



Telecom Order CRTC 2007-25

Ottawa, 25 January 2007

TELUS Communications Company

Reference: Tariff Notices 91, 159, 186, 186A, 186B, 187, 187A, 187B, 229, and 232

Network-to-Network Interface Service, Wide Area Network ADSL Service, and Wholesale Internet ADSL Service

In this Order, the Commission renders its determinations on a final basis with respect to a number of TELUS Communications Company's (TCC)¹ competitor asymmetric digital subscriber line (ADSL) tariff applications. The Commission also confirms the final classification of TCC's competitor ADSL services as Category II competitor services. The Commission notes that, in finalizing the tariffs under review in this Order, it considered the importance of providing comparable competitor ADSL access services across the incumbent local exchange carriers' operating regions.

Introduction

1. The rates, terms, and conditions of the proposed tariffs of the major incumbent local exchange carriers' (ILECs)² asymmetric digital subscriber line (ADSL) access services provided to competitors have been the subject of a lengthy industry consultation and negotiation process. As a result of this process, each ILEC, including TELUS Communications Company (TCC),³ filed tariff applications for its competitor ADSL service(s). The Commission has approved these applications on an interim basis for all ILECs except Bell Canada, which has received final approval, to allow the services to be introduced on an expedited basis.
2. The Commission has not approved tariffs for TCC's competitor ADSL services on a final basis, due in part to results of the industry consultation and negotiation process, which resulted in a number of unresolved issues with respect to the rates, terms, and conditions for these services, as well as disparities between TCC's services and other ILECs' competitor ADSL services.
3. This Order disposes of outstanding issues related to the above-referenced tariff applications for TCC's competitor ADSL services.

¹ Effective 1 March 2006, TELUS Communications Inc. (TCI) assigned and transferred all of its assets and liabilities, including all of its service contracts, to TELUS Communications Company (TCC).

² In this Order, the term "ILECs" refers to Bell Aliant Regional Communications, Limited Partnership, Bell Canada, MTS Allstream Inc., Saskatchewan Telecommunications, and TCC.

³ Effective 1 March 2006, TCI assigned and transferred all of its assets and liabilities, including all of its service contracts, to TCC. The company is referred to as TCC throughout this Order.

Process

Applications and interim orders

ATM NNI Service

4. The Commission received an application by TCC dated 12 March 2003, under Tariff Notice 91 (TN 91), to introduce Carrier Access Tariff (CAT) item 217 – ATM Network-to-Network Interface Service (ATM NNI Service)⁴ as a Category II competitor service. TCC filed this application pursuant to *Regulatory safeguards with respect to incumbent affiliates, bundling by Bell Canada and related matters*, Telecom Decision CRTC 2002-76, 12 December 2002. TCC submitted that its carrier ATM NNI Service would provide an interconnection between its ATM network and a service provider's ATM network via an ATM OC-3 port. TCC also submitted that its ATM NNI Service would enable competitors to offer Ethernet services to their end-users in TCC's territory.
5. The Commission approved on an interim basis the introduction of TCC's ATM NNI Service as proposed in TN 91 in *TELUS Communications Inc. – ATM network-to-network interface*, Telecom Order CRTC 2004-277, 18 August 2004.
6. The Commission received an application by TCC dated 29 October 2004, under Tariff Notice 159 (TN 159), to revise the service description of its ATM NNI Service. TCC submitted that the approved service description limited the use of ATM NNI Service to only wide area network (WAN) service providers and the exchange of WAN traffic. The company proposed to remove these restrictions to allow service providers to use this service to exchange all traffic that was supported by TCC's ATM network. TCC noted that such traffic would include, but not be limited to, WAN, Ethernet Transport Service, Frame Relay Service, and ADSL traffic.
7. The Commission approved on an interim basis the revisions TCC proposed to its ATM NNI Service in TN 159 in *TELUS Communications Inc. – ATM network-to-network interface service*, Telecom Order CRTC 2004-394, 25 November 2004.

WAN ADSL Service and changes to ATM NNI Service

8. The Commission received an application by TCC dated 30 June 2005, under Tariff Notice 186 (TN 186), as amended by Tariff Notice 186A (TN 186A) dated 14 December 2005, to introduce CAT item 227 – Wide Area Network ADSL Service (WAN ADSL Service) as a Category II competitor service. TCC submitted that its WAN ADSL Service was a broadband access service based on ADSL technology that allowed a competitive local exchange carrier (CLEC) or a digital subscriber line service provider (DSLSP) to establish a high-speed data access path between its end-user's premises and an NNI provided under CAT item 217.⁵ In that same application, TCC proposed further modifications to its ATM NNI Service, which included changing the name of its ATM NNI Service to simply Network-to-Network Interface Service (NNI Service) and introducing new NNI speed options.

⁴ ATM stands for "asynchronous transfer mode."

⁵ In this Order, the Commission uses the term "ADSL access" to refer to the service component of these tariffs that consists of both the physical end-user access and an associated data transport facility using TCC's broadband network.

9. The Commission approved on an interim basis the introduction of TCC's WAN ADSL Service, as well as modifications to TCC's NNI Service as proposed in TN 186 and as amended by TN 186A, in Telecom Order CRTC 2006-2, 4 January 2006 (Order 2006-2).
10. In response to a Commission letter dated 4 May 2006 regarding *Pricing of unbundled loops used with bundled competitor ADSL tariffs where provided over dry loops* (4 May 2006 letter), the Commission received an amended application by TCC dated 19 May 2006, under Tariff Notice 186B (TN 186B), to modify its WAN ADSL Service. TCC submitted that WAN ADSL accesses would be provisioned over TCC-provided unbundled local loops that were used to provision primary exchange service (PES), as well as over unbundled local loops that were not used to provide PES (referred to as dry loops).
11. The Commission approved on an interim basis the revisions to TCC's WAN ADSL Service proposed in TN 186B in Telecom Order CRTC 2006-133, 31 May 2006.

Wholesale Internet ADSL Service

12. The Commission received an application by TCC dated 30 June 2005, under Tariff Notice 187 (TN 187), as amended by Tariff Notice 187A (TN 187A), dated 14 December 2005, to introduce CAT item 226 – Wholesale Internet ADSL Service, as a Category II competitor service. TCC submitted that this ADSL-based broadband access service would enable CLECs and DSLSPs to establish high-speed data access paths between their end-users' locations and their points of presence using TCC's ADSL access and broadband distribution network.
13. The Commission approved on an interim basis the introduction of the Wholesale Internet ADSL Service proposed in TN 187, as amended by TN 187A, in *Wholesale Internet ADSL Service*, Telecom Order CRTC 2006-17, 20 January 2006 (Order 2006-17).
14. In response to its 4 May 2006 letter, the Commission also received an application by TCC dated 19 May 2006, under Tariff Notice 187B (TN 187B), that proposed to modify its Wholesale Internet ADSL Service. TCC submitted that its Wholesale Internet ADSL Service would be offered from TCC central offices (COs) that were equipped to provide the service. It also submitted that the service would use the bandwidth above the voice-band on the same local loop that was used by TCC or CLECs to provide residential or business PES, as well as dry loops.
15. The Commission approved on an interim basis the revisions to TCC's Wholesale Internet ADSL Service proposed in TN 187B in Telecom Order CRTC 2006-133, 31 May 2006.
16. The Commission received an application by TCC dated 24 July 2006, under Tariff Notice 229 (TN 229), proposing additional changes to its Wholesale Internet ADSL Service. TCC submitted that it would introduce 3 megabits per second (Mbps) and 6 Mbps access speed options to its tariff. TCC submitted that the 3 Mbps speed would replace the current 1.5 Mbps speed and that the 6 Mbps speed would replace the current 2.5 Mbps and 4 Mbps speeds as TCC upgraded its network to allow for these new speeds. The rate for the 3 Mbps speed would be the same as that currently in place for the 1.5 Mbps speed, and the rate for the 6 Mbps speed would be the same as that currently in place for the 2.5 Mbps speed.

17. The Commission approved on an interim basis the additional revisions to TCC's Wholesale Internet ADSL Service proposed in TN 229 in Telecom Order CRTC 2006-201, 2 August 2006.
18. The Commission received an application by TCC dated 25 August 2006, under Tariff Notice 232 (TN 232), proposing further changes to its Wholesale Internet ADSL Service. TCC submitted that its proposed changes were required to clarify different billing practices between the company's operations in Alberta and British Columbia.
19. The Commission approved on an interim basis the additional revisions to TCC's Wholesale Internet ADSL Service proposed in TN 232 in Telecom Order CRTC 2006-236, 7 September 2006.

Process related to comments and reply comments

20. With respect to the ATM NNI Service proposed in TN 91, the Commission received comments dated 22 April 2003 and 21 May 2003 from Allstream Corp., now part of MTS Allstream Inc. (MTS Allstream).⁶ The Commission received reply comments dated 9 May 2003 and 4 June 2003 from TCC.
21. No comments were received regarding TN 159.
22. With respect to the WAN ADSL Service proposed in TN 186, the Commission received comments dated 15 July 2005 from Rogers Communications Inc. (RCI); 20 July 2005 and 10 August 2005 from Net Idea Telecommunications Inc. (Net Idea); 20 July 2005, 9 August 2005, and 3 October 2005 from Peace Region Internet Society (PRIS); 2 August 2005 and 4 October 2005 from Cybersurf Corp. (Cybersurf); 2 August 2005 from Bell Canada; 3 August 2005 from MTS Allstream; and 10 August 2005 and 4 October 2005 from ABC Communications Limited (ABC Communications). The Commission received reply comments dated 30 September 2005 from TCC.
23. No comments were received regarding TNs 186A and 186B.
24. With respect to the Wholesale Internet ADSL Service proposed in TN 187, the Commission received comments dated 15 July 2005 from RCI; 19 July 2005 from Nucleus Information Service Inc.; 20 July 2005 and 10 August 2005 from Net Idea; 20 July 2005, 9 August 2005, and 3 October 2005 from PRIS; 2 August 2005 and 4 October 2005 from Cybersurf; 2 August 2005 and 8 November 2005 from Bell Canada; 2 August 2005 from Primus Telecommunications Canada Inc. (Primus); 3 August 2005 from MTS Allstream; 10 August 2005 and 4 October 2005 from ABC Communications; and 1 November 2005 from Shaw Communications Inc. (Shaw). The Commission received reply comments dated 30 September 2005 from TCC.
25. With respect to TN 187A, the Commission received comments dated 4 January 2006 from Net Idea; 10 January 2006 and 2 May 2006 from PRIS; and 16 January 2006 from Cybersurf. No reply comments were filed by TCC.

⁶ Manitoba Telecom Services Inc., the parent company of MTS Communications Inc., acquired all of the issued and outstanding shares of Allstream Inc. effective 4 June 2004. As part of the transaction, MTS Communications Inc., MTS Media Inc., and Allstream Corp. amalgamated effective 4 June 2004 to form a company operating under the name MTS Allstream Inc.

26. No comments were received regarding TN 187B.
27. With respect to TN 229, the Commission received comments dated 23 August 2006 from MTS Allstream. The Commission received reply comments dated 15 September 2006 from TCC.
28. No comments were received regarding TN 232.

WAN ADSL Service and Wholesale Internet ADSL Service
(TNs 186, 186A, 186B, 187, 187A, 187B, 229, and 232)

29. The Commission notes that the majority of interveners filed comments with respect to both Wholesale Internet ADSL and WAN ADSL services (collectively, competitor ADSL services) under a single submission and that some comments were specific to either the Wholesale Internet ADSL service or the WAN ADSL service. Where an intervener's comments are not specific to either service, the Commission considers that these comments would apply equally to both services. Due to the overlap in comments regarding these services, the Commission will consider the services in conjunction with one another.

Positions of parties

30. Net Idea submitted that TCC's ADSL competitor services were essential services and were critical to establishing an effective marketplace and increasing the penetration of broadband service in rural Canada. Both Cybersurf and MTS Allstream submitted that all rates associated with TCC's Wholesale Internet ADSL Service should be based on the underlying costs of that service plus a mark-up of no more than 15 percent. Cybersurf submitted that the Commission should select a mark-up that resulted in final service rates for TCC that were no higher than those approved for Bell Canada's General Tariff item 5410 – Gateway Access Service (GAS).
31. All interveners expressed concern with the specific service rates and charges being proposed for TCC's competitor ADSL services. In particular, parties submitted that these proposed rates were unreasonably high when compared to TCC's retail high-speed Internet service rates or other ILECs' approved rates for competitor ADSL services. In general, parties submitted that TCC's proposed competitor ADSL service rates would make it difficult to compete with TCC in the retail marketplace.
32. MTS Allstream noted that the rates for the 4 Mbps service currently ranged from \$60 to \$70 per month, depending on the contract period and volume, while the proposed rates for the new 6 Mbps service ranged from \$25 to \$32 per month, depending on the contract period and volume. MTS Allstream submitted that it should be charged rates for the 4 Mbps Wholesale Internet ADSL Service that were no different than the rates that TCC charged for its proposed 6 Mbps service. MTS Allstream also submitted that although end-users of the 4 Mbps service were to be migrated to the 6 Mbps service as it was rolled out, it had to pay the higher rates of the 4 Mbps service in the interim, rather than receive the rate reduction as proposed in TN 229 for the 6 Mbps speed.
33. Cybersurf submitted that TCC should waive the service charges for the competitor ADSL services whenever TCC waived such service charges for its own retail high-speed Internet service customers. Cybersurf further submitted that the proposed \$60,000 fee in TN 187 for

the activation of all of the COs per extended rate area (ERA) was too high. Cybersurf requested that this fee be made comparable to Bell Canada's rate of \$10,000, as set out in its GAS tariff.

34. RCI requested that the Commission direct TCC to include a lower-speed competitor ADSL access offering, such as 128 or 256 kilobits per second (Kbps), noting that TCC offered such a service to its own retail customers. RCI further submitted that the lack of such a "lite" ADSL access service placed competitors at a competitive disadvantage with respect to TCC's residential Internet high-speed products. This view was shared by Cybersurf, which submitted that the service speeds in TCC's Wholesale Internet ADSL Service should correspond to all of the speeds offered by TCC for its own retail Internet service on an ongoing basis. Bell Canada, PRIS, ABC Communications, and Primus also submitted that TCC should make a "lite" ADSL product available as part of its Wholesale Internet ADSL Service tariff.
35. Net Idea submitted that TCC should implement a non-contracted month-to-month rate option to allow new competitors to enter the market. Net Idea further submitted that if a competitor initially selected a contract term, the competitor should have the option for a non-contracted month-to-month rate option at the termination of the initial contract term. PRIS shared this view.
36. Net Idea submitted that TCC should be required to outline any specific service level guarantees within its proposed tariff pages. PRIS submitted that where TCC refunded its retail customers for outages arising from problems with its network, it should also be required to refund its competitor service customers for services affected by the same network problems.
37. Bell Canada submitted that it required competitor ADSL tariffs in TCC's territory in Quebec.⁷ Bell Canada argued that in the absence of TELUS Québec tariffs, TCC should make its proposed rates for competitor ADSL services available in both the TCC and former TELUS Québec operating territories.

Reply comments

38. TCC submitted that in establishing rates for competitor ADSL services, it had sought to ensure that there were margins available for competitors to compete. TCC also submitted that this rate had been established by examining the difference between the proposed competitor rate and the existing retail pricing that was prevalent in its operating territory.
39. Regarding the rating structure associated with the introduction of the 3 Mbps and 6 Mbps speed options proposed in TN 229, TCC submitted that competitors must continue to pay the currently approved rates for the 4 Mbps speed option, rather than the lower rate proposed for the 6 Mbps speed option. TCC noted that this was due in part to its need to maximize the capital recovery associated with the equipment that provided the 4 Mbps speed option, which would be taken out of service as end-users migrated to the new network elements required to provide the 3 Mbps and 6 Mbps access speed options proposed in TN 229.
40. In response to Cybersurf's request that TCC waive the service charge for competitors whenever it did so for its retail customers, TCC submitted that retail service charges covered a different range of functions and costs than those incurred when providing the service on a

⁷ TCC's territory in Quebec was formerly the territory of TELUS Québec.

wholesale basis. TCC further submitted that the fact that ADSL was offered on a wholesale basis and was also used to support a retail service offering did not mean that the underlying processes and costs that supported both services were the same.

41. Regarding the proposed \$60,000 fee for the activation of all COs per ERA, TCC submitted that as demonstrated in the cost study filed in support of TN 187, the proposed rate was based on a reasonable estimate of the company's costs, taking into account that there were approximately 500 COs in Alberta and British Columbia. TCC noted that as an alternative to activating the service for all of its COs, it had proposed a per-CO service charge of \$500, which was much lower than Bell Canada's per-CO service charge of \$3,000.
42. In response to requests by competitors that TCC provide a 256 Kbps competitor ADSL service option, the company submitted that it would be unable to offer the 256 Kbps service at a rate that would be significantly lower than that proposed for its 1.5 Mbps competitor service since the cost structure for both services would be very similar. TCC submitted that, therefore, the rate difference would be small, resulting in little demand for a wholesale 256 Kbps service. TCC further submitted that it had priced its 1.5 Mbps competitor service in such a way as to make it a cost-effective alternative to any competitor 256 Kbps service, allowing competitors to offer retail 1.5 Mbps service as an effective and attractive alternative to TCC's retail 256 Kbps service.
43. In reply to comments regarding non-contracted month-to-month rate options, TCC was of the view that contracted pricing best reflected the revenue commitment necessary for competitors using the service. TCC submitted that non-contracted month-to-month rate options for its services would be costly to administer and would result in higher monthly rates.
44. With respect to specific service level guarantees and refund provisions, TCC noted that its tariffs did not typically include service level guarantees and that service was provided on a non-discriminatory, best-effort basis to all customers of a given service. TCC further noted that its General Tariff item 118 – General Terms of Service, addresses refunds for service outages caused by problems in its network.
45. Regarding the applicability of TN 187 to the former TELUS Québec territory, TCC noted that the infrastructure required to offer the service was not available across TCC's incumbent territory in Quebec. TCC submitted that, given the circumstances, it would not propose to offer its competitor ADSL service or a similar service in its incumbent territory in Quebec at that time.

Commission's analysis and determinations

46. The Commission notes that it has recently initiated a proceeding to review the regulatory issues related to competitor services in *Review of regulatory framework for wholesale services and definition of essential service*, Telecom Public Notice CRTC 2006-14, 9 November 2006 (Public Notice 2006-14). The Commission also notes that, for reasons discussed in Public Notice 2006-14, it expects to issue a decision on issues in that proceeding by mid-2008. In view of this, and the period of time during which the competitor ADSL service issues under consideration in this Order have been outstanding, the Commission considers it appropriate to dispose of these issues on a final basis.

47. The Commission notes that, as with other services provided by ILECs, cable carriers, and CLECs at regulated rates to other competitors, the regulatory status of the competitor ADSL services approved in this Order is within the scope of the proceeding begun in Public Notice 2006-14.

Service classification

48. The Commission notes that TCC's competitor ADSL services were proposed under the company's CAT as Category II competitor services and that these services, including the proposed classification, were granted interim approval in Orders 2006-2 and 2006-17.
49. The Commission notes that several parties requested that TCC be directed to lower its rates for its competitor ADSL services by lowering the assumed mark-ups, with some interveners suggesting that a 15 percent mark-up be applied. The Commission also notes that a 15 percent mark-up is consistent with a Category I competitor service, which implies that parties are effectively requesting that these competitor ADSL services be classified as Category I competitor services.
50. The Commission considers the nature of the facility in question, as well as circumstances relevant to its supply by competitors and third parties, when it assesses whether to classify a competitor service as a Category I competitor service. A competitor service that does not meet the criteria for a Category I competitor service is classified as a Category II competitor service.
51. The Commission considers that competitors have other service alternatives to TCC's competitor ADSL services. The Commission notes that these other options for providing retail high-speed Internet services include co-locating their own ADSL equipment in TCC's COs and using TCC's ADSL Access to Individual Line Service, or using an incumbent cable carrier's third-party Internet access services.
52. In light of the above, the Commission **denies** the request by competitors to reclassify the components of TCC's competitor ADSL services as Category I competitor services, and determines that the interim Category II competitor service classification for these services should be approved on a final basis.

Issues related to rates, terms, and conditions

53. The Commission considers that its interim orders with respect to TCC's competitor ADSL services addressed a number of significant issues with respect to rates. The Commission notes, however, that TCC's interim rate structure for its competitor ADSL services contain certain terms and conditions, as discussed below, that are either inconsistent with those offered by other ILECs for comparable ADSL services or that, in the Commission's view, unduly restrict a competitor's ability to provision services in retail markets. In finalizing TCC's competitor ADSL services, the Commission has had regard to various considerations, including the need to approve similar rates, terms, and conditions for comparable competitor ADSL services across ILECs so that competitors in all parts of the country have the same range of options available to them and can compete in multiple markets.

Volume-based rates

54. The Commission notes that TCC's rate structure for its Wholesale Internet ADSL Service contains volume-based rates. The Commission also notes that the use of volume-based rates is a generally accepted pricing principle for services that benefit from economies of scale (that is, costs decline as volume increases). The Commission also notes, however, that the majority of ADSL access costs per end-user relate to the provisioning and maintenance of the access facility itself. Each access facility is provided discretely to an end-user, and in the Commission's view, the associated costs do not vary significantly with the number of ADSL accesses provided. The Commission considers, therefore, that volume-based rates for TCC's current competitor ADSL services are not cost-justified.
55. The Commission also notes that the competitor ADSL rates proposed by MTS Allstream and Saskatchewan Telecommunications, which have been approved on an interim basis, do not contain volume-based rates for ADSL accesses. The Commission further notes that volume-based rates have not been approved in respect of rates for the access component of other ILEC competitor services, such as Competitor Digital Network and Ethernet, and the cable carriers' third-party Internet access services.
56. In light of the above, the Commission concludes that TCC's current volume-based rate structure for the access component of its Wholesale Internet ADSL Service is not appropriate. The Commission therefore determines that TCC's rate structure should not reflect volume-based rates.
57. Accordingly, the Commission directs TCC to modify its rates for its Wholesale Internet ADSL Service as follows:

ADSL Access Service	Contract period (Rate per month)	
	One-year (\$)	Three-year (\$)
1.5 Mbps service, per access	19.00	18.00
2.5 Mbps service, per access	29.00	25.00
3 Mbps service, per access	19.00	18.00
4 Mbps service, per access	64.00	60.00
6 Mbps service, per access	29.00	25.00

58. Consistent with the above determinations regarding TCC's Wholesale Internet ADSL Service, the Commission determines that rates for TCC's WAN ADSL Service should also reflect the removal of volume-based rates. As a result, the Commission has revised TCC's proposed rates as follows:

	Contract period (Rate per month)		
	One-year (\$)	Two-year (\$)	Three-year (\$)
WAN ADSL access, per circuit	80.00	75.00	70.00

59. With respect to MTS Allstream's request to have TCC's rates for the proposed Wholesale Internet ADSL Service 6 Mbps speed option apply equally to its 4 Mbps speed option, the Commission notes that TCC's application specifies that as the new service becomes available to competitors, end-users of the 4 Mbps service will be migrated to the 6 Mbps service and competitors will be subsequently charged the 6 Mbps rate. The Commission notes that until the new 6 Mbps service is introduced, TCC will provide competitors with the same 4 Mbps technology platform that TCC provides to its retail customers. The Commission therefore considers it appropriate to permit TCC to provide its 4 Mbps competitor ADSL service rate where the same 4 Mbps service is provided on a retail basis. Accordingly, the Commission finds TCC's proposed service migration approach to be reasonable and expects TCC to provide the modified speeds concurrently to both its retail and competitor customers as the new technologies are deployed.

Service charges

60. With respect to competitor requests to have TCC waive the competitor ADSL service charge where it waives the service charge for its retail ADSL customers, the Commission notes that service charges are generally designed to recover the one-time service implementation costs that arise from each service order. The Commission further notes that the ILECs' retail Internet rates are not regulated. The Commission has reviewed the costs associated with TCC's proposed competitor ADSL service charge element and finds the service charge proposed by TCC to be appropriate.
61. With respect to concerns that TCC's proposed \$60,000 ADSL CO activation fee is too high, the Commission notes that Bell Canada charges its competitors \$10,000 for a comparable service element. The Commission further notes that SaskTel, MTS Allstream, and Bell Aliant Regional Communications, Limited Partnership (for services provided in the Atlantic provinces) do not have a service element comparable to this in their competitor ADSL tariffs.
62. The Commission notes that TCC has submitted that its rate is based on a reasonable estimate of the company's costs. The Commission further notes that TCC's proposed costs for that rate element have declined significantly between the original cost submission, dated 30 June 2005, and its most recent cost submissions, dated 24 July 2006. Finally, the Commission notes that based on these revised cost estimates, the proposed mark-up for this one-time fee is significantly higher than the mark-ups applied to the majority of TCC's other competitor ADSL service elements. The Commission therefore considers TCC's proposed mark-up for its ADSL CO activation fee to be unreasonable.
63. The Commission has therefore adjusted TCC's interim rate to reflect the revised costs and a mark-up that is comparable to those approved for TCC with respect to its other ADSL access rate elements. Accordingly, the Commission directs TCC to reduce its CO activation fee from \$60,000 to \$30,000. Furthermore, the Commission determines that this modification is to apply retroactively to any competitors that have previously paid the \$60,000 one-time fee to TCC.

Availability of additional speed offerings

64. With respect to competitor comments that TCC does not offer a "lite" speed offering as part of its competitor ADSL services, the Commission notes that the offering of a "lite" competitor ADSL service would permit a competitor to more easily provide a lower speed service in

TCC's residential market. For example, the Commission notes that if competitors were to use the 1.5 Mbps service to deliver a "lite" retail Internet service, they would need to perform modifications to the service provided by TCC, whereas if TCC provided competitors with an equivalent speed to its retail "lite" service, competitors would be able to simply use the service without modifications. The Commission considers that the availability of a low-speed service that more closely matches the lower speed of TCC's retail low-speed Internet service would be in the public interest, since it would enable competitors to compete with TCC on a more equitable basis. In light of this, the Commission concludes that TCC is to introduce a low-speed ADSL access service for use by competitors.

65. The Commission also directs that should TCC introduce a speed upgrade to one of its retail Internet speed offerings with no corresponding price change, it is to issue, at the same time, revised Wholesale Internet ADSL Service and/or WAN ADSL Service tariff pages that match this retail service speed change with no corresponding price change.
66. Similarly, the Commission directs that should TCC introduce a new retail Internet service speed, it is to file, at the same time, proposed revisions to its Wholesale Internet ADSL Service and/or WAN ADSL Service tariff to include this new speed offering, with a supporting cost study.

Month-to-month rates

67. The Commission notes the request by competitors for a month-to-month rate⁸ in TCC's tariffs for its competitor ADSL services. The Commission also notes that there is currently no uniform approach among the ILECs regarding the provision of month-to-month rates. While TCC offers MCP-based rates only, MTS Allstream offers only a month-to-month rate option for its equivalent competitor ADSL service. The Commission also notes that in the retail market, it is a common practice to offer both MCP-based rates and higher month-to-month rates. The Commission considers that offering the option of either MCP-based rates or month-to-month rates would remove a barrier to competitors being able to compete in the retail market on a more equitable basis – for example, by permitting competitors to offer trial promotions for a limited period of time.
68. In light of the above, the Commission considers that TCC should revise its Wholesale Internet ADSL Service and WAN ADSL Service tariffs to include a month-to-month rate option associated with its ADSL access components.

Contract renewals

69. The Commission notes that in its current tariff pages, TCC requires competitors to subscribe to MCPs of either one or three years. The Commission further notes that upon the expiry of a contract, competitors only have the option of renewing with MCP-based rates.
70. With respect to interveners' comments regarding contract renewals, the Commission considers that the practice of locking competitors into subsequent contracts at the contract's expiry date could create additional difficulties for competitors when planning their retail offerings. The Commission recognizes that competitors benefit from lower monthly rates when ILECs offer

⁸ In this Order, the term "month-to-month rates" refers to monthly rates subject to a minimum contract period of one month, the term "MCP-based rates" refers to monthly rates subject to a minimum contract period that is greater than one month.

such long-term contract periods. However, the Commission also considers that without the option of transferring to a month-to-month rate at the expiry of their contracts, competitors would be unduly restricted with respect to the retail service offerings they could provide.

71. In light of the above, the Commission concludes that TCC should file proposed tariff revisions to modify its Wholesale Internet ADSL Service and WAN ADSL Service tariffs to include the option to renew a contract with MCP-based rates or to transfer to the month-to-month rates.

Service level guarantees and rate rebates

72. With respect to parties' comments regarding service level guarantees, the Commission notes that while TCC indicated in its reply comments that its General Tariff did not generally contain specific service level guarantees, it also indicated that it would provide service on a non-discriminatory, best-effort basis to all customers of a given service. The Commission considers that competitor concerns regarding this matter have been satisfactorily addressed by TCC in its reply comments. In this respect, the Commission expects that an ILEC's service levels that apply to competitor ADSL services will, at a minimum, equal the service levels that apply to that ILEC's retail customers.
73. Regarding the issue of refunds for competitors in the case of network outages, the Commission notes that TCC has referred customers of its competitor ADSL services to General Tariff item 118 – Terms of Service, which specifies that in the case of a service interruption, a competitor may request a refund proportionate to the length of time the problem existed. In the Commission's view, when a problem in any part of TCC's network directly associated with providing competitor ADSL services would cause an end-user to lose its connection to the competitor's point of presence, the result would be considered an outage. The Commission considers that in such a scenario, the competitor would be entitled to request a refund for any portion of the monthly rate, including ADSL accesses and NNI charges related to that outage, in proportion to the length of time of the outage.

Availability of service in the former TELUS Québec territory

74. The Commission notes that the issue of ADSL service availability in TCC's Quebec territory was addressed in *Bell Canada – Part VII application regarding Ethernet and digital subscriber line services in TELUS Communications Company's territory in Quebec*, Telecom Decision CRTC 2006-50, 11 August 2006.

Network-to-Network Interface Service
(TNs 91, 159, 186, 186A, and 186B)

Positions of parties

75. MTS Allstream submitted that it could not make use of TCC's NNI Service as proposed by TCC because the service required additional components. MTS Allstream also submitted that the tariff pages contained insufficient detail, which made it unclear how the service worked. MTS Allstream further submitted that the rates for the NNI Service should be based on the costing methodology established by the Commission for Category I competitor services in *Regulatory framework for second price cap period*, Telecom Decision CRTC 2002-34, 30 May 2002 (Decision 2002-34), and that a general tariff should be filed for permanent virtual circuit facilities used by competitors.

76. RCI noted that competitors using both Wholesale Internet ADSL Service and WAN ADSL Service must purchase separate NNIs for each service. RCI also noted that this requirement did not exist in Bell Canada's competitor ADSL service tariffs, under which the same interface could be shared among multiple services. RCI submitted that there were no technical reasons why separate NNI interface types should be required for TCC's Ethernet Transport, WAN ADSL, and Wholesale Internet ADSL services. This view was shared by Cybersurf, Bell Canada, Primus, and MTS Allstream.
77. Cybersurf noted that while 100 Mbps and 1000 Mbps NNI options were offered, a 10 Mbps NNI option was not. Cybersurf submitted that a 10 Mbps NNI facility should be made available to competitors using copper-based facilities. Cybersurf submitted that this service option was required in situations involving smaller customer bases per CO, where the volume of traffic did not warrant a larger access facility.

Reply comments

78. Regarding service classification, TCC submitted in its tariff application that its proposed NNI Service was not in the nature of an essential or near-essential service. TCC also submitted that its application proposed the price cap basket classifications for the services consistent with paragraphs 501 to 503 of Decision 2002-34. TCC further submitted that none of the services were Category I competitor services for the reasons provided in its applications, in accordance with the Commission's classification criteria.
79. TCC submitted that the reason for requiring competitors to have separate NNIs for each service was due to technical issues associated with the technology platforms used to provide these services. TCC also submitted that its preference was to allow a single NNI for both the Wholesale Internet ADSL and WAN ADSL services and that it intended to amend its tariffs accordingly upon verification that this could be technically supported. At the time of its reply comments, TCC noted that while it wanted to offer the Commission and interveners a timeline in which this might occur, it could not do so since it was in the midst of a labour disruption.

Commission's analysis and determinations

80. The Commission notes that TCC filed three tariff applications concerning its NNI Service. The Commission also considers that the latest filing, TN 186, addressed in part some of the concerns raised by interested parties on the records of TNs 91 and 159. The Commission addresses the outstanding issues below.

Service classification

81. With respect to the issue of classifying TCC's NNI Service, the Commission notes that the NNI functionality is part of the overall competitor ADSL service offering. Furthermore, the NNI Service provided by TCC is the same as the aggregated high-speed service provider interface component of Bell Canada's GAS and High Speed Access service, which the Commission classified as Category II competitor services on a final basis in *Gateway Access Service and High Speed Access Service*, Telecom Order CRTC 2005-62, 17 February 2005. Accordingly, the Commission determines that the interim Category II competitor service classification for TCC's NNI Service should be approved on a final basis.

Sharing NNI Service among multiple services

82. Regarding the issue of sharing the NNI Service among multiple service offerings, the Commission notes that TCC has submitted that it would prefer to allow a single NNI for both the Wholesale Internet ADSL and WAN ADSL services. The Commission also notes that at the time of its submission, TCC indicated that it could not provide a timeline as to when it could offer a shared NNI solution since it was experiencing a labour disruption. The Commission notes that this labour disruption has since been resolved and expects that TCC should now be in a position to provide a shared NNI service platform that can be used for both the Wholesale Internet ADSL and WAN ADSL services. Accordingly, the Commission concludes that TCC should allow the shared use of a single NNI between its Wholesale Internet ADSL and WAN ADSL services.

Availability of a 10 Mbps NNI interface

83. The Commission notes that TCC did not respond to Cybersurf's request for a 10 Mbps NNI interface in its reply comments. The Commission also notes that a 10 Mbps interface option is offered by other ILECs and considers Cybersurf's request to be reasonable.

Service charges

84. The Commission notes that in its application, TCC proposed a service charge of \$1,000 for OC-3 and E100 interfaces, and a service charge of \$4,000 for OC-12 and E1000 interfaces. The Commission also notes that TCC did not provide cost evidence in support of its proposed NNI service charges. The Commission further notes that Bell Aliant, Bell Canada, and SaskTel have proposed a single service order charge of between \$600 and \$885 for all interface speeds associated with this service. Moreover, the Commission notes that the service order activities and costs for each speed of TCC's NNI Service are similar. The Commission therefore considers it appropriate to use a common service charge of \$1,000 for all interface speeds of TCC's NNI Service.
85. In light of the above, the Commission determines that a service charge of \$1,000 should apply to all interface speeds of TCC's NNI Service.

Final approval and direction

86. In light of the above, the Commission **approves on a final basis**, with the changes noted above, TCC's TN 91 as amended by TN 159, TCC's TN 186 as amended by TN 186A and 186B, and TCC's TN 187 as amended by TNs 187A, 187B, 229, and 232, effective the date of this Order.
87. In addition, the Commission directs TCC to:
- issue revised tariff pages for its CAT item 226 – Wholesale Internet ADSL Service and CAT item 227 – WAN ADSL Service, within 30 days of the date of this Order, reflecting the Commission's determinations in this Order with respect to the revised service rates, effective the date of this Order;

- file as part of its CAT item 227 – Wholesale Internet ADSL Service, within 30 days of the date of this Order, proposed rates for a low-speed competitor ADSL service that coincides with TCC's lower-speed service offered to its retail customers;
- file, within 30 days of the date of this Order, proposed tariff pages for the introduction of a month-to-month rate option for the ADSL access components of its Wholesale Internet ADSL and WAN ADSL services;
- file, within 30 days of the date of this Order, proposed modifications to the wording in the tariff pages for CAT item 226 – Wholesale Internet ADSL Service and CAT item 227 – WAN ADSL Service to indicate that competitors that renew their contracts may use the then-available MCP-based rates or may optionally transfer to the month-to-month rates;
- file, within 30 days of the date of this Order, proposed tariff pages and supporting cost information for the introduction of a 10 Mbps NNI Service as part of its CAT item 217 – Network-to-Network Interface Service and indicate any associated changes in any other related services that would be necessary to provision this service;
- file, within 30 days of the date of this Order, proposed tariff pages for its CAT item 217 – Network-to-Network Interface Service to reflect the Commission's determinations regarding the shared use of a single NNI between Wholesale Internet ADSL and WAN ADSL services; and
- issue revised tariff pages for its CAT item 217 – Network-to-Network Interface Service, within 30 days of the date of this Order, reflecting the Commission's determinations in this Order with respect to the revised service charge, effective the date of this Order.

Secretary General

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