



## Telecom Order CRTC 2005-188

Ottawa, 19 May 2005

### Bell Canada

Reference: Tariff Notice 839 (National Services Tariff)

#### Customer specific arrangement

1. The Commission received an application by Bell Canada, dated 18 October 2004, requesting approval of Tariff Notice 839 (TN 839), under National Services Tariff item 720.92, related to services provided under Customer Specific Arrangement (CSA) contract number P3-116. TN 839 replaced Tariff Notice 770 (TN 770), 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 839 is a Type 2 CSA consisting of Digital Private Line Exchange services. The minimum contract period for this CSA is five years.
3. On 8 December 2004, MTS Allstream Inc. (MTS Allstream) filed comments with respect to Bell Canada Tariff Notices 817 to 843 inclusive 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.<sup>1</sup> (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, and 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, and 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.

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<sup>1</sup> 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 839, MTS Allstream submitted that Bell Canada had relied on the imputation test filed with TN 770, rather than filing a new imputation test. MTS Allstream further submitted that services appeared to have changed from TN 770 to TN 839, and that it was difficult to determine the price of the services based on some routes being offered under tariffed rates, and some under forborne rates.
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 770 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 comment regarding changes in services from TN 770 to TN 839, Bell Canada replied that these services had not been modified, but had been described in greater detail in TN 839. Bell Canada noted further that the proposed tariff stated that rates for certain routes were as per the General Tariff, or the applicable Special Facilities Tariff, and the specific rates for the other routes were identified in the proposed tariff pages.

### **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), it 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. The Commission notes that there has been no change with respect to the services contemplated in this tariff application. The Commission further notes that specific rates for routes have been specified in the proposed tariff pages. The Commission is satisfied that the services, rates, and 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, and terms and conditions applicable to TN 839 have been adequately addressed.
13. With respect to MTS Allstream's comment that Bell Canada had not filed a new imputation test for TN 839, the Commission notes that if the costing adjustments specified in Decision 2003-63 were applied to the imputation test in connection with TN 770, this CSA would pass the imputation test. Accordingly, the Commission is satisfied that TN 839 passes the imputation test.

14. In light of the above, the Commission **approves on a final basis** the application by Bell Canada.

Secretary General

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