



Telecom Decision CRTC 2016-457

PDF version

Ottawa, 18 November 2016

File number: 8661-M59-201603473

MTS Inc. – Application to allow an exception to the frozen rate treatment for its Province-Wide Enhanced 9-1-1 Service

*The Commission **denies** MTS Inc.’s application to increase its Province-Wide Enhanced 9-1-1 Service rate to recover costs to upgrade its network. The 9-1-1 service rate in question is classified as “frozen” and the proposed exception to the frozen rate treatment is not warranted. As a result, Canadians in MTS Inc.’s serving territory will continue to benefit from high-quality 9-1-1 service at stable and reasonable rates.*

Background

1. In Telecom Decision 97-9, the Commission established price cap regulation for the large incumbent local exchange carriers (ILECs), and determined that certain services not subject to the price cap plan, including 9-1-1 services, would be accorded special treatment. Specifically, the Commission determined that the rates for 9-1-1 services would be frozen for the duration of the price cap period. The rates were originally based on a cost study provided by Stentor¹ for the large ILECs at the time. The Commission subsequently amended the frozen rate treatment in Telecom Decision 99-17² and again in Telecom Order 2000-630.³ The Commission confirmed the frozen rate treatment in subsequent price cap decisions.⁴
2. In Telecom Decision 2008-17, the Commission determined that most rates for what it defined as “public good”⁵ services, including wireless service providers’ 9-1-1 services and wholesale 9-1-1 access services, would continue to be frozen.
3. In Telecom Order 2010-915, the Commission approved a rate increase for MTS Inc.’s (MTS) wireline 9-1-1 service. The new rate was based on costs MTS submitted it had incurred to update its Automatic Location Identification (ALI) database to implement the Commission-mandated service enhancements specified in Telecom Regulatory Policy 2009-40. The rate has since declined based on annual adjustments.

¹ Stentor was an alliance of the large ILECs, plus Telesat Canada, that existed when competition was introduced in the long distance and local exchange services markets during the 1990s.

² Specifically, the Commission subjected the frozen rate to a regime whereby revenues were kept neutral and fees were more equitably recovered between wireline and wireless service subscribers.

³ Specifically, the Commission added a multiplicative factor (15%) to account for the growth in the number of wireless service subscribers.

⁴ See Telecom Decisions 2002-34, 2002-43, 2007-27, and 2007-60.

⁵ See paragraph 90, which states that “services in the public good category are those that the Commission has determined provide an important social benefit and are, therefore, mandated.”

Application

4. The Commission received a Part 1 application from MTS, dated 6 April 2016, in which the company requested that the Commission (i) change the status of the company's current rate for its Province-Wide Enhanced 9-1-1 Service (9-1-1 service) to an interim rate, effective immediately; and (ii) approve an increase to the rate as an exception to the frozen rate treatment, effective the date the existing rate would be made interim.⁶ MTS submitted a cost study that included only those costs associated with the company's recent upgrades.⁷
5. MTS submitted that its current 9-1-1 service rate no longer recovers the costs associated with provisioning the service plus an appropriate markup. The company further submitted that the increase is required to recover costs related to significant 9-1-1 network upgrades, including the installation of additional hardware and software, and a dedicated multiprotocol label switching (MPLS)-based network⁸ connecting primary and secondary public safety answering points (PSAPs).⁹ MTS indicated that this hardware would accept 9-1-1 calls from its selective routers and deliver both 9-1-1 voice and ALI data to PSAPs and emergency response agencies over an Internet Protocol (IP) connection.¹⁰
6. MTS noted that in Telecom Order 2010-915, the Commission had approved the company's proposed 9-1-1 service rate increases to recover costs associated with upgrades to its ALI database to implement Commission-mandated service enhancements for the implementation of wireless Phase II 9-1-1 service. MTS submitted that it should therefore be permitted to increase its 9-1-1 service rate to recover additional costs, consistent with subsection 27(1) of the *Telecommunications Act*¹¹ and with past approved 9-1-1 service rate increases. The company also submitted that the frozen rate treatment (i) does not contemplate the recovery of reasonable, responsible, and necessary investments such as those it had undertaken, and (ii) was based on technology that was available at the time it was established and did not contemplate network evolution to IP.

⁶ MTS had previously filed Tariff Notice 766, requesting a rate increase for its General Tariff item 485 – Province-Wide Enhanced 9-1-1 Service. Commission staff closed the file associated with this tariff notice on 26 May 2015, given that it raised significant policy issues that it considered would be more appropriately addressed under the Part 1 application process.

⁷ This cost study was submitted in support of Tariff Notice 766.

⁸ MPLS is a protocol for speeding up and shaping network traffic by replacing long network addresses with short path labels to avoid complex and time-consuming lookups in a routing table.

⁹ 9-1-1 calls are routed from the 9-1-1 network directly to the primary PSAP, which is responsible for receiving and processing those calls according to the PSAP's operational policy and procedures. 9-1-1 calls may subsequently be transferred to secondary PSAPs, which include emergency response agencies (e.g. providers of police, fire, and ambulance services).

¹⁰ The selective router routes 9-1-1 calls to the appropriate PSAP – that is, the PSAP serving the area where the caller is located. For traditional wireline and fixed voice over Internet Protocol (VoIP) services, the location of subscribers is identified in ALI databases.

¹¹ Subsection 27(1) states that every rate charged by a Canadian carrier for a telecommunications service shall be just and reasonable.

7. MTS submitted that it was in the process of upgrading its 9-1-1 network to provide it, as well as PSAPs and emergency response agencies, with a more manageable path to next-generation 9-1-1 (NG9-1-1) in the long term, and increased technological capability and flexibility in the short term. MTS argued that investing in IP technology rather than in additional or replacement legacy technologies is a responsible course of action.
8. The Commission received two interventions regarding MTS's application from the Public Interest Advocacy Centre (PIAC) and Westman Communications Group. The public record of this proceeding, which closed on 19 May 2016, is available on the Commission's website at www.crtc.gc.ca, or by using the file number provided above.

Is the proposed exception to the frozen rate treatment warranted?

Positions of parties

9. PIAC expressed concern about the lack of transparency in the way MTS allocates funding to various aspects of its 9-1-1 network. PIAC submitted that the Commission should consider external factors that could affect the circumstances of MTS's application, including the NG9-1-1 proceeding.¹² PIAC argued that based on the evidence on the record of the current proceeding, MTS had not demonstrated that a 9-1-1 service rate increase would be justified. Regarding MTS's submission that its 9-1-1 network enhancements are part of a broader plan to transition to an NG9-1-1 network, PIAC submitted that the cost of these upgrades should not necessarily be borne by MTS's wireline subscribers.
10. PIAC noted that in the NG9-1-1 proceeding, the Commission will consider, among other things, appropriate funding mechanisms for Canada's future 9-1-1 network. PIAC submitted that, therefore, the issues raised in MTS's application would be better dealt with in the context of that proceeding.
11. MTS replied that it had not yet developed a comprehensive plan to transition its existing 9-1-1 network to NG9-1-1, but that it had proactively invested in a new converged IP-based platform. The company disagreed that it would be premature to approve its proposed 9-1-1 service rate increase given the NG9-1-1 proceeding since its 9-1-1 enhancements are not primarily or categorically for the purpose of NG9-1-1 service.

Commission's analysis and determinations

12. The Commission's general practice has been to establish rates based on costs; however, the Commission chose to adopt the frozen rate treatment described above for rates for 9-1-1 services and other services that provide important public safety and social benefits.

¹² That proceeding was initiated by Telecom Notice of Consultation 2016-116.

13. The key benefits of this treatment are (i) stable revenue for 9-1-1 service providers so that they can plan and pay for ongoing maintenance and investments in their 9-1-1 networks, including maintaining functionality and upgrading equipment; (ii) no tracking by the Commission of 9-1-1 service providers' year-to-year costs, regardless of whether these costs increase or decrease; (iii) administrative efficiency for 9-1-1 service providers; (iv) regulatory certainty for interconnecting competitive local exchange carriers and wireless service providers; and (v) high-quality public good services for consumers at stable and reasonable rates. Therefore, applications for exceptions to the frozen rate treatment should meet a high standard of rationale and evidence to be approved.
14. In this case, MTS's cost study did not cover all aspects of the 9-1-1 service. Furthermore, MTS did not provide a sufficient basis for granting an exception to the frozen rate treatment, given that this treatment allows for fluctuations in costs and does not require 9-1-1 service providers to track their costs.
15. Regarding MTS's submission that the Commission had previously approved the company's¹³ proposed 9-1-1 service rate change related to the upgrade of its ALI database, past approval of exceptions to the frozen rate treatment is not a reason in and of itself to approve the company's application. Allowing exceptions to the frozen rate treatment each time a company's costs change would negate the above-mentioned benefits of this treatment.
16. MTS made the business decision to update its 9-1-1 network and to incur associated costs notwithstanding the frozen rate treatment. The company has not provided sufficient rationale and has not met the high standard of evidence required to demonstrate that its existing rates are no longer just and reasonable, or that its proposed exception to the frozen rate treatment is warranted.
17. Regarding the timing of MTS's application, certain elements of MTS's network upgrades will likely continue to be used during and after the transition to NG9-1-1 service, assuming the company provides NG9-1-1 service in the future. The Commission is currently examining the 9-1-1 regulatory framework as part of the NG9-1-1 proceeding, and the funding model for 9-1-1 services could change as a result of that proceeding. As well, costs to provide NG9-1-1 services may be reviewed following that proceeding.
18. In light of all the above, the Commission finds that the proposed exception to the frozen rate treatment is not warranted, and therefore **denies** MTS's application.

¹³ At that time, the company was MTS Allstream Inc.

Secretary General

Related documents

- *Establishment of a regulatory framework for next-generation 9-1-1 in Canada*, Telecom Notice of Consultation CRTC 2016-116, 29 March 2016
- *MTS Allstream Inc. – Wireless Service Provider Enhanced 9-1-1 Service and Province-Wide Enhanced 9-1-1 Service*, Telecom Order CRTC 2010-915, 6 December 2010
- *Implementation of wireless Phase II E9-1-1 service*, Telecom Regulatory Policy CRTC 2009-40, 2 February 2009
- *Follow-up to Decision 2007-27 – Show cause submission related to the application of the price cap regime to Télébec, Limited Partnership*, Telecom Decision CRTC 2007-60, 30 July 2007; as amended by Telecom Decision CRTC 2007-60-1, 10 August 2007
- *Price cap framework for large incumbent local exchange carriers*, Telecom Decision CRTC 2007-27, 30 April 2007
- *Implementation of price regulation for Télébec and TELUS Québec*, Telecom Decision CRTC 2002-43, 31 July 2002
- *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
- *Rates modified for province-wide 9-1-1 service*, Telecom Order CRTC 2000-630, 6 July 2000
- *9-1-1 Service – Rates for wireless service providers, Centrex customers and Multi-Line customers/Manual Access to the Automatic Location Identification Database*, Telecom Decision CRTC 99-17, 29 October 1999
- *Price cap regulation and related issues*, Telecom Decision CRTC 97-9, 1 May 1997