



Telecom Order CRTC 2011-281

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Ottawa, 29 April 2011

Bell Aliant Regional Communications, Limited Partnership and Bell Canada – Introduction of Broadband Expansion Service

File numbers: Bell Aliant Tariff Notice 339
Bell Canada Tariff Notice 7283

Introduction

1. The Commission received applications by Bell Aliant Regional Communications, Limited Partnership and Bell Canada (collectively, the Bell companies), dated 1 November 2010, proposing changes to their respective Access Services Tariffs to introduce item 150 – Broadband Expansion Service (BES).
2. The Bell companies filed their applications in response to the directions contained in Telecom Decision 2010-637, in which the Commission approved the use of deferral account funds by the Bell companies to expand broadband services to 112 communities in Ontario and Quebec (the deferral account communities).
3. The Commission received comments on the Bell companies' applications from MTS Allstream Inc. (MTS Allstream). The public record of this proceeding, which closed on 13 December 2010, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file numbers provided above.
4. The Commission considers that the proposed terms and conditions for BES are largely consistent with the Bell companies' description of the service in the proceeding that led to Telecom Decision 2010-637. The Commission also considers that the proposed BES rate is consistent with the requirement, set out in Telecom Decision 2006-9, that backbone facilities funded through the deferral accounts be made available to alternative broadband service providers (competitors) at a minimal rate.
5. However, the Commission considers that the following two issues must be addressed:
 - I. Should the Bell companies be allowed to recover the full Ethernet Access Service (EAS) facility construction costs from a competitor when establishing BES for that competitor?
 - II. Is it appropriate for the proposed tariff item to have an expiry date?

I. Should the Bell companies be allowed to recover the full EAS facility construction costs from a competitor when establishing BES for that competitor?

6. The Bell companies proposed that, where the establishment of BES for a competitor requires the construction of new EAS facilities, the competitor be required to pay an additional charge based on the full cost of building the access facility.
7. MTS Allstream submitted that (a) the Bell companies' proposal in the proceeding that led to Telecom Decision 2010-637 indicated that they intended to draw down from the deferral account to offset EAS facility construction costs, and (b) the Commission had made adjustments to the Bell companies' costs and capped the drawdown permitted for broadband expansion based on its review of those costs. In MTS Allstream's view, none of the Commission's cost adjustments eliminated the allocation of money to construct EAS facilities for competitors. MTS Allstream submitted that the Commission should reject the Bell companies' applications or direct the Bell companies to eliminate EAS facility construction charges, as they had previously proposed to do.
8. The Bell companies submitted that their original proposal, in the proceeding that led to Telecom Decision 2010-637, was made on the assumption that the EAS facility construction costs in each deferral account community would be recovered from a proposed contingency fund that would allow for any unexpected cost overruns. They also submitted that the Commission had rejected their proposal to establish such a contingency fund and had capped the amount of deferral account funds available for broadband expansion well below the amount the Bell companies estimated would be needed. The Bell companies submitted that, as a result, if construction of competitor access facilities is required to provide end-to-end BES, there is no money in the deferral account to pay for that construction.

Commission's analysis and determinations

9. The Commission notes that, in Telecom Decision 2010-637, it considered that some of the cost estimates submitted by the Bell companies were overstated, and it adjusted them accordingly. Based on its review of the Bell companies' cost estimates, the Commission approved a drawdown of \$306.3 million from the Bell companies' deferral account for broadband expansion. The Commission considered that this amount of funding would be more than adequate to satisfy the requirement to provision broadband services to all the deferral account communities. The Commission did not exclude EAS facility construction costs when it determined the deferral account drawdown amount.
10. The Commission also notes that in determining the drawdown amount, it calculated the interest that had accumulated in the funds until 31 May 2010. The Commission noted that the interest accumulated between 1 June 2010 and the disposition of the funds would be available to the Bell companies. In light of this, the Commission considered that there was no requirement for a contingency fund to cover unforeseen broadband expansion expenses, as proposed by the Bell companies.

11. As a result, the Commission considers that the \$306.3 million, plus interest, associated with the Bell companies' deferral account funds includes the costs of constructing new facilities for EAS, where the establishment of BES for a competitor requires the construction of such facilities. Accordingly, the Commission **denies** the Bell companies' proposal to impose a charge on the competitor where construction of an EAS facility is required and directs the Bell companies to eliminate these construction charges from their BES tariffs.

II. Is it appropriate for the proposed tariff item to have an expiry date?

12. The Bell companies' proposed tariff item 150 indicates that BES will expire on 31 December 2024.
13. The Bell companies explained the expiry date in response to an interrogatory in the proceeding that led to Telecom Decision 2010-637. They submitted that the uneconomic costs¹ of the expansion of broadband services in the deferral account communities over a 15-year period would be funded from Bell Canada's deferral account. After that time, there would be no mechanism to obtain a new drawdown for future uneconomic costs. The Bell companies submitted that they must reserve the right to re-evaluate the ongoing provision of BES when their deferral account obligation expires.

Commission's analysis and determinations

14. The Commission notes that, in Telecom Decision 2010-637, it directed the Bell companies to file proposed tariffs for the provision of competitor broadband services and determined that such services would be classified as conditional mandated non essential.² These services are to remain conditionally mandated until an applicant demonstrates that the reasons for mandating them are no longer present. Therefore, the Commission considers that it is not acceptable for the BES tariffs to be effective for a limited period of time.
15. Accordingly, the Commission finds that it is not appropriate for the proposed tariffs to have an expiry date and directs the Bell companies to remove the expiry date from their proposed tariff pages. The Commission notes that, should the Bell companies wish to change their tariffs after the 15-year period has ended, they may file tariff proposals for approval at that time.

¹ Uneconomic costs are those that are not recovered by the expected revenues.

² Services in the conditional mandated non-essential services category are those the Commission has determined do not meet the criteria for essential services but must continue to be mandated for specific reasons.

Conclusion

16. In light of all of the above, the Commission **approves** the Bell companies' applications, with the changes noted above. The Commission directs the Bell companies to issue revised tariff pages within 10 calendar days of the date of this order.

Secretary General

Related documents

- *Follow-up to Telecom Decision 2008-1 – Proposal by Bell Aliant Regional Communications, Limited Partnership and Bell Canada to dispose of the funds remaining in their deferral account*, Telecom Decision CRTC 2010-637, 31 August 2010
- *Disposition of funds in the deferral accounts*, Telecom Decision CRTC 2006-9, 16 February 2006