



Telecom Order CRTC 2007-177

Ottawa, 18 May 2007

TELUS Communications Company

Reference: Former TCI Tariff Notice 571
Former TCBC Tariff Notice 4257

Centrex Service rate increases

In this Order, the Commission approves on a final basis TELUS Communications Company's applications to increase its Centrex Service rates in Alberta and British Columbia.

Introduction

1. The Commission received two applications by TELUS Communications Company (TCC), dated 7 September 2006, to modify the former TELUS Communications Inc. (TCI) General Tariff item 585 – Centrex Service, under TCI Tariff Notice 571, and the former TELUS Communications (B.C.) Inc. (TCBC) General Tariff item 43 – Centrex Service, under TCBC Tariff Notice 4257. In its applications, TCC proposed rate increases to the Provincial Centrex Service in Alberta, to the Regional Centrex Service in British Columbia, and to the Centrex Multiline Service in both provinces.
 2. In Telecom Order CRTC 2006-247, 20 September 2006 (Order 2006-247), the Commission approved on an interim basis TCC's applications effective 1 December 2006.
 3. The Commission received comments from MTS Allstream Inc. (MTS Allstream) and reply comments from TCC. The record of this proceeding closed on 10 October 2006.
 4. The Commission considers that TCC's applications and MTS Allstream's comments raise the following issues:
 - I. Reasonableness of Centrex Service rate increases;
 - II. Centrex Service contract terms and conditions;
 - III. Reasonableness of Centrex Service termination penalties; and
 - IV. Appropriateness of waiving Centrex termination penalties for customers migrating to other contracted services.
- I. Reasonableness of Centrex Service rate increases*
5. TCC proposed increases ranging from 5 to 10 percent to its rates for Centrex Service.

6. MTS Allstream submitted that TCC had provided no justification, explanation, or evidence in its applications for the rate increases.
7. TCC noted that in *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 (Decision 2002-34), the Commission had assigned TCC's Centrex Service to the Uncapped Services basket, which was not subject to a basket index nor a rate element constraint. TCC submitted that it had filed its applications in compliance with Decision 2002-34.
8. The Commission agrees that Centrex Service is an uncapped service and the rates for this service are not subject to upward pricing constraints.

II. Centrex Service contract terms and conditions

9. MTS Allstream submitted that by unilaterally imposing a substantial 5 to 10 percent rate increase, TCC was changing the contract terms and conditions with its existing Centrex customers. MTS Allstream also submitted that the termination penalties in TCC's Centrex Service tariffs prevented TCC customers from effectively responding to this change in their contracts. MTS Allstream further submitted that TCC customers must either accept a rate increase or suffer significant monetary penalties.
10. MTS Allstream submitted that the applications should be denied unless TCC's Centrex Service tariffs were modified to allow TCC customers to terminate their contracts with TCC and to transition to the service platforms of competing providers without penalty.
11. In response, TCC submitted that the proposed rate increases did not alter contract terms and conditions with its existing Centrex customers. TCC also submitted that its Centrex Service contract specifically contemplated provisions for potential service rate changes. In addition, TCC indicated that its General Tariff item 585.3.8 – Centrex Service – Condition of Service stated that "monthly rental and contracted Centrex Service access rates will be subject to rate changes as approved by the CRTC."
12. The Commission notes that TCC's Centrex Service tariffs and contract specifically contemplate potential rate changes approved by the Commission. Therefore, such rate changes do not invalidate a contract.

III. Reasonableness of Centrex Service termination penalties

13. MTS Allstream submitted that the termination clauses in TCC's Centrex Service contractual agreements had contributed largely to TCC's dominance of the local exchange market for businesses. MTS Allstream further submitted that TCC's Centrex Service tariffs applied monetary penalties to customers with long-term contracts when they terminated Centrex Service before the contract term expired, and when they reduced the number of Centrex locals or lines during the contract term.

14. TCC replied that no service provider would allow its customers to prematurely terminate contracts in order to migrate to services offered by another provider without charging them penalties, since this would render the contracts meaningless. TCC indicated that MTS Allstream, many other service providers, and several incumbent local exchange carriers (ILECs) also had penalty provisions in their respective tariffs that imposed early contract termination penalties.
15. The Commission notes that, in *Bell Canada and Bell Aliant Regional Communications, Limited Partnership – Centrex III and Enhanced Exchange-Wide Dial services*, Telecom Order CRTC 2006-281, 20 October 2006 (Order 2006-281), it stated that:

... if the Commission were to direct the Companies, as has been essentially suggested by MTS Allstream, to modify the terms of their Centrex tariffs, and by extension other tariffs, so as to provide customers with the ability to reduce or eliminate their use of a service during the term of a contract period without incurring any penalties, the Commission considers that incentives for the ILECs to continue to make available discounted pricing plans for their customers would be greatly reduced.
16. In *Bell Canada and Bell Aliant Regional Communications, Limited Partnership – Centrex III Service – Termination charge calculation*, Telecom Order CRTC 2007-16, 19 January 2007 (Order 2007-16), the Commission noted that if MTS Allstream's suggestion to allow customers to migrate without penalties was adopted, customers would only have non-contracted monthly rates in the tariff. The Commission noted that these rates would be much higher than long-term rates.
17. In view of the Commission's findings in Orders 2006-281 and 2007-16, the Commission considers that the termination penalties set out in TCC's Centrex tariffs are not unreasonable.

IV. Appropriateness of waiving Centrex termination penalties for customers migrating to other contracted services

18. MTS Allstream submitted that TCC had conferred an undue advantage on itself by waiving the Centrex termination penalties for customers migrating to other TCC network access services, including its [Internet Protocol] IP-Evolution Service. MTS Allstream also submitted that TCC was marketing its IP-Evolution Service as a substitute to its traditional Centrex Service. The company further submitted that TCC had made a calculated decision in proposing rate increases in order to persuade its Centrex customers to migrate to its IP-Evolution Service, while leaving the IP-Evolution Service rates untouched.
19. TCC submitted that MTS Allstream had similar waiver conditions in its Centrex tariffs that stated that a customer could migrate to other MTS Allstream access services without incurring termination penalties if the charges under the new contract were equal to or greater than the charges remaining on customer's existing contract.
20. TCC noted that in *Bell Canada – Migration from Centrex services to other contracted access services*, Telecom Order CRTC 2004-100, 26 March 2004 (Order 2004-100), the Commission had approved Bell Canada's application proposing the migration from Centrex Services to other contracted access services, and had found that, on balance, this proposal would benefit customers and have a minimal impact on competition.

21. TCC indicated that, in Order 2004-100, the Commission had noted that the main reason for a Centrex customer to switch to another access service was to replace it with one better suited to its financial or operational needs. TCC also indicated that the Commission had found the competitors' proposal to direct Bell Canada to waive termination charges should a customer choose to switch to a competitor's access service to be without merit.
22. Regarding MTS Allstream's comment that TCC was trying to persuade customers to move to its IP-Evolution Service, TCC submitted that when it proposed Centrex Service rate changes, there was no Commission directive that required it to also change its IP-Evolution Service rates or those of other services. TCC also submitted that encouraging customers to migrate to newer technology-based services by increasing the older service rates was not anti-competitive.
23. In Order 2007-16, the Commission noted that Bell Canada's and Bell Aliant Regional Communications, Limited Partnership's existing Centrex III Service tariffs contained provisions for the waiver of contract termination charges in a variety of circumstances, including migrations to other access services that were also subject to minimum contract periods. In Order 2007-16, the Commission noted that similar provisions were found in other ILECs' tariffs, including MTS Allstream's tariffs.
24. In *MTS Communications Inc. – Terms of service for early termination of contracted service*, Telecom Order CRTC 2004-101, 26 March 2004 (Order 2004-101), the Commission found that allowing customers the flexibility to migrate services to other contracted services without incurring termination charges was an industry standard provision. In Order 2007-16, the Commission considered that encouraging customers to migrate to newer technology-based services was not anti-competitive.
25. In view of the Commission's findings in Orders 2004-101 and 2007-16, the Commission considers that MTS Allstream's comment regarding the anti-competitiveness of the termination provisions in TCC's Centrex Service tariffs is without merit.

Conclusion

26. In light of the above, the Commission **approves on a final basis** TCC's applications.

Secretary General

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