



Telecom Order CRTC 2005-137

Ottawa, 11 April 2005

Bell Canada

Reference: Tariff Notice 6843

Special Facilities Tariff - OC-48 Access Service

1. The Commission received an application by Bell Canada, dated 26 November 2004, proposing revisions to its Special Facilities Tariff item D70 - Arrangements for Data Transmission, OC-48 Access Service, in order to introduce sub-item D70(b).
2. Bell Canada stated that the proposed service would provide for an OC-48 access service between the customer's two locations. Bell Canada stated that the custom-designed arrangement was not available from the General Tariff and was being filed as a Special Facilities Tariff (SFT) due to the limited anticipated demand.
3. Bell Canada filed an imputation test in support of its application.

Process

4. The Commission addressed interrogatories to Bell Canada by letter dated 15 December 2004. Bell Canada filed its responses on 6 January 2005.
5. The Commission received comments from Xit télécom inc., on behalf of itself and Télécommunications Xittel inc. (collectively, Xit) on 9 January 2005, and reply comments were received from Bell Canada on 19 January 2005.

Xit's comments

6. Xit stated that it feared that Bell Canada had disguised the high rate for the service in the proposed SFT behind OC-48 routes of an undisclosed length in order to not draw interest or scrutiny from competitors.
7. Xit stated that answers to the interrogatories provided by Bell Canada had drawn interest to what appeared to be not only just an SFT, but an access facility that should be integrated as part of the further process to *Competitor Digital Network Access service proceeding*, Telecom Public Notice CRTC 2002-4, 9 August 2002 (the CDNA proceeding).
8. Xit stated that OC-48 access had a number of applications in the implementation of competitive access services requiring connecting links and channelization, features which were unavailable under another tariff that provided for an unbundled equivalent to the proposed service.
9. Xit stated that, depending on the actual rate for the access and inter-exchange portion of the service, interest from customers might be significantly higher than what Bell Canada estimated.

10. Xit stated that without access to terms and conditions of an SFT on the public record, inclusive of the breakdown of inter-exchange and intra-exchange dark fibre, it was impossible for competitors to understand the basis upon which this SFT could be re-sold.
11. Xit submitted that the Commission set out the minimum disclosure requirements for five Bell Canada SFTs¹ inclusive of dark fibre by letter dated 9 September 2003, as set out below:

With respect to the private fibre networks proposed in the above-noted tariff notices, Bell Canada is to file by no later than 30 September 2003 the following information for each customer-specific contract that is the subject of the above tariff notices: the average number of fibre strands, **the total distance covered by the fibre cable for each of intra-exchange and inter-exchange fibre expressed in routed strand metres**. For each contract, for each of the intra-exchange optical fibre portion and the inter-exchange portion of the private fibre network provided, the company should demonstrate that the proposed one-time rate for the average number of fibres provided, when it is unitized on a per metre monthly basis, matches or exceeds the corresponding General Tariff monthly rate. (emphasis added by Xit)

12. Xit requested that the Commission direct Bell Canada to place on the public record the same amount of information that it had previously requested Bell Canada to place on the public record by way of the Commission's 9 September 2003 letter.

Bell Canada's reply comments

13. Bell Canada denied Xit's allegation that it had attempted to mislead the Commission or competitors. Bell Canada stated that, as was apparent in the proposed tariff, the service contemplated would provide a dedicated OC-48 connection between the customer's two locations. Bell Canada stated that its responses to the Commission's questions provided further information in support of its application, which in no way contradicted or detracted from the description of the service in the proposed tariff.
14. Bell Canada noted that the proposed service was an end-to-end arrangement, which was not appropriate for inclusion in the CDNA proceeding. The company argued that, moreover, the CDNA proceeding had long been closed and that it would be inappropriate to reopen that proceeding by expanding the scope or permitting further comments at this point in time.
15. Bell Canada submitted that the description of the service filed in the proposed tariff was complete and provided sufficient information to allow another customer to determine if they would be interested in such a service.
16. With respect to Xit's suggestion that a general tariff would be more appropriate, Bell Canada noted that:

¹ The tariff notices referred to in the Commission's 9 September 2003 letter are under file numbers 8740-B2-200309494, 8740-B2-200309486, 8740-B2-200308462, 8740-B2-200304254, and 8740-B2-200303397.

- the proposed service provided an end-to-end OC-48 service which was significantly different from the services normally provided in the company's General Tariff or the National Services Tariff;
 - OC-48 operated at 2.488 Gbps which is equivalent to 48 DS-3s, 1,344 DS-1s, or 32,256 normal voice channels. Bell Canada submitted that even in today's market for high bandwidth requirements there were very few customers who might wish to consider such a service;
 - the description of the proposed service included the rates, terms and conditions which would allow another customer to determine its interest in such a service; and
 - resale was permitted.
17. Bell Canada reiterated that it anticipated limited demand for the contemplated service. The company submitted that the proposed service qualified as a Type 1 SFT, as it met the conditions of a Type 1 SFT as defined in *Review of regulatory framework*, Telecom Decision CRTC 94-19, 16 September 1994 (Decision 94-19).
18. With respect to Xit's request for information to be placed on the public record, Bell Canada opposed the request and submitted that Xit's claims were without foundation in fact or in law. The company noted that the letter referenced by Xit related to the provision of optical fibre service arrangements and in no way related to the proposed service. Bell Canada stated that the proposed tariff would provide an end-to-end transmission service using what was commonly referred to as "lit fibre". The company submitted that Xit's request was irrelevant to, and had no bearing on, the company's application and should be dismissed.

Commission's analysis and determinations

19. In Decision 94-19, the Commission noted that there were two general types of customer-specific arrangements (CSAs):
- those providing, via an SFT or special assembly tariff, a service that involves service features or technology that differ from those covered by the general tariff; and
 - those providing a bundle of services tailored to a particular customer's needs, primarily involving elements available from the general tariff, where the purpose is to customize the offering in terms of rate structure or levels (for example, distance sensitive/insensitive, usage sensitive/insensitive, one-time charges, etc.).
20. The Commission stated that an arrangement of the first type (Type 1 CSA) would continue to be permitted, subject, in the inter-exchange market, to the following: (a) the provision of a study demonstrating that the imputation test is met; (b) the telephone company demonstrating in its tariff application that there is not sufficient demand to offer the service through the general

tariff; (c) in order that there be no unjust discrimination or undue preference, the service package and the associated rates, terms and conditions provided under the CSA being generally available to other customers; and (d) resale being permitted.

21. The Commission is satisfied that the proposed arrangement qualifies as a Type 1 SFT, as very few customers would consider subscribing to an OC-48 service at this time in view of the large capacity of an OC-48 system.
22. The Commission notes that the service provides for an OC-48 circuit between the customer's two locations. The Commission is satisfied that this service is a lit fibre service and not a dark fibre service.
23. The Commission notes that Bell Canada filed an imputation test in support of the application. Further, the Commission addressed interrogatories to the company to ensure that the proposed rate met the imputation test. Based on the interrogatory responses, the Commission is satisfied that the proposed rate for the service meets the imputation test.
24. The Commission notes, however, that in *Review of Bell Canada's customer-specific arrangements filed pursuant to Telecom Decision 2002-76*, Telecom Decision CRTC 2003-63, 23 September 2003, the Commission stated that, in determining the appropriateness of an amended proposed tariff, it would assess whether the proposed tariff provides sufficient information with respect to the contract's rates and key terms such that a potential customer may assess whether its service requirements are such that it may reasonably expect to qualify for the same or similar rates, terms and conditions.
25. The Commission notes that Bell Canada described the proposed service as a point-to-point OC-48 circuit between the customer's two locations, but that there is no detail as to the two locations or the distance between these locations in the proposed tariff. The Commission is of the view that there is insufficient information in the proposed tariff to allow another customer to assess whether its service requirements are such that it may expect to qualify for the same or similar rates, terms and conditions. The Commission considers that the proposed tariff should either specify the location or the distance between the two locations in order to provide sufficient information for another customer to assess whether its service requirements are such that it can expect to qualify for the same or similar rates.
26. The Commission notes Xit's request that the access facility be considered part of the CDNA proceeding. In regard to this request, the Commission notes that it recently issued *Competitor Digital Network Services*, Telecom Decision CRTC 2005-6, 3 February 2005, to close that proceeding. Therefore, the Commission considers that Xit's request is moot.
27. With respect to Xit's request for disclosure, the Commission notes that Xit's submission that Bell Canada was requested to file distance covered by the fibre cable for each of intra-exchange and inter-exchange fibre on the public record is incorrect. Specifically, the Commission letter of 9 September 2003 directed Bell Canada to file this information, which Bell Canada then provided in confidence.

28. The Commission **approves** Bell Canada's application with one modification. Bell Canada is to issue tariff pages that either set out the two locations or the distance between these two locations. The revisions take effect as of the date of this Order.

Secretary General

This document is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>