



Telecom Decision CRTC 2010-862

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Bell Aliant Regional Communications, Limited Partnership and Bell Canada – Application to review and vary Telecom Decision 2010-323 regarding Wholesale Local Service and Features

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In this decision, the Commission finds that there is no substantial doubt as to the correctness of Telecom Decision 2010-323, and denies Bell Aliant and Bell Canada's review and vary application and the associated tariff application. The Commission approves on a final basis the \$50 credit in the existing tariff for end-users whose origin is unknown.

Introduction

1. On 27 July 2010, Bell Aliant Regional Communications, Limited Partnership and Bell Canada (collectively, the Bell companies) filed an application requesting that the Commission review and vary part of Telecom Decision 2010-323 due to errors in fact and law. Specifically, they requested that the Commission review and vary its determination that the Bell companies must pay a \$50 credit to their Wholesale Local Service and Features (WLSF) customers for each end-user who switches to the WLSF customer's residential primary exchange service (PES) and whose previous local service provider is unknown.
2. The Bell companies filed proposed tariff pages with their application in order to amend item 317 – Wholesale Local Service and Features (WLSF) of their respective Access Services Tariffs.
3. The Bell companies requested that, if the Commission denied their application, it approve the proposed tariff pages so that they would not be required to provide the \$50 credit for end-users of unknown origin on a going-forward basis.
4. The Commission received comments from TekSavvy Solutions Inc., Primus Telecommunications Canada Inc., and Yak Home Phone Corp. (collectively, the WLSF customers) and a reply from the Bell companies. The public record of this proceeding can be found on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.

Background

5. The Bell companies' WLSF service is a wholesale service that provides customers with discounted rates when ordering high volumes of residential PES and select calling features. The service was introduced by the Bell companies on their own initiative.

6. In Telecom Decision 2010-323, the Commission directed the Bell companies to, among other things, cease applying a \$25 service charge for new end-users for whom the previous local service provider is unknown, and instead pay their WLSF customers a \$50 credit in these situations.¹
7. In Telecom Order 2010-673, the Commission approved the Bell companies' request to make the \$50 credit interim pending the resolution of the Bell companies' review and vary application.

Is there substantial doubt as to the correctness of the Commission's determination that the Bell companies must pay a \$50 credit for each end-user whose origin is unknown?

8. The Bell companies submitted that when an end-user's origin is unknown, it is not easy to ascertain if the end-user was previously served by the Bell companies and, therefore, the WLSF customer should not be eligible to receive the credit. They argued that this is usually because the end-user is assigned a new telephone number, which cannot be cross-referenced with those in their end-user customer database. They submitted that this is further compounded if the end-user moves, since the Bell companies would receive the end-user's new service address, which would not appear in their end-user customer database.
9. The Bell companies also submitted that the only way to identify such end-users' origin would be to manually investigate and verify each case, and that the time and resources necessary to conduct such investigations would be significant and would far outstrip the service charge and credit provisions of the tariff.
10. The Bell companies acknowledged that some end-users of unknown origin might be new residential PES customers whose service provider would have been eligible for the \$50 credit. They submitted, however, that there is no easy way to separate such end-users from other end-users of unknown origin.
11. The WLSF customers submitted that they should receive the \$50 credit for end-users of unknown origin because almost all such end-users identified by the Bell companies are new end-users. The WLSF customers also submitted that the Bell companies' suggestion that end-users of unknown origin might be the Bell companies' end-users is unrealistic and highly unlikely. They claimed that this would only be the case in rare instances where the end-user wishes to, or must, change telephone numbers.

¹ Item 317 of the Bell companies' Access Services Tariffs states that WLSF customers will be charged a \$25 service charge for each end-user who transfers residential PES from one of the Bell companies to the WLSF customer's residential PES. WLSF customers are entitled to a \$50 credit for each end-user added who is not using one of the Bell companies for their residential PES.

12. The WLSF customers further submitted that the fact that the Bell companies do not wish to investigate these end-users' residential PES providers is not a sufficient reason not to pay the \$50 credit. They argued that if the Bell companies do not have the incentive to verify the end-user's origin, then they should have to pay the \$50 credit. In their view, the Bell companies' failure to carry out due diligence should be interpreted in favour of WLSF customers.

Commission's analysis and determinations

13. In Telecom Public Notice 98-6, the Commission outlined the criteria to consider review and vary applications filed pursuant to section 62 of the *Telecommunications Act*. Specifically, the Commission stated that applicants must demonstrate that there is substantial doubt as to the correctness of the original decision, due to, for example, 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.

14. The Commission notes the Bell companies' submission that some end-users of unknown origin might be new residential PES customers whose service provider would have been eligible for the \$50 credit, but that there is no easy way to separate them from other end-users of unknown origin.

15. The Commission also notes the Bell companies' submission that they could conduct manual investigations in order to identify these end-users' service providers, and that they have chosen not to do so due to the time and resources required. However, the Bell companies did not provide cost estimates to support this claim.

16. Accordingly, the Commission does not consider that it has made an error in fact and law in the original decision by finding that the Bell companies are able to identify an end-user that switches from one of the Bell companies to the WLSF customer.

17. Further, the Commission considers that when the Bell companies introduced the WLSF service, they could have put in place an appropriate mechanism to identify the origin of the end-users. In addition, the Commission considers that if the Bell companies choose not to investigate the origin of end-users, they would be denying WLSF customers the \$50 credit that is due to them under the tariff.

18. The Commission also considers that permitting the Bell companies not to pay the \$50 credit would provide them with an incentive not to verify the end-users' origin and to classify more end-users as unknown.

19. In light of the above, the Commission finds that there is no substantial doubt as to the correctness of Telecom Decision 2010-323 and, therefore, **denies** the Bell companies' application and the associated tariff application. The Commission **approves** the \$50 credit in the existing tariff on a final basis.

Secretary General

Related documents

- Telecom Order CRTC 2010-673, *Bell Aliant Regional Communications, Limited Partnership and Bell Canada – Application to review and vary Telecom Decision 2010-323 regarding Wholesale Local Service and Features*, 8 September 2010
- Telecom Decision CRTC 2010-323, *TekSavvy Solutions Inc. and Yak Home Phone Corp. – Application for relief regarding Wholesale Local Service and Features*, 28 May 2010
- Telecom Public Notice CRTC 98-6, *Guidelines for review and vary applications*, 20 March 1998