

The text of the proposed rule change appears below. New text is in italics. Deleted text is in brackets.

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7000. Charges for Services and Equipment

7010. System Services

(a)–(e) No change.

(f) Nasdaq Workstation™ Service

(1) The following charges shall apply to the receipt of Level 2 or Level 3 Nasdaq Service via equipment and communications linkages prescribed for the Nasdaq.

Workstation II Service:

Service Charge	\$2,035/month per service delivery platform ("SDP")
Display Charge	\$525/month per logon for the first 150 logons \$200/month for each additional logon
Additional Circuit/SDP Charge.	\$3,235/month[*]
<i>PD and SDP Maintenance:</i>	
Monthly maintenance agreement.	\$55/presentation device ("PD") logon or SDP/month
Hourly fee for maintenance provided without monthly maintenance agreement.	\$195 per hour (two hour minimum), plus cost of parts

A subscriber that accesses Nasdaq Workstation II Service via an application programming interface ("API") shall be assessed the Service Charge for each of the subscriber's SDPs and shall be assessed the Display Charge for each of the subscriber's logons, including logons of an NWII substitute or quote-update facility. API subscribers also shall be subject to the Additional Circuit/SDP Charge.

A subscriber shall be subject to the Additional Circuit/SDP Charge when the subscriber has not maximized capacity on its SDP(s) by placing eight logons on an SDP and obtains an additional SDP(s); in such case, the subscriber shall be charged the Additional Circuit/SDP Charge (in lieu of the service charge) for each "underutilized" SDP(s) i.e., the difference between the number of SDPs a subscriber has and the number of SDPs the subscriber would need to support its logons, assuming an eight-to-one ratio). A subscriber also shall be subject to the Additional Circuit/SDP Charge when the subscriber has not maximized capacity on its T1 circuits by

placing eighteen SDPs on a T1 circuit; in such case, the subscriber shall be charged the Additional Circuit/SDP Charge (in lieu of the service charge) for each "underutilized" SDP slot on the existing T1 circuit(s). Regardless of the SDP allocation across T1 circuits, a subscriber will not be subject to the Additional Circuit/SDP Charge if the subscriber does not exceed the minimum number of T1 circuits needed to support its SDP, assuming an eighteen-to-one ratio.

(2) No change.

[* A subscriber shall be subject to the Additional Circuit/SDP Charge when the subscriber has not maximized capacity on its SDP(s) by placing eight logons on an SDP and obtains an additional SDP(s); in such case, the subscriber shall be charged the Additional Circuit/SDP Charge (in lieu of the service charge) for each "underutilized" SDP(s) (i.e., the difference between the number of SDPs a subscriber has and the number of SDPs the subscriber would need to support its logons, assuming an eight-to-one ratio). A subscriber also shall be subject to the Additional Circuit/SDP Charge when the subscriber has not maximized capacity on its T1 circuits by placing eighteen SDPs on a T1 circuit; in such case, the subscriber shall be charged the Additional Circuit/SDP Charge (in lieu of the service charge) for each "underutilized" SDP slot on the existing T1 circuit(s). Regardless of the SDP allocation across T1 circuits, a subscriber will not be subject to the Additional Circuit/SDP Charge if the subscriber does not exceed the minimum number of T1 circuits needed to support its SDP, assuming an eighteen-to-one ratio.]

(g)–(u) No change.

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The NWII service allows market participants to access SuperMontage and other Nasdaq facilities through Nasdaq's Enterprise Wide Network II ("EWN II"). Each NWII subscriber location has at least one service delivery platform ("SDP") that connects to the EWN II by a dedicated T1 circuit pair. The subscriber then connects the workstations used by its employees to the SDP. Workstations may be either Nasdaq Workstation presentation devices ("PDs") provided by Nasdaq, or workstations and software supplied by the subscriber (often referred to as an "application programming interface" device, or an "NWII substitute").

Nasdaq currently allows subscribers to contract with Nasdaq for maintenance of their NWII PDs and SDPs on a monthly basis, at the rate of \$55 per PD logon or SDP per month. Maintenance is provided by Nasdaq personnel in the New York metropolitan area and by a contractor in other areas of the country. Nasdaq is now proposing to supplement this monthly maintenance option with an hourly maintenance option for subscribers that may not wish to commit to a monthly maintenance agreement. The fee for maintenance provided without a monthly maintenance agreement will be \$195 per hour, with a two-hour minimum charge for all service calls, plus the cost of parts supplied.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,⁸ in general, and section 15A(b)(5) of the Act,⁹ in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

the rule to improve the clarity of the rule's presentation in the NASD Manual.

⁸ 15 U.S.C. 78o-3.

⁹ 15 U.S.C. 78o-3(b)(5).