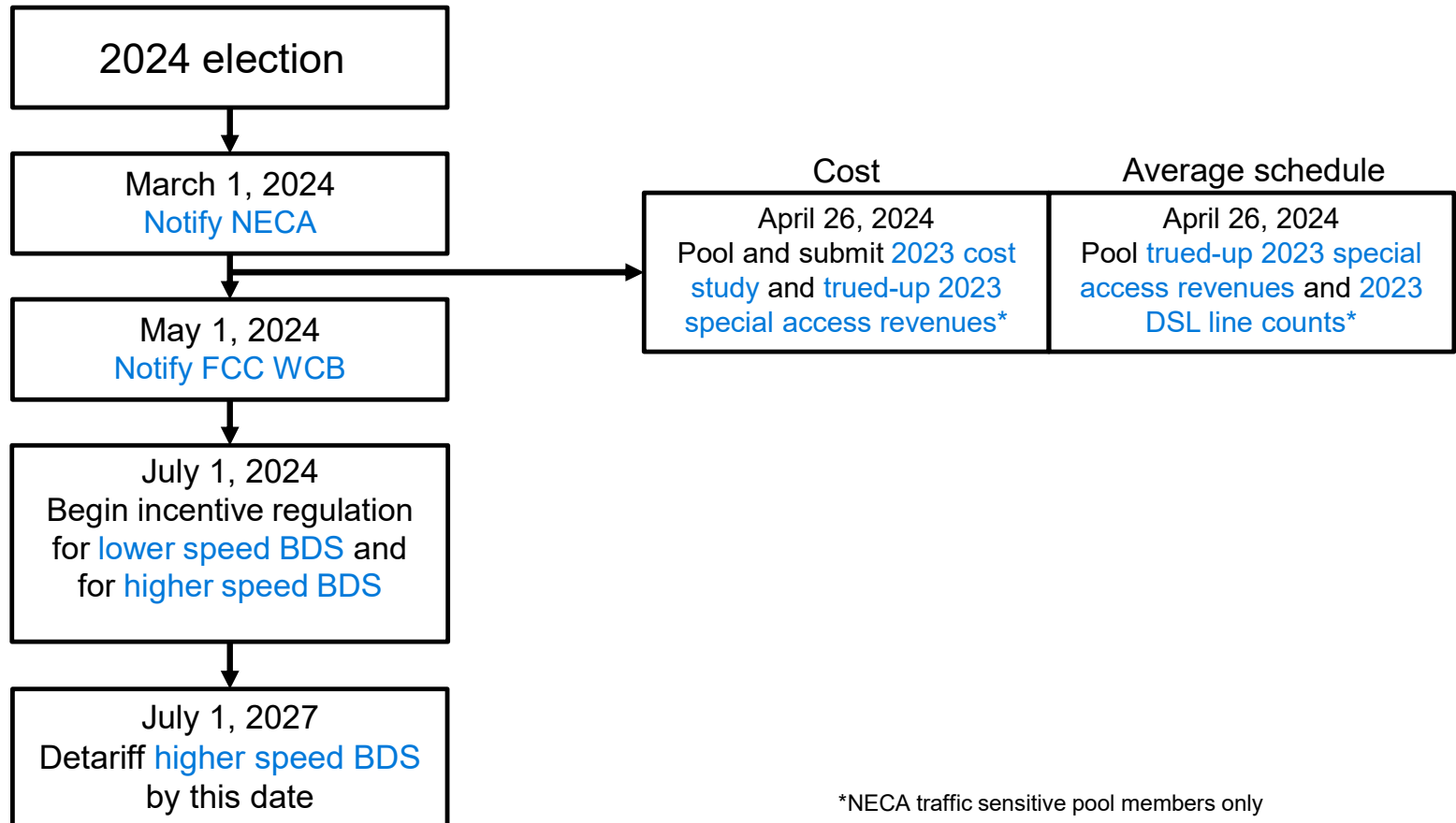
- If an EA-CAM LEC is part of a holding company and elects to move to BDS, that election will apply to **all other** RoR LECs in the holding company on fixed support, regardless of the state. This would include EA-CAM LECs **and** any current A-CAM LECs that previously did not elect to move to BDS in 2019 or 2020.
- If an EA-CAM LEC, that previously was CAF BLS, is part of a holding company in which an A-CAM company had elected BDS in either 2019 or 2020, the EA-CAM LEC **must** now move to BDS.
- An A-CAM LEC that is not part of a holding company **may not** elect BDS in 2024 if they did not previously do so in 2019 or 2020.
- An A-CAM LEC moving to BDS as a result of a holding company election scenario described above is eligible to unfreeze and update its separations category relationships when setting initial BDS rates.

BDS order overview

- Elections are permanent and irrevocable
- Electing carriers must remove all special access costs and revenues, including those for DSL voice-data, from the NECA traffic sensitive pool
- Electing carriers must detariff higher speed BDS within 36 months
- Electing carriers must continue to offer switched access under rate-of-return regulation and may remain in the switched access portion of the NECA TS pool
- Election considerations are different for unaffiliated carriers versus holding companies

BDS order overview

Timeline for new EA-CAM electors



Feedback from BDS takers

Rationale for choosing the BDS option

- No need to produce a cost study (most frequent answer)
 - Where not required by another regulator
- Desire to lower rates to address competition
- Desire for rate flexibility
- Concern about future rate increases
- Desire to earn a higher rate of return

Considerations

Cost study is not required

- Cost studies are typically expensive to produce
 - Some companies have little or no BDS demand
 - Average schedule companies are not impacted by this expense
- For fixed USF support companies (e.g., A-CAM and EA-CAM electors), only a portion of this cost is recoverable from the pool because:
 - A-CAM and EA-CAM takers are required to exit NECA's CL pool
 - Switched access RRQ was frozen (2011 Transformation Order) subject to a prescribed phase down

Considerations

Cost study is not required

- Electors must seek alternate methods of determining fixed and variable costs associated with particular BDS services
- Electors must incur explicit costs of filing and defending their own tariffs and tariff review plans as well as the following:
 - Cost of developing price caps for lower speed BDS
 - Potential costs of negotiating contracts for higher speed BDS

Considerations

Cost study savings for non-BDS companies

- Option for A-CAM and EA-CAM electors not taking BDS
- Basic cost studies
 - A basic study would only be required if the previous study is no longer representative (e.g., substantial changes in facilities, major route changes or switch additions or retirements)
 - A maximum period of three years is allowed between the performance of basic studies

More information can be found on basic studies on our website

www.neca.org (login required)

[Member Services](#) > [Cost Company Resources](#) > [Related links](#) > [Basic studies guidelines](#)

Considerations

Lower rates

- Higher speed BDS – rates may be set lower, but some cost recovery may be sacrificed
- Lower speed BDS – initial rate adjustment for current pool contributors results in lower rate levels
- The lure of lower rates should be weighed against anticipated future investment
 - The initial low rates for lower speed BDS carry into the future
 - Pool contributors are typically low-cost companies and the lower rate levels are sufficient to cover costs at the time immediately preceding BDS election
 - However, these carriers may not be able to recover costs should expenses and investment increase in future years

Considerations

Earnings may fluctuate outside the pool

- Approximately **50%** of the companies would have **earned less** than the pool RoR without pooling in any test year
 - Chances of being better off outside of the pool over several years decreases significantly over time
 - Only 3% of companies out-earned the pool in all five consecutive years
- About **25%** of companies would have **earned less** than 5% return on investment for traffic sensitive services
- About **20%** of companies would have had a **negative** return on investment for traffic sensitive services

Considerations

Cost recovery and cash flow

- Pooling allows cost companies to recover the cost for new infrastructure during the construction of facilities
 - Outside of the pool, there is no recovery until services are billed
- Pooling helps protect against significant cost recovery shortfalls
 - For example, disruptions from cost forecast misses, unexpected demand/revenue loss and natural disasters

Considerations

Rate flexibility

- BDS takers will be able to customize pricing for individual customers for higher speed BDS only
 - While higher speed BDS is tariffed, it must be charged at the tariffed rate
 - Must take care not to violate rules related to predatory pricing and unreasonable pricing discrimination
- The TS pool provides for rate flexibility comparable to all BDS
 - Standard and TP rate band buy down agreements
 - Rate flexibility tool
 - Fixed rate options
 - E-Rate discount options

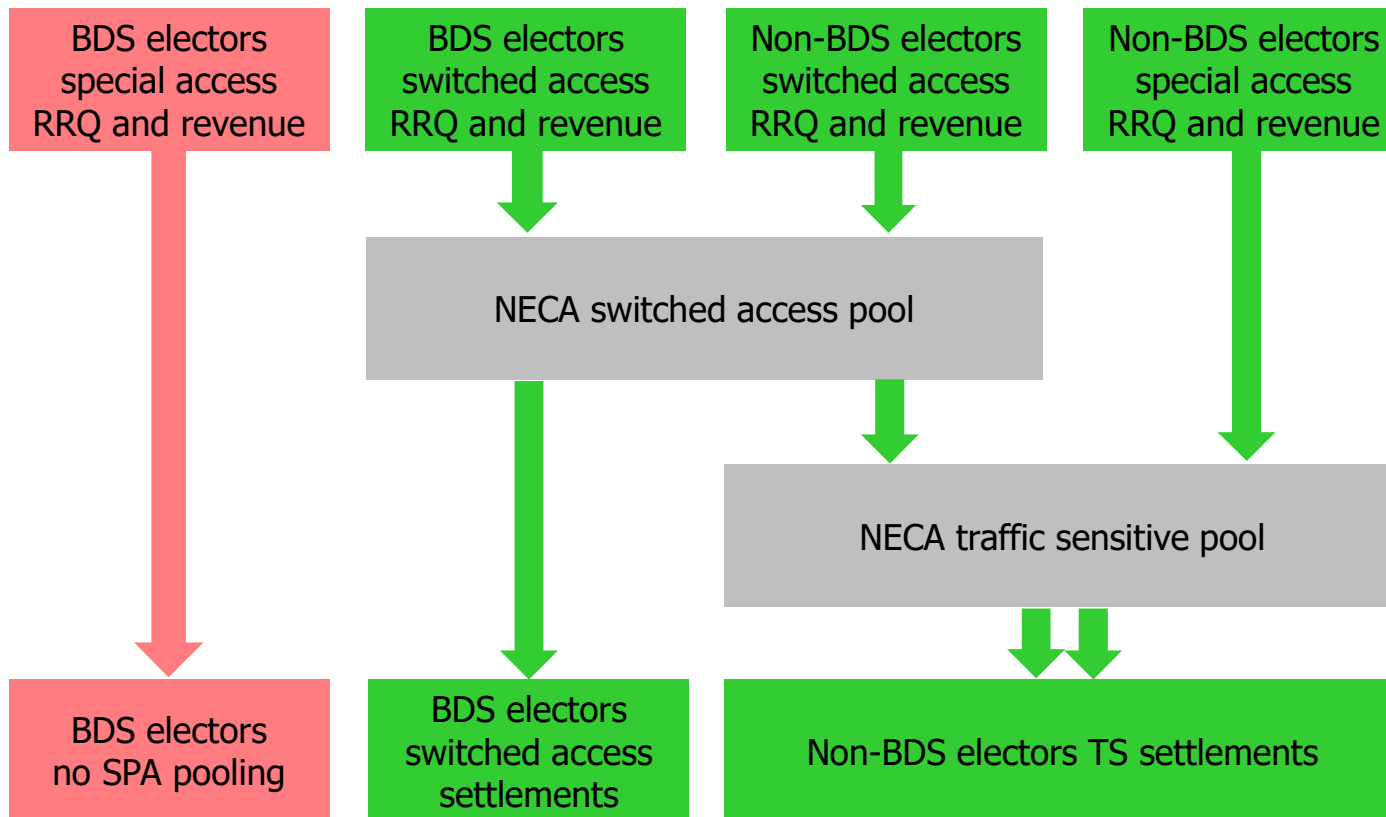
NECA's BDS tariffing options

Switched access-only tariffing/pooling

- BDS electors must exit the NECA special access portion of the traffic sensitive pool; however, they may continue to pool their switched access costs and revenue under this newer option
 - NECA will file switched access rates for these carriers
 - NECA will file CAF ICC support data for these carriers
- BDS electors not currently in the NECA TS pool may elect to participate in the switched access-only tariffing and pooling option
- There is no explicit fee for this service

NECA BDS tariffing options

Switched access-only tariffing/pooling



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NECA's BDS tariffing options

Ex ante (DS3 and below) BDS tariffing

- We offer BDS electors assistance with rate development and tariffing of those BDS services subject to incentive regulation pricing for a fee
 - We will develop price caps using its incentive pricing model
 - NECA will collect required demand and exogenous cost data
 - We will file incentive-based rates on the carrier's behalf in NECA Tariff FCC No. 6
 - We will file the associated tariff review plan with the FCC
 - Members who utilize this NECA service will also obtain access to our BDS tool
 - Webcasts and demonstrations of the tool will be available at a later date

NECA's BDS tariffing options

Non-ex ante BDS tariffing

- We offer BDS electors assistance with tariffing and detariffing of services and rate elements subject to non-ex ante (packet-based and TDM greater than DS3) pricing for a fee
 - BDS electors have up to 36 months to detariff all packet-based and TDM services greater than DS3 and rate elements
 - Detariffing will be implemented via semiannual filings in January and July of each year
 - FCC notification is required prior to detariffing
 - Detariffing is at broad category levels

Summary

- Election decisions are permanent and irrevocable – be sure your decision is best for your company in both the short and long term
- Be sure you consider more than just the expense of producing a cost study
- Pool benefits are real. Is your company's rationale for abandoning these benefits worth the risk?
- If your company elects the BDS option, we can help!

More information can be found on our website
www.neca.org (login required) > Member Services > Tariff No. 6 > BDS FAQs

Thank you for participating today!



You will receive an evaluation via email within 24 to 48 hours.
Please take a moment to complete it and provide us with your feedback.

Acronyms

- A-CAM Alternative Connect America Cost Model
- BDS Business Data Services
- CAF BLS Connect America Fund Broadband Loop Support
- CAF ICC Connect America Fund Inter-carrier Compensation
- CBOL Consumer Broadband-only Line
- DS3 Digital Signal Level 3
- DSL Digital Subscriber Line
- EA-CAM Enhanced Alternative Connect America Cost Model
- FCC Federal Communications Commission
- NECA National Exchange Carrier Association
- OC3 Optical Carrier 3
- RoR Rate of Return
- RRQ Revenue Requirement

Acronyms

- SPA Special Access
- SWA Switched Access
- TP Test Period
- TS Traffic Sensitive
- WCB Wireline Competition Bureau