



## Telecom Decision CRTC 2014-114

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Ottawa, 14 March 2014

### **TELUS Communications Company – Application to replace six communities in the company’s deferral-account-funded broadband service expansion plan**

File number: 8678-T66-201311357

*In this decision, the Commission approves TCC’s application to replace five communities that were previously approved for deferral-account-funded broadband service expansion, as set out in the company’s deferral-account-funded broadband service expansion plan, with five other communities. The Commission denies TCC’s proposal to include a sixth replacement community, Pashilqua Indian Reserve No. 2, in this plan, and directs TCC to propose an alternate replacement community in time for the company to complete its broadband service rollout by 31 August 2014.*

#### **Introduction**

1. The Commission received an application from TELUS Communications Company (TCC), dated 1 August 2013, in which the company proposed changes to six approved communities set out in its deferral-account-funded broadband service expansion plan (referred to hereafter as “the approved communities”). Specifically, TCC proposed to (i) replace the community of Kitwanga, in British Columbia, which was inadvertently included in duplicate under two different names, (ii) replace an additional four approved communities in British Columbia, since they have no permanent residents, and (iii) add a new community in Alberta, since the company discovered a case where two approved communities should be treated as one. In summary, TCC proposed that six new communities benefit from deferral account funding for broadband service expansion.
2. The Commission received interventions regarding TCC’s application and replies to Commission requests for information from the British Columbia Broadband Association (BCBA)<sup>1</sup> on behalf of the Lytton Area Wireless Society (LAWS),<sup>2</sup> the Cayoose Creek Band Council, the St’at’imc Chiefs Council, TCC, the Ts’kw’aylaxw First Nation, and the Xaxli’p Chief and Council. The public record of this proceeding, which closed on 17 January 2014, is available on the Commission’s website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under “Public Proceedings” or by using the file number provided above.

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<sup>1</sup> The BCBA represents a number of small telecommunications service providers in British Columbia.

<sup>2</sup> LAWS is a community-owned network that serves areas around Lillooet and Lytton, in British Columbia.

## Background

3. In Telecom Decision 2006-9, the Commission approved the use of funds accumulated in the incumbent local exchange carriers' (ILECs) deferral accounts<sup>3</sup> to, among other things, expand broadband services to rural and remote communities.
4. In Telecom Decision 2010-639, the Commission approved the use of funds in TCC's deferral account to expand broadband services to 159 rural and remote communities in Alberta, British Columbia, and Quebec.
5. In Telecom Decision 2012-603, the Commission (i) approved TCC's application to replace three approved communities, since they had no permanent residents, and (ii) required TCC to file an application to replace a fourth approved community (Kitwanga, in British Columbia), which was inadvertently included in duplicate under two different names, with another community.

## Application

6. As a follow-up to Telecom Decision 2012-603, TCC proposed to extend broadband service to Pashilqua Indian Reserve (IR) No. 2, a Cayoose Creek First Nation community in British Columbia, to replace the duplicate Kitwanga community.
7. TCC further proposed that the following four approved communities in British Columbia be replaced because they have no permanent residents:
  - Skookumchuk (Lazy Lake);
  - Ehatesaht (Chenahkint 12);
  - Kwiakah; and
  - Puckatholechin No. 11.
8. TCC also indicated that two approved communities in Alberta are served out of the same central office. Therefore, for the purpose of broadband service expansion, TCC proposed that these two approved communities be considered as a single approved community, and that a new community be added to the company's deferral-account-funded broadband service expansion plan.
9. As replacements for the five approved communities mentioned in the previous two paragraphs, TCC proposed to use its deferral account funds to extend broadband service to the following communities:
  - Sachteen IR No. 2A, in British Columbia (a Skookumchuk First Nation community);
  - Ehatis 11, in British Columbia (an Ehatesaht First Nation community);

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<sup>3</sup> Deferral accounts were established by the Commission in Telecom Decision 2002-34.

- Marble Canyon IR No. 3, in British Columbia (a Ts'kw'aylaxw First Nation community);
- Chilhil IR No. 6, in British Columbia (a Xaxli'p First Nation community); and
- Trout Lake, in Alberta (a Peerless Trout First Nation community).

### **Commission's analysis and determinations**

10. The Commission notes that between 2006 and 2009, it held proceedings to determine which communities should be approved for deferral-account-funded broadband service expansion. In the decisions resulting from these proceedings, the Commission established the requirement that deferral account funding would not be provided to any community where there was an alternative broadband service provider that could demonstrate that it offered or had firm plans to offer broadband service comparable to the broadband service offered by the ILEC in the community.
11. The Commission also notes some parties' initial submissions that residents of three of the six proposed replacement communities (i.e. Pashilqua IR No. 2, Marble Canyon IR No. 3, and Chilhil IR No. 6) are in areas currently served by a local broadband service provider.
12. Consequently, the Commission has identified the following two issues to be addressed in this decision:
  - I. How should the Commission dispose of TCC's proposal regarding three replacement communities (i.e. Pashilqua IR No. 2, Marble Canyon IR No. 3, and Chilhil IR No. 6, in British Columbia) in light of the submissions that an alternative broadband service provider is currently providing service in the areas in which these communities are located?
  - II. Should the Commission approve TCC's proposal with respect to the three other replacement communities (i.e. Sachteen IR No. 2A and Ehatis 11 in British Columbia, and Trout Lake in Alberta)?

### **I. How should the Commission dispose of TCC's proposal regarding three replacement communities (i.e. Pashilqua IR No. 2, Marble Canyon IR No. 3, and Chilhil IR No. 6, in British Columbia) in light of the submissions that an alternative broadband service provider is currently providing service in the areas in which these communities are located?**

#### **Positions of parties**

13. The BCBA initially asserted that three of TCC's proposed replacement communities, namely Pashilqua IR No. 2, Marble Canyon IR No. 3, and Chilhil IR No. 6, are in areas that are currently served by one of its members, LAWS.
14. However, in response to a Commission request for information, the BCBA indicated that only the community of Pashilqua IR No. 2 is covered by LAWS's wireless

broadband service, and that Marble Canyon IR No. 3 and Chilhil IR No. 6 are not covered.

15. The Cayoose Creek Band Council, the St'at'imc Chiefs Council, the Ts'kw'aylaxw First Nation, and the Xaxli'p Chief and Council supported TCC's proposal to implement broadband service in their respective communities (i.e. Pashilqua IR No. 2, Marble Canyon IR No. 3, and Chilhil IR No. 6). They each indicated that they have been in consultation and negotiation with TCC over the past year concerning proposed projects to provide broadband service in their communities.
16. The St'at'imc Chiefs Council, on behalf of its three members (i.e. the Cayoose Creek Band Council, the Ts'kw'aylaxw First Nation, and the Xaxli'p Council), disputed some of the BCBA's statements, arguing that neither the BCBA nor LAWS had made any effort to build a positive and constructive working relationship with the communities concerned. The St'at'imc Chiefs Council submitted that the communities themselves should determine which company is chosen to be the independent service provider in each community.
17. TCC indicated that it has worked closely with the above-mentioned First Nations to provide broadband service in these communities, and that it would continue to do so. The company added that it has no objection to LAWS providing wireless broadband service in these communities; however, it stated that according to the St'at'imc Chiefs Council's submission, the First Nations concerned would prefer to continue to work with TCC.
18. In response to the BCBA's submission that Pashilqua IR No. 2 is currently served by LAWS, TCC stated that if its proposal in relation to that community is rejected, the company would propose another replacement community.

### **Commission's analysis and determinations**

19. The Commission notes that the three proposed replacement communities (i.e. Pashilqua IR No. 2, Marble Canyon IR No. 3, and Chilhil IR No. 6) are all located in high-cost serving areas in the central interior of British Columbia.
20. The Commission further notes that based on the parties' submissions, the community of Pashilqua IR No. 2 is currently covered by LAWS's wireless broadband service, and that the communities of Marble Canyon IR No. 3 and Chilhil IR No. 6 are not.
21. Accordingly, the Commission considers that, with the exception of Pashilqua IR No. 2, which is already covered by LAWS, TCC's proposal to replace the approved communities where there are no permanent residents with the proposed communities, namely Chilhil IR No. 6 and Marble Canyon IR No. 3, is reasonable and would be consistent with the Commission's requirements regarding the use of deferral account funds.
22. The Commission notes that this decision does not prevent TCC from expanding broadband service to the community of Pashilqua IR No. 2, as long as deferral account funds are not used for that purpose.

## **II. Should the Commission approve TCC's proposal with respect to the three other replacement communities (i.e. Sachteen IR No. 2A and Ehatis 11 in British Columbia, and Trout Lake in Alberta)?**

23. The Commission did not receive any interventions with respect to the three other proposed communities.

### **Commission's analysis and determinations**

24. The Commission notes that these proposed replacement communities are First Nation communities located in high-cost serving areas in the central interior of British Columbia and Alberta.

25. The record of this proceeding suggests that residents of these communities currently do not have access to terrestrial broadband services, and that TCC has been consulting extensively with First Nation governments and giving consideration to the specific needs of these communities.

26. The Commission considers that TCC's proposal to replace the approved communities where there are no permanent residents with Sachteen IR No. 2A and Ehatis 11, in British Columbia, is reasonable and would be consistent with the Commission's requirements regarding the use of deferral account funds. The Commission also considers that the use of TCC's deferral account funds to extend broadband service to the residents of Trout Lake, in Alberta, would be consistent with the Commission's requirements regarding such use.

27. In light of all the above, the Commission **approves** TCC's proposal to include five replacement communities in its deferral-account-funded broadband service expansion plan (i.e. Marble Canyon IR No. 3, Chilhil IR No. 6, Sachteen IR No. 2A and Ehatis 11 in British Columbia, and Trout Lake in Alberta).

28. The Commission **denies** TCC's proposal to include the community of Pashilqua IR No. 2 in its deferral-account-funded broadband service expansion plan, since this community is already covered by LAWS's wireless broadband service.

29. The Commission directs TCC to propose a different replacement community that meets the Commission's deferral account funding requirements, in time for the company to complete its broadband service rollout by 31 August 2014.

Secretary General

### **Related documents**

- *TELUS Communications Company – Application to replace communities in the company's deferral account funded broadband expansion plan*, Telecom Decision CRTC 2012-603, 30 October 2012
- *Follow-up to Telecom Decision 2008-1 – Proposal by TELUS Communications Company to dispose of the funds remaining in its deferral accounts*, Telecom Decision CRTC 2010-639, 31 August 2010

- *Disposition of funds in the deferral accounts*, Telecom Decision CRTC 2006-9, 16 February 2006
- *Regulatory framework for second price cap period*, Telecom Decision CRTC 2002-34, 30 May 2002, as amended by Telecom Decision CRTC 2002-34-1, 15 July 2002