



Telecom Decision CRTC 2008-119

Ottawa, 11 December 2008

Regulatory policy

Bell Canada et al.'s application to review and vary Telecom Decision 2008-17 with respect to wholesale billing and collection service

Reference: 8662-B2-200807159

In this Decision, the Commission denies Bell Canada et al.'s application to review and vary Telecom Decision 2008-17 and confirms that billing and collection service is correctly classified as an interconnection service and priced with a mark-up of 15 percent.

Introduction

1. The Commission received an application by Bell Canada, on behalf of itself and Bell Aliant Regional Communications, Limited Partnership, Saskatchewan Telecommunications, and Télébec, Limited Partnership (collectively, Bell Canada et al.), dated 15 May 2008, requesting that the Commission review and vary its determinations in Telecom Decision 2008-17 that classified billing and collection service (BCS) as an interconnection service, with rates that reflect a mark-up of 15 percent.
2. Bell Canada et al. submitted that, to be properly classified as an interconnection service, BCS must permit the interchange of traffic with public switched telephone network (PSTN) customers and/or be an administrative service related to consumers selecting their long distance service provider.
3. Bell Canada et al. submitted that there are billing and collection alternatives to BCS for the provision of 10-10 long distance service, including customer pre-subscription with a 10-10 service provider and credit cards. Bell Canada et al. submitted further that BCS should be classified as a conditional mandated non-essential service. Bell Canada et al. also submitted that, given their view that BCS is a non-essential service, a 15 percent mark-up was unduly restrictive and contrary to paragraph 1(a) and subparagraph 1(c)(ii) of the Governor in Council's Policy Direction.¹ Bell Canada et al. requested the flexibility to establish a mark-up greater than 15 percent for BCS, consistent with the pricing treatment accorded to wholesale services that were formerly classified as Category II competitor services.²

¹ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

² In Telecom Decision 2002-34, the Commission established two categories of wholesale services (formerly competitor services) in order to clarify the pricing treatment of those services: the pricing of Category I competitor services was generally based on Phase II costs plus a mandated mark-up of 15 percent, and the pricing of Category II competitor services was determined on a case-by-case basis.

4. The Commission received comments on Bell Canada et al.'s application from Distributel Communications Limited (Distributel), MTS Allstream Inc. (MTS Allstream), Rogers Communications Inc. (RCI), and Yak Communications (Canada) Corp. (Yak) [collectively, opposing parties]; Primus Telecommunications Canada Inc.; and TELUS Communications Company (TCC).
5. The public record of this proceeding, which closed on 26 June 2008, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
6. In Telecom Public Notice 98-6, the Commission set out the criteria to consider review and vary applications. Specifically, the Commission stated that applicants must demonstrate that there is substantial doubt as to the correctness of the original decision, for example due to one or more of the following: i) an error in law or in fact, ii) a fundamental change in circumstances or facts since the decision, iii) a failure to consider a basic principle which had been raised in the original proceeding, or iv) a new principle which has arisen as a result of the decision.
7. The Commission has identified the following two issues to be addressed in its determinations:
 - I. Is there substantial doubt as to the correctness of the classification of BCS as an interconnection service?
 - II. Is there substantial doubt as to the correctness of the mark-up established for BCS?

Background

8. BCS is a tariffed wholesale service used by competitors to provide 10-10 service.³ The 10-10 service is a long distance service used by consumers on a casual calling basis to place a call with a service provider (10-10 provider) that is not their primary long distance provider.
9. Equal access services are tariffed wholesale services that facilitate consumers' selection of their primary long distance provider.⁴
10. Under the BCS tariffs of incumbent local exchange carriers (ILECs), the ILEC bills the consumer, on behalf of the 10-10 provider, for a long distance call made using the 10-10 provider's service.⁵ The ILEC purchases the charges incurred by the 10-10 customer from the 10-10 provider, and then bills the customer and collects the charges in question. The ILEC also charges the 10-10 provider a per-account receivable rate for various billing and collection activities (BCS processing charge rates) as well as an accounts receivable management fee.

³ BCS is also used for collect, third-party, and 900 calls over a competitor's network that are billed to a party that is not pre-subscribed to the competitor.

⁴ In Telecom Decision 2008-17, the Commission found that if BCS did not continue to be mandated, the incumbent local exchange carriers (ILECs) would be conferring an undue preference on themselves, contrary to subsection 27(2) of the *Telecommunications Act*. In making this finding, the Commission stated that in Telecom Decision 92-12 it had determined that equal access and related services, including BCS, were required for long distance competition.

⁵ The 10-10 provider's customer must also have an account with the ILEC.

I. Is there substantial doubt as to the correctness of the classification of BCS as an interconnection service?

Positions of parties

11. Bell Canada et al. submitted that the Commission made three factual errors in classifying BCS in the interconnection category. They submitted that (a) BCS is not related to equal access, (b) BCS is not related to consumers selecting their long distance provider, and (c) BCS does not permit the physical interchange of traffic with PSTN customers. Bell Canada et al. clarified that they were not challenging the requirement that BCS be provided on a mandated basis, nor the conditions under which a service is classified as an interconnection service.
12. Opposing parties submitted that BCS was properly classified as an interconnection service. MTS Allstream and Yak also submitted that, in the alternative, BCS should be classified as an essential service. TCC supported Bell Canada et al.'s application to reclassify BCS, but submitted that it should be classified as a service that is non-essential subject to phase-out.
13. With respect to their position that BCS is not related to equal access, Bell Canada et al. submitted that the Commission erred in relying on its treatment of BCS in Telecom Decision 92-12 as being related to equal access. Bell Canada et al. submitted that equal access is a switch-based technology that provides access to competing long distance providers, including 10-10 providers, but that equal access operates independently of BCS.
14. Opposing parties generally submitted that in Telecom Decision 2008-17 the Commission properly characterized BCS as being related to equal access and that this approach to BCS was consistent with the Commission's longstanding treatment of BCS.
15. RCI submitted that Bell Canada et al. interpreted equal access to mean the ability of PSTN customers to directly access the long distance network of their choice, including the long distance services of 10-10 providers. RCI submitted further that, notwithstanding this, Bell Canada et al. ignored the role BCS plays in the provision of 10-10 service.
16. With respect to their submission that BCS is not an interconnection service because it is not related to consumers selecting their long distance provider, Bell Canada et al. submitted that only those services related to consumers selecting their primary long distance provider are properly classified as interconnection services. They submitted that, in contrast, BCS allows consumers to make long distance calls using a service provider other than their primary long distance provider.
17. RCI and Yak submitted that BCS is related to consumers selecting their long distance provider because it is needed for the provision of 10-10 service, which provides consumers with a competitive long distance alternative on a per-call basis. RCI submitted that Bell Canada et al.'s interpretation of "selecting a long distance provider" was too narrow.
18. Yak submitted that Bell Canada et al. had not presented new evidence in this application in support of their position that, because there are alternatives to BCS for the provision of 10-10 service, BCS was a non-essential service.

19. In reply, Bell Canada et al. submitted that the characterization of BCS as related to equal access was central to the submissions of opposing parties that BCS is an administrative service related to consumers selecting their long distance provider. Bell Canada et al. submitted further that a finding that BCS is an administrative service relating to the selection of long distance providers or a service related to equal access is flawed because, in their submission, such a finding purports to be a technical finding and no technical basis was provided in support. Bell Canada et al. referenced the Policy Direction and submitted further that, even if a finding that BCS is related to equal access is an economic measure, the standard for assessing whether a service is "required" for long distance competition has been superseded by the test for essentiality adopted in Telecom Decision 2008-17.

Commission's analysis and determinations

20. The Commission notes that, as set out in Telecom Decision 2008-17, the interconnection category as it relates to interconnection services with respect to the provision of long distance services includes services that are administrative services related to consumers selecting their long distance provider.
21. The Commission considers that BCS is an administrative service. The Commission notes that the use of billing and collection alternatives to BCS, such as customer pre-subscription and credit cards, would materially alter the nature of 10-10 service. Accordingly, BCS is integral to, and needed for, the provision of 10-10 service. The Commission notes that only the local exchange carrier that provides a customer's primary exchange service can provide BCS.
22. The Commission notes Bell Canada et al.'s reference to the Policy Direction and their submission that the finding that BCS is related to equal access or is an administrative service related to consumers selecting their long distance provider is flawed, as it purports to be a technical finding but no technical basis was provided in support of such finding. The Commission notes that its finding in Telecom Decision 2008-17 that BCS is an interconnection service was not based on the view, and does not otherwise suggest, that BCS, as a stand-alone service, permits the physical interchange of traffic.
23. The Commission also notes Bell Canada et al.'s further submission that, even if a finding that BCS is related to equal access is a regulatory measure of an economic nature, the relevant test for adopting such a measure is the definition of essential service set out in Telecom Decision 2008-17. The Commission notes, however, that under the framework adopted in Telecom Decision 2008-17, services are not classified as interconnection services based on an essentiality analysis.
24. The Commission also notes Bell Canada et al.'s submission that while BCS is not related to equal access, equal access technology enables customers served by switches providing such functionality to directly access the competing long distance network of their choice, including long distance services of casual long distance providers such as Yak. The Commission notes that, in Telecom Decision 92-12, it mandated services in order to foster long distance competition and found that equal access includes ancillary services such as BCS. Specifically, as noted by Distributel, the Commission found that comparable, non-discriminatory access to

local exchange facilities and related services and information extends not only to physical interconnection arrangements and dialing plans, but also to ancillary local facilities and services such as BCS. The Commission notes that the provision of 10-10 service, of which BCS is an integral part, was an important component of the equal access regulatory framework established by the Commission in Telecom Decision 92-12. The Commission also notes that subsequent to Telecom Decision 92-12, it restated its view that BCS is related to equal access.⁶

25. Finally, the Commission notes that Bell Canada et al.'s submission that the reference in Telecom Decision 2008-17 to "consumers selecting their long distance provider" means "consumers selecting their primary long distance provider" is contrary to the plain language of that Decision.
26. In light of all the foregoing, the Commission finds that BCS, which permits consumers to choose their service provider on a per-call basis using 10-10 service, is an administrative service related to consumers selecting their long distance provider.
27. Accordingly, the Commission finds that there is no substantial doubt as to its classification of BCS as an interconnection service. The Commission considers it unnecessary to address Bell Canada et al.'s argument that BCS does not permit the physical interchange of traffic with PSTN customers and thus could not be correctly classified as an interconnection service on that basis.

II. Is there substantial doubt as to the correctness of the mark-up established for BCS?

28. The Commission determined in Telecom Decision 2008-17 that interconnection services are to be "priced on the same basis as currently required," with the result that BCS processing charge rates reflect a mark-up of 15 percent.
29. The Commission notes that Bell Canada et al.'s request for the flexibility to determine BCS processing charge rates that have a mark-up greater than 15 percent is based on their position that BCS would be properly classified as a conditional mandated non-essential service. The Commission also notes that Bell Canada et al. did not challenge the appropriateness of its determinations in Telecom Decision 2008-17 regarding the pricing of interconnection services.
30. Accordingly, in view of its determination that BCS is correctly classified as an interconnection service, the Commission finds that there is no substantial doubt as to the correctness of its conclusion that a mark-up of 15 percent is appropriate for BCS processing charge rates.

Conclusion

⁶ See, for example, the Commission letter dated 6 August 1998 concerning Commission Decision Regarding CRTC Interconnection Steering Committee Dispute on Billing and Collection Service Requirements. The Commission notes that, under the regulatory framework for wholesale services that existed prior to Telecom Decision 2008-17, BCS was mandated on the basis that it was a service ancillary to long distance network interconnection.

31. The Commission finds that Bell Canada et al. have failed to demonstrate that there is substantial doubt as to the correctness of the classification of BCS as an interconnection service in Telecom Decision 2008-17 and therefore **denies** Bell Canada et al.'s application to review and vary that determination.

Secretary General

Related documents

- *Revised regulatory framework for wholesale services and definition of essential service*, Telecom Decision CRTC 2008-17, 3 March 2008
- *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
- *Guidelines for review and vary applications*, Telecom Public Notice CRTC 98-6, 20 March 1998
- *Competition in the provision of public long distance voice telephone services and related resale and sharing issues*, Telecom Decision CRTC 92-12, 12 June 1992, as amended by Erratum 92-12-1, 28 August 1992

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