



Telecom Order CRTC 2009-799

Ottawa, 22 December 2009

Bell Aliant Regional Communications, Limited Partnership and Bell Canada – Minimum advance notice of disconnection for business customers

File numbers: Bell Aliant Tariff Notices 214 and 214A
Bell Canada Tariff Notices 7159 and 7159A

1. The Commission received applications by Bell Aliant Regional Communications, Limited Partnership and Bell Canada (collectively, the Bell companies), dated 8 October 2008 and amended 20 October 2008, proposing revisions to their respective General Tariff item 70 - Rate Schedules for Primary Exchange (Local) Service, item 675 - Centrex III Service, and item 680 - Local Link Package, in order to introduce a requirement that business customers provide a minimum 30-days advance notification of disconnection.
2. Specifically, subject to certain conditions, the Bell companies proposed to charge business customers who cancel their subscription to non-contracted individual business lines, offered under the above tariff items, a deactivation charge equal to the lesser of \$1.50 per line, per day, based on 30 days less the actual number of days of advance notification, or the current non-contracted monthly rate.
3. The Bell companies proposed the following conditions with regards to the deactivation charge:
 - The charge does not apply to customers who are maintaining the same number of lines and are moving from one service address to another or migrating to one of the Bell companies' other business wireline local exchange services or to a business bundle that includes a local exchange service.
 - Business customers who are not maintaining the same number of lines when moving or migrating to one of the Bell companies' other business wireline local exchange services or to a business bundle that includes a local exchange service will be billed one charge for each line not maintained.
 - The charge will not apply to customers migrating from business to residential local exchange service, no matter how many lines are maintained.
 - The charge will not apply to customers when the Bell companies are initiating the termination of the service.
 - No charge will apply in circumstances contemplated in Article 21.2 of the Bell companies' respective Terms of Service.

4. The Bell companies submitted that these applications were Group B retail filings, pursuant to Telecom Decision 2008-74, as they pertained to changes to the terms and conditions of a retail tariff. The Bell companies submitted that their proposals had no impact on the price cap indices of their respective business basic services baskets as no price changes were proposed. The Bell companies also submitted that no price floor test¹ was required since no rate reductions were proposed. The Bell companies further indicated that they had notified customers of their proposal during July and August 2008 and intended to again notify them during the billing period from 10 November to 7 December 2008.
5. The Commission notes that, pursuant to Telecom Decision 2008-74, these Group B applications were approved on an interim basis on 4 November 2008.
6. The Commission received comments from Bragg Communications Inc. (Bragg); Cogeco Cable Inc. (Cogeco); Execulink Telecom Inc. (Execulink); MTS Allstream Inc. (MTS Allstream); Nexicom; NRTC Communications (NRTC); Quebecor Media Inc. (QMI), on behalf of its affiliate Videotron Ltd. (Videotron); Schooley Mitchell Telecom Consultants (Schooley Mitchell); and WTC Communications (WTC) (together, the intervenors) regarding the Bell companies' proposals. The public record of this proceeding, which closed on 18 December 2008, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file numbers provided above.

Is the proposed deactivation charge acceptable?

7. MTS Allstream submitted that the proposed deactivation charge was contrary to Article 20.1 of the Bell companies' respective Terms of Service, which defines the minimum contract period applicable to their services, unless otherwise specified, as one month commencing from the date the service is provided. MTS Allstream submitted that the Bell companies' Centrex customers that choose to switch to another service provider and reach the end of their minimum contract period before the transition has been completed are required to pay the higher non-contracted Centrex rates on their remaining lines for the duration of the transition period to avoid contract termination penalties. MTS Allstream submitted that the deactivation charge could further penalize these customers and is a barrier to an open, competitive local exchange market.
8. Schooley Mitchell submitted that the charge penalizes customers who no longer require a service, provides the Bell companies with additional time to disconnect orders while withholding credits to customers, and is an unfair business practice.
9. The Bell companies submitted that their proposed 30-day notification period was a common requirement by Internet, wireless, local exchange, and cable television service providers. The Bell companies submitted that Bell Mobility, MTS Allstream, Rogers Communications Inc., TELUS Communications Company, and Videotron all require their customers to provide notice in advance of termination of various services.

¹ The Commission first made reference to the price floor test in Telecom Regulatory Policy 2009-80. Prior to that decision, the price floor test was referred to as the imputation test.

10. The Commission notes that Article 20.1 of the Bell companies' respective Terms of Service simply requires a minimum of one-month service unless stipulated in an approved tariff. The Commission considers that Article 20.1 does not address nor restrict the imposition of a notification period prior to the disconnection of non-contracted service. The Commission is of the view that notification periods similar to that contained in the Bell companies' proposals are common in the telecommunications industry as well as in other industries and considers that, subject to the discussion that follows, the Bell companies' proposals are acceptable.

a) Should the proposed deactivation charge be waived when an existing customer (i) terminates service(s) by reason of a change of telecommunications service provider (TSP) and (ii) requests the porting of existing phone numbers?

11. The intervenors generally argued that the deactivation charge has the effect of forcing business customers to contact the Bell companies well in advance of the scheduled date for porting their phone number(s) to a competitor in order to avoid or reduce the application of this charge and thereby creates an unfair opportunity for the Bell companies to win back customers before they are transferred to another TSP. The intervenors generally requested that Commission approval of the Bell companies' applications be contingent upon the Bell companies waiving their advance notification requirements in cases of number porting. The intervenors submitted that waiver of the advance notification would continue to ensure the principle that, in cases of number porting, the customer need not contact its old service provider to cancel local service.
12. In addition, Cogeco noted that the deactivation charge is currently being applied in exchanges where business local exchange services are forborne from regulation. Cogeco, with the concurrence of Execulink, Nexicom, NRTC, and WTC, requested that the Commission order the Bell companies to cease the application of such a deactivation charge, in cases involving number porting, in forborne local exchange markets.
13. QMI submitted that local service providers, including Videotron, who require advance notification of disconnection in their local telephony customer contracts, waive these requirements in cases of number porting. QMI also argued that waiving the advance notification requirements in cases of number porting would ensure that the number porting process is not delayed as would occur if the old service provider attempted to withhold the telephone number while acting to enforce its notification requirements on the customer.
14. The Bell companies submitted that Videotron's customer representatives were unaware of a waiver policy when contacted to verify QMI's claim that Videotron waives its notification requirements in cases where customers are porting their number(s) to a competing service provider.
15. The Bell companies submitted that approval of their applications would require business customers to contact them before transferring their services to another supplier and that this would enhance the operation of competitive market forces rather than interfere with the competitive process.

16. The Commission notes that a customer's decision to migrate non-contracted business exchange services to another TSP does not excuse this customer from its obligations towards the old service provider, including such requirements as a 30-day notice of termination. The Commission also notes that Telecom Decision 2006-15, as amended by the Governor in Council's *Order varying Telecom Decision CRTC 2006-15*, P.C. 2007-532, 4 April 2007 (modified Telecom Decision 2006-15) directed the removal of the constraints on winbacks that were in effect at the time. The Commission notes that the Bell companies can therefore make a winback offer to customers at any time including prior to their transfer. Accordingly, the Commission considers that it would be inconsistent with modified Telecom Decision 2006-15 to impose a requirement on the Bell companies to waive the 30-day notification of disconnection when a TSP requests the porting of existing telephone numbers.

b) In the event that deactivation charges are not waived, should the new TSP be allowed to provide the 30-day advance notification on behalf of the customer?

17. Bragg requested that, if the Commission were to determine that it was not appropriate to require the Bell companies to waive the deactivation charge in cases of number porting, the Commission allow the new TSP to provide the 30-day notice to the Bell companies on the customer's behalf. Bragg submitted that the local service request (LSR), which currently functions as the notice to the incumbent local exchange carrier that the customer is deactivating local service, could function as the required 30-day notice and would allow the customer to experience the same seamless transfer of service from the former TSP to the new TSP, thereby reducing any obstacles to customer choice created by the deactivation charge.
18. Bragg also requested that the Commission order the Bell companies to inform customers that, in the above-contemplated situations, the 30-day notice requirement need not be met by the customer.
19. The Commission notes that Bragg's request to allow the new TSP to provide the 30-day notice of deactivation on behalf of the customer is consistent with Telecom Decision 2009-538. In that decision, the Commission maintained the authority of a TSP to act on the customer's behalf in order to cancel local and long distance services with their existing TSP during the customer transfer process. Accordingly, the new TSP may provide the notice of disconnection on behalf of the customer by way of the LSR.
20. With regards to Bragg's request that the Commission direct the Bell companies to inform customers that, in cases of number porting, the 30-day notice requirement need not be met by the customer personally, the Commission considers it sufficient to direct the Bell companies to modify their tariffs to reflect that, if a business customer is moving to a new TSP, the new TSP can also provide notification on behalf of the customer.

Conclusions

21. In light of the above, the Commission **approves on a final basis** the Bell companies' applications with the following modification: the Bell companies are to specify in their tariffs that if a business customer is moving to another TSP, that TSP can provide the 30-day notification on behalf of the customer.

Secretary General

Related documents

- *Bell Aliant Regional Communications, Limited Partnership and Bell Canada – Application to remove authority to act from the customer transfer process*, Telecom Decision CRTC 2009-538, 28 August 2009
- *Review of the price floor test and certain wholesale costing methodologies*, Telecom Regulatory Policy CRTC 2009-80, 19 February 2009
- *Approval mechanisms for retail and CLEC tariffs*, Telecom Decision CRTC 2008-74, 21 August 2008
- *Forbearance from the regulation of retail local exchange services*, Telecom Decision CRTC 2006-15, 6 April 2006, as amended by Order in Council P.C. 2007-532, 4 April 2007

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