



## Telecom Regulatory Policy CRTC 2014-226

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Route reference: Telecom Notice of Consultation 2013-429

Ottawa, 9 May 2014

### Compensation for call termination

File numbers: 8661-C12-201311810, Fibernetics Tariff Notices 6 and 6A, Fido Tariff Notice 23, RCP Tariff Notice 32, and Videotron Tariff Notice 40

*The Commission determines that the bill-and-keep approach should be the default network interconnection arrangement for the termination of local calls between local interconnection regions, and between exchanges. The Commission also forbears from the regulation of call termination services (CTS) offered by competitive local exchange carriers. The Commission therefore **approves** Fibernetics' application to withdraw CTS from its Access Services Tariff, and closes the files associated with Fido's, RCP's, and Videotron's applications to increase the rates they charge for their respective CTS.*

### Introduction

1. The Commission received applications from Fibernetics Corporation (Fibernetics); Fido Solutions Inc. (Fido); Quebecor Media Inc., on behalf of its affiliate Videotron G.P. (Videotron); and Rogers Communications Partnership (RCP) in relation to their respective call termination services (CTS)<sup>1</sup> [the applications]. Fibernetics proposed to withdraw CTS from its Access Services Tariff and to terminate inter-local interconnection region (inter-LIR)<sup>2</sup> local calls only over bill-and-keep<sup>3</sup> trunks. The other companies proposed to increase the rates they charge for their respective CTS when they interconnect with another carrier on the basis of LIRs.
2. The Commission considered that the applications raised the question of whether the Competitive Local Exchange Carrier (CLEC) Model Tariff (the model tariff)<sup>4</sup> needs to be revised. To address this matter, the Commission issued Telecom Notice of Consultation 2013-429, in which it invited parties to comment on the preferred default network interconnection arrangement for local calls routed to a CLEC for

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<sup>1</sup> CTS is provided by a competitive local exchange carrier (CLEC) to another local exchange carrier to terminate local calls routed to the CLEC in an exchange or a local interconnection region (LIR) when the calls originate from outside that exchange or LIR.

<sup>2</sup> Between 2004 and 2006, the Commission modified the local telephone competition regulatory framework by consolidating exchanges to form larger LIRs.

<sup>3</sup> Under the bill-and-keep approach, the originating carrier bills its customer for the call and keeps the corresponding revenue. The originating carrier does not compensate the terminating carrier for the call termination expense unless there is a traffic imbalance.

<sup>4</sup> The Commission approved the model tariff, to be used by all CLECs for their general tariffs, in Telecom Decision 2002-54.

termination in an LIR when the calls originate from outside that LIR. The Commission also asked parties whether CTS should be required in tariffs as an option if the bill-and-keep approach were made the default arrangement.

3. The Commission received interventions from Allstream Inc. (Allstream); Bell Aliant Regional Communications, Limited Partnership and Bell Canada (collectively, the Bell companies); Iristel Inc. (Iristel); Primus Telecommunications Canada Inc. (Primus); RCP; Saskatchewan Telecommunications (SaskTel); Shaw Communications Inc. (Shaw); TELUS Communications Company (TCC); Videotron; and the Canadian Network Operators Consortium Inc. (CNOc), on behalf of its member CLECs: Colba.Net Inc.; Distributel Communications Limited; Durham.Net Inc., carrying on business as Telnet Communications; Execulink Telecom Inc.; and Managed Network Systems Inc.
  4. The public record of this proceeding, which closed on 3 October 2013, is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) or by using the file numbers provided above.
  5. The Commission has identified the following issues to be addressed in this decision:
    - I. What should the default network interconnection arrangement be for the termination of local inter-LIR/interexchange calls: CTS or the bill-and-keep approach?
    - II. If the default arrangement should be the bill-and-keep approach, should the Commission forbear from regulating CTS?
    - III. How should the Commission dispose of the applications?
- I. What should the default network interconnection arrangement be for the termination of local inter-LIR/interexchange calls: CTS or the bill-and-keep approach?**
6. Allstream, CNOc, Iristel, Primus, RCP, SaskTel, Shaw, and TCC submitted that the bill-and-keep approach should be the default network interconnection arrangement for the termination of inter-LIR local calls. Their reasons for supporting this approach included the following: any call may be terminated through the bill-and-keep arrangement, bill-and-keep arrangements provide fairer compensation to CLECs than CTS, and it is simpler and less expensive to use existing bill-and-keep arrangements than to require the establishment of a separate trunk group for these types of calls.
  7. Videotron submitted that allowing inter-LIR local traffic to be routed to bill-and-keep trunks would not be consistent with the definition of bill-and-keep traffic – that is, traffic that originates and terminates in the same LIR. Videotron further submitted that it should be up to the local exchange carrier (LEC) from which the traffic originates to decide whether the traffic is routed to bill-and-keep trunks.

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

8. The Commission notes that when it introduced local competition in Telecom Decision 97-8, it intended to foster facilities-based competition. Therefore, it directed CLECs and incumbent local exchange carriers to interconnect on an equal basis – that is, as co-carriers – and to share investment in interconnection facilities such as bill-and-keep trunks, which are commonly referred to as shared-cost facilities. Consequently, the Commission established the bill-and-keep approach as the default method of compensation.
  9. In Telecom Order 99-758, the Commission initially approved rates for the provision of CTS by MetroNet Communication Group Inc. (MetroNet) through one-way trunks rather than shared-cost facilities. The Commission subsequently incorporated CTS into the model tariff and set out rates similar to the rates approved for MetroNet. When the model tariff was revised in 2006 to support LIRs, CTS was retained.
  10. As set out in the model tariff, CTS is the default (or primary) arrangement for the termination of local calls coming from outside the LIR, while the bill-and-keep approach is an optional arrangement that is allowed only if both parties mutually agree to its use.
  11. Contrary to Videotron's submission, the Commission in fact found in Telecom Decision 2004-46 that the cost to terminate any call in an LIR is the same, regardless of where the call originated, and that, therefore, any call could be routed to bill-and-keep trunks. The Commission considers that the same principle applies to exchange-based interconnection. The Commission therefore considers that any call, including inter-LIR and interexchange local calls, can be routed to bill-and-keep trunks for termination in an LIR or exchange.
  12. In light of the fact that bill-and-keep arrangements may be used to terminate any type of call and that they promote the Commission's goal of facilities-based competition, the bill-and-keep approach is the preferred interconnection arrangement for the termination of local calls.
  13. Given the above, the Commission determines that the bill-and-keep approach should be the default network interconnection arrangement for CLECs to terminate inter-LIR and interexchange local calls.
- II. If the default arrangement should be the bill-and-keep approach, should the Commission forbear from regulating CTS?**
14. Allstream, CNOC, Iristel, Primus, and SaskTel were of the view that CTS was not needed since LECs can enter into off-tariff negotiated arrangements for CTS. Moreover, removing CTS would eliminate concerns about LECs manipulating bill-and-keep traffic imbalance by routing traffic to the lower-rated CTS in order to alter compensation.

15. The Bell companies submitted that retaining CTS in tariffs would provide LECs with the option of terminating calls to CLECs using either bill-and-keep arrangements or CTS to efficiently manage traffic destined to CLECs and to ensure redundancy for interconnection arrangements with CLECs.
16. TCC submitted that retaining CTS in tariffs would require CLECs to provide CTS and would remove the need for TCC to negotiate bill-and-keep arrangements with CLECs.
17. Videotron submitted that removing CTS from tariffs would limit the options available to LECs for the effective termination of traffic. The company added that when carriers are unable to agree on a negotiated bill-and-keep arrangement, CTS would protect the carrier that wishes to terminate traffic. However, Videotron submitted that the rates for CTS needed to increase so that LECs could not manipulate interchanged traffic by routing it to CTS, which is rated lower than bill-and-keep compensation, to produce an artificial revenue gain.
18. RCP submitted that a LEC that wishes to interconnect directly with another LEC should have the option of doing so at a tariffed CTS rate.
19. Shaw submitted that it rarely encounters situations in which traffic cannot be terminated over bill-and-keep trunks, but that the absence of CTS would adversely affect LECs that might encounter this situation.

**Commission's analysis and determinations**

20. Because LECs must rely on each other's technical resources, interconnection arrangements between them are always subject to negotiations – for example, they must agree on matters such as joint construction of facilities and timelines. Therefore, the Commission considers that a requirement for CTS to be a tariffed service would not remove the need for negotiations between LECs.
21. In accordance with Telecom Regulatory Policy 2012-24, LECs can enter into off-tariff negotiated arrangements for CTS without seeking regulatory approval. The Commission considers that this would continue to be the case if CTS were no longer required to be a tariffed service.
22. As stated above, bill-and-keep arrangements can be used to terminate the same traffic as CTS. The Commission considers that by not requiring CTS to be a tariffed service, it would rely on market forces to the greatest extent possible, consistent with subparagraph 1(a)(i) of the Policy Direction.<sup>5</sup>
23. Conversely, the Commission considers that a requirement for CLECs to provide CTS in addition to the bill-and-keep approach would not be consistent with subparagraph 1(a)(ii) of the Policy Direction. Specifically, the Commission

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<sup>5</sup> *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

considers that such a requirement would not be efficient or proportionate for the purpose of voice network interconnection, especially for CLECs with limited resources that must incur additional costs for the provision, maintenance, and billing of a service that is rarely used.<sup>6</sup>

24. No longer requiring CTS to be a tariffed service would be consistent with the policy objectives set out in section 7 of the *Telecommunications Act* (the Act).<sup>7</sup>
25. The bill-and-keep arrangement, as opposed to CTS interconnection, requires both parties to invest in facilities and connect on an equal basis. The Commission considers that allowing for bill-and-keep interconnection in tariffs is consistent with the Commission's goal of facilities-based competition and with paragraph 7(a) of the Act.
26. Consistent with paragraph 7(c) of the Act, forbearance from the regulation of CTS would enhance the efficiency of LEC-to-LEC voice network interconnection, since LECs would no longer have to provide an additional method for terminating traffic unless it would be in their interest to do so.
27. Further, not requiring CTS to be a tariffed service would be consistent with paragraph 7(f) of the Act.
28. In light of the above, the Commission determines that it would be appropriate to forbear from regulating CTS offered by CLECs.

#### ***Implementation of forbearance***

29. Pursuant to subsection 34(1) of the Act, the Commission may make a determination to refrain from exercising certain powers and performing certain duties where it finds that to do so would be consistent with the policy objectives set out in the Act. The Commission finds, as a question of fact, that to refrain from the exercise of its powers and the performance of its duties, to the extent set out below, with respect to the regulation of CTS, would be consistent with the policy objectives set out in paragraphs 7(a), (c), and (f) of the Act.

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<sup>6</sup> Paragraph 1(a) of the Policy Direction states that “the Commission should (i) rely on market forces to the maximum extent feasible as the means of achieving the telecommunications policy objectives, and (ii) when relying on regulation, use measures that are efficient and proportionate to their purpose and that interfere with the operation of competitive market forces to the minimum extent necessary to meet the policy objectives.”

<sup>7</sup> Section 7 of the Act includes, among others, the following policy objectives, which are cited in this decision:

7(a) to facilitate the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions;

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

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.

30. The Commission considers that it is appropriate to
  - a. refrain from the exercise of its powers and the performance of its duties with respect to sections 25, 29, and 31, and subsections 27(1), (5), and (6) of the Act with respect to CTS;
  - b. retain sufficient powers under section 24 of the Act to impose future conditions on the offer and provision of the forborne CTS, as warranted; and
  - c. retain its powers pursuant to subsections 27(2) and (4) of the Act to ensure that smaller carriers in particular are not subject to unjust discrimination and undue preference with respect to the provision of CTS.
31. As a necessary consequence of its retention of section 24 and subsection 27(2) of the Act, the Commission also considers it necessary to retain subsection 27(3) as it pertains to the exercise of its powers under those sections. Further, the Commission considers it necessary to retain its powers under subsection 27(3) of the Act with respect to compliance with the other powers and duties not forborne from in this decision.
32. Pursuant to subsection 34(3) of the Act, the Commission finds that forbearance, to the extent set out in this decision, with respect to the regulation of CTS, is unlikely to impair unduly the establishment or continuance of a competitive market for the provision of LEC-to-LEC voice network interconnection services.
33. Pursuant to subsection 34(4) of the Act, the Commission declares that, effective the date of this decision, sections 25, 29, and 31, and subsections 27(1), (5), and (6) of the Act do not apply with respect to CTS.

### III. How should the Commission dispose of the applications?

34. In light of the determinations set out above, the Commission **approves** Fibernetics' proposal to withdraw CTS from its Access Services Tariff.
35. The Commission notes that its determinations set out above mean that CLECs no longer need a tariff approved by the Commission to provide CTS. Consequently, the Commission considers that Fido's, RCP's, and Videotron's applications to increase the CTS rates set out in their respective tariffs are moot. The Commission therefore closes the files associated with these applications.
36. The Commission **directs** all CLECs to issue revised tariff pages removing CTS as a tariffed interconnection service within **30 days** of the date of this decision.<sup>8</sup> As noted above, CLECs may continue to offer CTS on a negotiated basis.

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<sup>8</sup> Revised tariff pages can be submitted to the Commission without a description page or a request for approval; a tariff application is not required.

Secretary General

### **Related documents**

- *Compensation for call termination*, Telecom Notice of Consultation CRTC 2013-429, 22 August 2013
- *Network interconnection for voice services*, Telecom Regulatory Policy CRTC 2012-24, 19 January 2012
- *Trunking arrangements for the interchange of traffic and the point of interconnection between local exchange carriers*, Telecom Decision CRTC 2004-46, 14 July 2004
- *Model tariff for the interconnection services of competitive local exchange carriers*, Telecom Decision CRTC 2002-54, 3 September 2002
- Telecom Order CRTC 99-758, 4 August 1999
- *Local competition*, Telecom Decision CRTC 97-8, 1 May 1997