



Telecom Decision CRTC 2016-471

PDF version

Ottawa, 2 December 2016

File number: 8622-R28-201604307

Rogers Communications Canada Inc. – Application regarding the use of underlying carriers by competitive local exchange carriers to exchange traffic with other local exchange carriers

*The Commission **approves in part** an application by RCCI, and **directs** the Bell companies to sign interconnection agreements with RCCI so that RCCI can make use of a number of flexible and efficient interconnection arrangements approved by the Commission in this decision.*

As a result of this decision, Canadians in several markets will benefit from having access to new business services provided by RCCI.

Background

1. In Telecom Decision 97-8 (the local competition decision), the Commission established the local network interconnection regime, which has been modified in subsequent Commission decisions. This regime established the rates, terms, and conditions under which competitive local exchange carriers (CLECs)¹ interconnect with other local exchange carriers (LECs), including incumbent local exchange carriers (ILECs), on a mandatory basis. Interconnection is necessary to enable the exchange of local traffic among carriers and competition in the local exchange services market. The regime is based on the principle that CLECs are equal in status to ILECs as carriers in the local exchange services market, and not mere customers.
2. Further, in the local competition decision, the Commission determined that each LEC providing service in an exchange must designate one switch or establish a point of interconnection (POI) as its gateway for the purpose of interconnecting to each of the other LECs operating in the exchange.

¹ To become a CLEC, an entity must meet the CLEC obligations set out in the local competition decision, as amended from time to time. These obligations are generally categorized as (a) pre-entry obligations, such as identifying the exchange(s) and province(s) in which local service is to be provided; (b) CLEC tariff/agreement filing obligations, such as filing an Access Services Tariff for Commission approval, and providing 9-1-1 service when an incumbent local exchange carrier offers the service; (c) proposed CLEC entry obligations, such as attesting to the Commission that the proposed CLEC has implemented local number portability; (d) filing completion, such as serving the documentation filed with the Commission on all other local exchange carriers serving exchanges in which the proposed CLEC proposes to provide service; and (e) other obligations, such as filing annual contribution revenue information.

3. Pursuant to the local competition decision, the costs for interconnecting trunks between CLECs and ILECs are shared. The local network interconnection regime also includes two cost compensation mechanisms for the exchange of traffic between LECs: bill-and-keep, which applies when the amount of traffic exchanged between two LECs is balanced; and mutual compensation, which is used when the amount is not balanced.
4. In Telecom Decision [2004-46](#) (the local interconnection region [LIR] decision), the Commission modified the local network interconnection regime by consolidating exchanges to form larger LIRs.² This was done to provide increased efficiencies and lower costs of interconnection for LECs.
5. The LIR decision did not modify the requirement that LECs must designate a switch or establish a POI for interconnection purposes but, henceforth, the switch or POI in question would serve the larger LIR rather than an exchange as was previously the case. Further, LECs continued to have the flexibility to negotiate additional interconnections with other LECs if the parties so agreed.
6. In Telecom Regulatory Policy [2012-24](#) (the network interconnection decision), the Commission established a set of principles to facilitate Internet Protocol (IP) voice network interconnection between network operators. Prior to the issuance of that decision, there were no principles or regulations in place to guide IP voice network interconnection aside from those provided by the local network interconnection regime.

Application

7. The Commission received an application from Rogers Communications Canada Inc. (RCCI), dated 4 May 2016, in which it requested a Commission ruling regarding interconnection with Bell Aliant Regional Communications, Limited Partnership and Bell Canada (collectively, the Bell companies), as well as modifications to the local network interconnection regime.
8. RCCI indicated that it currently provides competitive business telecommunications services as both a Type I CLEC³ and as a Type III CLEC.⁴ It operates as a Type I CLEC within its existing cable footprint, as well as in a few other exchanges outside its cable footprint where it still has certain facilities. Outside those areas, RCCI

² An LIR is a group of exchanges that enables competitors to access more ILEC customers from a single POI, rather than requiring the competitor to interconnect – and thereby incur extra costs – at each exchange in which it wished to offer services. The LIR framework for ILECs other than Northwestel Inc. and the small ILECs was established in the LIR decision and finalized in Telecom Decision [2006-35](#).

³ A Type I CLEC, otherwise known as a full CLEC, is a Canadian carrier that provides local exchange services and that fulfills all the relevant CLEC obligations.

⁴ A Type III CLEC is a non-dominant Canadian carrier that relies on the facilities of a third-party LEC, either directly or through a resale arrangement, generally for switching and/or interconnection to other LECs to provide local voice over Internet Protocol (VoIP) services. A Type III CLEC is to meet its CLEC obligations either directly or, where permitted, through a third party (i.e. an underlying carrier).

operates as a Type III CLEC. The company also has access to a separate wireless network used by its wireless operations as well as by its affiliated wireless CLEC, Fido Solutions Inc., which operates as a Type II CLEC.⁵

9. RCCI submitted that on 2 July 2015, it announced its intention to expand its CLEC service offerings to business customers in over 1,600 exchanges across Canada, both inside and outside its cable footprint, using its new Session Initiation Protocol/Internet Protocol (SIP/IP) platform.
10. RCCI began contacting LECs and arranging the required interconnection agreements. However, it indicated that the Bell companies refused to sign a Special Master Agreement for Local Interconnection (MALI) for exchanges where it planned to operate as a Type III CLEC.
11. The Bell companies eventually agreed to sign a Special MALI with RCCI for LIRs where Bell Canada operates as a CLEC, and for LIRs where RCCI and the Bell companies are not directly interconnected (i.e. where RCCI already operates as a Type III CLEC); however, the Bell companies refused to sign a Special MALI for exchanges within LIRs where RCCI and the Bell companies are directly interconnected.
12. Given RCCI's inability to conclude a number of agreements with the Bell companies, RCCI filed its application with the Commission, requesting that the Commission direct the Bell companies to allow RCCI to use underlying carriers to exchange traffic with the Bell companies, even where RCCI and the Bell companies are directly interconnected. RCCI also requested that the Commission rule that
 - Type I and Type II CLECs that already have a direct interconnection with the ILEC to serve certain exchanges in an LIR are also permitted to operate as a Type III CLEC using third-party carriers to serve other exchanges in that LIR;
 - Type I and Type II CLECs that already have a direct interconnection with the ILEC to serve certain exchanges in an LIR are also permitted to use interconnected third-party carriers in those same exchanges to exchange traffic with all service providers, including the ILEC;
 - Type I and Type II CLECs using an underlying carrier should not be required to register as a Type III CLEC in the same exchange;
 - Type I, Type II, and Type III CLECs are permitted to use their CLEC affiliates to exchange traffic with all service providers within an LIR;

⁵ A Type II CLEC, otherwise known as a wireless CLEC, is a wireless Canadian carrier, as defined in the *Radiocommunication Act*, that (i) offers local exchange services using wireless mobile technology, (ii) chooses to use the CLEC interconnection regime, and (iii) commits to fulfilling the CLEC obligations it is required to meet.

- Type I, Type II, and Type III CLECs are permitted to use more than one underlying carrier to exchange traffic with other service providers within a single exchange or LIR;
 - a wireless service provider (WSP) can function as the underlying carrier of a CLEC; and
 - any existing clauses in a MALI or Special MALI that prevent any of the above network arrangements are invalid and are prohibited in the future.
13. The Commission received interventions regarding RCCI's application from the Bell companies; the Canadian Independent Telephone Company Joint Task Force (the JTF); the Canadian Network Operators Consortium Inc. (CNO); Iris Technologies, Inc.; Primus Management ULC (Primus); Quebecor Media Inc., on behalf of Videotron G.P.; and TELUS Communications Company (TCC). The public record of this proceeding, which closed on 6 June 2016, is available on the Commission's website at www.crtc.gc.ca or by using the file number provided above.

Issues

14. The Commission has identified the following issues to be addressed in this decision:
- Should the Commission's determinations in this decision be confined to RCCI and the Bell companies, or should they apply broadly to all LECs?
 - What relief, if any, should be granted?

Should the Commission's determinations in this decision be confined to RCCI and the Bell companies, or should they apply broadly to all LECs?

15. RCCI requested that the Commission provide relief specific to the company as well as broad relief applicable to all CLECs to improve the local network interconnection regime, provide a consistent regime in all provinces, and provide more traffic-routing alternatives to CLECs.
16. TCC asserted that the Commission's usual application process did not permit interested parties to comment on the Bell companies' arguments, nor did the Bell companies or other ILECs have the opportunity to address the comments of interveners. TCC therefore considered that procedural fairness dictated that this proceeding could only lead to the resolution of the impasse between RCCI and the Bell companies, and that no general rules could be applied to the industry as a result.
17. TCC requested that the Commission launch a new proceeding to review the rules and administrative practices associated with CLEC registration, tariffs, and agreements. In reply, RCCI submitted that it was generally not opposed to a new proceeding addressing interconnection issues as well as administrative and tariff requirements in the future. However, it submitted that it had been facing delays in offering its new

business services for several months, and requested that the Commission rule on its application expeditiously.

Commission's analysis and determinations

18. Although RCCI requested broader relief applicable to all CLECs, the process associated with the company's application did not allow interveners to provide an answer to other interveners' comments. Further, despite the fact that RCCI served its application on all CLECs and ILECs registered with the Commission, there was limited participation by those CLECs and ILECs in response to the application.
19. In addition, many of the arguments and circumstances provided by RCCI in support of its application are specific to the issues that it is experiencing with the Bell companies. Although RCCI provided reasonable examples of why it requires the relief it is requesting, neither it nor other parties to the proceeding provided sufficient evidence as to why broad relief is required for all CLECs. In particular, no other CLEC filed comments stating that it was experiencing the same issues as RCCI.
20. Accordingly, the record of the proceeding associated with RCCI's application is insufficient for the determinations made in this proceeding to apply to all LECs.
21. With regard to TCC's request for the Commission to launch a new proceeding, the Commission has indicated in the *CRTC Three-Year Plan 2016-2019* that it will initiate a review in fiscal year 2017-2018, if appropriate, of the IP voice network interconnection regulatory framework between carriers.

What relief, if any, should be granted?

22. In order to properly consider RCCI's request for a Commission order directing the Bell companies to allow RCCI to use underlying carriers to exchange traffic with the Bell companies, the Commission must consider a number of issues, as set out below.

Can RCCI operate as a Type III CLEC in an LIR where it operates as a Type I CLEC?

23. RCCI submitted that its existing wireline networks are interconnected with the ILECs' networks using legacy circuit-switched time division multiplexing (TDM) interconnections. RCCI stated that TDM interconnections cannot exchange IP traffic with other LEC networks unless one or both parties upgrades its facilities.
24. RCCI argued that it would be inefficient and ineffective to use its existing circuit-switched TDM direct interconnections to route its IP traffic, submitting that it would be required to spend time, capital, and resources on end-of-life products to convert its IP traffic into TDM traffic. Accordingly, RCCI submitted that the preferred option to exchange its IP traffic with other LECs is to use underlying carriers that have already directly interconnected with the Bell companies, and whose facilities are capable of exchanging IP traffic with TDM-based networks. RCCI

submitted that this would not require the Bell companies to deploy any new POIs or incur any new costs.

25. RCCI submitted that CLECs in any given LIR are entitled to operate as a Type I CLEC, interconnecting directly with the ILEC, and as a Type III CLEC, interconnecting indirectly via an underlying carrier.
26. In particular, RCCI submitted that the Commission has not precluded LECs from establishing more than one POI within a given LIR. The company submitted that in the LIR decision, the Commission mandated the establishment of additional shared-cost POIs in a given LIR when requested by a CLEC.
27. In this regard, RCCI submitted that allowing it to operate as a Type I CLEC and a Type III CLEC in the same LIR would not change the efficiency of interconnections with the Bell companies, nor would it cause them any internal inefficiencies.
28. The Bell companies submitted that RCCI could choose to enter an LIR as any type of CLEC, but once it has made that decision, it is only entitled to one POI to exchange traffic. The Bell companies further submitted that a Type I CLEC that wished to operate concurrently as a Type III CLEC in the same LIR could only do so via off-tariff agreements.
29. The Bell companies argued that the establishment of a single POI in an LIR was always the goal of the Commission's LIR framework. The Bell companies were of the view that having a single POI per LIR was efficient, and that LIRs were created to simplify the interconnection process for CLECs and for ILECs. They submitted that multiple interconnections per LIR would not provide them with greater efficiency.
30. The Bell companies submitted that RCCI's choice to transit its IP traffic differently than through its existing trunks would cause industry players to expend efforts to accommodate RCCI. The Bell companies indicated that RCCI already has the interconnection facilities required to exchange voice traffic with the Bell companies in many LIRs. They also argued that RCCI could transit its IP traffic over its direct interconnections with the Bell companies by ensuring that its trunks are able to accommodate IP traffic in addition to legacy TDM traffic.
31. Finally, the Bell companies argued that the Policy Direction⁶ requires that the interconnection regime be interpreted in a competitively neutral fashion. They submitted that, to the maximum extent possible, LECs should enjoy similar rights and obligations. The Bell companies were of the view that under RCCI's proposed routing arrangements, this balance would unfairly tip in the CLECs' favour, since CLECs would gain the advantage of multiple interconnection arrangements, which the ILEC would be mandated to accommodate.

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

32. CNOC submitted that prohibiting a Type I CLEC from accessing services that support the exchange of IP traffic with LECs, and instead requiring IP traffic to be exchanged over TDM-based interconnections with the ILEC, would only promote inefficient and ineffective interconnection arrangements.
33. CNOC also submitted that without the ability to exchange IP traffic with the Bell companies through the use of underlying carriers that offer IP interconnection, RCCI would be required to incur costs and expend resources to exchange its IP traffic over its existing TDM interconnections.
34. Primus submitted that it currently operates as both a Type I and a Type III CLEC in a number of LIRs, and that doing so is consistent with its regulatory obligations.
35. The JTF submitted that the flexibility sought by RCCI must not be permitted to be used by CLECs to bypass the following regimes governing small ILEC operating territories: (i) the local competition implementation regime,⁷ and (ii) the toll interconnection regime.⁸

Commission's analysis and determinations

36. Since the issuance of the local competition decision, the Commission has recognized the local exchange as the basic geographic unit for local competition and associated CLEC obligations. In that decision, the Commission determined that CLECs wishing to enter into the market must, among other things, indicate in which exchanges they are proposing to provide service.
37. When the Commission modified the local network interconnection regime in the LIR decision to establish LIRs, it did so to increase interconnection efficiency and lower the costs of interconnection. The Commission did not modify the local competition framework or CLEC obligations in that decision to require a CLEC to indicate in which LIRs it was proposing to provide service. As such, the exchange remains the default geographic unit for local competition, and CLECs continue to be required to identify at the time of registration the exchanges, not the LIRs, in which they are proposing to provide service.
38. Further, the Commission has never determined that CLECs may not register as different CLEC types within the same LIR. Accordingly, the Commission determines that there is no regulatory limitation preventing RCCI from operating as a Type III

⁷ In Telecom Decision [2006-14](#), the Commission, among other things, set out the framework for local competition in the territories of the small ILECs. In Telecom Regulatory Policy [2011-291](#), the Commission reviewed that framework and determined that local competition should continue to be introduced in the territories of all the small ILECs based on the existing framework, subject to the modifications set out in that decision. In particular, the Commission established certain measures to help mitigate the financial impact on small ILECs of implementing local competition.

⁸ The small ILEC toll interconnection regime ensures that small ILECs are appropriately compensated for the routing of all long distance calls to small ILEC customers via toll interconnection trunks.

CLEC in an exchange in an LIR where it also operates as a Type I CLEC in a different exchange.

39. RCCI's operation as a Type I CLEC and a Type III CLEC in different exchanges within an LIR would be consistent with the Commission's principles of efficient and flexible interconnection arrangements upon which the local network interconnection regime is based.
40. Allowing RCCI to operate as a Type I or Type III CLEC in different exchanges in the same LIR would provide the company with added flexibility in its interconnection arrangements, and would not require it to invest in equipment to exchange its IP traffic over its existing legacy TDM interconnections.
41. Further, there would not be any significant inefficiencies for other carriers in that LIR, including the Bell companies. For example, the Bell companies would not be required to invest in new interconnection facilities as a result of RCCI operating as both a Type I and a Type III CLEC in different exchanges in the same LIR, since RCCI's Type III CLEC operations would use underlying carriers that have already established interconnections with the Bell companies.
42. With regard to the JTF's concern that RCCI would be able to bypass certain regulatory regimes governing small ILEC operating territories, no evidence was provided in this proceeding that this would be an issue. Further, some LECs already operate in the manner described by RCCI, and there have been no concerns raised.
43. In light of the above, there is no valid regulatory basis to preclude RCCI from operating as a Type I CLEC and a Type III CLEC in the same LIR. Accordingly, the Commission **directs** the Bell companies to sign Special MALIs with RCCI so that the company can operate as a Type III CLEC in exchanges in an LIR where it already operates in other exchanges as a Type I CLEC. The Bell companies are not required as a result of this decision to agree to any arrangements that would require the Bell companies to deploy any new POIs other than those that can be requested under existing rules.⁹

Can RCCI operate as a Type I CLEC and a Type III CLEC in the same exchange, and use an underlying carrier to exchange traffic?

44. RCCI submitted that the Commission has never ruled that a Type I CLEC could not operate as a Type III CLEC and use an underlying carrier or a number of underlying carriers within a single exchange to exchange traffic with other LECs. The company also submitted that having the ability to use underlying carriers to route traffic provides Type I CLECs with increased routing options and network efficiency, as well as decreased interconnection costs.

⁹ For example, in the LIR decision, the Commission mandated the provision of shared-cost POI diversity (e.g. for network redundancy) when requested by a CLEC, unless an ILEC can demonstrate, to the Commission's satisfaction, that the POI diversity is not required.

45. RCCI argued that since CLECs can use ILEC transiting services to terminate traffic to other CLECs in an exchange, there was no reason why it could not use another CLEC to transit its traffic to the Bell companies. RCCI also noted that ILECs have the right to transit their traffic via underlying carriers.
46. The Bell companies argued that a Type I CLEC's direct interconnection with an ILEC can only co-exist with an interconnection via an underlying carrier to exchange traffic with the ILEC pursuant to an off-tariff agreement. They argued that, otherwise, CLECs were only entitled to one interconnection per LIR.
47. CNOC argued that a CLEC should be permitted to use an underlying carrier to transit traffic to the ILEC in the same way that a CLEC is permitted to use transiting services from an ILEC to terminate traffic to other CLECs in an exchange.
48. As noted above, CNOC also submitted that not allowing RCCI to do so would require RCCI to incur costs and expend resources to exchange its IP traffic over its existing TDM interconnections.
49. Primus submitted that operating as a Type I CLEC in a given exchange in no way precluded that CLEC from using underlying CLECs to exchange traffic in that exchange.
50. TCC considered that all LECs should be permitted to use underlying carriers to route traffic to another LEC, unless they agree otherwise pursuant to a negotiated MALI or Special MALI.

Commission's analysis and determinations

51. The local network interconnection regime does not preclude CLECs from having multiple POIs to exchange traffic between two LECs in a given exchange. Further, it grants CLECs the flexibility to route their traffic in the most efficient way possible, as long as the CLEC obligations and interconnection regulations are met.
52. In addition, the local network interconnection regime does not preclude a LEC from operating as a Type I CLEC and as a Type III CLEC in the same exchange.
53. Granting RCCI its requested relief would be consistent with the Commission's principles of efficient and flexible interconnection arrangements upon which the local network interconnection regime is based. Further, the record of this proceeding does not demonstrate that granting RCCI its requested relief would create any inefficiencies for other LECs.
54. Accordingly, the Commission determines that RCCI can operate as a Type I CLEC and a Type III CLEC in the same exchange, as long as (i) its arrangements do not require the Bell companies to deploy any new POIs other than those that can be requested under existing rules, and (ii) both CLEC types meet their respective CLEC obligations.

55. In that regard, RCCI is to register separately with the Commission as a Type I CLEC and a Type III CLEC in any exchange where it intends to operate as both CLEC types.

Can RCCI use more than one underlying carrier to exchange traffic within a single exchange?

56. RCCI submitted that in order to increase its routing options, it should have the right to develop multiple relationships with third-party carriers to exchange traffic with other carriers in a single exchange or LIR. The company submitted that the Commission had never ruled that a single underlying carrier was to be used per exchange.

57. The Bell companies opposed RCCI's proposal, arguing that a CLEC is only entitled to one interconnection per LIR, and that multiple interconnections via third-party carriers could only be achieved through off-tariff negotiations.

Commission's analysis and determinations

58. As noted above, the local network interconnection regime grants CLECs the flexibility to route their traffic in the most efficient way possible, as long as the CLEC obligations and interconnection regulations are being met.

59. The local network interconnection regime does not preclude RCCI from using more than one carrier to exchange traffic within a single exchange or LIR, which would provide RCCI with the flexibility to tailor its interconnections to develop an efficient network.

60. Allowing RCCI to interconnect with the Bell companies using more than one underlying carrier would not impose inefficiencies on the Bell companies or require them to deploy new interconnection facilities, given that RCCI would only be relying on underlying carriers that have already established interconnections with the Bell companies.

61. Accordingly, the Commission determines that RCCI can use more than one underlying carrier to exchange traffic within a single exchange as long as its arrangements do not require the Bell companies to deploy any new POIs other than those that can be requested under existing rules.

Can RCCI use a wireless carrier that is not a Type II CLEC as an underlying carrier?

62. RCCI submitted that there was no reason why it should not be able to use a wireless carrier as its underlying carrier. It submitted that a wireless carrier has to pay for all of the relevant interconnection facilities as well as for any related wireless access service charges. RCCI submitted that the wireless carrier should meet all interconnection standards and technical guidelines to act as a CLEC's underlying carrier for interconnection purposes.

63. The Bell companies submitted that a WSP that is not also a wireless CLEC could not function as an underlying carrier. They argued that the underlying carrier, based on the local network interconnection regime, must be a CLEC. Further, the Bell companies noted that wireless carriers do not have interconnection tariffs, do not sign MALIs with the ILEC, and are not bound by the same requirements as CLECs. They further submitted that wireless carriers do not interconnect with the ILEC using bill-and-keep trunks, but rather subscribe to wireless access service, use the services of an affiliated CLEC, or purchase other public switched telephone network connectivity services from LECs.
64. TCC submitted that since wireless carriers do not have interconnection tariffs to which the outsourcing CLEC's tariff can refer, the potential use of a wireless carrier as an underlying carrier requires full review before it can be accepted as a general rule.

Commission's analysis and determinations

65. The current wireless carrier interconnection regime was established in Telecom Decisions [84-10](#) and [84-29](#), and modified in subsequent Commission decisions, such as the network interconnection decision. The regime is based on the principle that wireless carriers that are not registered as CLECs are considered to be customers of, not equal carriers with, the ILECs.
66. As a result, a wireless carrier not registered as a CLEC is responsible for (i) providing the interconnecting facility between its network and a LEC's network, and (ii) paying Commission-approved tariffed rates to a LEC for voice calls routed from the wireless carrier to the LEC, and vice versa. The Commission does not require these wireless carriers to meet the same obligations that CLECs must meet in local exchange services markets.
67. Wireless carriers can operate as Type II CLECs and thereby benefit from the shared-cost interconnection regime applicable to all LECs. Such carriers are obliged to meet applicable CLEC obligations.¹⁰ In that regard, a Type II CLEC has interconnection tariffs that set out the terms, conditions, and rates for interconnection. A Type II CLEC, therefore, is permitted to serve as an underlying carrier.
68. Wireless carriers that are not CLECs, however, are not required to fulfill various obligations that the Commission considers to be important safeguards in the local network interconnection regime. Most notably, wireless carriers that are not Type II CLECs do not have interconnection tariffs setting out Commission-approved rates, terms, and conditions for interconnection. Such tariffs exist to maintain the efficiency,

¹⁰ In the network interconnection decision, the Commission determined that for a wireless carrier to become a Type II CLEC and offer local services in an ILEC exchange, it was not required to meet the CLEC obligations related to equal access, supply of directory listings to other LECs, or provision to the Commission of details of all its service options with applicable prices and service charges, except upon request.

flexibility, and integrity of the local network interconnection regime, and the record of this proceeding is not sufficient to exempt a type of carrier from providing interconnection services without such tariffs.

69. Accordingly, the Commission determines that, pursuant to the local network interconnection regime, RCCI can use a wireless carrier as an underlying carrier to exchange traffic within an exchange only if that wireless carrier is registered as a Type II CLEC in that exchange.

Should the Commission render invalid any clauses in MALIs and Special MALIs that prevent the interconnection scenarios identified by RCCI?

70. RCCI requested that the Commission determine that any existing clauses in MALIs and Special MALIs that prevent legitimate interconnection arrangements, such as a CLEC using an affiliate as an underlying carrier, are rendered invalid and prohibited in the future.

71. TCC submitted that this issue relates to provisions found in the Schedule Cs of MALIs and Special MALIs signed between particular LECs. These Schedule Cs are confidential and pertain only to the LECs that executed the agreements. TCC submitted that, accordingly, resolution of matters related to Schedule Cs must be done bilaterally, and that any resulting directives can only apply to the parties to the agreements in question.

72. TCC further submitted that no language should be prohibited from MALIs on a blanket basis, since this would unnecessarily restrict the freedom of carriers to negotiate mutually beneficial arrangements.

Commission's analysis and determinations

73. In light of the determinations above, there is no regulatory purpose served by the Bell companies preventing RCCI from interconnecting using underlying LECs, including affiliates or Type II CLECs, and there is no need to include clauses in the MALIs and Special MALIs between the Bell companies and RCCI that are inconsistent with the findings in this decision.

74. Accordingly, the Commission **directs** RCCI and the Bell companies to revise Schedule C of all relevant MALIs and Special MALIs between these two parties within **30 days** of the date of this decision, removing any clauses that limit RCCI's ability to interconnect with underlying carriers as permitted by this decision, including interconnecting with affiliates or Type II CLECs. The revised versions are to be filed with the Commission within **45 days** of the date of this decision, as appropriate.

Policy Direction

75. The determinations made in this decision are consistent with the Policy Direction for the reasons set out below.

76. The Policy Direction states that the Commission, in exercising its powers and performing its duties under the Act, shall implement the policy objectives set out in section 7 of the *Telecommunications Act* (the Act), in accordance with paragraphs 1(a), (b), and (c) of the Policy Direction.
77. Subparagraph 1(a)(ii)¹¹ and subparagraphs 1(b)(i), (ii), and (iv)¹² of the Policy Direction apply to the regulatory measures set out in this decision, which deal with network interconnection. In this regard, the Commission's determinations enable RCCI to operate using efficient and flexible interconnection arrangements, while not creating any inefficiencies for the Bell companies or other LECs operating in the same competitive territories.
78. In compliance with subparagraph 1(b)(i) of the Policy Direction, the Commission considers that the policy objective set out in paragraph 7(c) of the Act¹³ is advanced by the regulatory measures established in this decision. The Commission's determinations will provide RCCI with the means to seek out efficient and flexible interconnection arrangements, to the benefit of RCCI and its end-customers.

Secretary General

Related documents

- *Network interconnection for voice services*, Telecom Regulatory Policy CRTC 2012-24, 19 January 2012
- *Obligation to serve and other matters*, Telecom Regulatory Policy CRTC 2011-291, 3 May 2011; as amended by Telecom Regulatory Policy CRTC 2011-291-1, 12 May 2011
- *Follow-up to Trunking arrangements for the interchange of traffic and the point of interconnection between local exchange carriers*, *Telecom Decision CRTC 2004-46*, Telecom Decision CRTC 2006-35, 29 May 2006

¹¹ Subparagraph 1(a)(ii) states that the Commission should, "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."

¹² Paragraph 1(b) states that "the Commission, when relying on regulation, should use measures that satisfy the following criteria, namely, those that (i) specify the telecommunications policy objective that is advanced by those measures and demonstrate their compliance with this Order, (ii) if they are of an economic nature, neither deter economically efficient competitive entry into the market nor promote economically inefficient entry, ...and (iv) if they relate to network interconnection arrangements or regimes for access to networks, buildings, in-building wiring or support structures, ensure the technological and competitive neutrality of those arrangements or regimes, to the greatest extent possible, to enable competition from new technologies and not to artificially favour either Canadian carriers or resellers."

¹³ The cited policy objective of the Act is "to enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications."

- *Revised regulatory framework for the small incumbent local exchange carriers*, Telecom Decision CRTC 2006-14, 29 March 2006
- *Trunking arrangements for the interchange of traffic and the point of interconnection between local exchange carriers*, Telecom Decision CRTC 2004-46, 14 July 2004
- *Local competition*, Telecom Decision CRTC 97-8, 1 May 1997
- *Cellular Radio Service*, Telecom Decision CRTC 84-29, 19 December 1984
- *Radio Common Carrier Interconnection With Federally Regulated Telephone Companies*, Telecom Decision CRTC 84-10, 22 March 1984