



Telecom Order CRTC 2010-144

Ottawa, 11 March 2010

TELUS Communications Company – Amalgamation of wireless interconnection tariffs

File numbers: TCC Tariff Notices 371 and 371A
TCI Tariff Notices 624 and 624A
TCBC Tariff Notices 4332 and 4332A

Introduction

1. The Commission received three applications by TELUS Communications Company (TCC), dated 31 August 2009, and amended 8 September 2009, proposing to amalgamate its wireless interconnection tariffs. Specifically, TCC proposed to
 - introduce item 231 – Wireless Service Providers (WSPs) – Network Access Service to its General Tariff;
 - withdraw former TELUS Communications Inc. (TCI) General Tariff item 555 – WSPs – Network Access Service, and former TELUS Communications (B.C.) (TCBC) Inc. General Tariff item 197A – Wireless Access Service; and
 - update associated references in other tariffs.
2. TCC submitted that the proposed amalgamation would harmonize existing rates and practices between the provinces of Alberta and British Columbia, enable consistent internal processes, provide WSPs with a more coherent tariff, and reduce the annual number of rate changes for competitive local exchange carriers (CLECs).
3. TCC submitted that while there would be price increases mainly in Alberta and price decreases mainly in British Columbia, the proposed amalgamation would be slightly revenue negative overall for TCC because WSPs would pay slightly less for wireless interconnection services than they currently pay.
4. TCC also proposed to incorporate the terms and conditions currently set out in its standard WSP network access service agreement (the standard WSP agreement) in the proposed tariff. TCC submitted that upon Commission approval, it would retire the standard WSP agreement and cancel related signed WSP agreements because, otherwise, they would be redundant. TCC also submitted that the proposed tariff would become the contract that governs the relationship between parties, as is the case for other regulated services.
5. The Commission received comments from Globalive Wireless Management Corp. (Globalive) and Rogers Communications Inc. (RCI). The public record of this proceeding, which closed on 18 December 2009, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file numbers provided above.

6. The Commission has identified the following issues to be addressed in its determinations:

I. Is TCC's proposed amalgamation of its wireless interconnection tariffs acceptable?

II. Is it appropriate for TCC to incorporate into its proposed tariff the terms and conditions currently set out in its standard WSP agreement, to retire the standard WSP agreement, and to cancel related signed WSP agreements?

I. Is TCC's proposed amalgamation of its wireless interconnection tariffs acceptable?

7. The Commission has reviewed TCC's applications, as well as all related submissions, and considers that, subject to the following, the company's proposal is acceptable.

a) The definition of an access service channel

8. RCI raised concerns with TCC's proposed definition of an "access service channel," which is associated with the WSP links required to terminate line-side access in incumbent local exchange carriers' (ILECs) central offices. RCI submitted that, based on the wording in tariff items 555 and 197A, an access service channel provides for 24 DS-0 digital access channels, or the equivalent of one DS-1. It noted, however, that TCC's proposed definition states that each access service channel provides one DS-0 digital access channel. RCI also noted that Version 31 of the CLEC Model Tariff clearly states that the charge for WSP links related to line-side access is applied on a DS-1 basis in each ILEC territory.
9. RCI requested that the Commission direct TCC to (1) clarify the definition of an access service channel and state that it provides for 24 DS-0 digital access channels, and (2) clarify that the WSP links will be levied on a DS-1 basis at TCC's proposed rate of \$9.28 per DS-1, or justify why the WSP link charge is applied on a DS-0 basis.
10. TCC submitted that its proposed definition of an access service channel, whereby each access service channel provides for one DS-0 digital access channel, is in line with the current rate structure in tariff items 555 and 197A used for WSP links in Alberta and British Columbia, and is in line with the costing methodology in support of the current rates, which is based on a DS-0 connection. TCC submitted that it intends to retain this rating approach. In addition, TCC noted that it proposed to use the lower current rate for the WSP link in British Columbia as the rate for both provinces, which would result in a rate reduction in Alberta.
11. The Commission acknowledges that Version 31 of the CLEC Model Tariff indicates that the WSP link charge for line-side access applies to each DS-1 channel in each ILEC territory. The Commission considers, however, that the CLEC Model Tariff should only have specified the references to the appropriate ILEC tariff and not to the actual WSP link charges. The appropriate application of the WSP link charge is specified in each of the ILEC tariffs to which the CLEC Model Tariff refers.

12. The Commission is satisfied that TCC's proposed definition of an access service channel, whereby each access service channel provides for one DS-0 access channel, is in line with the current rate structure in Alberta and British Columbia. The Commission therefore considers that TCC's proposed definition of an access service channel is acceptable.

b) The rates related to wireless trunk-side interconnection services

13. Globalive indicated that its greatest concern with TCC's applications was the proposed rate increases for trunk-side interconnection in Alberta, arguing that the increases would have an adverse impact on Globalive and potentially other new wireless entrants.
14. Globalive submitted that notwithstanding TCC's proposal, it would expect lower rates in both Alberta and British Columbia because the current rates may not be a true reflection of the cost of providing service. Further, Globalive submitted that 10 years had elapsed since the last time TCC performed a cost study for wireless trunk-side interconnection rates. In addition, Globalive submitted that TCC had not considered demand related to new entrants in the methodology it had used to develop the proposed rates.
15. Globalive requested that the Commission order TCC to perform an economic evaluation of its wireless trunk-side interconnection rates based on Phase II costs plus a 15 percent markup to justify the rates in TCC's proposal.
16. Regarding the proposed trunk-side interconnection rate increases in Alberta, TCC submitted that for every proposed rate increase in that province, there would be an offsetting decrease in British Columbia.
17. TCC submitted that the purpose of its applications was not to establish new cost-based rates for wireless interconnection but to harmonize rates and practices between Alberta and British Columbia. TCC indicated that the services in question are subject to price cap constraints that are imposed based on productivity improvements and not routine cost studies for existing services. TCC further submitted that, as such, a cost study to support the proposed harmonized rates should not be required.
18. The Commission notes that it has reviewed the methodology used by TCC to develop its amalgamated rates and that this methodology is consistent with that used previously by TCC and other ILECs for similar applications. The Commission considers that the methodology used by TCC to derive the amalgamated rates is appropriate.
19. The Commission acknowledges Globalive's concern regarding the level of the proposed rates for trunk-side interconnection. The Commission notes that it has generally not required ILECs to conduct cost studies in support of revenue-neutral tariff amalgamations. The Commission does not consider it necessary to review TCC's wireless interconnection rates at this time.

II. Is it appropriate for TCC to incorporate into its proposed tariff the terms and conditions currently set out in its standard WSP agreement, to retire the standard WSP agreement, and to cancel related signed WSP agreements?

20. Globalive opposed TCC's proposal to retire the standard WSP agreement and cancel related signed WSP agreements. Globalive indicated that it was unclear how TCC could unilaterally

cancel signed WSP agreements that were duly negotiated and executed. Globalive submitted that for a WSP to be able to carry on business, it must have its particular circumstances reflected in a negotiated WSP agreement. Globalive indicated that should TCC wish to make changes to signed agreements in order to provide the improved protection it refers to in its proposal, it can do so by entering into negotiations with its interconnecting partners.

21. Globalive submitted, therefore, that the signed WSP agreements for the current term, and any renewal terms, should be grandfathered.
22. TCC submitted that there had been no negotiations with Globalive regarding the standard WSP agreement. In addition, TCC indicated that no changes had been made to the standard WSP agreement signed by Globalive.
23. The Commission notes that TCC's proposed tariff, as well as other applicable existing tariffs, contain terms and conditions that substantially reproduce the material terms and conditions contained in the standard WSP agreement, with provisions for the additional protection of confidential information exchanged between interconnecting parties. Accordingly, the Commission finds that TCC's proposal to incorporate the terms and conditions of the standard WSP agreement into the proposed tariff is appropriate.
24. Regarding TCC's proposal to retire the standard WSP agreement and cancel related signed WSP agreements that have already been executed, the Commission notes that these agreements contain an interpretation clause stipulating that in the event of an inconsistency between the terms and conditions contained in the agreement and those set out in a Commission-approved tariff, the tariff terms and conditions are to prevail. Accordingly, the Commission considers that there is no need for it to interfere with either the standard WSP agreement or the related signed WSP agreements.

Other matters

25. Globalive indicated that WSPs are customers of ILECs. It submitted that the Commission should conduct a review of the regulatory regime regarding WSPs and consider granting them co-carrier status.
26. The Commission considers that this matter is outside the scope of this order. Globalive may submit an application to the Commission should it wish to pursue the matter further.
27. The Commission notes that the above determinations impact the CLEC WSP interconnection tariffs. Accordingly, the Commission considers that CLECs will be required to file tariff amendments to 1) update tariff references to rates in the operating territories of Alberta and British Columbia, and 2) correct wording with respect to the WSP link charge. For convenience, the appropriate modifications have been incorporated into Version 32 of the CLEC Model Tariff, now available at www.crtc.gc.ca/cisc/eng/cisf3g5.htm

Conclusion

28. Subject to the modifications set out above, the Commission **approves** TCC's application, effective **26 April 2010**.

29. The Commission further directs CLECs to file, no later than **12 April 2010**, tariff amendments to 1) update tariff references to rates in the operating territories of Alberta and British Columbia, and 2) correct wording with respect to the WSP link charge.

Secretary General

This document is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>.