



Telecom Order CRTC 2005-284

Ottawa, 29 July 2005

Bell Canada

Reference: Tariff Notices 6736, 6736A, 6736B and 6736C

Customer specific arrangements

1. The Commission received an application by Bell Canada dated 17 March 2003, amended on 30 June 2003, 30 September 2003 and 23 October 2003, requesting approval of Tariff Notice 6736 (TN 6736) which consists of three separate Special Facilities Tariff (SFT) items, numbers D72, D75 and D76 for High Speed Metro (HSM) service, provided under contract numbers P3A-20, P3A-21 and P3A-31, respectively.
2. On 8 May 2003, MTS Allstream Inc. (MTS Allstream) filed comments with respect to TN 6736 requesting that the Commission deny this application and that Bell Canada file a general tariff and an unbundled competitor tariff for the HSM service.
3. MTS Allstream submitted that many of the proposed rates, terms and conditions were either inconsistent with the Commission's criteria for just and reasonable rates, or were otherwise unjustly discriminatory, or granted Bell Canada an undue preference.
4. In its reply comments, dated 20 May 2003, Bell Canada stated that it planned to submit an HSM general tariff once further HSM service development work had been completed and HSM service demand became better defined.
5. MTS Allstream filed comments, dated 31 October 2003, with respect to Bell Canada's amended application, TN 6736C. MTS Allstream submitted that Bell Canada did not provide justification for offering the proposed HSM service under SFT arrangements. MTS Allstream further submitted that the wording of the proposed SFTs was in most cases identical to that of the HSM General Tariff, with the exception of minor differences related to customer specific information. These differences include identification of the metropolitan area in which the customer was located and the customer specific contract length. In MTS Allstream's view, the HSM service described in the proposed SFTs could be provided using the HSM General Tariff.
6. In its reply comments, dated 14 November 2003, Bell Canada submitted that at the time of filing TN 6736, the HSM service was considered to be an emerging service of interest to a very small number of customers. Bell Canada further submitted that terms and conditions for the three SFTs varied to reflect the individual needs of the customers. With respect to MTS Allstream's submission that the HSM General Tariff be modified to incorporate the differences provided in the SFTs, Bell Canada submitted that it would be inappropriate to modify a general tariff to accommodate the unique terms and conditions associated with these SFTs.

7. On 8 December 2004, MTS Allstream noted that Bell Canada's appeal to the Federal Court of Appeal of *Review of Bell Canada's customer-specific arrangements filed pursuant to Telecom Decision 2002-76*, Telecom Decision CRTC 2003-63, 23 September 2003 (Decision 2003-63) was dismissed, and the stay previously granted by the Court was lifted. MTS Allstream submitted that, despite those developments, the company had not disclosed the full rates, and terms and conditions of a large number of the Bell Nexxia Customer-Specific Arrangements (CSAs) on the public record, contrary to the requirements of Decision 2003-63. MTS Allstream claimed that this allowed Bell Canada to continue to conceal the details of those arrangements until it had renegotiated them to the company's satisfaction.
8. On 19 May 2005, Bell Canada applied to withdraw proposed tariff pages of certain CSAs including contract P3A-31 as this contract had expired on 31 December 2004. By letter, dated 31 May 2005, this application was accepted.

Commission's analysis and determinations

9. The Commission notes that in *Part VII application by Allstream Corp. and Call-Net Enterprises Inc. regarding Bell Canada Type 2 CSAs*, Telecom Decision CRTC 2005-22, 7 April 2005 (Decision 2005-22), it denied the Part VII application filed by Allstream Corp. and Call-Net Enterprises Inc. on the basis that a blanket denial of all the Bell Nexxia CSAs would not be appropriate, and that each CSA should be considered individually to determine whether Bell Canada had complied with the requirements set out in Decision 2003-63.
10. In *Bell Canada - High Speed Metro service*, Telecom Order CRTC 2003-282, 10 July 2003 (Order 2003-282), the Commission granted interim approval of an application filed by Bell Canada, dated 10 June 2003 under TN 6755, to introduce item 5030, High Speed Metro Service under its General Tariff (HSM General Tariff).
11. With respect to MTS Allstream's comparison of the proposed SFTs with Bell Canada's HSM General Tariff, the Commission is of the view that the wording of the HSM General Tariff is virtually identical to that of each proposed SFT. The Commission considers that to the extent that a service is available under the General Tariff, it should generally be provided pursuant to the General Tariff and not pursuant to SFTs. With respect to the arrangements proposed under TN 6736, the Commission is not persuaded that the terms and conditions are sufficiently different to justify the use of SFTs. The Commission is therefore of the view that the arrangements proposed under TN 6736 should be provided pursuant to the General Tariff.
12. The Commission notes that in the case of contract P3A-20, the General Tariff rates are significantly lower than those proposed under the relevant SFT.
13. In light of the above, the Commission **denies** Bell Canada's application, and directs Bell Canada to:
 - i) apply General Tariff item 5030, HSM Service for the facilities offered under contract P3A-20, effective 10 July 2003, the date interim approval was granted for the HSM General Tariff in Order 2003-282; and

- ii) apply General Tariff item 5030, HSM Service for the facilities offered under contract P3A-21, effective 10 July 2003, the date interim approval was granted for the HSM General Tariff in Order 2003-282.

Secretary General

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