



Telecom Decision CRTC 2007-118

Ottawa, 27 November 2007

SaskTel application to review and vary part of Telecom Decision 2007-27

Reference: 8662-S22-200710211

In this Decision, the Commission denies an application by SaskTel to review and vary part of Telecom Decision 2007-27. SaskTel had requested that the Commission: (1) rescind the determinations in that Decision regarding the application of imputed residential local rate increases to reduce the amount of the subsidy (subsidy requirement) for residential services in high-cost serving areas (HCSAs), and (2) initiate a proceeding to allow parties to comment on the application of imputed residential local rate increases in HCSAs to the subsidy requirement calculation.

Introduction

1. The Commission received an application from Saskatchewan Telecommunications (SaskTel), dated 13 July 2007, requesting that the Commission: (1) review and vary Telecom Decision 2007-27 by rescinding the Commission's determinations in that Decision regarding the application of imputed residential local rate increases to reduce the amount of the subsidy (subsidy requirement) for residential services in high-cost serving areas (HCSAs) (the impugned determinations), and (2) initiate a proceeding to allow parties to comment on the application of imputed residential local rate increases in HCSAs to the subsidy requirement calculation.
2. SaskTel submitted that there was substantial doubt as to the correctness of Telecom Decision 2007-27 because the impugned determinations were tainted by errors of law. Specifically, SaskTel submitted that: (1) the Commission's determinations were beyond the scope of the issues identified in Telecom Public Notice 2006-5, that initiated the proceeding that led to Telecom Decision 2007-27; (2) the Commission had failed to give proper notice that it had extended the scope of the proceeding initiated in Telecom Public Notice 2006-5 to include the issue of whether the subsidy requirement should be reduced through imputed residential local rate increases; and (3) the Commission had failed to provide sufficient opportunity for parties to address that issue properly.
3. The Commission received comments from Bell Canada, the Consumers' Association of Canada – Saskatchewan Branch (CAC Saskatchewan), and MTS Allstream Inc. (MTS Allstream). The record of the proceeding closed with SaskTel's reply dated 23 August 2007. The public record of this proceeding is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
4. The Commission has identified that the issue to be addressed in its determination is whether the process that led to Telecom Decision 2007-27 deprived SaskTel and other parties from making meaningful representations on the issue of mandated reductions to the subsidy requirement.

Positions of parties

5. SaskTel submitted that the only indication the Commission was considering the matter of reducing the subsidy requirement was through interrogatories sent to a limited number of parties. SaskTel argued that the subsidy requirement was unrelated to a price cap regime.
6. SaskTel stated that the majority of the parties that responded to the interrogatories in question argued that the matter of reducing the subsidy requirement necessitated further consideration and should be addressed in a separate proceeding. SaskTel argued that absent such a process, parties were deprived of their right to test the evidence and make meaningful representations. CAC Saskatchewan supported SaskTel's application, submitting, among other things, that SaskTel's customers in HCSAs, or their representatives, were not given an opportunity to present submissions on the matter.
7. Bell Canada and MTS Allstream submitted that the impugned determinations were within the scope of the proceeding that led to Telecom Decision 2007-27, and that they were consistent with previous Commission decisions.

Commission's analysis and determinations

8. As a preliminary matter, the Commission notes that CAC Saskatchewan was not a party to the proceeding that led to Telecom Decision 2007-27. The Commission further notes that the Telecom Decision 2007-27 proceeding involved the participation of several consumer groups, including the national and Manitoba branches of the Consumers' Association of Canada, and that these groups did not intervene in the proceeding initiated by SaskTel's review and vary application.
9. In the impugned determinations, the Commission directed the incumbent local exchange carriers (ILECs) to impute, for subsidy calculation purposes, effective 1 June of each year, residential local rate increases based upon the lesser of the inflation rate or five percent, for bands that receive subsidy where the individual residential local rate was below \$30.
10. In Telecom Decision 2007-27, the Commission noted that if it were to mandate local rate increases in HCSAs, the subsidy requirement would be reduced accordingly. However, rather than mandate increases, the Commission considered that it would be more consistent with the price cap regime that the decision to increase residential local rates in HCSAs should reside with the ILEC. At the same time, the Commission noted that, under the subsidy regime then in place, the ILECs had no incentive to increase local rates given that any such increases would be entirely offset by a corresponding decrease in subsidy payments received by them. Accordingly, the Commission determined that imputed local rate increases should be applied to reduce the subsidy requirement, regardless of whether the ILEC in question actually increased rates, up to a target rate of \$30. As discussed in Telecom Decision 2007-27, a target residential local rate of \$30 was considered not to be unreasonable given that approved rates in some HCSAs were already in excess of \$30, and that the rates in question were below cost. The Commission notes that SaskTel is the only ILEC that chose not to implement rate increases.

11. The Commission notes that the issue of the subsidy requirement is intrinsically linked to the matter of local exchange service rates because, as noted above, to the extent that such rates are increased, there is necessarily an offsetting reduction in the subsidy requirement. The Commission further notes that measures to reduce the subsidy for local exchange service have been in place since the Commission's rate rebalancing determinations in Telecom Decision 94-19, which consisted of local rate increases with corresponding decreases to basic interexchange rates.
12. In the proceeding that led to Telecom Decision 2007-27, the Commission considered, among other things, what changes, if any, should be made to the pricing constraints for individual services or rate elements that had been determined in Telecom Decision 2002-34.¹ Given the intrinsic link between rates and the subsidy requirement, as discussed above, the Commission considers that, contrary to SaskTel's submission, the issue of whether the subsidy requirement should be reduced was clearly within the scope of the proceeding initiated in Telecom Public Notice 2006-5. In this respect, the Commission also notes that in its evidence filed in the proceeding that led to Telecom Decision 2007-27, TELUS Communications Company (TCC) specifically requested that the subsidy requirement be frozen pending the outcome of the proceeding established in Telecom Public Notice 2007-4 to consider Phase II costs.
13. The Commission also notes that by way of a Commission interrogatory sent to the company and other parties dated 29 September 2006, SaskTel and other parties, including the Consumers' Association of Canada, were given an opportunity to provide their views on the matter of mandated reductions to the subsidy requirement.
14. The Commission notes that in SaskTel's response, while arguing, among other things, that the subsidy requirement issue should be addressed through a separate proceeding, the company did provide detailed submissions on the matter, stating that its comments were made in the event the Commission were to address the issue in the proceeding that led to Telecom Decision 2007-27. In its comments, SaskTel argued, among other things, against the principle of mandated reductions to the subsidy requirement.
15. In the Commission's view, SaskTel and other parties also had the opportunity to address the issue during the oral phase of the proceeding through cross-examination of witnesses and in final argument. They also had that opportunity in reply argument. SaskTel chose not to. By contrast, the Commission notes that during the oral hearing, the Consumers' Association of Canada and the National Anti-Poverty Organization undertook cross-examination on the matter of mandated reductions to the subsidy requirement, specifically referring to the Commission interrogatory noted above. Further, the Commission notes that TCC addressed the issue of mandated reductions to the subsidy requirement through mandated rate increases in its final argument.

¹ In Telecom Decision 2002-34, the Commission established the price regulation regime that would apply during the following four years to the ILECs.

16. In light of the above, the Commission is not persuaded that errors of law were made with respect to the process that led to the impugned determinations. Accordingly, the Commission finds that there is no substantial doubt as to the correctness of Telecom Decision 2007-27 and therefore **denies** SaskTel's application.

Secretary General

Related documents

- *Price cap framework for large incumbent local exchange carriers*, Telecom Decision CRTC 2007-27, 30 April 2007
- *Review of certain Phase II costing issues*, Telecom Public Notice CRTC 2007-4, 30 March 2007
- *Review of price cap framework*, Telecom Public Notice CRTC 2006-5, 9 May 2006
- *Regulatory framework for second price cap period*, Telecom Decision CRTC 2002-34, 30 May 2002, as amended by Telecom Decision CRTC 2002-34-1, 15 July 2002
- *Review of regulatory framework*, Telecom Decision CRTC 94-19, 16 September 1994

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