



Telecom Decision CRTC 2014-60

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Ottawa, 14 February 2014

Compensation for traffic termination when traffic volume is unbalanced

File numbers: 8663-C12-201310838, TCI Tariff Notice 649, TCBC Tariff Notice 4362, and TCQ Tariff Notice 587

The Commission determines that it would be appropriate to make the compensation regime for traffic termination that applies in the Bell companies' incumbent local exchange carrier (ILEC) territories (the revised compensation regime) applicable in TCC's and MTS's ILEC territories, without modifications. The Commission therefore approves TCC's tariff applications related to this issue. Further, any local exchange carrier operating in MTS's ILEC territory may file a tariff application seeking the implementation of the revised compensation regime in that territory.

Background

1. The compensation regime for the exchange of traffic between local exchange carriers (LECs) was established in Telecom Decision 97-8. Under that regime, when traffic volume is unbalanced,¹ the LEC that receives more traffic than it generates is compensated for the cost of terminating the balance of the traffic.
2. In Telecom Decision 2010-787, in response to an application filed by Bell Aliant Regional Communications, Limited Partnership and Bell Canada (collectively, the Bell companies), the Commission reviewed the compensation regime for traffic termination as it applied in the Bell companies' incumbent local exchange carrier (ILEC) territories.
3. The Commission considered that in those territories, some competitive local exchange carriers (CLECs) were providing services that created significantly different traffic patterns than were originally expected when the interconnection compensation rules were established because those patterns did not permit LECs to reach a balanced or nearly balanced exchange of traffic. To address this situation, the Commission set out a revised compensation regime to be applied in the Bell companies' ILEC territories (the revised compensation regime). That regime

¹ For the purposes of compensation, traffic is considered to be balanced when the difference in the volume of originating traffic between any two LECs is below a certain threshold – 10 percent in the case of interconnection based on local interconnection region, and 20 percent in the case of interconnection based on exchange.

provides for reductions to compensation payments when there is evidence of a traffic pattern that does not allow for balanced traffic between two LECs. In addition, for those reductions to apply, a certain monthly traffic exchange threshold must exist between any two LECs in order to ensure that small or start-up CLECs can grow their business.

4. Specifically, the Commission determined that when the volume of traffic exchanged between two LECs is at least 10 million minutes per month and the volume of traffic in one direction is more than 80 percent of the total traffic exchanged for three months or more, the compensation otherwise payable will be cumulatively reduced by
 - 5 percent, for every 2 percent increment, when the volume of traffic in one direction is more than 80 percent to less than or equal to 90 percent, and
 - 10 percent, for every 2 percent increment, when the volume of traffic in one direction is more than 90 percent to less than or equal to 100 percent.
5. In its decision, the Commission indicated that the revised compensation regime should apply symmetrically to traffic flowing from the Bell companies to CLECs and from CLECs to the Bell companies.

The applications

6. In tariff applications dated 21 March 2013, TELUS Communications Company (TCC) proposed to adopt the revised compensation regime in its ILEC territories in Alberta, British Columbia, and Quebec, without modifications.
7. The Commission considered that, in determining whether the revised compensation regime should be extended to TCC, it would be appropriate to examine whether changes should also be made for other ILECs' territories. As a result, the Commission issued Telecom Notice of Consultation 2013-351, calling for comments on whether it would be appropriate to make the revised compensation regime applicable in other ILECs' incumbent territories and, if so, whether any modifications should be made to take into account variations with respect to traffic volumes across various carrier networks. The Commission made the records of TCC's tariff applications part of the notice of consultation proceeding.
8. The Commission received interventions from the Bell companies; the Canadian Network Operators Consortium Inc. (CNOOC), on behalf of Colba.Net Inc., Distributel Communications Limited, Durham.Net Inc. c.o.b. Telnet Communications, Execulink Telecom Inc., and Managed Network Systems, Inc.; Iristel Inc. (Iristel); MTS Inc. (MTS), on behalf of itself and Allstream Inc.; Primus Telecommunications Canada Inc. (Primus); Rogers Communications Partnership (RCP); Saskatchewan Telecommunications (SaskTel); and TCC.

9. The public record of this proceeding, which closed on 4 September 2013, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file numbers provided above.

Would it be appropriate to make the revised compensation regime, or a modified version thereof, applicable in other ILECs' incumbent territories?

10. The Commission notes that almost all parties that participated in this proceeding supported making the revised compensation regime applicable in other ILECs' incumbent territories. MTS and TCC agreed with adjusting imbalance compensation in cases of high imbalance and supported implementing the revised compensation regime in the incumbent territories of all ILECs. Iristel was the only party that opposed making the revised compensation regime applicable in other ILECs' territories, while SaskTel submitted that there is no need for such a regime in its territory.
11. The Bell companies, CNOC, Primus, and RCP supported making the revised compensation regime applicable in other ILECs' incumbent territories. The Bell companies submitted that the revised compensation regime has significantly reduced gaming opportunities that were present under the previous compensation regime.² CNOC submitted that the revised compensation regime has resulted in just and reasonable compensation. In CNOC's view, the conditions that led to the modifications set out in Telecom Decision 2010-787 were not unique to the Bell companies' ILEC territories, and the Commission's rationale in that decision was equally applicable for the territories of all other ILECs. Primus submitted that it had been subject to the revised compensation regime and that it was not aware of any material consequences or impacts resulting from its implementation, or of any further issues that should be addressed.
12. TCC requested that the imbalance reductions established for the Bell companies' ILEC territories in Telecom Decision 2010-787, as set out in paragraph 4 above, also be approved for its ILEC territories. The company asserted that, in its current exchange of traffic with a number of CLECs, a very high proportion of the traffic is terminating on the CLECs' networks and, consequently, it is paying significant imbalance amounts to those CLECs.
13. Iristel opposed making the revised compensation regime applicable in other ILECs' incumbent territories for the same reasons that it opposed the Bell companies' application that led to Telecom Decision 2010-787.³ It submitted that dial-up

² In the proceeding that led to Telecom Decision 2010-787, the Bell companies submitted that, under the imbalance mechanism in place at that time, CLECs had an incentive to target dial-up Internet service providers and to use the bill-and-keep trunks in place between carriers to route toll originating traffic. They further submitted that in both these cases, CLECs had succeeded in avoiding payment of charges to the ILEC for the carriage of traffic generated by the CLECs' customers and for which the ILEC was entitled to compensation under the Commission's interconnection regimes.

³ In its intervention in the current proceeding, Iristel included its submission from the proceeding that led to Telecom Decision 2010-787. In that submission, Iristel commented, among other things, that the ILECs

Internet access continues to decline and that two-stage long distance is not a high-growth market segment. Iristel further submitted that neither TCC nor any of the other ILECs had submitted a traffic study similar to the one the Bell companies had submitted in the proceeding that led to Telecom Decision 2010-787 to demonstrate that there was a problem in their ILEC territories that would require modifying the existing traffic compensation regime.

14. In its tariff applications, TCC proposed to adopt the revised compensation regime in its ILEC territories without changes. However, in the current proceeding, it requested that the Commission establish the right of an ILEC to receive compensation for the full, unadjusted imbalance if it can be established that the imbalance is not due to its targeting of customers that attract inbound calls.⁴
15. TCC submitted that the 10 million minute threshold in the Bell companies' ILEC territories was established based on the traffic volumes interchanged with CLECs in those territories and that these volumes are affected by the size of the territory in question. TCC submitted that, therefore, lower traffic thresholds could apply in smaller territories, but they should be justified by the applicant. TCC further submitted that, should another ILEC propose the threshold that applies in the Bell companies' ILEC territories, the proposal should be approved because the other ILEC is necessarily smaller than the Bell companies and, hence, the Bell companies' threshold cannot be too low. CNOC and Primus supported TCC's proposal.
16. TCC also submitted that the threshold for reduced compensation payments approved in Telecom Decision 2010-787 is appropriate for its ILEC territory because such a threshold would address the traffic imbalance issues it is experiencing.
17. While MTS supported TCC's proposal to waive imbalance reductions in certain circumstances, the Bell companies, CNOC, and Primus opposed it. Arguments against TCC's proposal included the following: it is unclear what evidence would apply and how the exemption would be granted; the proposal would increase the administrative costs of the revised compensation regime, while the benefits would not be obvious; and the proposal would likely lead to disputes.
18. MTS proposed that there be no traffic volume threshold. Instead, it proposed that if compensation adjustments are not applied for start-up CLECs, it would be appropriate for the adjustments to apply after a fixed time interval, such as one year after the establishment of an inter-LEC relationship, rather than once the CLEC achieves a particular minute threshold. MTS also proposed that reductions on imbalance compensation payments start as soon as the volume of traffic in one

were being fully compensated under the existing regime and that there had been no change in circumstances that warranted a change in the existing approach. It also commented that some LECs could be unjustly discriminated against, and some types of services would have to be withdrawn or their prices decreased, if the existing regime were modified as proposed.

⁴ TCC suggested, for example, that this could occur if a CLEC sent the ILEC a large amount of toll terminating traffic over bill-and-keep trunks.

direction is more than 75 percent, rather than 80 percent, for at least three consecutive months, with different sliding-scale reductions than under the revised compensation regime. Further, MTS submitted that compensation payments should be completely eliminated when one-way traffic volume exceeds 90 percent. MTS also proposed that LECs whose traffic patterns consist of primarily inbound calls not be entitled to any imbalance compensation for traffic termination. In MTS's view, the LEC's costs should be recovered through the revenue it receives from the callers or service providers, and not from the LEC originating the traffic.

19. The Bell companies supported MTS's proposals, including its proposals to eliminate the traffic threshold and duration provision and to increase reductions on compensation payments. They also supported implementing the proposed modifications to the revised compensation regime in their own ILEC territories. Further, they submitted that MTS's modifications would help to reduce gaming opportunities.
20. CNOC, Primus, RCP, and TCC opposed MTS's proposals. Some parties argued that the proposals contradict the Commission's determinations that all LECs must receive some compensation, regardless of the traffic pattern. Others argued that no data had been provided in support of the proposals and that the proposed changes are beyond the scope of this proceeding.

Commission's analysis and determinations

21. The Commission notes that Iristel has provided no additional evidence or rationale to support the arguments it previously submitted in the Telecom Decision 2010-787 proceeding and repeated in the current proceeding. The Commission considers that Iristel has not justified why the arguments it presented previously should lead to a different Commission conclusion than was set out in Telecom Decision 2010-787.
22. The Commission considers that the evidence and rationale provided by the parties to this proceeding do not demonstrate why it would be appropriate to use different approaches to address the same traffic imbalance issue in different ILECs' territories. The Commission considers that where the same issue exists in other ILECs' territories, it should be addressed following a similar approach to that established in the Bell companies' ILEC territories.
23. The Commission notes that MTS and TCC did not submit the same type or quantity of traffic pattern evidence for their ILEC territories as the Bell companies provided in support of their application that led to Telecom Decision 2010-787. However, the Commission considers that the evidence that MTS and TCC have submitted supports the conclusion that sustained traffic imbalances could occur in their ILEC territories. The Commission notes that no evidence was submitted to indicate that the same issues are likely to occur in ILEC territories other than those of MTS and TCC. In this regard, the Commission notes SaskTel's submission that extremely large imbalance situations with a high volume of traffic between LECs are unlikely to become an issue in its ILEC territory.

24. The Commission notes that the scope of Telecom Notice of Consultation 2013-351 did not include significant modifications to the revised compensation regime but did include the possibility that minor modifications could be made for other ILECs' territories to take into account variations in traffic volumes across carrier networks.
25. The Commission considers that no party has demonstrated that, in MTS's or TCC's ILEC territories,
- criteria different than those established for the Bell companies should be used to define traffic patterns that do not allow a balanced exchange of traffic between two LECs. In particular, the Commission considers that insufficient evidence and rationale were filed to demonstrate that, outside the Bell companies' ILEC territories, it would be appropriate to change the imbalance threshold criterion – that is, more than 80 percent of the total traffic exchanged between two LECs, or the minimum time period criterion – that is, three months or more;
 - a total volume of traffic between two LECs lower than 10 million minutes – or a fixed grace period for start-up CLECs, as proposed by MTS – would ensure that small or start-up CLECs operating in those other territories could grow their business; or
 - using a different sliding-scale reduction approach would be appropriate. For example, MTS proposed that the compensation payable be cumulatively reduced by 10 percent for every 2.5 percent increment, versus 5 percent for every 2 percent increment, and that it apply when the volume of traffic in one direction is more than 75 percent, versus 80 percent. However, MTS did not justify why it would be appropriate to apply reductions in its ILEC territory that are different than those established for the revised compensation regime.
26. The Commission notes TCC's proposal that an ILEC be granted the right to the full, unadjusted imbalance payment if it could be established that the imbalance was not due to its targeting of customers that attract inbound calls. The Commission also notes MTS's proposal that no compensation be paid to LECs focused on targeting inbound traffic. The Commission responded to these same issues in Telecom Decision 2010-787 by establishing the revised compensation regime and determining conditions that would trigger reduced compensation payments, regardless of the reasons for the imbalance. The Commission is not persuaded by the evidence and arguments presented in this proceeding that the revised compensation regime should be changed.
27. Accordingly, the Commission determines that no modifications should be made to the revised compensation regime when it is applied in MTS's and TCC's ILEC territories.

Conclusion

28. In light of all the above, the Commission **approves** TCC's tariff applications. The Commission also determines that in TCC's ILEC territories, the compensation otherwise payable should be reduced in accordance with the sliding-scale approach established in Telecom Decision 2010-787, as modified by Telecom Decision 2010-787-1, in the following circumstances:
- the volume of traffic exchanged between two LECs is at least 10 million minutes per month; and
 - the volume of that traffic in one direction across all points of interconnection is more than 80 percent of the total traffic exchanged for three months or more.
29. The Commission considers that this regime should apply symmetrically to traffic flowing from TCC to CLECs and from CLECs to TCC. Therefore, the Commission directs TCC and the CLECs operating in TCC's ILEC territories to issue revised tariff pages,⁵ within **30 days** of the date of this decision, to reflect the changes made in this decision. The revisions are to come into effect 30 days after the revised pages are issued. TCC is to notify all CLECs in its ILEC territories of the effective date of the revised compensation regime.
30. The Commission notes that any LEC operating in MTS's ILEC territory may file a tariff application seeking the implementation of the revised compensation regime in that territory, copying all other LECs operating in that territory.

Policy Direction

31. The Policy Direction⁶ states that the Commission, in exercising its powers and performing its duties under the *Telecommunications Act* (the Act), shall implement the policy objectives set out in section 7 of the Act, in accordance with paragraphs 1(a), (b), and (c) of the Policy Direction.
32. The Commission considers that its determinations in this decision will advance the policy objectives set out in paragraphs 7(a) and (c)⁷ of the Act. The Commission also considers that its determinations are consistent with the Policy Direction

⁵ Revised tariff pages can be submitted to the Commission without a description page or a request for approval; a tariff application is not required.

⁶ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

⁷ The cited policy objectives of the Act are

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

requirements that (i) the measures in question are efficient and proportionate to their purpose and interfere with the operation of competitive market forces to the minimum extent necessary to meet the policy objectives, and (ii) the measures neither deter economically efficient competitive entry into the market nor promote economically inefficient entry.

Secretary General

Related documents

- *Compensation for traffic termination when traffic volume is unbalanced*, Telecom Notice of Consultation CRTC 2013-351, 26 July 2013
- *Bell Aliant Regional Communications, Limited Partnership and Bell Canada – Proposed revision to the treatment of imbalance traffic compensation*, Telecom Decision CRTC 2010-787, 25 October 2010, as amended by Telecom Decision CRTC 2010-787-1, 16 August 2011
- *Local competition*, Telecom Decision CRTC 97-8, 1 May 1997