



Telecom Decision CRTC 2005-60

Ottawa, 12 October 2005

Bell Canada - Tariff Notice 815 as amended, and application to review and vary Telecom Order CRTC 2004-143

Reference: Bell Canada Tariff Notices 815, 815A, 815B and 815C (National Services Tariff) and 8662-B2-200405911

*The Commission **approves** a request by Bell Canada that the Commission review and vary Customer Specific Arrangement, Telecom Order CRTC 2004-143, 3 May 2004. The Commission also **approves on a final basis**, effective 16 December 2004, Bell Canada Tariff Notice 815, as amended by Tariff Notices 815A, 815B and 815C, with rates revised to recover annualized revenues of \$23,689,814.*

Introduction

1. The Commission received an application by Bell Canada, dated 14 June 2004, filed pursuant to section 62 of the *Telecommunications Act*, requesting that the Commission review and vary its denial of Bell Canada Tariff Notice 805 (TN 805) in *Customer Specific Arrangement, Telecom Order CRTC 2004-143, 3 May 2004 (Order 2004-143)*. On 14 June 2004, and in response to the Commission's determinations and direction in Order 2004-143, Bell Canada also filed Tariff Notice 815 (TN 815), which sought additional revenues in respect of the customer-specific arrangement (CSA) that was the subject of Order 2004-143. Bell Canada subsequently filed amendments to TN 815 on 23 June, 14 November and 25 November 2004 (TN 815 as amended). The Commission gave interim approval to TN 815 as amended in *Bell Canada - Customer Specific Arrangement, Telecom Order CRTC 2004-426, 16 December 2004 (Order 2004-426)*.
2. Bell Canada filed TN 805 in response to *Review of Bell Canada's customer-specific arrangements filed pursuant to Telecom Decision 2002-76, Telecom Decision CRTC 2003-63, 23 December 2003 (Decision 2003-63)*. TN 805 replaced Tariff Notice 756 (TN 756), filed by Bell Canada on 27 January 2003 in response to *Regulatory safeguards with respect to incumbent affiliates, bundling by Bell Canada and related matters, Telecom Decision CRTC 2002-76, 12 December 2002 (Decision 2002-76)*. In Decision 2003-63, the Commission found that Bell Canada would need to increase the revenues associated with TN 756 by \$195,000 per month for the CSA to pass the imputation test using the costs as adjusted by the Commission in that Decision.
3. In Order 2004-143, the Commission found that Bell Canada would need to increase the revenues for TN 805 by \$211,000 per month for the CSA to pass the imputation test using the costs as adjusted by the Commission in that Order, and required Bell Canada to file a new tariff for this CSA with increased revenue of at least this amount. When the Commission denied TN 805 in Order 2004-143, it noted that: Bell Canada's updated Phase II cost estimate was reduced in TN 805 by approximately 2 percent on an annualized basis compared to that filed with TN 756 and that no explanation was provided; there were other unexplained costing

irregularities, such as the elimination of the Expenses Causal to Service cost element in the imputation test for TN 805; and costs for the two non-Phase II components in the imputation test (the General Tariff (GT) and third-party cost components) were increased relative to those filed with TN 756, without explanation. The Commission's finding that the CSA revenues associated with TN 805 must increase by \$211,000 per month for the CSA to pass the imputation test was based on the Commission's use of the TN 756 Phase II costs, increased by 25 percent, and the use of the new costs for the GT and third-party components filed for TN 805.

Process

4. On 14 July 2004, MTS Allstream Inc. (MTS Allstream) submitted comments on Bell Canada's review and vary application. MTS Allstream also requested that Bell Canada file, at a minimum, a template of the imputation test filed in confidence for each CSA, and requested disclosure of a Commission staff letter dated 18 July 2003 to Bell Canada (18 July 2003 staff letter).¹ On 26 July 2004, Bell Canada filed reply comments.
5. On 30 July 2004, an oral interrogatory process related to Bell Canada's imputation tests for TN 805 was conducted between Commission staff and Bell Canada (the oral process). The purpose of the oral process was to clarify factual matters related to the imputation test results for TN 805 and to address other relevant issues with respect to these imputation test results, in order to assist the Commission to determine more generally whether there was substantial doubt as to the correctness of the Commission's disposition of TN 805 in Order 2004-143. Bell Canada also provided further information in its responses to undertakings given at the oral process.
6. By letter dated 25 August 2004, Commission staff requested that Bell Canada place each imputation test template for TNs 756 and 805, and an abridged copy of the 18 July 2003 staff letter, on the public record. On 26 August 2004, Bell Canada filed a confidential and abridged transcript of the oral process. On 8 September 2004, Bell Canada filed abridged versions of the imputation test for TN 756, the imputation test associated with TN 805, and the 18 July 2003 staff letter. On 10 September 2004, in response to a further Commission staff letter dated 3 September 2004, Bell Canada filed abridged and confidential responses to undertakings given during the oral process and abridged versions of exhibits associated with that process.
7. On 24 September 2004, MTS Allstream filed further comments on Bell Canada's review and vary application. On 4 October 2004, Bell Canada filed further reply comments. By letter dated 31 May 2005, Commission staff accepted Bell Canada's 19 May 2005 request to withdraw TN 756.

¹ On 18 July 2003, Commission staff sent Bell Canada a letter in confidence that set out costing methodology changes and a template of the information Bell Canada was to use in developing the imputation tests associated with the TNs Bell Canada filed for its CSAs pursuant to Decision 2002-76.

Bell Canada's applications

Application to review and vary Order 2004-143

8. Bell Canada argued there were three types of errors in Order 2004-143 that led to substantial doubt as to the correctness of that Order. Bell Canada also requested that any variance of the additional monthly revenues required by Order 2004-143 be implemented retroactively to the date TN 815 received interim approval. Bell Canada acknowledged that it might have provided more explanations of its revisions to the imputation test submitted in support of TN 805. Bell Canada also provided further information on the errors of fact it alleged in a confidential appendix to its application to review and vary Order 2004-143.
9. Bell Canada noted that, as the Commission acknowledged in Order 2004-143, the services provided under TN 805 differed from those provided under TN 756. Bell Canada submitted that, as a result, the cost elements and cost structures were also different.
10. First, Bell Canada submitted that, in TN 756, the contract was modelled on the basis that it included an end-to-end wide area network (WAN) service, which was forborne. Bell Canada submitted further that the cost study for TN 805 reflected a revised understanding that some of the WAN accesses terminated on equipment that had access to the public switched telephone network, and that this service arrangement was not forborne (i.e. the GT components error).
11. Bell Canada argued, therefore, that in the imputation test for TN 805, it imputed the costs associated with these accesses at tariffed rates and not at Phase II costs, as it had done in the imputation test for TN 756. Bell Canada submitted that, as a result, the GT component of the imputation test for TN 805 was greater than for TN 756 and the Phase II cost component of that test was decreased accordingly. Bell Canada argued this change between TNs 756 and 805 was required to reflect the new mix of tariffed and non-tariffed elements in the revised service configuration in TN 805.
12. Bell Canada argued that, as a result, the Commission's analysis in Order 2004-143, in which it adjusted Phase II costs upwards by 25 percent and included the imputed tariffed components in respect of such elements proposed in TN 805, double-counted certain of the relevant costs.
13. Second, Bell Canada argued that the Commission's finding that the expenses causal to service cost element was eliminated in the imputation test for TN 805 was factually incorrect (i.e. the expenses causal to service error). Bell Canada submitted that these costs were included in a detailed category of the cost study consistent with the 18 July 2003 staff letter. Bell Canada submitted further that, specifically, Project Management expenses causal to the service were included in the Sales Management category.
14. Third, Bell Canada argued that the Commission's determination to adjust Phase II costs associated with TN 805 upwards by 25 percent should not have been applied to the Phase II contract-specific unit costs that Bell Canada used in the imputation test for TN 805 (i.e. the contract-specific cost error). Bell Canada submitted that, as required by the 18 July 2003 staff letter, it used these contract-specific unit costs instead of corporate-average expenses in that

imputation test. Bell Canada argued that, as a result, the Commission's cost analysis in Order 2004-143 was less accurate than that which would result from the application of the available contract-specific costs.

TN 815 as amended

15. Bell Canada submitted that the contract associated with TN 815 reflected increased monthly revenues to provide the increased level of revenues over the term of the arrangement, as the Commission directed in Order 2004-143, and a modification to the cost study period to coincide with the requested effective date of the proposed revised rates.
16. TN 815A was an additional tariff page inadvertently omitted from TN 815. TN 815B consisted of additional tariff pages that effectively replaced TNs 815 and 815A and provided a greater level of detail with respect to the services provided under the contract. Bell Canada indicated that TN 815B did not contemplate any changes to the services provided to the customer and that the imputation test submitted in respect of TN 815 therefore continued to apply in respect of TN 815B. TN 815C replaced three pages in TN 815B: two pages reflected minor changes to the description of service characteristics, while one page amended TN 815B by adding the estimated annualized revenue (which had been included in TN 815 but was not reflected in TN 815B).

Position of MTS Allstream

17. MTS Allstream requested that the Commission deny Bell Canada's application to review and vary Order 2004-143 because, in MTS Allstream's submission, Bell Canada had failed to comply with Decision 2003-63. MTS Allstream submitted that, contrary to the Commission's directive in Decision 2003-63, Bell Canada filed TN 805, which represented a new contract, and an imputation test that did not match the contract associated with TN 756. MTS Allstream also requested that the Commission impose remedial compliance measures on Bell Canada.

Bell Canada's reply comments

18. Bell Canada argued that, contrary to MTS Allstream's submission, it had complied fully with the Commission's directives with respect to this CSA. Bell Canada also disagreed with MTS Allstream's submission that it had not complied with the requirements of Decision 2003-63. Bell Canada submitted that its situation with the customer in question was typical of that of a large customer with sophisticated requirements that were modified over time. Bell Canada submitted therefore that, if TN 805 had updated TN 756 to add \$195,000 in monthly revenue in the manner MTS Allstream proposed, TN 805 would not have reflected all services purchased by the customer. Bell Canada submitted that, in consequence, in responding to the requirements of Decision 2003-63, it was ensuring that the regulatory approval it sought reflected its customer's current requirements.

Commission's analysis and determinations

Request to review and vary Order 2004-143

19. In Order 2004-143, the Commission noted that the onus was on Bell Canada to demonstrate that its proposed tariff met the imputation test and further noted that, in this particular case, the onus was on Bell Canada to demonstrate that it had properly applied the Commission's costing determinations set out in Decision 2003-63.
20. The Commission considers that Bell Canada, in its review and vary application, and through the oral process and associated exhibits and undertakings, has provided detailed explanations with respect to the changes made to the imputation test between TNs 756 and 805, including the changes to the costing methodology and assumptions in order to comply with the Decision 2003-63 costing directives and the 18 July 2003 staff letter.
21. The Commission concludes that Bell Canada's comparison of the demand and revenue impacts between TNs 756 and 805 demonstrates that the additional monthly revenues associated with the proposed rate increases sought under TN 805 more than exceed the amount of \$195,000 required by Decision 2003-63, and finds that TN 805 passes the imputation test.
22. Based on the record of this proceeding, the Commission is persuaded that its determinations in Order 2004-143 reflected the errors alleged by Bell Canada in the review and vary application, that is, the GT components error, the expenses causal to service error, and the contract-specific cost error.
23. In the case of the GT components error, the Commission considers that the revised service configuration in TN 805 reflects a new mix of tariffed and non-tariffed services relative to TN 756 with a resulting increase in the tariffed GT component and a corresponding decrease in the Phase II component of the imputation test. The Commission further considers that it effectively double-counted certain costs in Order 2004-143 when it imputed the tariffed GT component and used the TN 756 Phase II costs grossed up by 25 percent, without making the appropriate adjustments to the Phase II cost component.
24. In the case of the expenses causal to service error, the Commission agrees with Bell Canada that the expenses causal to service cost element was recategorized and included in the Sales Management category in the imputation test associated with TN 805. In this respect, the Commission notes Bell Canada's explanation that the TN 805 imputation test included an annualized amount for expenses causal to service, representing its project management expenses.
25. In the case of the contract-specific cost error, the Commission considers that Bell Canada included the contract-specific costs rather than corporate-average unit costs in the imputation test associated with TN 805. The Commission further considers that this costing change was consistent with the methodology specifications set out in the 18 July 2003 staff letter. The Commission notes that, if contract-specific costs are used, there is no requirement to adjust these costs upwards by 25 percent. The Commission therefore finds that its determination to

adjust the Phase II costs upwards by 25 percent in Order 2004-143 should not have been applied to the contract-specific Phase II cost component of the imputation test associated with TN 805.

26. In the Commission's view, Bell Canada has demonstrated that a significant portion of the cost increases shown in the GT and third-party cost components of the imputation test for TN 805 was the result of a restatement of costs or the reclassification of costs under the revised service arrangement. The Commission also notes Bell Canada's explanation that certain third-party costs had been inappropriately categorized as Phase II costs in the imputation test associated with TN 756 and were subsequently reclassified as third-party costs in the imputation test associated with TN 805. The Commission further considers its determination to adjust the Phase II costs upwards by 25 percent in Order 2004-143 should not have been applied to these third-party costs. The Commission also considers that the additional information provided by Bell Canada on revenue obtained by service site explains various revenue changes to the imputation tests between TNs 756 and 805.
27. Accordingly, the Commission finds that there is substantial doubt as to the correctness of Order 2004-143 and **approves** Bell Canada's request to review and vary the Commission's denial of TN 805 in that Order.

TN 815 as amended

28. The Commission notes that TN 815 as amended, unlike TN 805, contains the tariff information required by the Commission in paragraph 66 of Decision 2003-63.
29. The Commission further notes that TNs 805 and 815 as amended reflect essentially the same level of demand and services, and finds that TN 815 as amended passes the imputation test. The Commission notes its conclusion above that the rates Bell Canada proposed in TN 805 reflected additional revenue of at least \$195,000 per month relative to TN 756, as required by Decision 2003-63. The Commission further notes that the rates proposed in TN 815 as amended recover not only the additional \$195,000 per month required by Decision 2003-63, but also recover the \$211,000 per month in additional revenues required by Order 2004-143.
30. Accordingly, the Commission considers that it would be appropriate to approve TN 815 as amended on a final basis, effective 16 December 2004 (the date of Order 2004-426), with rates revised to remove the \$211,000 per month in additional revenue that Bell Canada was ordered to obtain in Order 2004-143. The Commission notes that Bell Canada submitted that the annualized revenue associated with TNs 805 and 815 as amended was \$23,689,814 and \$26,221,814, respectively. The difference in revenue between these two TNs is \$2,532,000 annually, or \$211,000 per month.
31. Accordingly, the Commission **approves on a final basis**, effective 16 December 2004, TN 815 as amended, revised to reflect rates that recover annualized revenues of \$23,689,814. The Commission notes this approval is consistent with the relief Bell Canada requested if the Commission were to approve this review and vary application after it had given interim approval to TN 815 as amended.

32. The Commission directs Bell Canada to issue tariff pages forthwith reflecting the Commission's determinations in this Decision.

Secretary General

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