



## Telecom Order CRTC 2003-491

Ottawa, 4 December 2003

### Bell Canada

Reference: Tariff Notice 6771

#### Employee discount plan

*The Commission **approves**, with a modification, the introduction of an employee discount plan to be offered to employees and pensioners of selected Bell Canada and BCE Inc. affiliates. Bell Canada is to include in the tariff the specific services to which the discount will apply in all cases.*

#### The application

1. The Commission received an application by Bell Canada, dated 2 October 2003, to revise its General Tariff in order to introduce item 21, Enhanced Employee Discount Plan (the Plan). Under the Plan, Bell Canada proposed to extend the 35% discount on a range of Bell Canada residential services, which is currently offered by Bell Canada to its employees and pensioners<sup>1</sup>, to employees and pensioners of selected Bell Canada and BCE Inc. (BCE) affiliates.
2. Bell Canada submitted that this filing differed in three respects from that recently denied by the Commission in Telecom Order CRTC 2003-375, 12 September 2003 (Order 2003-375): (a) it confined the application of the discount to affiliates specifically identified in the tariff; (b) the affiliates to which it would apply are all wholly-owned by Bell Canada and/or Bell Canada's parent, BCE; and (c) approval was requested pursuant to subsection 25(1) of the *Telecommunications Act* (the Act), rather than paragraph 27(6)(b) of the Act as previously requested.
3. Bell Canada stated that the proposed tariff related to services offered by Bell Canada under the Plan to employees and pensioners of BCE and selected wholly-owned affiliates; only services billed to employees or pensioners in their name are eligible; and business accounts of qualified participants are not eligible under the Plan. Further, Bell Canada stated that the tariffed services that are currently intended to be part of the Plan are residential access, optional features and related service charges (as set out more particularly in the response to interrogatory Bell(CRTC)18June03-2 TN 6750).
4. Bell Canada stated that for decades the company has provided discounts on selected services and products to its employees and pensioners. Bell Canada stated that such discounts not only provided an important employment privilege to the company's employees and pensioners, but also served to promote the use of the company's products and services by its employees and increased their familiarity with a broad range of products and services that the company offered

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<sup>1</sup> Bell Canada currently provides a 35% discount on selected services and products to its employees and pensioners pursuant to paragraph 27(6)(a) of the *Telecommunications Act*.

to customers.

5. Bell Canada submitted that the Plan will extend the same 35% level of discount currently offered by Bell Canada to its employees and pensioners, to the employees and pensioners of selected Bell Canada and BCE affiliates. Bell Canada stated that the Plan was an integral part of its broad initiative to simplify its operations for its customers and employees. The company stated that this initiative has resulted in a degree of integration of various aspects of the operations of the companies in question and has also resulted in marketing campaigns that integrate some of the various service offerings and the "one bill" initiative which allows customers to obtain a single bill for several of these products. Bell Canada stated that of all this was intended to make dealing with Bell Canada and Bell-branded services more customer-friendly.
6. Bell Canada submitted that the Plan also reflected its commitment to ensuring that employee discounts are comparable to those provided by similar Canadian corporations. The company stated that its proposal was consistent with the accepted industry standard in both the communications sector and other sectors where affiliated companies provide a variety of services. The company stated, for example, that it understands that the Rogers group of companies offers employees privileges across its Internet, wireless, print, cable and video affiliates.
7. Bell Canada submitted that the proposed tariff represented a just and reasonable rate and was not contrary to subsection 27(2) of the Act: the employees and pensioners of the company and of selected affiliates are substantially different from the general body of customers receiving the same services; this group is eligible for a common set of employment privileges from a common group of affiliated companies and the employment status of this group creates a common characteristic that is the basis for different treatment and distinguishes the group from the general body of subscribers.
8. Bell Canada submitted that, if the Commission regarded the Plan as being discriminatory, such discrimination was not unjust. Bell Canada stated that the provision by the company and its selected wholly-owned affiliates of reciprocal employee product and service discounts that are not available to the public should raise no public policy issue or concern. Bell Canada noted that, in particular, it was proposing in this current filing to ensure that the tariff does not negatively affect the public interest or harm the general body of subscribers by imputing the regular tariffed rates for the purposes of price cap calculations, so that the reduced rates would not result in the company being able to raise rates for other subscribers. Bell Canada stated that in this manner, the reduced rate for employees and pensioners of selected affiliates would be borne by the company's shareholders and not by the general body of customers.
9. Bell Canada noted that in Order 2003-375, the Commission found that the employees in question did not qualify for the discount under paragraph 27(6)(b) of the Act on the basis that they were not "similarly situated as any charitable organization or disadvantaged person". In the company's submission, this finding was not a bar to approving the proposed tariff under subsection 25(1) of the Act. Bell Canada argued that, in this regard, subsection 27(6) of the Act was a separate, stand-alone provision that does not limit or preclude tariffs approved under subsection 25(1) of the Act. The company noted that the Commission has in various other cases approved different rates for different types of customers in cases where the type

of customer receiving the lower rate could not be regarded as being "similarly situated as any charitable organization or disadvantaged person". The company noted that, for example, the Commission has approved rates that discriminate between residential and business customers, between residential customers located in different bands, and Digital Network Access rates that discriminate between competitor and retail customers.

10. Bell Canada argued that the extension of this privilege to employees of companies that have common ownership with Bell Canada and that provide a reciprocal privilege to Bell Canada employees was intended to provide more equitable treatment of all employees of this group of companies. The company submitted that it was reasonable to extend the same treatment to employees and pensioners of affiliates that have common ownership, operate in related lines of business, and offer a reciprocal privilege to the company's employees and pensioners.
11. Bell Canada also noted that the companies in question are all wholly-owned affiliates of Bell Canada and/or its parent BCE. The company submitted that if the selected affiliates operated within the company's corporate structure, the company would be able to provide the discount proposed under the Plan as a matter of right, under paragraph 27(6)(a) of the Act. Bell Canada stated that, for a number of valid reasons, various of the operations in question are contained in separate legal entities. Bell Canada submitted that this fact, however, should not raise policy issues in relation to the provision of discounts to employees.
12. Bell Canada argued that if the Commission finds that the proposed tariff was unjustly discriminatory, then in the alternative, the Commission should review and vary Order 2003-375 and approve the proposed tariff under paragraph 27(6)(b) of the Act.

### **Process**

13. The Commission received comments from 11 individuals in support of the Plan. By letter dated 24 October 2003, the Commission addressed a question to Bell Canada. Bell Canada provided its response on 28 October 2003.

### **Commission analysis and determination**

14. The Commission notes that the 35% discount would only apply on selected residential services, i.e., residential access, optional features and related service charges. The proposed service would in virtually all cases be compensatory. Further, Bell Canada stated that it will impute the regular tariffed rates for the purposes of price cap calculations, so that the reduced rates will not result in the company being able to raise rates for other subscribers. In view of this, the Commission is satisfied that the proposed rates under the Plan are just and reasonable.
15. With respect to the issue of unjust discrimination or undue preference, the Commission considers that, by extending the 35% only to employees and pensioners of selected Bell Canada and BCE wholly-owned affiliates, the discount being proposed would discriminate against other residential subscribers and give the recipients of the discount a preference.
16. In examining whether such discrimination or preference is unjust or undue, the Commission has considered the following. The class of recipients is objectively defined, has a finite membership and all members of the class share the common characteristic of being

employees or pensioners of selected Bell Canada affiliates. The provision of employee discounts is not an unusual practice. Employee discounts may even be said to be a benefit that employees expect from their employers and affiliates of employers. Finally, the proposed discount would not harm the general body of subscribers as the cost of the discount will be borne by the company's shareholders given that Bell Canada is to impute the regular tariffed rates for the purposes of price cap calculations.

17. In light of the foregoing, the Commission finds that, while the proposed discount discriminates against residential subscribers other than employees and pensioners of the selected Bell Canada and BCE affiliates and gives a preference to this group, the discrimination and preference are not unjust or undue.
18. The Commission notes that the services which are subject to the eligible discount are not specifically enumerated in the proposed tariff. The tariff refers only to "selected residential services, as determined by Bell Canada". Bell Canada noted that the tariffed services that are currently intended to be part of the Plan are residential access, optional features and related service charges as set out more particularly in the response to interrogatory Bell(CRTC)18June03-2 TN 6750.
19. The Commission **approves** Bell Canada's application with a modification that Bell Canada includes in the tariff the specific services, as set out in the response to interrogatory Bell(CRTC)18June03-2 TN 6750, to which the discount will apply in all cases. The revisions take effect as of the date of this order.

Secretary General

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