



Telecom Decision CRTC 2024-141

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Reference: Part 1 application posted on 10 October 2023

Ottawa, 27 June 2024

Public record: 8622-J64-202305771

Iristel Inc. – Request for relief against Bell Canada and Northwestel Inc. with respect to notices of disconnection of telecommunications services

Summary

In September 2023, Iristel Inc. (Iristel) received notices of disconnection from Bell Canada and Northwestel Inc. (Northwestel) stating that Iristel had not paid for some of the services it received. On 3 October 2023, the Commission received an application from Iristel stating that it had two claims for damages against Bell Canada and Northwestel before the courts and that it had not made some payments to these companies as compensation for the damages it was seeking.

Iristel requested that the Commission direct Bell Canada and Northwestel to withdraw the notices of disconnection until the courts rule on the matters before them or until the Commission investigates certain actions of Bell Canada and its affiliates.

The Commission finds that Iristel did not provide enough evidence to support its requests. Accordingly, the Commission denies Iristel's application.

The Commission determines that Iristel should either pay the overdue amounts or negotiate payment plans with Bell Canada and Northwestel to avoid disconnection. However, if Iristel does not pay or negotiate, the Commission directs Bell Canada and Northwestel to provide sufficient notice to Iristel and telecommunications service providers (TSPs) that use its services of any planned disconnection. That way, the TSPs may in turn provide sufficient notice to their own customers. A copy of any such notice from Iristel or any relevant TSP that uses its services must also be provided to the Commission. This will help the Commission take steps to minimize the impact on Canadians.

With respect to Iristel's allegations of tariff violations, the Commission reminds TSPs that although they are allowed to negotiate off-tariff agreements, they must provide services under terms and conditions approved in their tariffs when requested by another party. If they do not, the Commission could find them in non-compliance with their tariffs and the *Telecommunications Act*. The Commission could take enforcement action if there is enough evidence of non-compliance.

Application

1. The Commission received an application from Iristel Inc. (Iristel), dated 3 October 2023, about notices of disconnection it received from Bell Canada and Northwestel Inc. (Northwestel) in relation to non-payment for certain services.
2. First, Iristel asked for interim – or temporary – relief to ensure that no disconnection occurs until the Commission has ruled on its application. Because the parties reached a temporary agreement on this matter through staff-assisted mediation, removing the risk of imminent disconnection for end-users, this request is not addressed in this decision.
3. As final relief, Iristel requested that the Commission direct Bell Canada and Northwestel to withdraw the notices of disconnection until the courts rule on claims for damages by Iristel against the two companies. Iristel argued that the notices were sent in response to these civil court proceedings. Iristel confirmed that it had stopped making some payments as compensation for the damages it is seeking in the courts.
4. Iristel also requested that the Commission investigate certain actions of Bell Canada and Northwestel. If the Commission decides that it cannot grant relief based on matters that are before the courts, Iristel requested that it direct the companies to withdraw their notices until this investigation is completed.
5. More specifically, Iristel requested that the Commission appoint an investigator, pursuant to subsection 70(1) of the *Telecommunications Act* (the Act), to investigate certain actions of Bell Canada and its affiliates that, in Iristel's view, could constitute violations of the Act. These include alleged non-respect of tariffs, the pricing of Bell Canada's transport network, and other billing practices.
6. The Commission received interventions from an individual, Bell Canada, and Northwestel regarding Iristel's application.

Background

Local interconnection regime

7. In Telecom Decision 97-8, the Commission created rules to enable Canadians to efficiently call each other, both locally and long distance, regardless of their service provider. These rules are known as the local interconnection regime. The regime was based on interconnection within areas known as exchanges. The Commission determined that each service provider in an exchange must establish a point of interconnection (POI) in that area for the purpose of interconnecting to the other service providers operating in the same exchange.

8. In Telecom Decision 2004-46, this regime was enhanced by combining several exchanges to form larger local interconnection regions (LIRs). This resulted in more efficient interconnection at lower costs for competitive service providers, since they could serve customers anywhere in the larger region through a single POI with other networks.

Iristel's interconnection with Bell Canada and subsequent dispute

9. In 2015, Iristel requested interconnection from Bell Canada for the Kuujjuaq LIR in northern Quebec. Bell Canada provided access to the Kuujjuaq LIR on an exchange-based interconnection basis as agreed to in an off-tariff agreement between the parties.¹ This agreement does not allow Iristel to use the interconnection to provide wholesale services. In its application, Iristel submitted that to avoid delays in providing its services in northern Quebec, it agreed to an interim arrangement by which the company would interconnect to Kuujjuaq under the exchange-based regime, rather than the broader LIR regime introduced in Telecom Decision 2004-46.
10. Iristel argued that Bell Canada's actions have delayed the deployment of its wireless network in northern Quebec and caused it economic harm through loss of customers and roaming revenues. Iristel further alleged that Bell Canada has stopped making payments to Iristel related to local number interconnection.²
11. On 27 July 2023, Iristel filed a claim with the Superior Court of Quebec against Bell Canada for damages. The damages related to (i) loss of revenues from roaming and wholesale wireless telecommunications services, in light of the terms of the off-tariff agreement that prevented the transit of Iristel's wholesale traffic; and (ii) late payment charges paid by Iristel.
12. As compensation for damages, Iristel stated that it has been withholding payments related to Bell Canada's services.
13. On 21 September 2023, Bell Canada notified Iristel that all services it provides to Iristel would be disconnected in 30 days because Iristel had not made payments.

Iristel's interconnection with Northwestel and subsequent dispute

14. The dispute between Iristel and Northwestel resulted from a change in the location of a POI. On 10 October 2019, Northwestel informed Iristel that it would be migrating its POI from the Northwest Territories to Toronto, Ontario.

¹ Under the existing regime, Bell Canada is permitted to enter into off-tariff agreements with third parties for the delivery of tariffed services under rates, terms, and conditions that differ from those in the approved tariffs.

² Iristel indicated in its application that it was not seeking a Commission determination on the issue of damages.

15. Iristel stated that, on 22 July 2020, it requested that Northwestel provide it with a signalling POI in its service area (Whitehorse, Yukon, and Yellowknife, Northwest Territories). In Iristel's view, this was required under Northwestel's Local Network Interconnection Tariff. Iristel submitted that Northwestel informed it that the signalling POI was only available through its affiliate Bell Canada in Toronto, and that this was in violation of the tariff. Iristel submitted that it requires a signalling POI located in Northwestel's operating territory so that its customers can call Northwestel's customers in the Far North if communications are cut off from the rest of Canada during a service outage.
16. As a result, Iristel argued that it suffered economic and reputational damages. Iristel began to withhold certain payments to Northwestel in 2022 as compensation for these alleged economic damages.
17. Northwestel began providing local signalling POIs in Whitehorse and Yellowknife to Iristel in July 2023.
18. Iristel filed a Statement of Claim in the Supreme Court of Yukon against Northwestel for damages on 18 July 2023 and against Bell Canada in the Quebec Superior Court on 27 July 2023.
19. On 22 September 2023, Northwestel notified Iristel that all services it provides to Iristel would be disconnected in 30 days because Iristel had not made payments.

Issues

20. The Commission has identified the following issues to be addressed in this decision:
 - Should the Commission appoint an investigator to investigate certain actions of Bell Canada and its affiliates?
 - Should the Commission issue an order for Bell Canada and Northwestel to withdraw their notices of disconnection?

Should the Commission appoint an investigator to investigate certain actions of Bell Canada and its affiliates?

Allegations regarding non-respect of tariffs

21. Iristel made three allegations regarding tariff violations. First, Iristel alleged that although it and Bell Canada had entered into an interim off-tariff agreement through which Iristel agreed that interconnection in northern Quebec (Kuujuuaq) would be in a different location than specified in the tariff, Bell Canada ultimately had no plans to modify the POI. Iristel added that the off-tariff agreement restricts wholesale wireless services, which limits its ability to provide capacity for its affiliate, Ice Wireless, an important wireless service provider in northern Quebec.

22. Second, Iristel alleged that Northwestel had moved its signalling POI from Whitehorse to Toronto in violation of the tariff. Iristel added that having a POI outside the territories, in the event of an outage, could limit residents' ability to make local telephone calls, which could result in public safety issues.
23. Third, Iristel argued that Bell MTS Inc. (Bell MTS) had violated its tariff by forcing other service providers to pay transport charges to interconnect to its Winnipeg signalling POI, and that these charges are not present in its tariffs.
24. Bell Canada and Northwestel noted that the off-tariff agreement has been in place for seven years in the form of three separate agreements and that it was entered into voluntarily. They submitted that in any event, they had applied to the Commission to combine the Trois-Rivières and Kuujjuaq LIRs to provide improved access to communities in the Kuujjuaq region. Moreover, they indicated that the issue regarding Northwestel's POI migration has already been resolved. As a result of tariff modifications approved in Telecom Order 2023-132, signalling POIs for interconnection between Northwestel and Iristel's networks have been available in Whitehorse as of 8 May 2023, in conjunction with the POI already in place in Toronto between Iristel and Bell Canada.
25. Bell Canada and Northwestel submitted that they have not violated their tariffs, but that by withholding payments, Iristel did not fulfill its obligations contained in the applicable tariffs and in the agreements it has signed with Bell Canada and Northwestel.³
26. Bell Canada added that Iristel had acknowledged that it did not suffer harm from paying the Bell MTS transport charges to interconnect to the Winnipeg signalling POI. Therefore, Bell Canada argued, this allegation has no bearing on Iristel stopping payments or the current dispute.
27. Iristel used the same allegations to argue that Bell Canada, Bell MTS, and Northwestel subjected Iristel to unjust discrimination and violated the Act, given that failure to respect a tariff is a violation of subsection 25(1) of the Act.⁴

³ Item 104(1)(a) of Northwestel's General Tariff states that "[charges] for telephone service, equipment and facilities shall be rendered monthly and are due on the date specified by the Company." Section 20 of the Master Agreement for Local Interconnection between Bell Canada and Iristel states that "[bill] amounts which are not in dispute are due and payable by the bill due date."

⁴ Subsection 25(1) of the Act states the following: "No Canadian carrier shall provide a telecommunications service except in accordance with a tariff filed with and approved by the Commission that specifies the rate or the maximum or minimum rate, or both, to be charged for the service."

Other allegations

28. Iristel argued that the threat of disconnection resulted in unjust discrimination against it.

29. In addition, Iristel submitted the following:

- Bell Canada's actions have delayed the deployment of Iristel's wireless network in northern Quebec;
- Iristel had to allocate engineering resources to interconnect with Bell Canada in Montréal and Toronto after Bell MTS refused its request for a signalling POI in Winnipeg;
- Bell Canada did not order toll-free trunks from Iristel from 2021 to August 2023, preventing Iristel from billing toll-free traffic to Bell Canada; and
- Bell Canada charged Iristel for signalling traffic to Northwestel, even though Bell Canada provides signalling for Northwestel through Bell Canada's signal transfer points in Toronto.

30. Iristel also alleged the following actions by Northwestel:

- some requests to investigate technical problems go unanswered;
- requests for credits due to outages do not receive a response; and
- requests for service modifications are not processed.⁵

Commission's analysis

Allegations regarding non-respect of tariffs

31. The Commission has previously indicated that permitting off-tariff agreements gives telecommunications service providers (TSPs) greater flexibility in making provisioning arrangements.

32. However, like any TSP, Iristel has the right to be provided wholesale services under approved tariffed terms and conditions on request.

33. With regard to Iristel's allegation that Bell Canada had no plans to modify the POI, Iristel did not provide any evidence of this or that it requested to be provided services under Bell Canada and Northwestel's tariffs, that such a request was denied by Bell Canada or Northwestel, or that there was an attempt to approach the Commission

⁵ Iristel provided one example on the public record, alleging that Northwestel failed to terminate a service contract as requested by Iristel, resulting in overpayments by Iristel.

with respect to the disputes before the current application was filed. Furthermore, the facts that (i) the off-tariff agreements have been in place since 2015, including two renewals of the original agreement; and (ii) Iristel came to the Commission eight years later with this issue, do not suggest that that the POI was a significant issue for Iristel.

34. In Telecom Order 2023-409, the Commission approved Bell Canada's Tariff Notice 7662 to combine the LIRs in Kuujuaq and Trois-Rivières. The record of the current proceeding, as well as the proceeding that led to Telecom Order 2023-409, show that Bell Canada made several offers to accommodate Iristel. These included allowing Iristel to use the existing interconnection for wholesale purposes, which was previously not allowed under the off-tariff agreement between the parties. Iristel could also continue to use its current off-tariff agreement with Bell Canada or switch to the Trois-Rivières LIR.
35. Bell Canada and Northwestel's submissions appear to contradict Iristel's allegations through documentation of valid off-tariff agreements, negotiations for alternative services, Commission-approved tariff modifications, and written communications between the parties. For example, Iristel's claim that Northwestel failed to modify a service contract to terminate a service that resulted in overpayments by Iristel is contradicted by Northwestel's submission of email communications between the parties. These communications indicate that Iristel did not request termination of the service as alleged and that Iristel was made aware of the service costs.
36. With regard to Iristel's allegation that Northwestel migrated its POI from Whitehorse to Toronto in violation of the tariff, which could result in risks to public safety by limiting residents' ability to make local calls in case of an outage, the Commission takes these issues very seriously. However, Iristel did not submit any supporting evidence that would demonstrate a tariff violation or public safety issues. Further, Iristel indicated that the issues have been resolved. Accordingly, the Commission considers that no action is required.
37. With regard to Iristel's allegation that Bell MTS violated its tariff by applying transport charges for interconnection to its Winnipeg signalling POI, Iristel acknowledged that it did not suffer major economic harm as a result. While Iristel also indicated in its reply that other providers are being charged, the Commission is of the view that these allegations do not justify Iristel stopping payments or the current dispute.

Other allegations

38. The Commission is of the view that Iristel provided limited evidence to support its other allegations against Bell Canada and Northwestel.
39. Moreover, Bell Canada and Northwestel's actions following the non-payment of invoices were consistent with their Commission-approved tariffs. Clauses in these tariffs allow for termination of service under specific conditions, including risk of loss created by non-payment of accounts that are more than 60 days past due, with the

provision of a 30-day notice. Therefore, Bell Canada and Northwestel's actions do not appear to constitute unjust discrimination against Iristel.

40. In light of the above, the Commission considers that Iristel's application does not include enough evidence to justify its allegations or to support a Commission investigation of Bell Canada and Northwestel's actions. In this case, it would have been inappropriate for the Commission to try to improve the application before it by requesting additional information from Iristel to support the claims that Iristel brought forward.
41. Accordingly, the Commission denies Iristel's request to appoint an investigator.

Should the Commission issue an order for Bell Canada and Northwestel to withdraw their notices of disconnection?

Positions of parties

42. Iristel requested that the Commission issue an order for Bell Canada and Northwestel to withdraw their notices of disconnection until the matters between the parties are settled in the courts or until a Commission investigation into certain alleged actions of Bell Canada and Northwestel is concluded.
43. Iristel justified its request with multiple allegations of tariff violations and other alleged conduct that Iristel believes could amount to violations of the Act, as discussed above. It added that if Bell Canada and Northwestel were to disconnect all services, it would have a significant negative impact on Canadian consumers. Iristel indicated that it provides service to over 10 million telephone numbers in Canada and that, in certain areas, it is the sole provider of mobile wireless services or trunks that allow customers to make and receive telephone calls and other digital communications over an Internet connection. Customers of Iristel's services would be unable to reach customers of Bell Canada and its affiliates' services or customers who rely on their networks.
44. Bell Canada and Northwestel submitted that, contrary to what Iristel alleged, the notices of disconnection were issued because of unpaid amounts and not in response to the civil court proceedings initiated against them. They submitted that Iristel has failed to pay its bills on time on multiple occasions and that its unpaid balance continues to grow each month.
45. Bell Canada and Northwestel further stated that in its application, Iristel did not dispute that it owes the outstanding amounts. They added that refusal to pay bills for services provided means that Iristel is not entitled to continue receiving those services. Further, they argued that the claims of wrongdoing alleged by Iristel are unfounded and were used to justify Iristel stopping payments.
46. Bell Canada and Northwestel argued that Iristel's request for orders requiring them to withdraw the disconnection notices and provide services to Iristel without payment,

until the courts issue their decisions or until the Commission conducts an investigation, is an abuse of the Commission's process and should be denied.

47. However, Bell Canada and Northwestel indicated that although they have grounds to disconnect their services to Iristel, they would accept a reasonable payment plan that would bring Iristel's account into good standing so that services could be maintained.

Commission's analysis

48. The Commission finds that Iristel did not provide enough evidence that the notices of disconnection were issued in violation of Commission-approved tariffs. The tariff provides a mechanism for disputing charges, which does not include the customer resorting to self-help measures such as withholding payments during a dispute. The Commission is of the view that Iristel should pay the invoiced amounts for the ongoing services supplied by Bell Canada and Northwestel while the court cases are heard or attempt to make alternative payment arrangements. This course of action would not preclude Iristel from contesting the amounts paid.
49. Given the above, the Commission denies Iristel's request for the Commission to issue an order directing Bell Canada and Northwestel to withdraw their notices of disconnection.

Conclusion

50. In light of all the above, the Commission denies Iristel's application.
51. Iristel should either pay the overdue amounts or negotiate payment plans to avoid disconnection and, ultimately, service disruption for its customers. The Commission would have concerns about any potential instance of Canadians being used as leverage in a dispute between service providers.
52. If Bell Canada or Northwestel proceed with disconnection, the Commission directs them to provide sufficient notice to Iristel and TSPs that use its services. That way, the TSPs may in turn provide sufficient notice to their own customers. A copy of any such notice from Iristel or any relevant TSP that uses its services must also be provided to the Commission, consistent with Telecom Regulatory Policy 2017-235. This will enable the Commission to take steps to minimize the impact on Canadians.
53. The Commission also reminds TSPs that although they are allowed to negotiate off-tariff agreements, they must provide services under tariffed terms and conditions when requested to do so by another party. If they do not, the Commission could find them in non-compliance with their tariffs and the Act. The Commission could take enforcement action if there is enough evidence of non-compliance.

Secretary General

Related documents

- *Bell Canada – Tariff Notice 7662 – Local network interconnection and component unbundling*, Telecom Order CRTC 2023-409, 8 December 2023
- *Northwestel Inc. – Approval of a tariff application*, Telecom Order CRTC 2023-132, 8 May 2023
- *Disconnection practices between telecommunications service providers*, Telecom Regulatory Policy CRTC 2017-235, 6 July 2017
- *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