



Telecom Notice of Consultation CRTC 2011-348

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Ottawa, 26 May 2011

Call for comments

Review of regulatory framework for the small incumbent local exchange carriers and related matters

File number: 8663-C12-201108754

In this notice, the Commission initiates a proceeding to review the regulatory framework for the small incumbent local exchange carriers, as well as other related matters. A new framework, based on the outcome of this proceeding, is expected to take effect in 2012.

Introduction

1. There are currently 35 small incumbent local exchange carriers (small ILECs) in Canada. These companies operate in limited areas of Ontario, Quebec, and British Columbia, and include municipally owned and publicly and privately held carriers. The small ILECs are listed in the Appendix to this notice.
2. The rates that a small ILEC can charge its residential and business customers for various telecommunications services are governed by a price cap regime.¹ The small ILECs' current regime was set out by the Commission in Telecom Decision 2006-14 and came into effect in 2006 with an applicable period of four years.
3. In Telecom Regulatory Policy 2009-788, the Commission extended the small ILECs' price cap regime, with modifications,² until the outcome of the proceeding subsequently initiated by Telecom Notice of Consultation 2010-43 (the obligation to serve proceeding) was known and a review of the regime was completed.
4. In Telecom Regulatory Policy 2011-291, the Commission issued its decision pertaining to the obligation to serve proceeding. That decision addressed a number of issues associated with the overall regulatory framework for the small ILECs, including the obligation to serve, the basic service objective, the local service subsidy regime, and local competition.

¹ Price cap regulation is based on service pricing rather than on overall earnings. A ceiling is placed on prices that a carrier can charge its customers, and rules are imposed that generally govern the rates charged to residential and business consumers.

² The Commission approved changes to pricing constraints regarding business primary exchange service.

5. With this notice, the Commission initiates its review of the small ILEC regulatory framework. The Commission will examine the following aspects of the framework:
 - the existing price cap regime;
 - the small ILECs' subsidy requirements for 2011;
 - the toll interconnection regime; and
 - the local forbearance regime.

The new small ILEC regulatory framework is expected to take effect in 2012.

Existing price cap regime

6. The small ILECs' price cap regime involves four service baskets with individualized basket constraints, as well as, in some instances, specific rate element constraints. The four baskets are: 1) residential primary exchange service (PES); 2) business PES; 3) services with frozen rates; and 4) other services.
7. The residential PES basket includes single-line and party-line services, including all mandatory local exchange services such as Touch-Tone service. Pursuant to Telecom Decision 2006-14, monthly rates for residential PES may not increase by more than \$4 in any one year, including exogenous adjustments.³ The method that small ILECs can use to calculate rate increases is set out in paragraph 8 below. Any exogenous adjustments are calculated separately from this method on a case-by-case basis.
8. Increases to monthly residential PES rates are subject to an annual price constraint equal to one third of the difference between the rate in effect as of the issuance date of Telecom Regulatory Policy 2011-291 and \$30. However, if the amount required to eliminate subsidy is less than this constraint, the annual increase is limited to the amount required to eliminate subsidy.⁴ Starting in 2014, these rates will be permitted to increase annually by the rate of inflation.⁵
9. The business PES basket includes single-line, multi-line, and party-line services, including mandatory local exchange services. Pursuant to Telecom Regulatory Policy 2009-788, monthly rates for business PES may increase by up to \$5 in any one year, including exogenous adjustments, until a rate of \$45.45 is reached. After reaching the \$45.45 rate, annual increases are limited to the rate of inflation.

³ Exogenous adjustments result from events or initiatives that satisfy the following criteria: a) they are legislative, judicial, or administrative actions which are beyond the control of the company; b) they are addressed specifically to the telecommunications industry; and c) they have a material impact on the company. Adjustments to the price cap for such events are represented by the exogenous factor.

⁴ Rates that are already at \$30 or more will not be permitted to increase until 2014, at which time they can be increased annually by the rate of inflation.

⁵ The inflation index is the annual chain-weighted gross domestic product – price index, which is a measure of the national output price change published by Statistics Canada.

10. The third basket includes 9-1-1 service, message relay service, and toll restriction service. Rates for services in this basket were frozen pursuant to Telecom Decision 2006-14.
11. The fourth basket includes all other exchange services offered by the small ILECs, such as optional services, multi-element service categories, and special facilities tariffs. Rates for services in this basket are allowed to increase up to any rate approved by the Commission for the same service.⁶
12. In the current proceeding, the Commission will examine whether the existing price cap regime for the small ILECs remains appropriate.

Small ILECs' subsidy requirements for 2011

13. Small ILECs receive subsidies from the National Contribution Fund (NCF) associated with providing residential services in high-cost serving areas, where residential PES costs generally exceed the rates charged. The cost components used to calculate subsidies for the small ILECs are proxy amounts based on the costs of the large incumbent local exchange carriers (large ILECs).⁷
14. Subsidies are provided to the small ILECs in the form of fixed annual amounts.⁸ The subsidy amounts for 2011 were set on an interim basis in Telecom Decision 2010-789.⁹ In Telecom Regulatory Policy 2011-291, the Commission set out special considerations regarding subsidy amounts for the small ILECs, such as subsidies for lost network access services (NAS) following the implementation of local competition and the continuance of subsidies, under certain conditions, in areas where the Commission has forborne from regulation.¹⁰
15. In addition, the Commission determined in Telecom Regulatory Policy 2011-291 that the subsidy payment process for the small ILECs will change to a per-NAS mechanism, similar to the process used for the large ILECs, effective 1 January 2012.
16. In the current proceeding, the Commission will examine the small ILECs' subsidy requirements for 2011.

⁶ In addition, an economic (Phase II) study must accompany an application to support proposed rate increases over and above an approved ILEC rate.

⁷ The Commission determined in Decision 2001-756 that the small ILECs' cost components would reflect the national weighted-average band-specific Phase II costs of the large ILECs, as determined in Decision 2001-238, increased by 7.5 percent. Separate proxy cost components were developed for tax-paying versus tax-exempt small ILECs.

⁸ For most small ILECs, the current subsidy amounts were established in Telecom Decision 2006-14, based on residential PES rates and residential network access service counts from 2005. The subsidy amount for CityWest Telephone Corporation was established in Telecom Decision 2010-579.

⁹ Subsidy amounts for 2011 for all small ILECs were approved on an interim basis in Telecom Decision 2010-789. A revised interim subsidy amount for NorthernTel, Limited Partnership was established in Telecom Regulatory Policy 2011-291.

¹⁰ See Telecom Regulatory Policy 2011-291, paragraphs 172-182.

Toll interconnection regime

17. The small ILEC regulatory framework includes a toll interconnection regime that consists of a direct connection (DC) rate and trunking tariffs for the facilities used to interconnect an interexchange carrier's point of interconnection with a small ILEC's switch. The DC and toll trunking rates were established in Telecom Decision 2005-3, and their application was extended in Telecom Decision 2006-14.
18. In the obligation to serve proceeding, the small ILECs proposed that the DC and toll trunking rates be normalized to industry rates and that amounts above those rates be recovered from the NCF. The Commission considers that the toll interconnection regime should be examined as part of the current proceeding.

Local forbearance regime

19. In Telecom Regulatory Policy 2009-379, the Commission set out the framework for forbearance from the regulation of retail local exchange services that applies in the small ILECs' serving territories. This framework is generally based on the local forbearance framework established for the large ILECs in Telecom Decision 2006-15.
20. However, the small ILECs' competitor presence threshold to obtain forbearance from the regulation of local exchange services can be much lower than the threshold for the large ILECs. Under the competitor presence threshold test for the large ILECs, competitors must be capable of serving at least 75 percent of the NAS that the incumbent is capable of serving in a particular exchange before forbearance is granted. That threshold can be reduced to 50 percent for the small ILECs.¹¹
21. On 22 December 2009, the Commission received an application from the Ontario Telecommunications Association (OTA) to review and vary Telecom Regulatory Policy 2009-379 as it pertains to the competitor presence test.¹² By a Commission staff letter of 13 January 2010, the OTA's application was put in abeyance until a decision was issued in the obligation to serve proceeding.
22. The Commission considers that the local forbearance regime should be examined as part of the current proceeding. Consequently, the file regarding the OTA's application has been closed.

¹¹ The threshold may be reduced in instances where the small ILEC can demonstrate that the competitor(s) will target the core of the exchange due to the lack of financial incentive or economic ability to offer services in the outskirts of the exchange and where, as a result, the 75 percent competitor presence threshold is unlikely to ever be achieved.

¹² Specifically, the OTA proposed that forbearance be granted to the small ILEC in a residential or business exchange, or both, on the date that a competitive local exchange carrier receives authorization from the Commission to offer services in that exchange.

Call for comments

23. The Commission hereby initiates a proceeding to address issues associated with the aspects of the small ILEC regulatory framework set out in this notice. Concurrent with the release of this notice, the Commission is sending a letter to the small ILECs with a request for information in the form of interrogatories.
24. As set out in paragraph 30 of this notice, the small ILECs are to file proposals, providing full supporting rationale and all evidence on which they rely, as to what changes, if any, should be made to the small ILECs' price cap regime. In their submissions, the small ILECs are to specifically address the following:
 - the basket structure and the assignment of services to baskets;
 - the constraints that apply to the service baskets (e.g. inflation, exogenous factors);
 - the pricing constraints for individual services or rate elements; and
 - the duration of the next regime, including whether it should be of fixed duration.
25. In addition, the small ILECs are invited to submit comments on other relevant issues, including but not limited to the following:
 - the calculation of subsidy amounts for 2011;
 - the current toll interconnection regime, in particular with respect to DC and trunking rates; and
 - the small ILECs' forbearance framework regarding retail local exchange services, as set out in Telecom Regulatory Policy 2009-379.
26. The Commission notes that the outcome of this proceeding may result in changes to subsidy amounts for the small ILECs, which may affect some or all of the telecommunications service providers that contribute to the NCF.

Procedure

27. The new *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* SOR/2010-277 (the Rules of Procedure) came into force on 1 April 2011 and apply to this proceeding.¹³
28. The small ILECs listed in the Appendix are made parties to this proceeding.

¹³ The Rules of Procedure set out, among other things, the rules for the filing, content, format, and service of interventions and interrogatories, the procedure for filing confidential information and requesting its disclosure, and the conduct of public hearings. Accordingly, the procedure set out in this notice must be read in conjunction with the Rules of Procedure and its accompanying documents, which can be found on the Commission's website under "CRTC Rules of Practice and Procedure."

29. Any interested person who wishes merely to file written comments in this proceeding, but does not wish to become a party to the proceeding, may do so by using this comments link or by writing to the Secretary General (by mail: CRTC, Ottawa, Ontario, K1A 0N2; by fax: 819-994-0218) by **20 October 2011**. Such persons will not receive copies of the various submissions and will not be permitted to ask or answer interrogatories.
30. The small ILECs are directed to file proposals with respect to the issues identified in paragraphs 24 and 25 above, by **7 July 2011**.
31. Other interested persons who wish to become parties to this proceeding must file an intervention with the Commission regarding the above-noted issues, by **4 August 2011**. In accordance with section 26 of the Rules of Procedure, the intervention must explicitly state that the person wishes to be considered an intervener.
32. In addition, each person who files an intervention must register as a party, using the Commission's online form, on or before **4 August 2011**. Shortly thereafter, the Commission will post on its website a complete list of parties, including the contact information provided in this registration form. All documents required to be served on a party or parties to the proceeding must be served using the contact information on this list.
33. The Commission and parties may request information, in the form of interrogatories, from the small ILECs with respect to the issues in this proceeding. In accordance with section 73 of the Rules of Procedure, the requesting party must file its request for information with the Commission on or before **4 August 2011**, and must serve the request on the party to whom it is addressed.
34. Responses to requests for information from other parties or the Commission are to be filed with the Commission and served on all parties by **1 September 2011**.
35. Requests by parties for further responses to the interrogatories posed in their requests for information, specifying in each case why a further response is both relevant and necessary, and requests for public disclosure of information that has been designated confidential, setting out in each case the reasons for disclosure, must be filed with the Commission and served on the relevant party or parties by **8 September 2011**.
36. Written responses to requests for further responses to interrogatories and for public disclosure must be filed with the Commission and served on the party or parties making the request by **15 September 2011**.
37. Determinations will be issued regarding requests for further information and public disclosure as soon as possible. Any information to be provided pursuant to such determinations must be filed with the Commission and served on all parties by **29 September 2011**.

38. All parties may file final written arguments with the Commission on any matter within the scope of this proceeding, serving copies on all other parties, by **13 October 2011**. Final arguments, including an executive summary, are not to exceed 15 pages.
39. All parties may file reply written arguments with the Commission on any matter within the scope of this proceeding, serving copies on all other parties, by **20 October 2011**. Reply arguments, including an executive summary, are not to exceed 15 pages.
40. The Commission expects to publish a decision on the issues raised in this notice within four months of the close of record.
41. The Commission will not formally acknowledge interventions or comments. It will, however, fully consider all submissions, which will form part of the public record of the proceeding.
42. Parties are reminded that, in accordance with the Rules of Procedure, if a document is to be filed or served by a specific date, the document must be actually received, not merely sent, by that date. A document must be filed with the Commission by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due.
43. Parties may file their submissions electronically or on paper. Submissions longer than five pages should include a summary.
44. Electronic submissions should be in HTML format. Alternatively, Microsoft Word may be used for text and Microsoft Excel for spreadsheets.
45. Each paragraph of all submissions should be numbered. In addition, the line *****End of document***** should follow the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.
46. The Commission encourages interested persons and parties to monitor the record of this proceeding and/or the Commission's website for additional information that they may find useful when preparing their submissions.

Important notice

47. All information that persons provide as part of this public process, except information granted confidentiality, whether sent by postal mail, facsimile, email, or through the Commission's website at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's website. This includes personal information, such as full names, email addresses, postal/street addresses, telephone and facsimile numbers, and any other personal information persons provide.
48. The personal information provided will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.

49. Documents received electronically or otherwise will be posted on the Commission's website in their entirety exactly as received, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be made available in PDF format.
50. The information provided to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission's website with the help of either its search engine or a third-party search engine will not link directly to the information that was provided as part of this public process.

Location of CRTC offices

51. Submissions may be examined or will be made available promptly upon request at Commission offices during normal business hours.

Toll-free telephone: 1-877-249-2782

Toll-free TDD: 1-877-909-2782

Central Building
Les Terrasses de la Chaudière
1 Promenade du Portage, Room 206
Gatineau, Quebec J8X 4B1
Tel.: 819-997-2429
Fax: 819-994-0218

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Montréal, Quebec H2Z 1G2
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55 St. Clair Avenue East, Suite 624
Toronto, Ontario M4T 1M2
Tel.: 416-952-9096

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Winnipeg, Manitoba R3B 2B3
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10405 Jasper Avenue, Suite 520
Edmonton, Alberta T5J 3N4
Tel.: 780-495-3224

858 Beatty Street, Suite 290
Vancouver, British Columbia V6B 1C1
Tel.: 604-666-2111
Fax: 604-666-8322

Secretary General

Related documents

- *Obligation to serve and other matters*, Telecom Regulatory Policy CRTC 2011-291, 3 May 2011, as amended by Telecom Regulatory Policy CRTC 2011-291-1, 12 May 2011
- *Final 2010 revenue-percent charge and related matters*, Telecom Decision CRTC 2010-789, 25 October 2010
- *CityWest Telephone Corporation – Application to modify its monthly subsidy per residential NAS*, Telecom Decision CRTC 2010-579, 13 August 2010
- *Proceeding to review access to basic telecommunications services and other matters*, Telecom Notice of Consultation CRTC 2010-43, 28 January 2010, as amended by *Obligation to serve and other matters*, Telecom Notice of Consultation CRTC 2010-43-1, 5 March 2010; Telecom Notice of Consultation CRTC 2010-43-2, 30 March 2010; and Telecom Notice of Consultation CRTC 2010-43-3, 23 July 2010
- *Regulatory framework for the small incumbent local exchange carriers*, Telecom Regulatory Policy CRTC 2009-788, 17 December 2009
- *Framework for forbearance from regulation of retail local exchange services in the serving territories of the small incumbent local exchange carriers*, Telecom Regulatory Policy CRTC 2009-379, 23 June 2009
- *Forbearance from the regulation of retail local exchange services*, Telecom Decision CRTC 2006-15, 6 April 2006, as amended by Order in Council P.C. 2007-532, 4 April 2007
- *Revised regulatory framework for the small incumbent local exchange carriers*, Telecom Decision CRTC 2006-14, 29 March 2006

- *Direct toll and network access costing methodology for small incumbent local exchange carriers – Follow-up to Decision 2001-756*, Telecom Decision CRTC 2005-3, 31 January 2005
- *Regulatory framework for the small incumbent telephone companies*, Decision CRTC 2001-756, 14 December 2001
- *Restructured bands, revised loop rates and related issues*, Decision CRTC 2001-238, 27 April 2001, as amended by Decision CRTC 2001-238-1, 28 May 2001, and Decision CRTC 2001-238-2, 7 August 2001

Small ILECs by province

British Columbia

CityWest Telephone Corporation

Ontario

Amtelecom Limited Partnership
Brooke Telecom Co-operative Ltd.
Bruce Telecom
Cochrane Telecom Services
Dryden Municipal Telephone System
Execulink Telecom Inc.
Gosfield North Communications Co-operative Limited
Hay Communications Co-operative Limited
Huron Telecommunications Co-operative Limited
KMTS
Lansdowne Rural Telephone Co. Ltd.
Mornington Communications Co-operative Limited
Nexicom Telecommunications Inc.
Nexicom Telephones Inc.
North Frontenac Telephone Corporation Ltd.
NorthernTel, Limited Partnership
NRTC Communications
Ontera
People's Tel Limited Partnership
Quadro Communications Co-operative Inc.
Roxborough Telephone Company Limited
TBayTel
Tuckersmith Communications Co-operative Limited
Wightman Telecom Ltd.
WTC Communications

Quebec

CoopTel
La Cie de Téléphone de Courcelles Inc.
La Compagnie de Téléphone de Lambton Inc.
La Compagnie de Téléphone de St-Victor
La Compagnie de Téléphone Upton Inc.
Le Téléphone de St-Éphrem inc.
Sogetel inc.
Téléphone Guèvremont inc.
Téléphone Milot inc.