Telecom Order CRTC 2007-36

Ottawa, 2 February 2007

Saskatchewan Telecommunications

Reference: Tariff Notice 120

Stand Alone Porting

The application

1. The Commission received an application by Saskatchewan Telecommunications (SaskTel) dated 28 August 2006, proposing revisions to its Competitor Access Tariff to introduce item 650.09, Stand Alone Porting.

2. SaskTel noted that when it received a local service request (LSR) from a competitive local exchange carrier (CLEC) requesting both the porting of a telephone number and the migration of a local loop, it completed a validation to support the loop migration and applied an associated service charge as specified in SaskTel's Competitor Access Tariff item 610.18 – Local Network Interconnection and Component Unbundling. The company submitted that in this scenario there was virtually no incremental cost to validate the eligibility to port a number.

3. SaskTel indicated that the activities encompassed within its proposed tariff item were related solely to the additional work that it must undertake when it receives a LSR requesting that it port a telephone number to an alternative service provider without an associated loop migration. The company noted that for such requests, it was still required to receive the LSR, validate the eligibility to port the telephone number, and issue a confirmation. SaskTel submitted that it incurred a cost to perform these activities that was not recoverable in its current tariffs, since there was no loop migration associated with this type of LSR.

4. SaskTel submitted that the evolution of the industry, including the Commission's decision to allow wireless service providers (WSPs) to port numbers and the entry of alternative service providers – such as cable companies and access-independent voice over Internet Protocol service providers – that did not rely upon SaskTel's unbundled loops, had created a situation where a large volume of number port requests not associated with a loop migration request would be initiated.

5. SaskTel submitted that pursuant to paragraph 15 of *Responsibility for Carrier Specific Costs for the Provision of Local Number Portability*, Telecom Order CRTC 97-591, 1 May 1997, local number portability (LNP) implementation costs were not recoverable from other carriers. SaskTel noted that the proposed rate addressed only the recovery of incremental costs specifically associated with receiving and validating a LSR that did not include a loop migration, and did not include any LNP costs.

6. SaskTel filed a cost study in support of its application.

Process

7. The Commission received comments from Shaw Communications Inc. (Shaw), dated 11 September 2006, and Rogers Wireless Partnership (Rogers Wireless), dated 21 September 2006. SaskTel filed reply comments on 10 October 2006.

8. On 19 December 2006, the Commission received a letter from SaskTel in which the company requested that the Commission grant immediate interim approval to its application.

Positions of parties

9. Shaw requested that the Commission deny SaskTel's request to introduce Stand Alone Porting service. Shaw submitted that the sole purpose of this service was to increase costs for competitors seeking to provide local exchange service in Saskatchewan. Shaw submitted that the Commission had twice denied similar applications and that SaskTel had not provided any new information or raised any issues that had not already been addressed by the Commission.

10. Shaw noted that in *Local competition start-up and LNP costs established*, Order CRTC 2000-143, 23 February 2000 (Order 2000-143), the Commission had denied identical applications by TELUS Communications Company's (TCC) predecessor companies. Shaw submitted that the Commission's denial of those applications was rendered in consideration of incumbent local exchange carrier (ILEC) porting costs and with the understanding that the approved cost recovery mechanisms were sufficient.

11. Shaw submitted that, in *Call-Net Communications Inc. – LSR Processing for Customer Transfer Service*, Telecom Order CRTC 2005-255, 8 July 2005 (Order 2005-255), the Commission had denied an application by Call-Net Communications Inc. (CNCI) to introduce a service that would assess charges to other local exchange carriers (LECs) to compensate CNCI for the efforts and underlying costs of, among other things, porting a customer to that LEC.

12. Shaw noted that in its application, CNCI had suggested that passing on these costs to the LECs that acquired its customers was not only reasonable, but was likely to become the norm. Shaw also noted that in Order 2005-255 the Commission had stated that it was not appropriate to recover from competitors the costs associated with the limited administrative activities involved in arranging for the disconnection or porting of an end-customer's telephone number when it changed its LEC. Shaw submitted that in denying CNCI's application the Commission had left no doubt that the local competition framework did not support this approach.

13. Shaw was of the view that the above examples demonstrated that the question of passing off number porting costs to an acquiring LEC had been settled. Shaw submitted that SaskTel's application must therefore be denied.

14. Shaw submitted that SaskTel's application underscored the presence of ILEC control on competitor entry that should be reviewed and removed. It also submitted that the LSR was superfluous since the porting activity was initiated by a notification from the acquiring LEC to the LNP administrator and, were the ILEC to do nothing, would be completed on the strength

of that request alone. Shaw submitted that the application highlighted the need for the establishment of a simpler, more competitively neutral process that involved only the acquiring LEC and the LNP administrator. The company requested that the Commission initiate a proceeding to examine this issue.

15. Rogers Wireless submitted that in *CRTC denies CNCI's application to introduce service charges for local exchange carriers*, Order CRTC 2000-744, 10 August 2000 (Order 2000-744), the Commission had found that the application of porting charges, such as the charge proposed by SaskTel, was not justified since the associated costs were normal costs of doing business. Rogers Wireless also noted that in Order 2005-255, the Commission had maintained its initial view of such charges. Rogers Wireless submitted that on those two previous occasions, the Commission had examined proposed porting charges similar to those proposed by SaskTel and, on each occasion, had found that the associated costs were normal costs of doing business and that the proposed porting charges were unjustified.

16. Rogers Wireless submitted that SaskTel's proposed charge was anti-competitive and would penalize carriers that ported telephone numbers from SaskTel. It noted that SaskTel continued to enjoy a virtual monopoly throughout Saskatchewan, where LNP had been activated for the first time in a single exchange in May 2006. Rogers Wireless submitted that if the Commission were to approve SaskTel's porting charge, any inroads made by competitors would quickly dwindle, thereby ensuring SaskTel's continued control of the local services market in Saskatchewan.

17. Rogers Wireless submitted that the approval of a porting charge would most likely result in carriers such as WSPs responding by applying a reciprocal charge for the costs that they would incur when validating telephone numbers being ported to SaskTel, or any other ILEC. The company also submitted that the more appropriate way to deal with these costs was to continue to treat them as normal costs of doing business. It submitted, further, that the Commission should not choose a course that would see the introduction and proliferation of intercarrier porting charges.

18. Rogers Wireless argued that the porting charge was contrary to the benefits associated with the implementation of wireless number portability (WNP). Rogers Wireless submitted that in *Implementation of wireless number portability*, Telecom Decision CRTC 2005-72, 20 December 2005 (Decision 2005-72), the Commission had found that the implementation of WNP, including porting between wireline and wireless carriers, was in the interest of wireline and wireless customers and would result in more competitive wireless and wireline markets, resulting in diminished costs for customers changing service providers. Rogers Wireless submitted that the Commission should reject the porting charge proposed by SaskTel.

Reply comments

19. SaskTel disagreed with the view that porting numbers was a normal part of doing business. It submitted that its application was in line with the user-pay concept and was intended to recover porting costs from the parties that caused SaskTel to incur those costs.

20. SaskTel noted that both TCC and Bell Canada had Commission-approved multi-element service charge tariffs that applied to work done in receiving, recording, and processing information to comply with a customer's request. SaskTel offered examples of Bell Canada and TCC tariff items that contained provisions similar to its proposed tariff item. It reiterated that its application only addressed the recovery of the incremental costs associated with receiving and validating a LSR that did not include a loop migration, not unlike the charges that TCC and Bell Canada recovered in their tariff items for the work associated with receiving and processing information to meet a customer request.

21. SaskTel submitted that Shaw's request for a proceeding to examine the issue of limiting participation in the porting process was not relevant to the Commission's analysis of its application.

22. SaskTel submitted that its tariff had been developed under the assumption that it and all other industry participants would adhere to the Commission-approved porting processes for end-user validation as recorded in the Canadian Local Ordering Guidelines (C-LOG). SaskTel submitted that these C-LOG processes required SaskTel to validate the LSR before porting a number to the receiving alternative service provider. SaskTel submitted that the Commission had mandated that LECs port telephone numbers to an alternative service provider in situations when a migrated loop was not involved and that this obligation required it to incur costs that it should be entitled to recover from the service providers driving the incremental costs.

Commission's analysis and determinations

23. The Commission notes that SaskTel's proposed rates would apply when it ported a telephone number to an alternative service provider without an associated loop migration.

24. The Commission also notes that when offering local exchange service to a customer, an ILEC would generally incur the cost for the installation of the service, ongoing costs for providing the service and, eventually, costs for disconnecting the service. The Commission further notes that the C-LOG provides for, among other things, the transfer of a telephone number to a LEC without an associated loop.

25. The Commission notes that it denied similar applications from CNCI in 2000 and in 2005. More specifically, in Order 2000-744, the Commission denied CNCI's proposal to apply per-order and per-loop service charges to a LEC wishing to acquire a loop and a telephone number to provide local service to an end-customer previously served by CNCI. In Order 2005-255, the Commission denied another application by CNCI, in which it proposed to introduce a service charge to recover the costs of processing LSRs from other LECs for transferring a local end-customer from CNCI to that LEC.

26. The Commission notes that in the above cases, the charges proposed by CNCI generally involved transferring a loop it was leasing from an ILEC as well as porting the customer's telephone number. The Commission notes that in Orders 2000-744 and 2005-255 it denied, among other things, CNCI's proposal to charge for porting a telephone number on the grounds that the associated administrative activities were comparable to those it would have to execute to disconnect a customer that had chosen to change its LEC. The Commission noted that

service disconnection activities were integral to the provision of telephone service to end-customers and that it would not be appropriate for a LEC to recover these costs from other LECs.

27. The Commission finds that, consistent with its previous determinations, the administrative costs to port or disconnect telephone numbers are a normal cost of doing business. The Commission further notes that it has consistently denied applications by ILECs and CLECs to introduce a service charge related to the transfer of a customer from the previous service provider – in Decision 2000-143, Order 2000-744, and Order 2005-255.

28. In light of the above, the Commission **denies** SaskTel's application.

29. Regarding Shaw's request that the Commission initiate a proceeding to establish a porting process that involves only the acquiring LEC and the LNP administrator, the Commission considers that this request is outside the scope of this proceeding. If it wishes to do so, Shaw may submit this request to the CRTC Interconnection Steering Committee Business Process Working Group, which is the appropriate forum to address issues related to the customer transfer process.

Secretary General