



Telecom Order CRTC 2005-207

Ottawa, 27 May 2005

Bell Canada

Reference: Tariff Notice 840 (National Services Tariff)

Customer specific arrangement

1. The Commission received an application by Bell Canada on 19 October 2004, requesting approval of Tariff Notice 840 (TN 840) under National Services Tariff item 720.103, related to services provided under Customer Specific Arrangement (CSA) contract number P3-140. This filing replaced Tariff Notice 774 (TN 774) 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 840 is a Type 2 CSA consisting of a bundle of the following General Tariff services: Gateway Access, High Speed Access, Megalink and Internet Dial Minutes, as well as the following forborne service: Ethernet Internetworking. The minimum contract period (MCP) for this CSA is three 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 these 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, Bell Canada 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.

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. MTS Allstream also submitted that Bell Canada relied on the imputation test filed with TN 774 rather than filing a new imputation test. MTS Allstream submitted that the contract had a three-year MCP but that the Internet Dial Minutes Service had a one-year MCP.
9. In reply on 20 December 2004, Bell Canada submitted 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 774 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 comments on varying MCPs within this contract, Bell Canada submitted that, consistent with other CSAs, the individual services under this CSA did not have the same contract term. Bell Canada further submitted that a customer could commit to different contract periods for different services, in keeping with the customer's needs.

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 were no changes with respect to the services contemplated in this tariff application. 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 840 have been adequately addressed.
13. With respect to MTS Allstream's comment that one service had an MCP of shorter duration than the term of the CSA, the Commission notes that the revenues and costs reflected in the imputation test for TN 840 take into account the varying MCPs within the bundle. Under the circumstances, the Commission is satisfied that the imputation test costs accurately reflect each service's MCP, as identified in the contract.

14. The Commission also notes that Bell Canada was not requested to file a new imputation test for TN 840. The Commission considers that if the costing adjustments specified in Decision 2003-63 were applied to the imputation test filed under TN 774, this CSA would pass the imputation test. Accordingly, the Commission is satisfied that TN 840 passes the imputation test.
15. In *Bell Canada - Ex parte application*, Telecom Order CRTC 2004-428, 17 December 2004 (Order 2004-428), the Commission identified safeguards regarding the automatic renewal of a CSA and/or services within a CSA that should be included in tariff pages. Consistent with Order 2004-428, the Commission considers that such safeguards should also be reflected in the tariff pages associated with TN 840.
16. In light of the above, the Commission **approves on a final basis** the application by Bell Canada, with the tariff pages amended to indicate that:
 - at least 60 days before contract expiry, Bell Canada is to notify the customer of the CSA either on its monthly bill or by letter that the contract or services will be automatically renewed unless the customer indicates otherwise;
 - within 35 days following automatic renewal, Bell Canada is to notify the customer of the CSA either on its monthly bill or by letter that the contract has been renewed and that the customer may terminate the contract without penalty within 30 days of the date of this notice.
17. Bell Canada is to issue tariff pages forthwith.

Secretary General

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