Telecom Order CRTC 2011-79

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Ottawa, 9 February 2011

Fido Solutions Inc. – Compensation for traffic termination

File number: Tariff Notice 17

In this order, the Commission approves, with changes, Fido's proposed modified terms and conditions related to compensation for traffic imbalances that may occur when traffic is interchanged between local exchange carriers over designated bill and keep trunks. The Commission also approves further changes to these terms and conditions in the competitive local exchange carriers' (CLECs) tariffs to (a) remove the reference to the six-month waiting period after commercial launch and (b) allow traffic imbalance charges for part of a month to be waived. Further, the Commission denies a request to remove from the CLECs' tariffs the provisions requiring notification of traffic imbalances over local interconnection region-based interconnections. In addition, the Commission directs the incumbent local exchange carriers to modify their Compensation for Traffic Termination tariffs to reflect the Commission's determinations in this order.

Introduction

1. The Commission received an application from Fido Solutions Inc. (Fido), dated 6 October 2008, in which the company proposed to modify the terms and conditions pertaining to its Competitive Local Exchange Carrier (CLEC) General Tariff item 201.1, Compensation for Traffic Termination – Termination of Intra-Exchange or Intra-LIR Traffic.[1]

2. In a letter dated 20 October 2008, the Commission sought comments from all Canadian local exchange carriers (LECs) on Fido's proposed modifications and on the appropriateness of adopting these modifications in the Commission's CLEC Model Tariff.[2]

3. The Commission received comments from Bell Aliant Regional Communications, Limited Partnership and Bell Canada (collectively, the Bell companies), MTS Allstream Inc. (MTS Allstream), Quebecor Media Inc. on behalf of its affiliate Videotron Ltd. (Videotron), Rogers Cable Communications Inc., and TELUS Communications Company (TCC). In addition to comments on Fido's proposed changes, some parties proposed further changes to the terms and conditions for traffic

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[1] Local exchange carriers (LECs) use this interconnection service to compensate each other for traffic imbalances that may occur when traffic is interchanged over bill and keep trunks. Where an imbalance exists, the LEC originating less traffic than it terminates is entitled to compensation from the other LEC.

[2] The CLEC Model Tariff can be found on the Commission's website under "CRTC Interconnection Steering Committee."

imbalance. All parties were provided the opportunity to comment on these proposed changes. The public record of this proceeding, which closed on 1 December 2008, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.

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

   I. Should CLECs be allowed to begin billing for a traffic imbalance associated with an exchange-based interconnection[3] upon notification of the imbalance?

   II. Should CLECs resume billing for a traffic imbalance associated with an exchange-based interconnection that recurs immediately after the imbalance has declined to zero?

   III. Should references to the initial traffic imbalance period associated with exchange-based interconnections be removed from all CLECs' tariffs?

   IV. Should the requirement for notification regarding traffic imbalances associated with local interconnection region (LIR)-based interconnection arrangements[4] be removed from all CLECs' tariffs?

   V. Should CLECs be allowed to waive traffic imbalance charges associated with LIR-based interconnections for a partial month after the activation of bill and keep trunks?

   VI. Should the new terms and conditions related to compensation for traffic imbalance for CLECs also be reflected in the incumbent local exchange carriers' (ILECs) tariffs?

I. Should CLECs be allowed to begin billing for a traffic imbalance associated with an exchange-based interconnection upon notification of the imbalance?

5. Fido proposed to modify the terms and conditions that apply to traffic imbalances so that when an imbalance is detected in its favour, traffic imbalance rates would be applied from the date on which the other LEC is notified of the imbalance, instead of being applied in the month following the notification. Fido indicated that its proposed modification would harmonize its terms and conditions related to traffic imbalance with those of the ILECs.

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[3] For exchanged-based interconnection arrangements, there is a point of interconnection in each of the ILECs' exchanges in which the LEC operates. Exchange-based interconnection was grandfathered in Telecom Decision 2004-46.

[4] For LIR-based interconnection arrangements, exchanges are consolidated into larger LIRs to establish a single point of interconnection for all LECs operating in the LIR.

6. The parties generally agreed with Fido's proposed modifications. Moreover, all parties agreed that it would be appropriate for all CLECs to adopt Fido's proposed modifications in their tariffs and for these changes to be reflected in the CLEC Model Tariff.

7. The Commission notes that, as Fido indicated, the ILECs' terms and conditions related to traffic imbalance differ from those approved for the CLECs because the ILECs apply the charges associated with traffic imbalance from the date on which the other LEC is notified of the imbalance.

8. The Commission notes that Telecom Decision 97-8 requires that ILECs and CLECs offer interconnection services under the same terms and conditions. The Commission considers that because the CLECs' terms and conditions related to traffic imbalance are not the same as those of the ILECs, they place CLECs at a disadvantage compared to the ILECs. Accordingly, the Commission determines that it is appropriate for all CLECs to begin billing for a traffic imbalance from the date it notifies the other LEC of the imbalance.

II. Should CLECs resume billing for a traffic imbalance associated with an exchange-based interconnection that recurs immediately after the imbalance has declined to zero?

9. Fido proposed to clarify the terms and conditions related to its invoicing process for traffic imbalances. Specifically, Fido proposed that when an imbalance recurs in the month immediately after the imbalance has declined to zero, Fido should be allowed to resume billing immediately, in the same way as it would in ongoing imbalance situations.

10. The parties generally agreed with Fido's proposed modifications. Moreover, all parties agreed that it would be appropriate for all CLECs to adopt Fido's proposed modifications in their tariffs and for these changes to be reflected in the CLEC Model Tariff.

11. The Commission is of the view that the language related to traffic imbalances in both the existing CLEC tariffs and the CLEC Model Tariff is unclear regarding how charges for subsequent imbalances are to be applied. The Commission considers that Fido's proposed revisions are consistent with the manner in which ILECs apply their tariff provisions in these circumstances. The Commission also considers that Fido's proposed revisions would clarify how the charges for subsequent traffic imbalance situations are to be applied. The Commission therefore determines that when an imbalance recurs in the month immediately after it has declined to zero, a CLEC can resume billing immediately. Accordingly, Fido's proposed wording, as modified below, is to be added to all CLECs' tariffs and to the CLEC Model Tariff.

III. Should references to the initial traffic imbalance period associated with exchange-based interconnections be removed from all CLECs' tariffs?

12. For exchange-based interconnections, neither party is obligated to pay compensation for traffic termination when a traffic imbalance occurs within six months of the LEC's launch of commercial service in the relevant exchange. Further, a traffic imbalance must be detected for three consecutive months on a specific trunk group before charges can be billed (the initial imbalance period).

13. MTS Allstream proposed to eliminate the reference to the initial imbalance period associated with exchange-based interconnections because no new exchange-based interconnections have recently been launched. The Bell companies did not support MTS Allstream's proposal, submitting that there are existing exchange-based interconnection arrangements for which the initial imbalance period still applies.

14. The Commission notes that the exchange-based interconnection regime was grandfathered in Telecom Decision 2004-46. As a result, LECs cannot launch new services on an exchange basis, although there could still be existing exchange-based interconnection arrangements in place.

15. Accordingly, the Commission determines that, while it is appropriate to remove from the CLECs' tariffs and the CLEC Model Tariff the terms and conditions related to traffic imbalances that occur within the first six months of launch of commercial service in an exchange, it is not appropriate at this time to remove the reference to the initial imbalance period associated with exchange-based interconnections because that period still applies in certain exchanges.

IV. Should the requirement for notification regarding traffic imbalances associated with LIR-based interconnection arrangements be removed from all CLECs' tariffs?

16. TCC proposed to eliminate the requirement to notify the other LEC regarding traffic imbalances associated with LIR-based interconnection arrangements. The company indicated that since both LECs are aware of the activation of bill and keep trunks, further notification is unnecessary and only serves to complicate the imbalance settlement process. MTS Allstream submitted that there is no need for notification of an imbalance because both of the interconnected LECs are able to detect the imbalance. Videotron supported the elimination of the notification requirement.

17. The Bell companies did not support this proposal. They submitted that since traffic imbalance rates are applied following a formal notification, the current requirement for notification establishes the date from which traffic imbalance payments are to be calculated. The Bell companies submitted that without notification, there would be no way to determine the date from which LECs could send invoices for traffic imbalances, potentially causing increased costs to administer the compensation program, as well as financial uncertainty if invoices could be indefinitely adjusted.

18. The Commission notes that traffic imbalances may not necessarily occur upon the activation of bill and keep trunks. The Commission also notes that the current requirement for notification establishes a formal date from which a LEC can begin applying the traffic imbalance rates, which significantly reduces the risk of billing disputes. Accordingly, the Commission determines that it is appropriate to maintain the requirement for LECs to notify each other when a traffic imbalance has been detected.

V. Should CLECs be allowed to waive traffic imbalance charges associated with LIR-based interconnection arrangements for a partial month after the activation of bill and keep trunks?

19. The Bell companies and MTS Allstream proposed that traffic imbalance rates be applied on a monthly basis to eliminate the administrative complexity of calculating partial monthly charges. In this regard, TCC proposed that LECs should be allowed to waive charges for the partial month after the activation of bill and keep trunks in a new LIR, and begin billing for the first full month. They submitted that there are situations where the revenue generated from the partial month is exceeded by the billing cost.

20. The Commission notes that no party opposed this proposal. The Commission considers that should a LEC that is entitled to receive compensation for traffic imbalances for a partial month choose to waive those charges, it should be allowed to do so.

21. Accordingly, the Commission permits CLECs that are entitled to receive compensation to waive traffic imbalance charges for a partial month at their discretion.

VI. Should the new terms and conditions related to compensation for traffic imbalance for CLECs also be reflected in the ILECs' tariffs?

22. As noted above, Telecom Decision 97-8 requires that ILECs and CLECs offer interconnection services under the same terms and conditions. The Commission notes that the ILECs supported the proposed changes to the CLECs' tariffs. Accordingly, the Commission considers that the ILECs should reflect in their Access Services Tariffs the terms and conditions related to compensation for traffic imbalance approved in this order if these terms and conditions are not currently reflected in their tariffs.

Conclusion

23. In light of the above, the Commission **approves** Fido's application, subject to the wording changes reflected below. These changes will also be reflected in the CLEC Model Tariff.

24. The Commission directs all CLECs to issue, within ten business days of the date of this order, amended tariff pages in order to revise item 201.1 of their tariffs as follows (changes are highlighted in bold):

i) Remove the original item 201.1.2 and renumber items 201.1.3 to 201.1.5 as items 201.1.2 to 201.1.4.

ii) Modify renumbered items 201.1.3 and 201.1.4 as follows:

Item 201.1.3 If [the Company/CLEC] detects a traffic imbalance in its favour, subsequent to the initial imbalance that applies for existing exchange-based interconnection and for LIR-based interconnection, it shall notify the LEC as soon as possible. **For both the exchange-based and the LIR-based interconnection regimes**, the **non-recurring monthly** rates specified below will be applied **on the basis of actual traffic imbalances from the date of notification**.

Item 201.1.4 The charge for any month is calculated for each trunk required at the busiest period of that month on the basis of actual traffic imbalance in the month. The non-recurring **monthly** rates specified below apply for as long as the imbalance exists. **When an imbalance recurs in a month subsequent to its declining to zero, [the Company/CLEC] shall notify the LEC of the recurrence of the imbalance. [The Company/CLEC] will then issue an invoice for the imbalance consistent with the manner in which ongoing imbalance situations are billed.**

25. CLECs wishing to waive traffic imbalance charges for partial months after the activation of bill and keep trunks are to include with their issued tariff pages the following provisions:

Item 201.1.5 **Where a traffic imbalance favourable to the LEC exists for a partial month after the activation of bill and keep trunks in a new LIR, the LEC may waive charges for that partial month. If the LEC chooses to do so, billing will resume as normal in the first complete month.**

26. The Commission directs ILECs that operate in areas where local competition has been implemented to issue updated tariff pages reflecting the determinations in sections II, III, and V of this order within ten business days of the date of this order.

Secretary General

Related documents

- *Follow-up to* Trunking arrangements for the interchange of traffic and the point of interconnection between local exchange carriers, *Telecom Decision CRTC 2004-46*, Telecom Decision CRTC 2006-35, 29 May 2006

- *Trunking arrangements for the interchange of traffic and the point of interconnection between local exchange carriers*, Telecom Decision CRTC 2004-46, 14 July 2004

- *Local competition*, Telecom Decision CRTC 97-8, 1 May 1997