



## Telecom Order CRTC 2005-304

Ottawa, 22 August 2005

### Bell Canada

Reference: Tariff Notice 836 (National Services Tariff)

#### Customer specific arrangement

1. The Commission received an application by Bell Canada, dated 15 October 2004, requesting approval of Tariff Notice 836 (TN 836) under National Services Tariff item 720.67, related to services provided under Customer Specific Arrangement (CSA) contract number P3-41. This filing replaced Tariff Notice 761 (TN 761), 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 836 is a Type 2 CSA consisting of a bundle of Centrex III, a General Tariff service, and Long Distance and Business Internet Dedicated, forborne 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) were subject to a pending application, filed by Allstream Corp.<sup>1</sup> (Allstream) and Call-Net Enterprises Inc.<sup>2</sup> (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 those 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 those arrangements until it had renegotiated them to the company's satisfaction.

<sup>1</sup> Allstream Corp. is now a division of MTS Allstream Inc.

<sup>2</sup> Call-Net Enterprises Inc. is now known as Rogers Telecom Holdings 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 836, MTS Allstream submitted that Bell Canada relied on the imputation test filed with TN 761 rather than filing a new imputation test.
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 761 had been submitted in accordance with the Commission's requirements and a revised imputation test for this CSA was not required by the Commission.

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

10. 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.
11. The Commission 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, and terms and conditions applicable to TN 836 have been adequately addressed.
12. With respect to MTS Allstream's comment that Bell Canada had not filed a new imputation test for TN 836, the Commission notes that if the costing adjustments specified in Decision 2003-63 were applied to the imputation test in connection with TN 761, this CSA would pass the imputation test. Accordingly, the Commission is satisfied that the rates proposed in TN 836 pass the imputation test.
13. Consistent with *Bell Canada - Ex parte application*, 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 836.

14. 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; and
  - 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.
15. Bell Canada is to issue tariff pages forthwith.

Secretary General

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