Canadian Radio-television and Telecommunications Commission
Conseil de la radiodiffusion et des télécommunications canadiennes

Telecom Order CRTC 2024-214

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Ottawa, 20 September 2024

Public record: Tariff Notice 7692

Bell Canada – Tariff Notice 7692 – Introduction of Service Provided in Out-of-Footprint Territory

Summary

The Commission approves on a final basis Bell Canada’s tariff application to reflect the introduction of local voice services, including three features (Call Control, Call Privacy, and Voice Dialing), outside of its incumbent territory but within the territory of its affiliate, Télébec, Société en commandite. The proposed changes will ensure that Bell Canada’s customers will have access to local voice services offered over fibre technology in the territories of its affiliates.

Application

1. On 16 May 2024, the Commission received an application from Bell Canada, Tariff Notice (TN) 7692. The company proposed amendments to its General Tariff intended to reflect its offering of regulated local exchange services outside of its incumbent territory using its expanded fibre network.

2. Specifically, the company proposed to

    - amend item 10, Terms of Service;
    - amend item 11, Definitions; and
    - introduce item 12, Service Provided in Out-of-Footprint Territory.

3. Bell Canada noted that, in Telecom Order 2024-74, the Commission found that it would be appropriate for the company to file tariffs for services it offers outside of its own territory but within the territory of its affiliate, Télébec, Société en commandite (Télébec) where such services would be regulated for Télébec. Bell Canada stated that the Commission reiterated this view in Telecom Decisions 2024-73 and 2024-75.

4. Bell Canada noted that, in Telecom Decision 2024-73, the Commission approved the company’s proposal to align the enhanced 9-1-1 (E9-1-1) rate it will charge customers of its fibre-to-the-home (FTTH) voice services in the operating territories of its affiliates with the E9-1-1 rate it charges in its own territory. The proposed tariff pages reflect this alignment for Télébec. Bell Canada indicated that it would update

the tariff pages for other affiliates once it is ready to serve customers in their territories.

5. For simplicity, the company proposed to reference the applicable Bell Canada tariff items for most residential services that it would offer in Télébec's incumbent territory. Bell Canada noted that those tariff items already apply to residential local exchange services provided in its own incumbent territory in Quebec.

6. Bell Canada stated that it intends to introduce three calling features: Voice Dialing, Call Control, and Call Privacy. Bell Canada indicated that it is able to provide those services without any incremental unrecovered cost wherever it provides residential FTTH voice service. For Call Control and Call Privacy, the rates are within an approved range, with an upper limit of $12.95 monthly. For Voice Dialing, the approved monthly rate is $5.00.

7. For other services reflected in the tariff changes, Bell Canada proposed to adopt the Commission-approved rates already in effect for each service that has a rate associated to it. Those rates comply with the pricing rules applicable to those services in Télébec's incumbent territory. The company also proposed to adopt the Commission-approved rates for Télébec's residential primary exchange service, which it has incorporated by reference, including the application of discounts for customers with disabilities.

8. Bell Canada requested an effective date of 31 May 2024.

9. The Commission received no comments with regard to the application.

Commission's analysis

10. The Commission notes that Bell Canada is in the process of deploying FTTH services in the territories of several affiliated carriers, including Télébec. In Telecom Order 2024-74, the Commission denied an application from Télébec to introduce tariff provisions related to the provision of FTTH services because they would be provided by Bell Canada, not Télébec. In that order, the Commission stated that it would be appropriate for such offerings to be reflected in Bell Canada's tariff.

11. In Telecom Decision 2024-73, the Commission considered an application from Bell Canada regarding the E9-1-1 rates charged to residential voice service customers of the company's FTTH services when those services are offered in the territories of its affiliates. The Commission approved the alignment of those rates with E9-1-1 rates in the company's other operating territories.

12. The Commission considers that Bell Canada's proposed tariff amendments comply with its previous determinations and are appropriate.

13. With respect to the introduction of Call Control, Call Privacy, and Voice Dialing, the Commission notes Bell Canada's statement that it can provide those services without any incremental unrecovered cost wherever it provides residential FTTH voice service. Such services are discretionary, and the Commission finds it would be reasonable for Bell Canada to offer them to its FTTH customers in the operating territory of its affiliate at existing approved rates.

14. The Commission considers that approval of this application would advance the policy objectives set out in paragraphs 7(a) and (h) of the *Telecommunications Act.*[1]

Conclusion

15. In light of all of the above, the Commission approves, by majority decision, Bell Canada's application on a final basis.

16. Revised tariff pages are to be issued within 10 calendar days of the date of this order. Revised tariff pages can be submitted to the Commission without a description page or a request for approval; a tariff application is not required.

17. The dissenting opinion of Commissioner Bram Abramson is attached.

Secretary General

Related documents

- *Télébec, Société en commandite – Application to restructure segmented service charges for telephone number reservation service*, Telecom Decision CRTC 2024-75, 8 April 2024

- *Télébec, Société en commandite – Introduction of Fibre to the Home and Business*, Telecom Order CRTC 2024-74, 8 April 2024

- *Bell Canada – Application to align 9-1-1 fees in the operating territories of Bell Canada's affiliated carriers*, Telecom Decision CRTC 2024-73, 8 April 2024

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[1] The cited policy objectives 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(h) to respond to the economic and social requirements of users of telecommunications services.

Dissenting opinion of Commissioner Bram Abramson

1. An incumbent local exchange carrier (ILEC) is a public switched telephone network (PSTN) carrier with certain continuing responsibilities within the serving territory defined by its historic telephone exchanges. Two stand out. An ILEC must provide wireline local telephone services and, in some communities with limited mobile phone alternatives,[2] additional regulated services;[3] and an ILEC must by default file and maintain tariffs, or standing contracts available to all comers, for telecommunications services (including incidental services) from which the Commission has not forborne.[4]

2. Many ILECs have, over the years, acquired one another and, subsequently, have eventually normalized their tariffs to render their regulated rates, terms, and conditions uniform throughout their post-merger operating territories. Normalizing tariffs in this way simplifies things both for the merged ILECs' customers and for the regulatory process as a whole, lowering the annual telecommunications fees borne by telecommunications service providers (TSPs). Normalizing tariffs may also lower fees for customers and end-users, since—all else equal—fixed and common costs are spread across a larger customer base.

3. However, there is no regulatory "doctrine of merger" or similar obligation obliging ILECs to normalize their tariffs. For instance, TELUS Communications Inc. has normalized its tariffs in western Canada, but continues to operate separately in Quebec, while Bell Canada and its affiliated operations appear to account for five of the eight ILEC entries[5] and nine of the 34 small ILEC entries[6] listed on the Commission's registration pages.

4. On 8 April 2024, the Commission issued a trio of decisions related to Bell Canada's deployment of fibre-to-the-home (FTTH) facilities in the serving territories of three affiliated ILECs.[7] The three affiliates are DMTS (Dryden, Ontario) and KMTS (Kenora, Ontario), each a division of Bell Canada; and Télébec (various regions of Quebec), a partnership between Bell Canada and a Bell Canada subsidiary.

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[2] Telecom Decision 2006-15, varied by Order in Council P.C. 2007-532, paragraph 242

[3] Telecom Decision 2020-40

[4] Telecom Decision 95-19

[5] Bell Aliant, a division of Bell Canada; Bell Canada; Bell MTS, a division of Bell Canada; Northwestel Inc., and Télébec.

[6] DMTS, a division of Bell Canada; KMTS, a division of Bell Canada; Groupe Maskatel Québec LP NorthernTel, Limited Partnership; Ontera, a division of Bell Canada; Télébec; Téléphone de St-Éphrem; Téléphone de St-Victor; and Téléphone Upton.

[7] The three decisions are Telecom Decision 2024-73, Telecom Order 2024-74, and Telecom Decision 2024-75.

5. FTTH facilities can serve as the main line over which communications services, including telephone services, are provided into a location. Indeed, in many areas where FTTH has been deployed, previously-used copper lines have been removed. Co-operative deployment by one ILEC of FTTH into another ILEC's territory therefore

   - raised the question of who would be responsible for discharging the ILEC's responsibilities within its serving territory, including providing local telephone services; and

   - by extension, underlined the stress to which the role of an ILEC—still a key backstop for how we regulate telecommunications services in Canada—continues to be subject, to the extent the Commission does not train its attention on "shift[ing] the focus of its current regulatory frameworks from wireline voice services to broadband Internet access services", and indeed to mobile wireless connectivity, in a sustained manner.[8]

6. The three decisions let Télébec align its home phone charges with Bell Canada's, and let DMTS, KMTS, and Télébec align their E9-1-1 rates with Bell Canada's. However, they did not let Télébec sell Bell Canada's FTTH services under Télébec's own tariff, since these are services that Télébec "will not be providing to its customers. Rather […] it would be appropriate for such offerings to be reflected in Bell Canada's tariff."[9] Bell Canada dutifully refiled in order that these FTTH services be offered under Bell Canada's tariff. The majority has approved it.

7. In reaching these decisions, the Commission noted two rules that are relevant to the situation in which an ILEC and an affiliated TSP operate in concert. It noted the affiliate rule, which, though it does not apply here, requires non-carrier ILEC affiliates to offer regulated services on the same rates, terms, and conditions as the affiliated ILEC. It likewise noted the general section 25 obligation, which does apply here, which the Commission has interpreted in the same spirit: a carrier affiliated with an ILEC is to tariff the out-of-territory service that the ILEC, within its territory, is likewise required to tariff.[10]

8. These rules are necessary. So is their symmetry. Together, they ensure a carrier cannot avoid regulation by delegating services to an affiliated TSP or other carrier. By raising, in effect, what would be the lowest common denominator, they close one loophole.

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[8] Telecom Regulatory Policy 2016-496, paragraph 51

[9] Telecom Order 2024-74, paragraph 10

[10] Telecom Decision 2002-76 and Telecom Decision 2004-50

9. I have dissented with the Telecommunications Committee's majority on this decision on behalf of the Commission,[11] however, because these rules are not sufficient. In failing to reset the affiliated entities' obligations to the highest common denominator, they miss another loophole. The Commission has maintained a general obligation to file tariffs on ILECs as, since the PSTN era, the carriers generally dominant in virtually all telecommunications markets in their serving territories. But the Commission has also undertaken more fine-grained analysis resulting in requirements that service providers with market power in particular markets offer essential wholesale services. By continuing to hold affiliate ILECs, including small ILECs, separately for tariff purposes, Bell Canada avoids these obligations where they would otherwise apply—here in Ontario's Dryden and Kenora regions where DMTS and KMTS serve, and in the parts of Quebec's Outaouais, Abitibi-Témiscamingue, James Bay, and other regions where Télébec serves.

10. That is not the better approach. Regulatory frameworks that incent market participants to avoid obligations according to how they elect to structure themselves, tempered only by higher administrative costs, are neither coherent, nor efficient, nor equitable. This should be corrected. Meanwhile the larger task of identifying and updating the ways in which current regulatory frameworks remain planted firmly in PSTN assumptions, and how to update these on a basis that is more than *ad hoc*, abides.

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[11] Telecommunications Committee *By-Law No. 10*, paragraph (e) ("Any act or thing done by the Telecommunications Committee shall be deemed to be an act or thing done by the members")