



Telecom Decision CRTC 2014-235

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Allstream Inc. – Billing issues with respect to co-location and other services by the Bell companies

*The Commission determines that the Bell companies are not to bill certain charges, pursuant to their Co-location tariffs, for power rearrangements requested by co-locators, and also **directs** the Bell companies to only bill co-locators for the reasonable amount of work required to implement a power reduction. The Commission **denies**, however, Allstream's request that the Bell companies be directed to (a) provide a refund related to non-implemented power reductions, and (b) immediately reduce Allstream's power levels in certain of Allstream's co-location sites.*

*The Commission also determines that the Bell companies are not to bill co-location charges to any co-locator for other tariffed co-location or similar services, and **directs** the Bell companies to provide a refund to Allstream in certain instances where Allstream has been overbilled.*

Introduction

1. The Commission received an application from Allstream Inc. (Allstream), dated 6 September 2013, in which the company requested that the Commission direct Bell Aliant Regional Communications, Limited Partnership and Bell Canada (collectively, the Bell companies) to abide by the terms and conditions of their Co-location tariffs and other tariffs.¹ Allstream also requested that the Commission direct the Bell companies to reduce certain charges, refund certain amounts, and clarify certain portions of the Bell companies' tariffs.
2. The Commission received an intervention from the Bell companies. The public record of this proceeding, which closed on 13 January 2014, is available on the Commission's website at www.crtc.gc.ca or by using the file number provided above.

¹ For example, its tariffs for Local Network Interconnection and Component Unbundling; Link Arrangements for Interconnecting Canadian Carriers and Digital Subscriber Line Service Provider (DSLSP); and Competitor Digital Network Services.

Issues

3. The Commission has identified the following issues to be addressed in this decision:
 - I. Are the Bell companies properly billing Allstream for power reductions?
 - II. Should the Bell companies be required to (a) refund Allstream for the lost cost savings as a result of the delayed implementation of power reductions, and (b) immediately reduce Allstream's power levels in certain of Allstream's co-location sites?
 - III. Did the Bell companies properly bill Allstream for other tariffed services?
 - IV. How should the Bell companies properly bill co-location Project Management Fees?

I. Are the Bell companies properly billing Allstream for power reductions?

4. In Telecom Decision 2012-226, the Commission approved revised service rates billed by the Bell companies for direct current (DC) and alternating current power to service providers that co-locate in the Bell companies' central offices in Ontario and Quebec.
5. Allstream submitted that, following the release of Telecom Decision 2012-226, it had reviewed its power needs and decided it should reduce its DC power levels in a number of co-location sites in the Bell companies' central offices. Allstream submitted that it requested a quote from the Bell companies to reduce power in multiple locations, and alleged that charges proposed by the Bell companies to reduce power were prohibitive, deterring Allstream from reducing power.
6. Allstream considered that a power reduction was a simple exercise that could be made through changes to billing and records and, if necessary, a change of a fuse. As such, Allstream
 - expected that the cost to the Bell companies to perform the required power reduction would be recovered through their co-location Service Order Charge,² and
 - considered, therefore, that the co-location Application Charge³ and Project Management Fees⁴ quoted by the Bell companies should not be applicable to Allstream for a power reduction.

² Item 110 of the Bell companies' Access Services Tariffs states, among other things, that "[a] service order charge applies and provides for the processing of the service order associated with a request for co-location. The service order charge will be applied to each request for a new co-location arrangement or for any changes or additions to existing co-location arrangements." The tariffed charge for a Service Order Charge is \$149.11.

7. The Bell companies submitted that power reductions were not simple to implement. The Bell companies explained that, as power usage is not metered, in many cases the requested power reductions would have required the Bell companies to remove the existing wiring and replace it with new wiring, in addition to a fuse change.
8. The Bell companies were of the view that it was correct to bill Allstream Project Management Fees for power reductions. Given the complexity of the requested power reductions, a project manager was required to oversee the co-ordination and scheduling of the many different specialized tradespeople and professionals utilized so that the work is completed correctly and within the required time frames.
9. The Bell companies did agree that the Application Charge should only be levied when a company requests to establish or expand a co-location site.

Commission's analysis and determinations

10. As set out in item 110 of the Bell companies' Access Services Tariffs (the Co-location tariffs),⁵ the Service Order Charge applies to any changes to an existing co-location arrangement. The Commission considers that a request by Allstream to reduce power at an existing co-location site would be a change to Allstream's existing co-location arrangements. Accordingly, the Commission considers that the Bell companies' Service Order Charge is applicable to a power reduction pursuant to the Co-location tariffs.
11. With regard to the Application Charge and Project Management Fees, the Commission notes that
 - the Co-location tariffs indicate that those charges are applicable to an interconnected carrier's initial request for co-location, and
 - the definitions of those charges, in contrast to the definition of the Service Order Charge, do not contemplate changes to existing co-location arrangements.

³ Item 110 of the Bell companies' Access Services Tariffs states, among other things, that "[a]n application charge per requested location applies and provides for preliminary work needed to determine whether co-location can be provided to meet the [interconnected carrier's] request." The tariffed charge for an Application Charge is \$1,023.60.

⁴ Item 110 of the Bell companies' Access Services Tariffs states, among other things, that "[a] project management fee applies and provides for all associated administration, design and engineering tasks required to accommodate an [interconnected carrier's] request for co-location. This fee is based on the costs incurred..." The tariffs further state that "[f]or the first hour or fraction thereof of work performed during "normal working hours" an hourly labour rate of \$73.60 applies... For each additional 15 minutes or fraction thereof, a charge of \$18.40 applies."

⁵ Co-location arrangements for interconnecting Canadian carriers and DSLSP

12. Accordingly, the Commission determines that the Bell companies' Application Charge and Project Management Fees are not applicable to power rearrangements requested by co-locators.
13. With regard to the amount of work required to implement a power reduction, the Commission notes that, pursuant to the Central Office License Agreement, the Bell companies can recover from a co-locator any costs incurred by the Bell companies to implement a power reduction. In this regard, the Commission considers that, while it may be necessary for the Bell companies to install new wiring to implement a power reduction, it is not necessary to remove existing, code-compliant wiring. The Commission considers that such work is a choice made by the Bell companies to reconfigure their internal power systems, and, as such, presumably is to the sole benefit of the Bell companies. Further, removal of that serviceable wiring could result in an unreasonable situation in which Allstream, or another co-locator, would have to reinvest in wiring if it wished to increase its capacity in the future.
14. Accordingly, the Commission finds that the Bell companies are proposing to do work that is unnecessary for a power reduction, such as the removal of serviceable wiring. The Commission therefore **directs** the Bell companies to only bill co-locators for the reasonable amount of work required to implement a power reduction.

II. Should the Bell companies be required to (a) refund Allstream for the lost cost savings as a result of the delayed implementation of power reductions, and (b) immediately reduce Allstream's power levels in certain of Allstream's co-location sites?

15. Allstream requested that the Commission direct the Bell companies to provide it with a refund for the unrealized cost savings due to the non-implementation of power reductions, retroactive to 28 September 2012. Allstream argued that the Bell companies had prevented Allstream from making its requested power reductions by providing Allstream with a prohibitive cost estimate for those reductions.
16. Allstream also requested that the Commission direct the Bell companies to immediately reduce the co-location power levels for Allstream's identified co-location sites.
17. The Bell companies argued that retroactive refunds should not be granted because Allstream had not followed the formal process to request the power reductions. The Bell companies considered that Allstream should have followed the formal process to request power reductions defined in *Co-location ordering intervals – revised service categories and delivery timelines*, CISC Consensus report CLRE021C, 13 September 2001 (CISC Consensus report CLRE021C), approved by the Commission in Decision 2001-661.
18. The Bell companies submitted that Allstream merely posed a general question on 28 September 2012, and further communications related to that initial inquiry did not provide the Bell companies with specific details of the power reductions that a

formal request would include, such as a list of sites or the amount of power to be reduced at each site.

Commission's analysis and determinations

19. The Commission notes that there is
 - a Commission-approved formal process for a co-locator to request a power rearrangement (defined in CISC Consensus report CLRE021C), and
 - no evidence on the record of this proceeding that indicates that Allstream followed that formal process when it requested its power reductions.
20. With regard to Allstream's communications with the Bell companies related to power reductions initiated on 28 September 2012, the Commission notes that these communications did not include specific details about the co-location sites and power reductions requested. Instead, the communications between the companies were a general discussion of the power reductions and costs associated with those power reductions. As such, the Commission considers that such communications do not constitute a formal request by Allstream that the Bell companies perform power reductions.
21. In light of the above, the Commission determines that Allstream did not make a formal request for power reductions, and therefore **denies** Allstream's request that the Bell companies be directed to (a) refund Allstream for non-implemented power reductions, and (b) immediately reduce Allstream's power levels in certain of Allstream's co-location sites.

III. Did the Bell companies properly bill Allstream for other tariffed services?

22. Allstream requested that the Bell companies refund amounts overbilled through the misapplication of co-location charges. Specifically, Allstream alleged that the Bell companies were overbilling when it applied the co-location Application Charge, the Service Order Charge, and Project Management Fees (the co-location charges) on orders for Connecting links, Central Office co-location links, and Competitor Digital Network Central Office Links and Optical Co-location links services (the other tariffed co-location services). Allstream considered that the co-location charges exclusively applied to orders pertaining to the establishment and/or expansion of a co-location area, and did not apply to the other tariffed co-location services.
23. Allstream also submitted that the tariffed rates for the other tariffed co-location services were developed based on cost studies, which allowed for the recovery of reasonably incurred costs plus a 15 percent markup, thus concluding that the fees specified in the tariffs for the other tariffed co-location services completely recovered any associated costs for those services.

24. Allstream requested that the Bell companies should provide a refund for the time period beginning 150 days prior to an Allstream email dated 3 October 2012.
25. The Bell companies considered that the Service Order Charge and Project Management Fees applied to the other tariffed co-location services, arguing that changes to those services necessitated changes to Allstream's arrangements in a co-location area and, therefore, those charges were appropriately billed.
26. As noted earlier in this decision, the Bell companies agreed that the Application Charge should only be billed when a company requests to establish or expand a co-location site. Accordingly, the Bell companies agreed to issue a refund for all instances identified by Allstream, but considered that the refund period should be all instances within 150 days of Allstream's application that initiated this proceeding.

Commission's analysis and determinations

27. As noted previously in this decision, the Application Charge and Project Management Fees are applicable to an inter-connected carrier's initial request for co-location. Further, the Commission notes that the Service Order Charge applies to service order charges associated with a request for co-location, not a change to existing arrangements.
28. The Commission notes that the charges for the other tariffed co-location services identified by Allstream are based on costing information supplied by the Bell companies to recover all costs for those services, including the installation, operation, and removal of these services.
29. The Commission therefore considers that, if the Bell companies bill the co-location charges on the other tariffed co-location services, they are improperly billing co-locators for charges above and beyond the charges approved by the Commission to recover all costs associated with these tariffed services.
30. In light of the above, the Commission determines that the Bell companies are not to bill co-location charges to any co-locator for other tariffed co-location or similar services.
31. Given that the Bell companies have billed Allstream co-location charges for other tariffed co-location services, the Commission considers that the Bell companies should refund to Allstream any charges that fall within the date range permitted by the Bell companies' Terms of Service. In that regard, the Commission notes that the Bell companies' Terms of Service states that non-recurring charges that should not have been billed or that were overbilled must be credited, provided that the customer disputes them within 150 days of the date of the bill.
32. The Commission considers that Allstream's email dated 3 October 2012 does not constitute a formal initiation of the dispute process. The wording of the email indicates that Allstream inquired about a charge, but there is no evidence on the

record of this proceeding that the email or subsequent communications from Allstream to the Bell companies formally initiated the dispute process.

33. As such, the Commission considers that the appropriate refund period should be dated from the date of Allstream's application that initiated this proceeding, i.e., 6 September 2013.
34. Accordingly, the Commission **directs** the Bell companies to refund monies to Allstream for all instances of co-location charges improperly billed with respect to orders for the other tariffed co-location services dated within 150 days prior to the date of 6 September 2013 up to the date of this decision.

IV. How should the Bell companies properly bill co-location Project Management Fees?

35. Allstream requested that the Bell companies be directed to bill Project Management Fees in compliance with their tariffs. Allstream submitted that the Bell companies inappropriately billed Project Management Fees by charging fixed rates instead of hourly rates, and that those rates had no apparent connection to the costs incurred by the Bell companies and the fees charged to Allstream.
36. The Bell companies submitted that they previously billed Project Management Fees on an hourly basis, but the process to track the costs and labour associated with that activity had become a lengthy and arduous exercise that resulted in complaints regarding the lack of cost certainty. As a result, they began providing firm quotes for project management activities to provide cost certainty to co-locators.
37. The Bell companies subsequently offered to provide Allstream with the option of being billed the actual project management costs incurred.

Commission's analysis and determinations

38. Pursuant to their Co-location tariffs, the Bell companies are required to bill Project Management Fees based on costs incurred at an hourly labour rate of \$73.60 for the first hour or fraction thereof of work performed during normal working hours, and \$18.40 for each additional 15 minutes or fraction thereof.
39. The Commission notes that the Bell companies have been billing Allstream fixed rates for Project Management Fees, and considers that this deprives Allstream of the ability to review Project Management Fees and dispute them if the fees are not properly billed.
40. Accordingly, the Commission considers that the Bell companies have not been appropriately billing Allstream for Project Management Fees in accordance with their tariffs.

41. In light of the above, the Commission reminds the Bell companies that they are required to represent Project Management Fees in hourly, and fractions of an hour after the first hour, increments pursuant to the Bell companies' tariffs.
42. In this regard, the Commission notes that the Bell companies can, pursuant to Telecom Regulatory Policy 2009-19, bill fixed Project Management Fees, as distinct from hourly fees contemplated by the tariffs, if the Bell companies reach a negotiated agreement with a co-locator to do so.

Secretary General

Related documents

- *Bell Aliant Regional Communications, Limited Partnership and Bell Canada - Revised co-location power rates*, Telecom Decision CRTC 2012-226, 19 April 2012
- *Bell Canada et al.'s application to review and vary Telecom Decision 2008-17 with respect to negotiated agreements*, Telecom Regulatory Policy CRTC 2009-19, 19 January 2009
- *Co-Location Group (CLG): Consensus Items CLRE020C and CLRE021C*, Decision CRTC 2001-661, 22 October 2001