



Telecom Order CRTC 2005-146

Ottawa, 15 April 2005

Bell Canada

Reference: Tariff Notice 842 (National Services Tariff)

Customer specific arrangement

1. The Commission received an application by Bell Canada on 20 October 2004, requesting approval of Tariff Notice (TN 842), under Special Facilities Tariff item 736.3, relating to services provided under customer specific arrangement (CSA) contract number P3A-14. This filing replaced TN 765, which had been filed pursuant to *Regulatory safeguards with respect to incumbent affiliates, bundling by Bell Canada and related matters*, Telecom Decision CRTC 2002-76, 12 December 2002.
2. The CSA filed under TN 842 is a Type 2 CSA consisting of a bundle of Digital Network Access service, a General Tariff service, and Global Private Line service, a forborne service. The minimum contract period for this CSA is one year.
3. On 8 December 2004, MTS Allstream Inc. (MTS Allstream) filed comments with respect to Bell Canada Tariff Notices 817 to 843 and requested, among other things, that the Commission deny these Tariff Notices.
4. MTS Allstream submitted that Bell Canada's Tariff Notices related to arrangements (or renegotiated versions thereof) that were subject to a pending application, filed by Allstream Corp.¹ (Allstream) and Call-Net Enterprises Inc. (Call-Net) on 23 January 2004. MTS Allstream submitted that, absent a ruling on the Part VII application that sought, among other things, denial of the backlog of the Bell Nexxia Inc.'s (Bell Nexxia's) Type 2 CSAs, these Tariff Notices should not be approved.
5. MTS Allstream submitted that many of the proposed rates, terms and conditions were either inconsistent with the Commission's criteria for just and reasonable rates, or were otherwise unjustly discriminatory or granted Bell Canada an undue preference.
6. MTS Allstream noted that Bell Canada's appeal of *Review of Bell Canada's customer-specific arrangements filed pursuant to Telecom Decision 2002-76*, Telecom Decision CRTC 2003-63, 23 September 2003 (Decision 2003-63) was dismissed by the Federal Court of Appeal, and the stay previously granted by the Court was lifted. MTS Allstream submitted that, despite these developments, the company had not disclosed the full rates, terms and conditions of a large number of the Bell Nexxia CSAs on the public record, contrary to the requirements of Decision 2003-63. MTS Allstream claimed that this allowed Bell Canada to continue to conceal the details of these arrangements until it had renegotiated them to the company's satisfaction.

¹ Allstream Corp. is now a division of MTS Allstream Inc.

7. MTS Allstream submitted that allowing Bell Canada to renegotiate such arrangements while they were subject to the Commission's consideration prevented a new supplier from competing for the customer's business.
8. With respect to TN 842, MTS Allstream submitted that Bell Canada had relied on the imputation test filed with TN 765, rather than filing a new imputation test. MTS Allstream further submitted that the one-year contract period offered under TN 842 was the same as the contract period offered under TN 765, presumably on a renewal basis.
9. In reply on 20 December 2004, Bell Canada stated that it had provided all the requested documentation to the Commission and had fully disclosed the details of its outstanding CSAs. Bell Canada submitted that the imputation test for TN 842 had been submitted in accordance with the Commission's requirements and a revised imputation test for this CSA was not required by the Commission.
10. With respect to MTS Allstream's submission that the CSA filed under TN 842 had been renewed, Bell Canada confirmed that the contract had been renewed for another one-year term.

Commission's analysis and determinations

11. The Commission notes that in *Part VII application by Allstream Corp. and Call-Net Enterprises Inc. regarding Bell Canada Type 2 CSAs*, Telecom Decision CRTC 2005-22, 7 April 2005 (Decision 2005-22), the Commission denied the Part VII application filed by Allstream and Call-Net on the basis that a blanket denial of all the Bell Nexxia CSAs would not be appropriate, and that each CSA should be considered individually to determine whether Bell Canada had complied with the requirements set out in Decision 2003-63. In Decision 2005-22, the Commission also noted that since the dismissal of its appeal of Decision 2003-63 by the Federal Court of Appeal, Bell Canada had refiled proposed tariff pages for the Bell Nexxia CSAs under new TN numbers, consistent with the tariff requirements set out in Decision 2003-63.
12. With respect to this application, the Commission has reviewed the services provided in this CSA bundle, and is satisfied that the services, rates, terms and conditions provided are properly identified in the proposed tariff pages and meet the requirements specified in Decision 2003-63. The Commission is also of the view that MTS Allstream's concerns with respect to the level of public disclosure of the rates, terms and conditions applicable to TN 842 have been adequately addressed.
13. With respect to MTS Allstream's comment that Bell Canada had relied on the imputation test in connection with TN 765, rather than filing a new imputation test for TN 842, the Commission notes that no changes have been made to this CSA arrangement since the filing of TN 765. The Commission notes that if the costing adjustments specified in Decision 2003-63 were applied, this CSA would pass the imputation test. Accordingly, the Commission is satisfied that TN 842 satisfies the imputation test.

14. With respect to MTS Allstream's comment regarding the renewal of this contract, the Commission considers that the automatic renewal terms and conditions included in the proposed tariff pages associated with TN 842 are consistent with the requirements set out in Decision 2003-63.
15. Consistent with Telecom Order CRTC 2004-428, 17 December 2004, which states that the safeguards identified in that Order should be included in tariff pages that provide for automatic renewal of a CSA and/or services within a CSA, the Commission considers that such safeguards should also be reflected in the tariff pages associated with TN 842.
16. In light of the above, the Commission **approves on a final basis** the application by Bell Canada, with the following amendment, that the tariff pages are to indicate that Bell Canada is to notify the customer of the CSA either on its monthly bill or by letter:
 - at least 60 days before contract expiry, that the contract or services will be automatically renewed unless the customer indicates otherwise;
 - within 35 days following automatic renewal, that the contract has been renewed; and
 - that the customer may terminate the contract without penalty within 30 days of the date of the automatic renewal notice.
17. Bell Canada is to issue tariff pages forthwith.

Secretary General

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