



Telecom Regulatory Policy CRTC 2012-563

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Route reference: Telecom Regulatory Policy 2012-83

Ottawa, 15 October 2012

Bell Aliant Regional Communications, Limited Partnership and Bell Canada – Application to review and vary Telecom Regulatory Policy 2012-83 regarding the regulatory measure associated with single-line inside wire services

File number: 8662-B54-201205386

In this decision, the Commission varies the directive established in Telecom Regulatory Policy 2012-83 for incumbent local exchange carriers (ILECs) related to the installation of a jack-ended demarcation device for residential and business single-line customers who do not have such a device. The Commission allows the ILECs, following the provision of free diagnostic service, the option to not install a jack-ended demarcation device, on the condition that repair service is provided free of charge.

Background

1. In Telecom Regulatory Policy 2012-83, the Commission required all incumbent local exchange carriers (ILECs) that have transferred responsibility of their inside wire to their single-line residential and business customers to provide free diagnostic service to those customers who do not have a jack-ended demarcation device.¹ The Commission also required those ILECs to ensure that a jack-ended demarcation device is installed free of charge following provision of a diagnostic service at a customer's premises. Further, the Commission permitted ILECs to charge for repair service on the same visit if they were requested to perform such repairs.

Application

2. The Commission received an application from Bell Aliant Regional Communications, Limited Partnership and Bell Canada (collectively, the Bell companies), dated 4 May 2012, requesting that it review and vary, as well as stay, the requirement set out in Telecom Regulatory Policy 2012-83 to install a jack-ended demarcation device following the provision of a free diagnostic service to a single-line inside wire customer during that same visit to the customer's premises. The Bell companies requested that this requirement be rescinded.

¹ A demarcation device refers to the equipment that connects the inside wire of the customer's premises to the ILEC's network. Demarcation devices that are jack-ended include a test jack or demarcation jack that allows customers to verify whether a transmission problem is on the inside wire or on the telephone network.

3. The Commission received comments regarding the Bell companies' application from the Public Interest Advocacy Centre (PIAC) and the Canadian Network Operators Consortium Inc. (CNOC). The public record of this proceeding, which closed on 14 June 2012, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.

Should the Commission vary the determination in Telecom Regulatory Policy 2012-83 regarding the installation of a jack-ended demarcation device?

4. The Bell companies submitted that the Commission's requirement that they install a jack-ended demarcation device following the provision of a free diagnostic service to a single-line inside wire customer during that same visit to the customer's premises was based on errors in law and fact. Among other things, the Bell companies argued that the Commission had failed to perform any cost analysis of the new requirement, which would result in a significant financial burden to the companies.
5. The Bell companies also submitted that the above-referenced requirement implemented by the Commission is contrary to the Policy Direction² in that it (a) does not rely on market forces to the maximum extent feasible, and (b) is not applied in a symmetrical or competitively neutral manner because it only applies to ILECs and not to competitive local exchange carriers. The Bell companies further submitted that the imposition of the new requirement was outside the scope of the proceeding initiated by Telecom Notice of Consultation 2011-219.
6. The Bell companies were of the view that requiring the ILECs to place a jack-ended demarcation device on every diagnostic call provides little or no incremental benefit to competitors, customers, or ILECs, as the Bell companies most often dispatch a technician to the customer's premises to complete the diagnostic service even when the customer has a jack-ended demarcation device. The Bell companies stated that, even with the jack-ended demarcation device, they seldom charge for diagnostic visits or for the final repair if it is performed at the time of the diagnostic visit.
7. In opposing the Bell companies' application, PIAC submitted that the Commission's determination was compliant with the requirement to rely on market forces, submitting that the transfer of responsibility of inside wire was intended to promote the development of a competitive marketplace for inside wire maintenance and repair. PIAC also submitted that the Bell companies were fully compensated for costs associated with the installation of the jack-ended demarcation device through telephone rates. Finally, PIAC disagreed that the installation of the jack-ended demarcation device was outside of the scope of the proceeding initiated by Telecom Notice of Consultation 2011-219, arguing that, given the nature of the proceeding, the Bell companies should have contemplated the possibility that the Commission would address the installation of jack-ended demarcation devices.

² *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

8. CNOC stated that it was not opposed to rescinding the above-noted requirement, conditional upon all ILECs providing free diagnostic and repair services for customers without a jack-ended demarcation device. Otherwise, the Bell companies' request should be rejected in order to ensure the equitable treatment of customers with no such device.

Commission's analysis and determinations

9. In Telecom Regulatory Policy 2012-83, the Commission stated that requiring ILECs to install a jack-ended demarcation device free of charge following a diagnostic service at a customer's premises would result in a consistent practice among ILECs and more equitable treatment of customers who currently do not have jack-ended demarcation devices as compared to those who do.
10. The Commission notes that the record of the proceeding that led to Telecom Regulatory Policy 2012-83 did not include evidence with respect to the cost of installing jack-ended demarcation devices. Based on its review of the cost estimates provided by the Bell companies as part of their review and vary application, the Commission considers that the costs to implement the regulatory measure would be material for the Bell companies. Therefore, the Commission considers that there is substantial doubt as to the correctness of the regulatory measure to mandate the installation of a jack-ended demarcation device as set out in Telecom Regulatory Policy 2012-83.
11. However, the Commission is of the view that rescinding the regulatory measure referenced above, as requested by the Bell companies, would once again result in an inconsistent practice among ILECs regarding repair service for customers without a jack-ended demarcation device and would, therefore, be inappropriate. The Commission continues to be of the view that it is not fair to permit ILECs to charge customers with no jack-ended demarcation device for repair service following a diagnostic service at a customer's premises, if a jack-ended demarcation device is not installed.
12. In the circumstances, the Commission considers that it would be more appropriate to vary Telecom Regulatory Policy 2012-83 by providing the ILECs with the option of not installing a jack-ended demarcation device if they provide free repair service following free diagnostic service. The Commission considers that this approach would mitigate the impact on those ILECs that have already implemented the directives of Telecom Regulatory Policy 2012-83.
13. The Commission notes that, in Telecom Regulatory Policy 2012-83, it indicated that obliging ILECs to provide free repair service to customers with no jack-ended demarcation device may not, in and of itself, give ILECs enough incentive to install these devices at all of their customers' premises. The Commission, however, considers that the regulatory approach set out in paragraph 12 above is in the best interest of customers, who will receive free repair if the ILECs decide not to install jack-ended demarcation devices. In the cases where jack-ended demarcation devices are installed, customers remain free to exercise competitive choices for inside wire repair service at their discretion.

Conclusion

14. In light of the above, the Commission varies the directive established in Telecom Regulatory Policy 2012-83 for ILECs related to the installation of a jack-ended demarcation device for residential and business single-line customers who do not have such a device. The Commission decides that, following the provision of free diagnostic service, ILECs have the option to
 - a) not install a jack-ended demarcation device and provide repair services for inside wire free of charge; or
 - b) install a jack-ended demarcation device, at which time the ILEC may charge for the repair of inside wire during the same visit.
15. For those ILECs where the requirements of the single-line inside wire regime are contained in conditions of forbearance, the above condition supersedes these previous conditions of forbearance dealing with diagnostic and repair services for customers with no jack-ended demarcation device.
16. For those ILECs where single-line inside wire services for customers with no jack-ended demarcation devices have not been forborne, they are to issue revised tariff pages by **15 November 2012**,³ to reflect the determinations made in this decision.
17. ILECs are also required to provide notification to their single-line inside wire customers of the determinations in this decision via the information in the next edition of their white pages directories, their websites, their customers' bills, and their customer service representatives at the time of a service call.
18. In light of the above, it is not necessary to address the Bell companies' request to stay the implementation of Telecom Regulatory Policy 2012-83 as it is moot.
19. The Commission considers that the regulatory measure regarding single-line inside wire services to customers with no jack-ended demarcation device established in this decision furthers the policy objectives set out in paragraphs 7(b), (c), (f), and (h) of the *Telecommunications Act* (the Act)⁴ and is consistent with the Policy Direction.
20. Specifically, the Commission is of the view that, consistent with subparagraph 1(a)(ii) of the Policy Direction, this regulatory measure is efficient and proportionate to its purpose, and interferes with the operation of competitive market forces to the minimum extent, because it provides flexibility to the ILECs while, at the same time, protecting the interests of consumers.

³ The revised tariff pages can be submitted to the Commission without a description page or an approval request; a tariff application is not required.

⁴ The cited policy objectives of the Act are

7(b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada;

7(c) to enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications;

7(f) to foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective; and

7(h) to respond to the economic and social requirements of users of telecommunications services.

21. With respect to subparagraph 1(b)(iii) of the Policy Direction, the Commission considers that the regulatory measure is symmetrical and competitively neutral to the greatest extent possible because it does not put the ILECs in a competitively disadvantageous position vis-à-vis their competitors.

Secretary General

Related documents

- *Regulatory measure associated with single-line inside wire services provided by incumbent local exchange carriers to customers with no jack-ended demarcation device*, Telecom Regulatory Policy CRTC 2012-83, 9 February 2012
- *Review of the regulatory measure associated with single-line inside wire services provided by incumbent local exchange carriers to customers with no jack-ended demarcation device*, Telecom Notice of Consultation CRTC 2011-219, 29 March 2011