



Telecom Order CRTC 2006-58

Ottawa, 22 March 2006

Aliant Telecom Inc.

Reference: Tariff Notices 173, 173A, 173B, 184 and 184A

Introduction of rates for Competitor Digital Network access – DS-1, Bands E and F, and DS-0, Bands E, F, and G

The applications

1. The Commission received an application by Aliant Telecom Inc. (Aliant Telecom) dated 25 August 2005 (Tariff Notice 173 (TN 173)), and amended on 6 October 2005 (Tariff Notice 173A (TN 173A)) and 9 November 2005 (Tariff Notice 173B (TN 173B)), requesting approval of amendments to its General Tariff, item 612, Competitor Digital Network Service, to introduce Competitor Digital Network (CDN) DS-1 access service in Bands E and F in the four Aliant Telecom regions, with an effective date of 19 September 2005. Aliant Telecom's application with respect to TN 173 was given interim approval in Telecom Order CRTC 2005-316 on 6 September 2005, with an effective date of 19 September 2005.
2. The Commission received an application by Aliant Telecom dated 24 November 2005 (Tariff Notice 184 (TN 184)), and amended on 8 February 2006 (Tariff Notice 184A (TN 184A)), requesting approval of amendments to its General Tariff, item 612, Competitor Digital Network Service, to introduce the CDN access service at DS-0 transmission speed in Bands E, F, and G in the four Aliant Telecom regions with an effective date of 1 December 2005.

Process

3. Comments on TN 173, as amended, were received from MTS Allstream Inc. (MTS Allstream) on 23 September 2005. Reply comments were received from Aliant Telecom on 6 October 2005.
4. Comments on TN 184, as amended, were received from MTS Allstream on 23 December 2005. Reply comments were received from Aliant Telecom on 9 January 2006.
5. On 10 January 2006, Aliant Telecom responded to costing interrogatories posed by the Commission on 14 December 2005 in regard to TNs 173 and 184.

Related matter

6. On 7 September 2005, Aliant Telecom filed an application, pursuant to Part VII of the *CRTC Telecommunications Rules of Procedure*, in which Aliant Telecom requested certain Commission directions to permit Aliant Telecom and MTS Allstream to resolve a dispute regarding the eligibility for the Competitor Digital Network Access (CDNA) service rates of certain accesses leased by MTS Allstream from Aliant Telecom.

7. In *Aliant Telecom Inc. – Application with respect to Competitor Digital Network Access service*, Telecom Decision CRTC 2006-6, 31 January 2006 (Decision 2006-6), the Commission considered it appropriate to set out a definition of a switch in order that Aliant Telecom and MTS Allstream might resolve their dispute. In addition, the Commission directed MTS Allstream to identify to Aliant Telecom and the Commission, within 15 days of the date of that Decision, the CDNA-eligible circuits by rate band, based on the switch definition set out in Decision 2006-6, during the period 1 June 2002 to 2 February 2005 (the interim period). The interim period is the period during which the CDNA service was available on an interim basis prior to the introduction of the CDN service set out in *Competitor Digital Network Services*, Telecom Decision CRTC 2005-6, 3 February 2005 (Decision 2005-6).

Positions of parties

8. MTS Allstream submitted that final approval of applications TN 173 and TN 184 should be withheld until Aliant Telecom had modified these tariffs and filed proposed rates for its CDN DS-0 and DS-1 accesses, for each rate band in which competitors had identified CDNA demand. MTS Allstream further submitted that the effective date of these tariffs should be 1 June 2002 in accordance with the Commission's determinations in *Regulatory framework for second price cap period*, Telecom Decision CRTC 2002-34, 30 May 2002, *Interim Competitor Digital Network Access service*, Telecom Decision CRTC 2002-78, 23 December 2002, and Decision 2005-6.
9. In support of its position, MTS Allstream submitted that on 21 February 2003, MTS Allstream (then AT&T Canada) had provided Aliant Telecom with a list of DS-0 and DS-1 circuits in Bands E, F, and G that, in its view, were CDNA-eligible. MTS Allstream stated that, following Decision 2006-6, it re-submitted to Aliant Telecom its list of CDNA-eligible circuits (15 February 2006 list).
10. MTS Allstream submitted further that the costs filed by Aliant Telecom in support of TN 184 were too high. MTS Allstream noted that the rates proposed by Aliant Telecom were in some cases higher than the equivalent rates for its retail Digital Network Access and Link services and submitted that they should be reviewed to ensure that Aliant Telecom's cost study adhered to the methodology set out in Decision 2005-6. MTS Allstream did not comment on the level of Aliant Telecom's costs submitted in connection with TN 173.
11. Aliant Telecom argued that eligibility of CDNA service rates depended on whether the accesses leased by the competitor terminated on the competitor's voice or data switch located in Aliant Telecom's serving territory. Aliant Telecom reiterated its definition of a switch for this purpose.
12. Aliant Telecom submitted that no competitor, including MTS Allstream, had provided information that would have caused Aliant Telecom to revise its view of the circuits leased by competitors in Bands E, F, and G that were CDNA-eligible during the interim period.
13. Aliant Telecom further submitted that MTS Allstream's request for an effective date of 1 June 2002 constituted a request that the Commission review and vary the rates approved on a final basis in Decision 2005-6 and that MTS Allstream had not filed such a review and variance application.

Commission's analysis and determinations

14. The Commission considers that MTS Allstream's request for an effective date of 1 June 2002 for Aliant Telecom TNs 173 and 184, as amended, is not a request that the Commission review and vary Decision 2005-6 because the Commission did not rule on the rates for the circuits that are the subject of these TNs in that Decision.
15. The Commission has reviewed the cost studies and the imputation tests filed by Aliant Telecom in support of TNs 173 and 184, as amended, and is satisfied that Aliant Telecom's proposed costs adhere to the methodology set out in Decision 2005-6. The Commission further notes that Aliant Telecom's proposed CDN rates for its DS-0 and DS-1 accesses are comparable to the CDN access rates of the other incumbent local exchange carriers (ILECs) for similar bands.
16. The Commission notes that MTS Allstream and Aliant Telecom addressed, among other things, the proposed effective date of Aliant Telecom TNs 173 and 184, as amended, and notes MTS Allstream's submission that it leased circuits that were CDNA-eligible prior to 19 September and 1 December 2005, the effective dates requested by Aliant Telecom for TN 173 and TN 184, respectively.
17. The Commission further notes that on 15 February 2006, pursuant to Decision 2006-6, MTS Allstream provided its submission in confidence to Aliant Telecom, with a copy served on the Commission, identifying, by rate band, a number of access circuits that it leased during the interim period which terminated at an MTS Allstream switch located within Aliant Telecom's serving territory. MTS Allstream further identified which of those circuits were located in Bands E, F, and G and in place on 1 June 2002 or leased during the interim period and that are the subject of TNs 173 and 184, as amended.
18. Based on MTS Allstream's list, the Commission notes that no CDNA-eligible circuit was leased by MTS Allstream in Band G before 2004. The Commission considers that the effective date for the DS-0 rate in Band G should be the date a CDNA-eligible circuit was first leased by MTS Allstream.
19. With respect to the CDN DS-0 and DS-1 access rates in Bands E and F, the Commission considers that an effective date of 1 June 2002 is appropriate for TNs 173 and 184, as amended.
20. Finally, consistent with Decision 2005-6, the Commission is of the view that the rates approved in this Order should be adjusted to reflect the applicable inflation minus productivity offset (I-X) constraints for each of the years 2002 to 2005.
21. Accordingly, the Commission **approves on a final basis** Aliant Telecom TNs 173, 173A, and 173B, and TNs 184 and 184A with modifications. The modifications are as follows:
 - the effective date for all the proposed rates is to be 1 June 2002, except for the rate for DS-0 circuits in Band G, for which the effective date is to be the date a CDNA-eligible circuit was first leased by MTS Allstream; and

- the proposed rates are to be adjusted annually for each of the years 2002 to 2005 to reflect the application of the applicable I-X constraint, consistent with the same adjustment made to the rates of the other ILECs (except for Saskatchewan Telecommunications) for the period in question in Decision 2005-6.

Secretary General

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