



Telecom Order CRTC 2007-206

Ottawa, 11 June 2007

Bell Canada and Bell Aliant Regional Communications, Limited Partnership

Reference: Bell Canada Tariff Notice 7001, Bell Aliant Regional Communications, Limited Partnership Tariff Notice 56

Accelerated Installation service

In this Order, the Commission approves on a final basis applications by Bell Canada and Bell Aliant Regional Communications, Limited Partnership, to introduce Accelerated Installation service.

Introduction

1. The Commission received applications by Bell Canada and Bell Aliant Regional Communications, Limited Partnership (collectively, the Companies), both dated 13 November 2006, in which they proposed to revise General Tariff item 106 – Accelerated Installation service (AIS) to change the nature of the service from a market trial to a generally available service. The Companies submitted that AIS would provide customers with a delivery date that was earlier than the original system due date for specific business services. They also submitted that they wished to introduce AIS with additional analogue and digital private line services that customers had requested during the market trial.
2. The Companies submitted that AIS was a discretionary service that was available to all business customers. Accordingly, they proposed that it be assigned to the uncapped category under the price cap framework set out 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.
3. In Telecom Order CRTC 2006-323, 23 November 2006, the Commission granted interim approval to the Companies' applications.
4. The Commission received comments from MTS Allstream Inc. (MTS Allstream). The record closed with the Companies' reply comments, dated 20 December 2006.

MTS Allstream's comments

5. MTS Allstream submitted that the proposed tariffs included Competitor Digital Network (CDN) and Ethernet Access services, which they noted were competitor or wholesale services. MTS Allstream also noted that the market trial had not included these services. Furthermore, the company noted that in the two instances where it had requested earlier service delivery during the trial, Bell Canada had missed the requested accelerated due dates.

6. MTS Allstream submitted that including Competitor Services in the body of a retail tariff was inappropriate. MTS Allstream also submitted that Competitor Services were services that competitors used to develop competing alternatives for end-users and that changes to these tariffs affected both competitors and their end-customers.
7. MTS Allstream submitted that since the Companies were offering AIS on a retail basis, it was likely that the rates reflected the perceived value to a business customer and did not conform to the appropriate pricing for Competitor Services. MTS Allstream requested, therefore, that the Commission direct the Companies to remove references to CDN and Ethernet Access services from the AIS tariff.
8. MTS Allstream suggested that AIS would have the effect of introducing a premium level of retail service for customers willing to pay additional fees to have their circuits delivered earlier than other customers. It submitted that a comparison of retail and competitor quality of service (Q of S) indicators demonstrated that competitor Q of S had not been a priority for the Companies. MTS Allstream expressed concern that this situation would be exacerbated by AIS since the delivery of premium-rated services would become the Companies' top priority.
9. MTS Allstream requested clarification about how the Companies:
 - would apply the charges for a DS-1 circuit requiring an access and an intra-exchange or interexchange channel (IX channel);
 - would charge a customer that ordered three DS-1 accesses to the same address; and
 - defined the standard interval for the original system due date.
10. MTS Allstream submitted that these clarifications would ensure that customers fully understood what the normal delivery intervals were for each of the retail services referenced in the tariff, what effect the tariff would have on multiple orders at the same location, and how AIS would apply for circuits that included access and IX channels. MTS Allstream submitted that the ambiguity inherent in the proposed AIS tariff was not acceptable and, without this clarity, quality of service could erode and customers could be overcharged.

Reply comments

11. The Companies noted that although Ethernet Access service was a Category II competitor service, it was available to both retail and wholesale customers.
12. Regarding MTS Allstream's comments that including Competitor Services in a retail tariff was inappropriate, the Companies noted that, with the exception of CDN service, all the services included in the applications were offered on a retail basis, even though wholesale customers could and did make use of virtually all of them. The Companies submitted that, accordingly, they had filed the applications using a retail service rate structure.

13. The Companies submitted that AIS was available to all business customers, including wholesale customers, regardless of the nature of the underlying services being requested. The Companies submitted that the incidental availability of AIS with CDN service did not alter its predominant nature as a discretionary retail service.
14. Regarding MTS Allstream's request to remove references to CDN and Ethernet Access services from the AIS tariff, the Companies noted that Ethernet Access service was available to both retail and wholesale customers and, accordingly, there was no issue with referring to it in the proposed retail tariffs. With respect to CDN, the Companies noted that they would not object to withdrawing accelerated installation options for this service. The Companies submitted, however, that they had included CDN within the set of eligible services for AIS to address competitive parity issues for their wholesale service customers.
15. The Companies noted that a primary objective of AIS was to eliminate the costly and time-consuming case-by-case escalations associated with accelerated installation requests. The Companies submitted that, accordingly, it was a good idea to offer AIS for CDN services.
16. The Companies submitted that meeting the Q of S indicators was a priority for them, particularly in light of the local forbearance criteria that required positive Q of S results.
17. Regarding MTS Allstream's request for clarification, the Companies indicated that:
 - if a customer's DS-1 circuit required digital network access (DNA) and IX channels, the Companies would bill only one service charge since this would be considered an end-to-end circuit requiring only one circuit number;
 - if a customer ordered three DS-1s to the same address, three service charges would apply since one service charge applied per circuit for orders with an AIS due date; and
 - the original system due date differed for the eligible products due to factors such as the availability of suitable facilities, distance, territory, provisioning, and availability of outside technical resources. The Companies noted that the due dates were provided by the Companies' operational support systems and could not be specified in the proposed tariff.

Regulatory background

18. In *Forbearance from the regulation of retail local exchange services*, Telecom Decision CRTC 2006-15, 6 April 2006 (Decision 2006-15), the Commission set out forbearance criteria for retail local telephone service, which included meeting certain competitor Q of S indicators, such as indicator 1.19, Confirmed Due Dates Met – CDN Services and Type C Loops (indicator 1.19).

19. In *Follow-up to Finalization of quality of service rate rebate plan for competitors, Telecom Decision CRTC 2005-20 – Service intervals for provisioning CDN services and Type C loops*, Telecom Decision CRTC 2006-34, 26 May 2006 (Decision 2006-34), the Commission finalized the service intervals for CDN services and Type C loops that competitors acquire from the incumbent local exchange carriers (ILECs). These service intervals are based on intervals for similar services that the ILECs provide to their retail customers.
20. On 14 December 2006, the Governor in Council issued *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534 (the Policy Direction). The Policy Direction requires, among other things, that the Commission, when relying on regulation, use measures that are efficient and proportionate to their purpose and interfere with the operation of competitive market forces to the minimum extent necessary to meet the Canadian telecommunications policy objectives set out in section 7 of the *Telecommunications Act*.
21. On 4 April 2007, the Governor in Council issued *Order varying Telecom Decision CRTC 2006-15*, P.C. 2007-532 (the Order). Among other things, the Order revised the criteria for granting forbearance from regulation of retail local exchange services. The Order allows for forbearance for residential and business local exchange services in an exchange when the ILEC demonstrates that a certain number of competitors are present in the exchange and that it has met competitor Q of S standards during the preceding six-month period for various indicators, including indicator 1.19.

Commission's analysis and determinations

22. Regarding MTS Allstream's comment that it was inappropriate to include Competitor Services in the body of a retail tariff, the Commission notes that Competitor Services are included in certain other retail tariffs and considers that it is reasonable in this case to include CDN and Ethernet Access services in the AIS tariff.
23. Regarding MTS Allstream's request to remove references to CDN and Ethernet Access services from the AIS tariff, the Commission notes that this would make AIS unavailable for these services and considers that this would hamper competitors' abilities in situations where the equivalent retail services could be obtained earlier. The Commission considers, therefore, that accepting MTS Allstream's proposal would interfere with the operation of competitive market forces, contrary to the Policy Direction.
24. The Commission considers that MTS Allstream's concerns regarding a potential decrease in competitor Q of S are unwarranted because the requirement for an ILEC to meet the competitor Q of S indicators in order to be granted forbearance for local exchange services pursuant to Decision 2006-15 and the Order would increase the ILEC's motivation to meet those indicators.
25. The Commission is satisfied that the Companies have clarified the application of the AIS tariff for certain data services in response to MTS Allstream's request. The Commission notes that if customers have questions, they can obtain responses directly from the Companies or, in case of conflict, can turn to the Commission.

26. Regarding MTS Allstream's request for clarification of the standard interval for the original system due date, the Commission notes that the standard service intervals for CDN services are set out in Decision 2006-34. The Commission also notes that in *Retail quality of service rate adjustment plan and related issues*, Telecom Decision CRTC 2005-17, 24 March 2005, it set out rate adjustments for retail customers in the event that the ILEC did not meet its retail Q of S standards, which include provisioning intervals for retail voice services such as business primary exchange service. Thus, except for CDN and retail local exchange service, the Commission has not mandated specific standard intervals for the Companies' services. The Commission considers, therefore, that the Companies' response to the request for clarification is reasonable.
27. In summary, the Commission notes that the proposed AIS tariff would apply when a customer requests a due date that is earlier than the original system due date. The Commission notes that when a customer orders a service, it will be provided with a system due date, at which point the customer can choose to request an earlier due date and avail itself of AIS. The Commission considers that business customers can decide whether to avail themselves of AIS depending on their business needs. Accordingly, the Commission considers that the service would satisfy customer needs based on their circumstances.
28. In light of the above, the Commission **approves on a final basis** the Companies' applications.

Secretary General

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