



Telecom Decision CRTC 2007-132

Ottawa, 20 December 2007

Télébec, Limited Partnership and TELUS Communications Company – Local network interconnection and network component unbundling

Reference: Télébec Tariff Notices 322 and 322A
TCC Tariff Notice 399

In this Decision, the Commission approves Télébec, Limited Partnership's (Télébec) application to introduce terms, conditions, and rates for local network interconnection and network component unbundling on a final basis, and approves a similar application by the former TELUS Communications (Québec) Inc., now part of TELUS Communications Company (TCC), on a final basis with changes. The Commission also gives effect to its long-standing practice of setting identical retail 9-1-1 rates and competitive local exchange carrier (CLEC) 9-1-1 access rates for Télébec and TCC (the applicants), and reviews and varies Telecom Decision 2005-4 with respect to CLEC 9-1-1 access rates. The Commission directs the applicants to file for Commission approval tariff revisions reflecting the determinations of Telecom Decision 2006-35 within 30 days of the date of this Decision.

Introduction

1. The Commission received an application by the former TELUS Communications (Québec) Inc., now part of TELUS Communications Company (TCC), dated 12 May 2005, and an application by Télébec, Limited Partnership (Télébec), dated 27 June 2005, proposing revisions to TCC's Access Services Tariff (AST) and Télébec's General Tariff in order to introduce terms, conditions, and rates for local network interconnection and network component unbundling. These companies filed their applications pursuant to Telecom Decision 2005-4.
2. In Telecom Decision 2005-4, the Commission approved Type A unbundled local loop rates based on the Phase II costs plus a 25 percent mark-up for TCC and Télébec (collectively, the applicants). The Commission directed the applicants to file for approval proposed tariff pages for other local interconnection services using the terms and conditions already approved for Bell Canada, but with the associated rates marked up by 8.7 percent, or in the alternative, rates that were based on company-specific costs plus a 25 percent mark-up, with supporting cost justification.
3. In their applications, the applicants proposed to adopt (i) the local network interconnection and network component unbundling terms and conditions already approved for Bell Canada, (ii) the applicants' unbundled loop rates approved by the Commission in Telecom Decision 2005-4, and (iii) Bell Canada's rates marked up by 8.7 percent for all local network interconnection services, except for the competitive local exchange carrier (CLEC) 9-1-1 access rates. In the case of their CLEC 9-1-1 access services, the applicants proposed instead to adopt their existing retail 9-1-1 rates.

4. The Commission approved TCC's application in Telecom Order 2005-202 on an interim basis, effective 19 July 2005, and Télébec's application in Telecom Order 2005-311 on an interim basis, effective 30 August 2005.
5. The Commission received comments and/or reply comments from Bell Canada; Quebecor Media Inc. (QMI), on behalf of its subsidiaries Videotron Telecom Ltd. and Videotron Ltd.; and TCC. The record of the proceeding for TCC's application closed with TCC's reply comments dated 15 June 2005, and the record of the proceeding for Télébec's application closed with comments from QMI, dated 12 July 2005. The public records of these proceedings are available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Issues

6. The Commission has identified the following four issues to be addressed in its determinations:
 - I. Do the applicants' proposed tariffs comply with the Commission's determinations in Telecom Decision 2005-4?
 - II. Are the applicants' proposed monthly CLEC 9-1-1 access rates appropriate?
 - III. Is TCC's proposed tariff structure for 9-1-1 interconnection reasonable?
 - IV. Should the applicants' proposed tariffs reflect the local interconnection regions approved in Telecom Decision 2006-35?

I. Do the applicants' proposed tariffs comply with the Commission's determinations in Telecom Decision 2005-4?

7. In Telecom Decision 2005-4, the Commission directed the applicants to file tariffs for local network interconnection and network component unbundling based on its determinations in that Decision.
8. The Commission has reviewed the applications and is satisfied that they comply with its determinations in Telecom Decision 2005-4, except with respect to their CLEC 9-1-1 access rates. For this service, the applicants proposed to set their CLEC 9-1-1 access rates equal to their retail 9-1-1 rates of \$0.32 per working telephone number per month.
9. Accordingly, the Commission determines that the applicants' local interconnection terms, conditions, and rates, other than those pertaining to CLEC 9-1-1 access, are appropriate.

II. Are the applicants' proposed monthly CLEC 9-1-1 access rates appropriate?

Positions of parties

10. QMI noted that the applicants proposed a CLEC 9-1-1 access rate of \$0.32 per working telephone number per month. QMI indicated that Bell Canada's initial retail 9-1-1 rate was

approved at that level, but had since decreased to \$0.20 per working telephone number per month, consistent with the formula used for the annual recalculation of retail 9-1-1 rates established in Telecom Decision 99-17, and modified in Order 2000-630 (the modified formula).

11. QMI noted that the applicants were not required, like other incumbent local exchange carriers (ILECs), to use the modified formula to recalculate their retail 9-1-1 rates. QMI submitted that nothing explained why the modified formula was just and reasonable for certain ILECs but not for others. QMI requested that the Commission examine why the applicants should not use the modified formula, and argued that it should apply to them as soon as possible.
12. TCC noted that the applicants had not been made party to the proceeding initiated by Telecom Public Notice 98-25, which led to Telecom Decision 99-17. TCC submitted that QMI's request was outside the scope of this proceeding.

Commission's analysis and determinations

13. The Commission notes that, in Telecom Orders 95-793 and 97-309, it approved for the applicants the monthly retail 9-1-1 rates of \$0.32 per working telephone number, and that these rates are still in place today. The Commission also notes that, in Telecom Orders 2005-202 and 2005-311, the applicants' monthly CLEC 9-1-1 access rates of \$0.32 per working telephone number were given interim approval.
14. The Commission notes that, since the introduction of local competition in 1997 and in compliance with subsection 27(2) of the *Telecommunications Act* (the Act), it has had a long-standing practice of setting the large ILECs' CLEC 9-1-1 access rates equal to their retail 9-1-1 rates. The Commission considers that, in order to be consistent with this practice, Telecom Decision 2005-4 ought to have included specific directions to the applicants that their CLEC 9-1-1 access rates should be set equal to their retail 9-1-1 rates.
15. In the Commission's view, approving the \$0.32 rate per working telephone number per month for CLEC 9-1-1 access on a final basis would constitute a review and vary of Telecom Decision 2005-4. The Commission notes that setting the applicants' CLEC 9-1-1 access rates pursuant to its directive in Telecom Decision 2005-4 would result in significantly lower CLEC 9-1-1 access rates than the applicants' retail 9-1-1 rates. The Commission considers that this would unjustly discriminate against the applicants' retail customers, or give an undue or unreasonable preference to the CLECs. The Commission also considers that, in order to avoid this outcome, it must give effect to its long-standing practice of setting an ILEC's CLEC 9-1-1 access rate equal to its retail 9-1-1 rate.
16. In light of the record of this proceeding, the Commission considers that there is substantial doubt as to the correctness of calculating the applicants' CLEC 9-1-1 access rates based on Bell Canada's rate plus an 8.7 percent mark-up, or based on company-specific costs plus a 25 percent mark-up supported by a cost study. The Commission therefore reviews and varies Telecom Decision 2005-4 to direct the applicants to file for approval tariffs whereby their CLEC 9-1-1 access rates would be set equal to their retail 9-1-1 rates.

17. For these reasons, the Commission approves on a final basis the applicants' proposed CLEC 9-1-1 access rates of \$0.32 per working telephone number per month.
18. The Commission notes QMI's concern regarding the level of the applicants' retail 9-1-1 rates and proposed CLEC 9-1-1 access rates, and its request that the applicants' retail 9-1-1 rates be subject to the modified formula. In this regard, the Commission notes that other large ILECs' retail 9-1-1 rates have been subject to the modified formula and have steadily declined as a result. For example, Bell Canada's retail 9-1-1 rate, and thus its CLEC 9-1-1 access rate, is currently at \$0.19.
19. The Commission considers that 9-1-1 service is an important public safety service required by end-users. The Commission also considers that, while there could be differences between companies in the cost of providing 9-1-1 service, it is in the public interest for the retail 9-1-1 rates, and by extension the CLEC 9-1-1 access rates, to more accurately reflect the costs of providing this service.
20. Accordingly, the Commission directs the applicants to file for approval, within 90 days of this Decision, revised retail 9-1-1 rates that are (i) set at the level approved for Bell Canada and updated annually to reflect the changes operated to Bell Canada's retail 9-1-1 rate, or (ii) based on company-specific costs supported by cost-justification, and subject to the annual recalculation using the modified formula. The applicants are also directed to file, at the same time, revised CLEC 9-1-1 access rates that are set equal to their proposed retail 9-1-1 rates.

III. Is TCC's proposed tariff structure for 9-1-1 interconnection reasonable?

Positions of parties

21. QMI noted that TCC proposed a monthly tariff of \$60 per DS-0 and a service charge of \$300 per order for circuits between the CLEC local switch and TCC's 9-1-1 transit switch. QMI submitted that the proposed tariff also referred to the Digital Network Access (DNA) tariff. The company suggested that, as a result, CLECs who interconnected with TCC's 9-1-1 network would pay all DNA charges for the circuits involved, as well as the additional charges of \$60 per month per DS-0 and \$300 per order.
22. QMI noted that, in Order 2000-212, the Commission replaced Bell Canada's existing 9-1-1 interconnection tariff structure by a simple reference to its DNA tariff, thus eliminating the \$60 monthly charge per DS-0 and the service charge of \$300 per order from the company's local interconnection tariff.
23. QMI indicated that it supported Télébec's tariff structure for 9-1-1 interconnection circuits that consisted of a single reference to its DNA tariff. QMI submitted that a simple reference to the DNA tariff would be more effective and fair than TCC's proposed *ad hoc* tariff structure for 9-1-1 interconnection circuits. Consequently, QMI requested that the Commission direct TCC to remove from its tariff proposal the \$60 monthly charge per DS-0 and the service charge of \$300 per order for 9-1-1 interconnection circuits.
24. TCC submitted that the application of the proposed tariff would depend on the particular customer requirements. TCC noted that, under its tariff proposal, interconnection could be

operated by different means (DS-0, DS-1, etc.) and that it would thus bill the \$60 monthly charge and the \$300 service charge only if a customer requested DS-0 interconnection circuits.

Commission's analysis and determinations

25. The Commission is of the view that TCC's proposed tariff structure, whereby a DS-0 monthly charge and a service charge appear in both the CLEC 9-1-1 access tariff and the DNA tariff, is confusing and could possibly lead to double billing disputes. Therefore, the Commission directs TCC to remove the \$60 monthly DS-0 charge and the \$300 service charge from the 9-1-1 interconnection tariff, namely its AST sub-item 1.05.04c.(2), and only provide an explicit reference to its DNA tariff.

IV. Should the applicants' proposed tariffs reflect the local interconnection regions approved in Telecom Decision 2006-35?

Positions of parties

26. QMI noted that, in Telecom Decision 2006-35, the Commission approved Bell Canada's tariff revisions to establish the company's local interconnection regions (LIRs). QMI submitted that the applicants' proposed tariffs did not reflect those revisions. QMI stated that it would be in the interest of all local service providers to operate with a single set of tariff provisions regarding LIRs. QMI requested that the Commission ensure that TCC's proposed tariffs reflect any modification to Bell Canada's application approved by the Commission in Telecom Decision 2006-35.
27. TCC submitted that, before including changes to its tariff based on Bell Canada's application, it was essential to know the approved provisions in order to evaluate if there were distinctions that would be appropriate for TCC's serving territory in Quebec. TCC noted that it would examine its tariff provisions for local interconnection in light of the Commission's decision regarding Bell Canada's application.

Commission's analysis and determinations

28. The Commission notes that, in Telecom Decision 2006-35, it approved Bell Canada's application with changes, including amended definitions of the LIR and the approval on a final basis of the interconnection rates for the termination of CLEC intra-LIR traffic for each ILEC.
29. In Telecom Decision 2006-35, the Commission also approved the applicants' proposed LIRs and default points of interconnection (POIs) within their serving territories. The Commission notes that it has recently received a tariff application by Télébec proposing to permit CLECs to interconnect at the LIR level. However, the Commission notes that TCC has not yet filed amended tariff pages following the issuance of Telecom Decision 2006-35.
30. The Commission directs TCC to file tariff revisions reflecting the determinations of Telecom Decision 2006-35 within 30 days of the date of this Decision, and include definitions of approved LIRs, lists of the exchanges within each LIR, the designated POI for each LIR, the designated signalling point of interconnection within each numbering plan area, and the interconnection rates for the termination of CLEC intra-LIR traffic.
31. Consistent with its determinations in Telecom Decision 2005-4, the Commission also directs TCC to use the terms and conditions already approved for Bell Canada with (i) the associated rates marked up by 8.7 percent, or (ii) rates that are based on company-specific costs plus a

25 percent mark-up, with supporting cost justification.

Policy Direction

32. The Governor in Council issued *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, dated 14 December 2006 (the Policy Direction). The Commission considers that the establishment of tariffs allowing CLECs to access the ILECs' telecommunications networks is necessary. Since the ILECs are the only source for providing access to their networks, market forces cannot be relied upon to arrive at rates, terms and conditions that are just and reasonable. The Commission considers that the above determinations are consistent with the Policy Direction and advance the following policy objectives set out in section 7 of the Act:

(b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada;

(f) to foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective; and

(h) to respond to the economic and social requirements of users of telecommunications services.

Conclusion

33. In light of the above, the Commission **approves on a final basis** the applicants' tariff applications with the changes identified above, effective the date of this Decision. The applicants are directed to issue revised tariff pages within 10 days of this Decision.

Secretary General

Related documents

- *Follow-up to Trunking arrangements for the interchange of traffic and the point of interconnection between local exchange carriers, Telecom Decision CRTC 2004-46*, Telecom Decision CRTC 2006-35, 29 May 2006
- Telecom Order CRTC 2005-311, 30 August 2005
- Telecom Order CRTC 2005-202, 25 May 2005

- *Implementation of competition in the local exchange and local payphone markets in the territories of Société en commandite Télébec and the former TELUS Communications (Québec) Inc.*, Telecom Decision CRTC 2005-4, 31 January 2005
- *Rates modified for province-wide 9-1-1 service*, Order CRTC 2000-630, 6 July 2000
- *Bell Canada – Charges for transport facilities*, Order CRTC 2000-212, 23 March 2000
- *9-1-1 Service – Rates for Wireless Service Providers, Centrex Customers and Multi-Line Customers/Manual Access to the Automatic Location Identification Database*, Telecom Decision CRTC 99-17, 29 October 1999
- *9-1-1 Service – Rates for wireless service providers, Centrex customers and multi-line customers/manual automatic location identification requests*, Telecom Public Notice CRTC 98-25, 22 September 1998
- Telecom Order CRTC 97-309, 6 March 1997
- Telecom Order CRTC 95-793, 14 July 1995

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