



## Telecom Order CRTC 2007-478

Ottawa, 12 December 2007

### **Bell Aliant Regional Communications, Limited Partnership and Bell Canada**

Reference: Bell Aliant Tariff Notice 95  
Bell Canada Tariff Notice 7039

### **Local Number Portability and Wireless Number Portability Port-Out Request Cancellation service**

*In this Order, the Commission approves, on an interim basis, with changes, Bell Canada's and Bell Aliant Regional Communications, Limited Partnership's proposed Local Number Portability and Wireless Number Portability Port-Out Request Cancellation service.*

#### **Introduction**

1. The Commission received applications by Bell Aliant Regional Communications, Limited Partnership (Bell Aliant) and Bell Canada (collectively, Bell Canada et al.) pertaining to service provided by Bell Canada, and by Bell Aliant in Ontario and Quebec. The applications were dated 6 June 2007. Specifically, Bell Canada et al. proposed to revise their Access Services Tariffs to add a new rate element to item 115, Local Number Portability (LNP) and Wireless Number Portability (WNP) – 10 Digit Global Title Translation (10D GTT) - Access to Service Control Point (SCP). The new rate element would apply to each port-out request<sup>1</sup> cancellation made by a local exchange carrier (LEC) or wireless service provider when such cancellations exceeded a threshold of 10 percent of that service provider's port-out requests in a month. This rate element is described as the Port-Out Request Cancellation service in the remainder of this Order.
2. The Commission received comments from Quebecor Media Inc. (QMI) and Rogers Communications Inc. (RCI) as well as reply comments from Bell Canada et al. The record of the proceeding closed on 6 November 2007 with Bell Canada et al.'s filing of corrections to their economic study. The public record of this proceeding is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."
3. The Commission has identified the following three issues to be addressed in its determinations:
  - I. Should Bell Canada et al. be permitted to charge for port-out request cancellations and, if so, have the costs been appropriately represented?

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<sup>1</sup> A port-out request is a request to change the assignment of a telephone number from one local exchange carrier to another.

II. What should the classification of the proposed Port-Out Request Cancellation service be?

III. What is the appropriate rate for the service?

***I. Should Bell Canada et al. be permitted to charge for port-out request cancellations and, if so, have the costs been appropriately represented?***

4. Bell Canada et al. submitted that the cancellation of a port-out request caused them to incur costs, and that it was unreasonable for them to bear these costs, particularly when the level of cancellations appeared to be caused by the inefficient internal processes of service providers or the misuse of the telephone number porting process for marketing purposes. Further, Bell Canada et al. submitted that the current telephone number porting process provided little incentive to service providers to manage the level of their cancellation requests responsibly.
5. QMI and RCI submitted that Bell Canada et al. provided no details on the incidence of internal inefficiencies or misuse of the porting system by service providers and that if such problems are evident they should be investigated within the CRTC Interconnection Steering Committee for possible solutions. They also submitted that Bell Canada et al.'s position assumed that a competitive local exchange carrier (CLEC) was the sole cause of port-out request cancellations, when in fact these cancellations could be caused by factors under the control of Bell Canada et al., such as winback activity, delays due to missed deadlines, or internal problems with systems and processes in Bell Canada et al.

***Commission's analysis and determinations***

6. The Commission has reviewed the activities that are involved in a request to cancel a port-out and is satisfied that costs are incurred, as described by Bell Canada et al. in their revised economic study filed on 6 November 2007. In the event that misuse of the number porting system contributes to excessive costs, the Commission agrees that such costs should be recoverable through a tariff.
7. The Commission notes that Bell Canada et al. propose to charge for each port-out request cancellation when the number of port-out cancellations exceeds 10 percent of the number of port-out requests made by a service provider in a given month. The Commission is concerned that, under such a proposal, a service provider may be assessed the charge even though the cancellation of the port-out request is due to winback or other direct marketing activity initiated by Bell Canada et al. for other reasons not associated with CLEC inefficiency or misuse of the porting system. To avoid this outcome, the Commission directs Bell Canada et al. to calculate the charge assessed to any service provider in any month based on the volume of port-out request cancellations excluding those cancellations that are attributable to Bell Canada et al. Specifically, cancellations where (i) the end-customer in question has been the subject of direct marketing activity by Bell Canada et al. within thirty (30) days of the port-out request cancellation date or (ii) the cancellation is attributable to factors under the control of Bell Canada et al. such as delays due to missed due dates are to be subtracted from the total cancellations used to evaluate whether the proposed threshold has been exceeded and what charges, if any, should apply.

8. With the above-noted adjustment, the Commission considers that the proposed threshold of 10 percent of the number of port-out requests in a given month is appropriate.

***II. What should the classification of the proposed Port-Out Request Cancellation service be?***

9. Bell Canada et al. proposed that the Port-Out Request Cancellation service be classified as a Category II competitor service, noting that the charge was not mandatory and that any service provider could avoid the charge for the service by keeping its cancellations within the 10 percent threshold proposed for the service.
10. RCI submitted that the issue relevant to the classification of a competitor service was not the degree of control that competitors had over their consumption of the service, but rather whether the service was in the nature of an essential service or not. RCI submitted that the proposed charge was ancillary to other Category I competitor services including unbundled loop and port order services, and that it should therefore be classified as a Category I competitor service. QMI supported RCI's argument.

***Commission's analysis and determinations***

11. The Commission notes that the charge associated with the service can be avoided if service providers do not exceed the cancellation threshold specified in the proposed tariff. The Commission also notes that it is currently reviewing its regulatory framework for wholesale services, including the definition of an essential service, in the proceeding initiated by Telecom Public Notice 2006-14 (the Essential Services proceeding).
12. In light of the above, the Commission considers it appropriate that the service be treated as a Category II competitor service pending its decision in the Essential Services proceeding.
13. QMI and RCI submitted that the rate proposed by Bell Canada et al. of \$100.00 per port-out request cancellation in excess of the threshold volume was unjustified and excessive in comparison to other tariffed services with apparently similar activities.
14. In reply, Bell Canada et al. submitted that comparisons to other tariffed rates were invalid as those rates were intended to recover the costs of different activities.
15. Further, in response to a Commission interrogatory, Bell Canada et al. stated that it intended to file a revised cost study that reflected reduced associated costs, but that, nonetheless, the Commission should approve the rate proposed in the initial applications because the proposed service was a discretionary service for CLECs. As previously noted, the revised cost study was filed on 6 November 2007.

***Commission's analysis and determinations***

16. The Commission notes that the proposed rate in Bell Canada et al.'s initial applications of \$100.00 per eligible port-out request cancellation was based on estimated costs that were subsequently reduced to exclude certain cost components not applicable to the port-out process. In light of these cost changes, the Commission is not persuaded that the proposed rate would be appropriate, as it would effectively include a higher mark-up over Phase II costs than

originally proposed. In the Commission's view, the rate for the service should be based on the reduced costs and provide for a mark-up over Phase II costs similar to the mark-up proposed by Bell Canada et al. The Commission considers that a rate of \$50.00 per eligible port-out request cancellation would be appropriate.

#### **Application of the Policy Direction**

17. On 14 December 2006, the Governor in Council issued *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534 (the Policy Direction). In the Commission's view, the provisions of the Policy Direction that are pertinent to Bell Canada et al.'s applications are as follows:

1(a) the Commission should (i) rely on market forces to the maximum extent feasible as the means of achieving the telecommunications policy objectives, and (ii) when relying on regulation, use measures that are efficient and proportionate to their purpose and that interfere with the operation of competitive market forces to the minimum extent necessary to meet the policy objectives;

1(b) the Commission, when relying on regulation, should use measures that satisfy the following criteria, namely, those that (i) specify the telecommunications policy objectives that are advanced by those measures and demonstrate their compliance with this Order; (ii) if they are of an economic nature, neither deter economically efficient competitive entry into the market nor promote economically inefficient entry; ...

18. The Commission notes that the proposed service is ancillary to other regulated competitor services and that no party suggested that the Commission's disposition of the applications should be made by relying on market forces. In the circumstances, the Commission considers that, with respect to subparagraph 1(a)(i) of the Policy Direction, market forces cannot be relied upon to achieve the telecommunications policy objectives.
19. With respect to subparagraph 1(a)(ii) of the Policy Direction, the Commission considers that its determinations in this Order represent measures that are efficient and proportionate to the purpose of addressing the potential for misuse of the porting process. Further, the Commission considers that such measures interfere minimally with the operation of market forces because, among other things, the approved rate is based on causal costs together with an appropriate mark-up to recover fixed common costs. As previously noted, the mark-up in question is similar to the mark-up originally proposed by Bell Canada et al.
20. With respect to subparagraph 1(b)(i) of the Policy Direction, the Commission considers that the determinations in this Order advance the telecommunications policy objectives set out in paragraphs 7(b), 7(c), and 7(f) of the *Telecommunications Act*, which are, respectively, to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada; to enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications; and to foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective.

21. With respect to subparagraph 1(b)(ii) of the Policy Direction, the Commission also considers that the determinations in this Order neither deter economically competitive efficient entry nor promote economically inefficient entry.

### **Conclusion**

22. The Commission **approves, on an interim basis**, pending the outcome of the Essential Services proceeding, a charge of \$50.00 for each eligible port-out request cancellation, to be applied consistent with the determinations in this Order. The Commission expects that the rates, terms, and conditions for this service will not be applied retroactively when disposed of on a final basis.
23. Bell Canada et al. are directed to issue revised tariff pages reflecting the determinations in this Order within 10 days of the date of this Order.

Secretary General

## **Related document**

- *Review of regulatory framework for wholesale services and definition of essential service*, Telecom Public Notice CRTC 2006-14, 9 November 2006, as amended by Telecom Public Notices CRTC 2006-14-1, 15 December 2006; 2006-14-2, 15 February 2007; 2006-14-3, 16 March 2007; and 2006-14-4, 20 March 2007

*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>*