



Telecom Order CRTC 2007-430

Ottawa, 16 November 2007

Competitor Digital Network service – Competitor link service

Reference: Bell Aliant Regional Communications, Limited Partnership Tariff Notice 82
Bell Canada Tariff Notice 7028
Saskatchewan Telecommunications Tariff Notices 136, 136A, and 136B
TELUS Communications Company Tariff Notices 168B and 168C

In this Order, the Commission directs Bell Aliant Regional Communications, Limited Partnership, Bell Canada, and Saskatchewan Telecommunications to modify certain terms and conditions of their Competitor Digital Network service tariffs.

Further, the Commission determines that the incumbent local exchange carriers' competitor link service rates, terms, and conditions are to remain interim pending the conclusion of the Commission's Phase II costing review and essential service review proceedings, which are currently underway. The Commission expects that the rates, terms, and conditions for the services in question will not be applied retroactively when disposed of on a final basis.

Introduction

1. In Telecom Decision 2007-6, the Commission stated that to the extent that an incumbent local exchange carrier (ILEC) considered that costs incurred to connect a Competitor Digital Network (CDN) service to any other service in a central office (CO) were not recovered through the services being connected, the ILEC could file proposed tariffs to recover such costs.
2. The Commission received the following tariff notices, supported by cost studies, to introduce a competitor link service¹ to recover the additional costs associated with connecting a CDN service with a non-CDN service:
 - Bell Aliant Regional Communications, Limited Partnership (for services provided in Ontario and Quebec) (Bell Aliant) Tariff Notice 82 (TN 82) to introduce its CDN CO Link services;
 - Bell Canada Tariff Notice 7028 (TN 7028) to introduce its CDN CO Link services; and
 - Saskatchewan Telecommunications (SaskTel) Tariff Notice 136 (TN 136), as amended by Tariff Notices 136A and 136B (TNs 136A and 136B), to revise its CDN services tariff item to include the Competitor Link service.

¹ The Competitor links that are the subject of these proceedings provide the facilities to connect two services within a CO, where one end is connected to a CDN service, as defined in Telecom Decision 2005-6, and the other is connected to a non-CDN service.

3. The Commission approved Bell Aliant's TN 82 and Bell Canada's TN 7028 on an interim basis in Telecom Order 2007-130, effective 19 April 2007. The Commission approved SaskTel's TN 136, as amended by TN 136A, on an interim basis in Telecom Order 2007-173, effective 16 May 2007, and TN 136B on an interim basis in Telecom Order 2007-264, effective 30 July 2007.
4. In addition, TCC filed Tariff Notice 168A (TN 168A) to amend its existing CDN Other CO Connection Link service, which had been approved on an interim basis in Telecom Order 2005-323. The Commission approved TN 168A on an interim basis in Telecom Order 2007-59, effective 22 February 2007. Subsequent to that Order, TCC filed Tariff Notices 168B and 168C (TNs 168B and 168C) to amend the service's description and rate. The Commission approved TN 168B, as amended by TN 168C, on an interim basis in Telecom Order 2007-173, effective 16 May 2007.
5. The Commission refers to these services collectively as the competitor link services in this Order.
6. Subsequent to the above orders granting interim approval to the competitor link services for Bell Aliant, Bell Canada, SaskTel, and TCC (collectively, the applicants), the Commission issued interrogatories and established a process for further comments.
7. The Commission received comments, reply comments and/or responses to Commission interrogatories from Bell Aliant and Bell Canada (collectively, Bell Canada et al.), MTS Allstream Inc. (MTS Allstream), RCI Communications Inc. (RCI), SaskTel, and TCC. The record of the proceedings closed with reply comments, dated 8 August 2007 by Bell Canada et al., SaskTel, and TCC. The record of these proceedings is available on the Commission's Web site at www.crtc.gc.ca under "Public Proceedings".
8. The Commission has identified the following issues to be addressed in its determinations:
 - I. Should these applications be denied because the costs in question are already being recovered through CDN rates?
 - II. Are the competitor link service rate structures, costs, and rates appropriate?
 - III. Are proposed terms and conditions for competitor links appropriate?
 - IV. Should the Commission dispose of these tariff applications on a final basis?
9. Finally, in Part V, the Commission will address whether its determinations in this Order are consistent with the *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006 (the Policy Direction).

I. Should these applications be denied because the costs in question are already being recovered through CDN rates?

Positions of parties

10. MTS Allstream submitted that the applicants' tariff notices should be denied on the basis that their existing CDN rates already recovered the cost of the competitor links and that the applicants had not provided any rationale for the introduction of the competitor link rates.

Reply comments

11. Bell Canada et al. and SaskTel submitted that when two CDN services were connected, there was no requirement for a competitor link. They argued, however, that when a CDN service was connected to a non-CDN service, additional link costs were incurred and a competitor link was required, as indicated in their tariff applications. Bell Canada et al. and SaskTel further submitted that the proposed competitor link rates reflected costs such as the physical facility within the CO, circuit design, and circuit assignment to connect the CDN service to a non-CDN service.
12. In TCC's view, MTS Allstream's submission failed to reflect a proper understanding of TCC's tariff pages. TCC noted that its tariff pages excluded the competitor link charges when the service on one or both ends of the service item component was a CDN Access service.

Commission's analysis and determinations

13. Based on the record of this proceeding, the Commission is satisfied that each applicant has demonstrated that it incurs additional costs to provision competitor links to connect a CDN service with a non-CDN service and that these costs are not recovered through the services being connected. In this respect, the Commission notes that the competitor link services are based on technology solutions that incorporate the applicants' own particular provisioning practices. The Commission considers that it is appropriate for each applicant to recover the incremental resource costs associated with the provisioning of those links that are not otherwise recovered. Accordingly, the Commission disagrees with MTS Allstream's view that the applications should be denied on the basis that the costs are already recovered through existing CDN rates.

II. Are the competitor link service rate structures, costs, and rates appropriate?

Positions of parties

14. MTS Allstream submitted that there was a large disparity in the rates proposed by the applicants. In MTS Allstream's view, the costs for installing competitor links using cable in a CO should be similar among the applicants. Further, MTS Allstream proposed that, should the Commission allow for the recovery of these additional costs, a monthly rate rather than a one-time service charge should be applied because these links were reusable.

15. In addition, MTS Allstream requested that SaskTel's service charge associated with its service connection activities be denied since Bell Canada et al. and TCC had not proposed a corresponding service charge.
16. MTS Allstream further submitted that the link designs presented by SaskTel were inefficient and unnecessarily increased costs to competitors.
17. RCI argued that, consistent with Telecom Order 2005-323, competitor links had no ongoing costs and it was therefore inappropriate to apply a monthly rate. RCI requested that the Commission approve a one-time charge for Bell Canada et al.'s and SaskTel's competitor link services.
18. RCI submitted that TCC's TNs 168B and 168C should be denied because TCC had overstated its costs to provision the competitor links in light of the provisioning activity involved. RCI also submitted that TCC needed to clarify whether the one-time competitor link charge applied only to a new order and not to the existing installed base.

Reply comments

19. In response to MTS Allstream's submission regarding the range of link rates proposed by the applicants, TCC submitted that the service diagrams provided by the various applicants included different components and, therefore, their underlying costs and rates were different. TCC also argued that its costs associated with its competitor links related to expense items and, hence, were properly recovered through a service charge.
20. Regarding MTS Allstream's submission that SaskTel's service connection charge should be denied, SaskTel argued that its one-time service connection charge was appropriate because it met the unique connection needs of a single competitor and was designed to recover the associated installation costs. Further, in response to MTS Allstream's submission that the link designs presented by SaskTel unnecessarily increased costs to competitors, SaskTel replied that it had designed its network based on the principles of reliability and operational efficiency, while remaining cost efficient.
21. In response to RCI's comments that TCC's competitor link costs and service charges were overstated, TCC submitted that its competitor costs included costs associated with provisioning a link, such as running a cable between different locations in the CO and, sometimes, provisioning links through a software cross-connect, circuit design, and travel. TCC also submitted that the cost studies supporting TN 168C reflected all costs associated with provisioning competitor links, including portfolio costs that had been excluded by the Commission in Telecom Order 2005-323. TCC clarified that its competitor link charge applied only to new installations.
22. Regarding RCI's comments that a one-time service charge would be appropriate for the competitor link service, Bell Canada et al. and SaskTel argued that their service configurations included capital-related costs and, hence, a one-time charge rate structure would not be appropriate.

Commission's analysis and determinations

23. The Commission notes that Bell Canada et al. apply a monthly rate, TCC applies a one-time service charge, and SaskTel applies a combination of a monthly rate and a one-time service charge.
24. The Commission also notes that RCI submitted that a one-time service charge should apply, while MTS Allstream argued that a monthly charge would be appropriate.
25. The Commission considers that because the costs associated with SaskTel's and TCC's competitor link service charges relate to expense rather than capital-related items, the application of a one-time service charge is appropriate. Conversely, given that Bell Canada et al.'s and SaskTel's competitor link monthly rates include the recovery of capital-related costs, the Commission considers that a monthly rate is appropriate.
26. With respect to MTS Allstream's submission that SaskTel's network design unnecessarily increased costs to competitors, the Commission has reviewed the configurations submitted by SaskTel and considers that they do not raise concerns that would cause the Commission to adjust the associated Phase II costs. Similarly, with respect to RCI's submission that TCC had overstated its costs, the Commission has reviewed the costs in question and is satisfied that they are appropriate. In this respect, the Commission notes that the increase in TCC's rate, approved on an interim basis in Telecom Order 2007-173, stemmed primarily from the inclusion of portfolio expenses consistent with the Commission's costing methodology requirements.
27. More generally, the Commission has reviewed the costs submitted by each of the applicants in these proceedings and considers that they reflect the appropriate causal incremental costs for the services in question, taking into account each company's provisioning practice. Accordingly, the Commission finds that the associated rates are appropriate.

III. Are proposed terms and conditions for competitor links appropriate?

28. In this Part, the Commission will address the following sub-issues:
 - a) Should TCC be restricted to the competitor link service arrangements approved in Telecom Order 2005-323?
 - b) Is it appropriate that TCC's competitor link service description and rate, approved on an interim basis in Telecom Order 2007-173, apply with effect from 22 February 2007?
 - c) Should Bell Canada et al.'s tariff pages be modified to remove the reference to connections between two non-CDN services?
 - d) Should Bell Canada et al.'s and SaskTel's tariff pages be modified to clarify the application of the competitor link rate?
 - e) Should SaskTel be permitted to apply its competitor link rates twice when connecting its CO connecting link service with an interconnection service for certain configurations?

a) Should TCC be restricted to the competitor link service arrangements approved in Telecom Order 2005-323?

Positions of parties

29. MTS Allstream submitted that Telecom Decision 2007-6 did not contemplate modifications to the definition or the application of the competitor links envisaged by Telecom Decision 2005-6. MTS Allstream also submitted that TCC should not have filed the new tariffs that were subsequently given interim approval by the Commission because it already had an approved competitor link rate. MTS Allstream argued that the definition of the competitor links should be limited to that approved by the Commission on an interim basis in Telecom Order 2005-323, prior to the filing of the new tariffs.

Reply comments

30. TCC submitted that Telecom Decision 2007-6 contemplated a broader scope of competitor link arrangements than that approved in Telecom Order 2005-323 and that the scope of its competitor link arrangements approved on an interim basis in Telecom Order 2007-173 was consistent with Telecom Decision 2007-6.

Commission's analysis and determinations

31. The Commission notes that its determination in Telecom Decision 2007-6 that proposed tariffs could be filed to recover costs not otherwise recovered with respect to competitor service link arrangements connecting a CDN service to any other service in a CO applies to all ILECs, including TCC. Further, the Commission has found above that TCC has demonstrated that it incurs costs that are not otherwise recovered by its CDN rates. In light of this, the Commission finds that TCC should not be restricted to the competitor link service arrangements approved in Telecom Order 2005-323.

b) Is it appropriate that TCC's competitor link service description and rate, approved on an interim basis in Telecom Order 2007-173, apply with effect from 22 February 2007?

Positions of parties

32. TCC requested that the Commission establish 22 February 2007 as the effective date for the revisions approved on an interim basis in Telecom Order 2007-173, to coincide with the effective date of interim approval for TN 168A in Telecom Order 2007-59.

Commission's analysis and determinations

33. The Commission notes that TCC's revised competitor link service description was approved on an interim basis in Telecom Order 2007-173. In the Commission's view, the description approved in that Order is appropriate because it captures link arrangements connecting a CDN service to other services in the CO for which the costs are not otherwise recovered. Further, as noted above, the rate change approved on an interim basis in Telecom Order 2007-173 is consistent with the Commission's costing methodology requirements. In the circumstances, the Commission considers it appropriate that the service definition and rate approved in Telecom Order 2007-173 apply effective 22 February 2007.

c) Should Bell Canada et al.'s tariff pages be modified to remove the reference to connections between two non-CDN services?

Positions of parties

34. TCC submitted that it was not clear why Bell Canada et al. had proposed a service description in their tariff pages that indicated that the competitor link would apply "between two non-CDN services where CO arrangements are required to connect the two services, and where such arrangements have not been included in the rates charged for either service", since this arrangement appeared to have nothing to do with CDN services. TCC submitted that this interpretation would be contrary to the chart provided by Bell Canada et al., which indicated that the retail link service rate applied when neither of the two services to be connected were CDN services.
35. Bell Canada et al. replied that they were willing to remove the reference in their tariff pages related to the connection between two non-CDN services, subject to the Commission's approval.

Commission's analysis and determinations

36. The Commission considers that the application of a competitor link rate with respect to two non-CDN services is inconsistent with the arrangements contemplated in Telecom Decision 2007-6. The Commission directs Bell Canada et al. to issue amended tariff pages accordingly.

d) Should Bell Canada et al.'s and SaskTel's tariff pages be modified to clarify the application of the competitor link rate?

Positions of parties

37. TCC submitted that Bell Canada et al.'s and SaskTel's tariff pages were unclear with respect to the application of the competitor link and retail digital network access (DNA) link rates. In particular, TCC argued that it was unclear whether the competitor link charge or the retail DNA link charge, or possibly both, would apply in certain scenarios.
38. SaskTel replied that competitor link charges would not be applied in scenarios where retail DNA link charges were already applicable. Bell Canada et al. did not address this matter.

Commission's analysis and determinations

39. The Commission considers that SaskTel's clarification adequately addresses TCC's concern. Accordingly, the Commission directs SaskTel to issue amended tariff pages to reflect this clarification. The Commission also directs Bell Canada et al. to also issue amended tariff pages reflecting this clarification.

e) Should SaskTel be permitted to apply its competitor link rates twice when connecting its CO connecting link service with an interconnection service for certain configurations?

Positions of parties

40. TCC submitted that it was not clear whether SaskTel intended to apply two competitor link charges when connecting the CO connecting link to interconnection services² in Rate Bands A and B. TCC submitted that based on SaskTel's tariff pages, only one competitor link charge would apply in Rate Bands C, E, F, and G.

Reply comments

41. SaskTel submitted that it was appropriate to apply two competitor link charges for Bands A and B when a CO connecting link was connected to an interconnection service, to reflect the company's specific provisioning requirements in those bands. By contrast, SaskTel submitted that there was a lower capital requirement for providing the same service in the other bands and, hence, it would not be appropriate to apply two competitor link charges in those circumstances.

Commission's analysis and determinations

42. As noted above, SaskTel's competitor link rates consist of a monthly rate and a one-time service charge, each of which is applied twice in the case of Bands A and B. The Commission has reviewed SaskTel's submissions and finds that the monthly competitor link rate is appropriately applied twice in Bands A and B for the interconnection arrangements in question given the company's network design. In those circumstances, the Commission does not consider that the service charge should be applied twice in Bands A and B given that the associated service connection tasks to activate the service would be undertaken at the same time and at the same location.
43. Accordingly, the Commission directs SaskTel to issue amended tariff pages, effective 16 May 2007, stating that the service charge will be applied only once in Bands A and B when a CO connecting link is connected to an interconnection service.

IV. Should the Commission dispose of these tariff applications on a final basis?

Positions of parties

44. Each of Bell Canada et al., SaskTel, and TCC requested that the Commission grant final approval to their applications.

Commission's analysis and determinations

45. The Commission notes that the applicants' supporting cost studies associated with these tariff notices include significant expense components, such as portfolio and maintenance expenses. The Commission considers that these tariff notices raise issues that may be materially affected by the Commission's determinations in the proceeding to review Phase II costing issues, initiated

² SaskTel identified the interconnection services as Access Tandem, Direct Connect, WSP Network Access, and Local Network Interconnection service.

by Telecom Public Notice 2007-4. As well, the Commission notes that the matter of CDN service classification and appropriate pricing principles are under review in the proceeding to review the regulatory framework for wholesale services and the definition of essential service, initiated by Telecom Public Notice 2006-14.

46. In the circumstances, the Commission considers that it would not be appropriate to dispose of these tariff notices on a final basis pending the outcome of the two above-noted proceedings. Accordingly, the rates, terms, and conditions for the services in question will remain interim. However, the Commission expects that the rates, terms, and conditions for the services in question will not be applied retroactively when disposed of on a final basis.

V. Compliance with the Policy Direction

47. The Commission considers that the above determinations comply with the Policy Direction and advance the following policy objectives as set out in section 7 of the *Telecommunications 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

48. In light of the foregoing, the Commission directs the applicants to issue tariff pages reflecting the determinations in this Order within 10 days of the date of this Order.

Secretary General

Related documents

- Telecom Order CRTC 2007-264, 26 July 2007
- Telecom Order CRTC 2007-173, 16 May 2007
- Telecom Order CRTC 2007-130, 19 April 2007
- Telecom Order CRTC 2007-59, 22 February 2007
- *Review of certain Phase II costing issues*, Telecom Public Notice CRTC 2007-4, 30 March 2007
- *Rogers Wireless Partnership – Part VII application with respect to the applicability of retail Digital Network Access link charges to Competitor Digital Network facilities*, Telecom Decision CRTC 2007-6, 2 February 2007, as amended by Telecom Decision CRTC 2007-6-1, 20 March 2007
- *Review of regulatory framework for wholesale services and definition of essential service*, Telecom Public Notice CRTC 2006-14, 9 November 2006, as amended by Telecom Public Notices CRTC 2006-14-1, 15 December 2006; 2006-14-2, 15 February 2007; 2006-14-3, 16 March 2007; and 2006-14-4, 20 March 2007
- *Competitor Digital Network Services – Other Central Office Connecting Link (copper-based)*, Telecom Order CRTC 2005-323, 16 September 2005
- *Competitor Digital Network Services*, Telecom Decision CRTC 2005-6, 3 February 2005, as amended by Telecom Decision CRTC 2005-6-1, 28 April 2006

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