



## Telecom Order CRTC 2013-594

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Ottawa, 7 November 2013

### Direct connection service rates for certain small incumbent local exchange carriers

File numbers: Amtelecom Tariff Notice 74  
DMTS Tariff Notice 52  
KMTS Tariff Notice 73  
NorthernTel Tariff Notice 360  
Ontera Tariff Notices 128 and 129  
People's Tel Tariff Notice 79  
TBayTel Tariff Notice 168

*In this order, the Commission approves a direct connection (DC) service rate for Amtelecom, DMTS, KMTS, NorthernTel, Ontera, People's Tel, and TBayTel, effective 28 March 2013. The rate is equal to TCC's DC service rate that was in effect on that date in the company's serving territory of Quebec.*

1. The Commission received applications from Amtelecom Limited Partnership (Amtelecom); Dryden Municipal Telephone System (DMTS); KMTS; NorthernTel, Limited Partnership (NorthernTel); Ontera; People's Tel Limited Partnership (People's Tel); and TBayTel (collectively, the small incumbent local exchanges carriers [ILECs]) in which each company proposed tariff revisions to reflect changes to its respective direct connection (DC) service rate.<sup>1</sup>
2. Each small ILEC submitted that its application was made pursuant to Telecom Regulatory Policy 2013-160, and that its proposed revised rate reflected the rate approved in Telecom Order 2012-312 for TELUS Communications Company (TCC) in its serving territory of Quebec (TCC in Quebec).
3. The Commission received interventions regarding these applications from Allstream Inc. (Allstream) and TCC, and reply comments from Bragg Communications Inc., operating as EastLink (EastLink), on behalf of Amtelecom and People's Tel; NorthernTel; Ontera; and TBayTel. The public records of these proceedings, which closed between 5 and 7 August 2013, are available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings" or by using the file numbers provided above.

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<sup>1</sup> Amtelecom's and People's Tel's applications were dated 26 June 2013; each proposed an effective date of 11 July 2013. Ontera's application was dated 27 June 2013 and proposed an effective date of 1 July 2013. The applications submitted by DMTS, KMTS, NorthernTel, and TBayTel were dated 28 June 2013. DMTS, KMTS, and NorthernTel each proposed an effective date of 28 June 2013. TBayTel proposed an effective date of 15 July 2013.

4. The Commission has identified the following issues to be addressed in this order:
  - I. What should be the effective date for the small ILECs' revised DC service rates?
  - II. What should be the applicable rate?

**I. What should be the effective date for the small ILECs' revised DC service rates?**

5. TCC submitted that the small ILECs' proposed DC service rates should be made effective retroactive to 28 March 2013, the date on which Telecom Regulatory Policy 2013-160 was issued. TCC noted that in that decision, the Commission made each small ILEC's DC rate interim, effective the date of the decision, which indicated to TCC that the Commission was entertaining the possibility that the final rates could be applied retroactively.
6. TCC noted that in Telecom Orders 2012-165 and 2012-312, the Commission approved revised long distance interconnection rates for Télébec, Limited Partnership (Télébec) and TCC in Quebec on a retroactive basis. It submitted that the circumstances in this case are similar to the circumstances described in those orders and, consequently, the applications should be treated similarly.
7. TBayTel submitted that the Commission had not determined, in Telecom Regulatory Policy 2013-160, that the effective date should be made retroactive to 28 March 2013. TBayTel argued that it was likely that the costs for the small ILECs' DC services had not come down as fast as they had for the large ILECs, which have greater purchasing power. TBayTel submitted that its proposed effective date was reasonable and would not cause undue financial hardship for the long distance service providers with which it connects.
8. Ontera disagreed with TCC's request to make the rates effective retroactive to 28 March 2013. It noted that TCC had correctly identified in its intervention that the Commission has the discretion not to apply rates retroactively.
9. NorthernTel submitted that the Commission's decision to make the small ILECs' DC rates interim did not mean that the final rates should be set retroactively to the date they were made interim. It maintained that the effective date should be the date it had proposed. NorthernTel also submitted that for competitive parity reasons, whether a small ILEC had elected to use TCC in Quebec's DC rate or performed its own cost study, the Commission should set the same effective date for all the small ILECs.
10. EastLink replied that TCC's comment that its own rates had been applied retroactively was not relevant. It noted that neither Amtelecom nor People's Tel is a large ILEC, and maintained that the proposed effective date was reasonable and should be approved.

11. Allstream noted that the small ILECs' DC rates have not been updated for some 10 years. It submitted that the higher rates that the small ILECs have been charging have provided them with a larger than necessary subsidy. Allstream further submitted that it was therefore fair that these implicit subsidies should be eliminated at the earliest possible date.

### **Commission's analysis and determinations**

12. In Telecom Regulatory Policy 2013-160, the Commission noted that the cost studies on which the small ILECs' DC rates were based were at least 10 years old, and that it was likely that costs for the small ILECs' DC services had declined since the rates were first established. As a result, the Commission made the small ILECs' existing DC rates interim and required each of them to file with the Commission, within 90 days of the date of the decision, either
  - a) revised tariff pages for a DC rate reflecting the rate of TCC in Quebec, or
  - b) notice that within 180 days of the date of the decision, the small ILEC would file for Commission approval tariff pages for DC service in which the proposed rate would be supported by a cost study.
13. The Commission considers that when it made the DC rates interim in Telecom Regulatory Policy 2013-160, it effectively put the small ILECs on notice that rates could be applied retroactively to 28 March 2013. The Commission notes that it has the authority pursuant to the *Telecommunications Act* to make final rates effective as of the date it made those rates interim.
14. Moreover, the Commission notes that, similar to the cases of Télébec and TCC in Quebec,<sup>2</sup> the small ILECs' proposed revised DC rates are significantly lower than the existing rates. In this instance, the Commission considers that it would be unfair to long distance service providers to require them to pay the higher rate for longer than necessary. The Commission considers, therefore, that the proposed lower rates are just and reasonable and should be made effective the date that the rates were made interim.

### **II. What should be the applicable rate?**

15. TCC noted that as of 28 March 2013, TCC's DC rate in Quebec was \$0.001662 per minute and remained so until 1 June 2013, when it was changed to \$0.001630 due to price cap adjustments. TCC requested that TBayTel's DC rate be set at \$0.001662 for the period between 28 March and 31 May 2013 and at \$0.001630 from 1 June 2013 onward.

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<sup>2</sup> See Telecom Orders 2012-165 and 2012-312.

16. TBayTel replied that TCC's comment that the DC rates should reflect TCC in Quebec's price cap adjustments was inappropriate because the price cap regime of the large ILECs does not apply to the small ILECs.
17. Ontera submitted that this would effectively be imposing a different price cap regime on Ontera. It argued that its proposed rate was the rate in the order specifically referenced by the Commission in Telecom Regulatory Policy 2013-160, and should be the effective rate for Ontera.

### **Commission's analysis and determinations**

18. The Commission notes that TCC has incorporated the price cap regime for the services it provides in its operating territory in Quebec into the overall basket structure for TCC since 2007.<sup>3</sup> It is as a result of the price cap regime that TCC's DC rate in Quebec was adjusted downwards on 1 June 2013 to reflect the Commission's mandated annual price cap adjustment for certain competitor services. Contrary to TCC, the small ILECs' competitor services are not subject to the same mandated price cap adjustment.
19. The Commission considers that the DC rate should reflect TCC's DC rate in Quebec as it was on 28 March 2013, which coincides with the effective date set in this order for the final rates of the small ILECs. The Commission considers that using the DC rate in effect prior to TCC's price cap adjustment would accurately apply the Commission's directive to reflect TCC's DC rate in Quebec. In the Commission's view, to adjust the rate to \$0.001630 as of 1 June 2013 would unfairly impose the large ILECs' price cap regime on the small ILECs.
20. Accordingly, the Commission **approves on a final basis** a DC rate of \$0.001662 per minute for the seven small ILECs in question, effective 28 March 2013.

Secretary General

### **Related documents**

- *Regulatory framework for the small incumbent local exchange carriers and related matters*, Telecom Regulatory Policy CRTC 2013-160, 28 March 2013
- *TELUS Communications Company – Revised toll interconnection service rates in Quebec*, Telecom Order CRTC 2012-312, 29 May 2012

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<sup>3</sup> In Telecom Decision 2006-23, the Commission approved DC rates for TELUS Communications Inc. (now TELUS Communications Company), among others, and directed the company to apply the inflation minus productivity offset (I-X) constraint to the 17 December 2003 rates and to each subsequent year's rates. In Telecom Decision 2007-27, the Commission approved TCC's request to amalgamate the price cap regime for the services it provides in its operating territory in Quebec into the overall basket structure for TCC effective 1 June 2007. Therefore, TCC's DC rate in Quebec is subject to the I-X adjustment each year, effective 1 June of that year.

- *Télébec, Limited Partnership – Revised toll interconnection service rates, Telecom Order CRTC 2012-165, 20 March 2012*
- *Price cap framework for large incumbent local exchange carriers, Telecom Decision CRTC 2007-27, 30 April 2007*
- *Aliant Telecom, Bell Canada, MTS Allstream, SaskTel and TCI – Approval of rates on a final basis for Direct Connection service, Telecom Decision CRTC 2006-23, 27 April 2006*