



Telecom Order CRTC 2007-88

Ottawa, 21 March 2007

Téléphone Guèvremont inc.

Reference: Tariff Notices 51 and 51A

Direct connection and toll trunking rates

In this Order, the Commission approves in part a request by Téléphone Guèvremont inc. to revise its General Tariff item 7.20 – Carrier Access Tariff by modifying its direct connection and toll trunking rates.

1. The Commission received an application by Téléphone Guèvremont inc. (Guèvremont), dated 15 September 2006, as amended on 19 October 2006, proposing revisions to General Tariff item 7.20 – Carrier Access Tariff (CAT) to modify its direct connection (DC) and toll interconnection trunking rates with an effective date retroactive to 1 January 2006.
2. Guèvremont submitted that it filed its application because its annual volume of toll conversation minutes had fallen below 20 million to approximately 19.77 million. The company also indicated that the number of DS-1 toll interconnection trunks in operation covering a distance between 0 and 5 miles had increased to 11 as of 31 July 2005.
3. Guèvremont proposed to modify its CAT in order to include the DC per-minute rate of \$0.0132 applicable to companies originating and terminating between 5 and 20 million toll conversation minutes annually. Guèvremont also proposed to include the toll interconnection trunking rates applicable to companies operating between 8 and 30 DS-1 toll interconnection trunks in the 0 to 5 mile band.
4. Guèvremont requested that the effective date for approval of its proposed changes be made retroactive to 1 January 2006 in order to abide by *Revised regulatory framework for the small incumbent local exchange carriers*, Telecom Decision CRTC 2006-14, 29 March 2006 (Decision 2006-14), and to allow it to reflect the rates applicable to its actual annual toll conversation minutes and actual DS-1 toll interconnection trunks in its General Tariff.
5. The Commission did not receive any comments regarding this application.

Commission's analysis and determinations

6. The Commission considers that Guèvremont's application raises two issues: the DC and toll interconnection trunking rates that the company proposes to add to its CAT, and its request for retroactive application of its revised rates effective 1 January 2006.

7. In *Regulatory framework for the small incumbent telephone companies*, Decision CRTC 2001-756, 14 December 2001, the Commission established a simplified price regulation framework for small incumbent local exchange carriers (SILECs) that was to apply for a period of four years, beginning in 2002. As part of that Decision, the Commission froze the SILECs' direct toll (DT) costs and rates at approved 2001 levels, and made these rates interim pending the outcome of a further proceeding.
8. In *Direct toll and network costing methodology for small incumbent local exchange carriers – Follow-up to Decision 2001-756*, Telecom Decision CRTC 2005-3, 31 January 2005 (Decision 2005-3), the Commission replaced most of the SILECs' DT rates with a DC rate, an equal access (EA) charge, and toll trunking rates for the facilities used to interconnect an interexchange carrier's (IXC) point of interconnection with a SILEC's switch. The Commission established these new rates to ensure recovery of the SILECs' costs to originate or terminate toll traffic on behalf of IXCs.
9. In Decision 2005-3, the Commission set out a DC rate table,¹ with the applicable rate being determined on the basis of a SILEC's total annual volume of toll traffic, measured in conversation minutes. To ensure a measure of revenue stability during the transition period from DT rates to the new rate structure, the Commission mandated the use of proxy conversation minutes. The Commission determined that total proxy conversation minutes were to be frozen from 2001 to 2005, inclusive, at the level approved for each of the SILECs in setting their final 2001 CATs.
10. Regarding toll interconnection trunks, the Commission established in Decision 2005-3 a rate schedule with the different rates varying by function of trunk quantity and trunking distance. The established toll trunking rates included link charges, base charges, and mileage (distance) charges, with the measurement of distance based on the vertical/horizontal co-ordinates between two points. To guarantee the SILECs a protected amount of toll trunking revenue during the transition period to the new rate structure, the number of toll interconnection trunks and their associated distances were frozen at the 31 December 2002 level for 2005.
11. In Decision 2005-3, the Commission established that both the DC and toll trunking rates would be effective 1 January 2005.
12. Following the release of Decision 2005-3, Guèvremont filed for approval tariff pages to implement the Commission's determination and resultant rates established in that Decision. Rather than incorporating into its CAT the entire DC and toll interconnection trunking rate schedules set out in Decision 2005-3, Guèvremont included only those specific DC and toll interconnection trunking rates that applied to it under the terms of Decision 2005-3.

¹ The table contained three separate DC rates: a DC rate per conversation minute of \$0.0178 applied to those companies with annual toll conversation minutes ranging from 0 to 5 million; a DC rate per conversation minute of \$0.0132 applied to those companies with annual toll conversation minutes ranging from more than 5 million to 20 million; and a DC rate per conversation minute of \$0.0037 applied to those companies with a volume annual toll conversation minutes exceeding 20 million.

13. In Telecom Order CRTC 2005-198, 25 May 2005 (Order 2005-198), the Commission granted final approval to the company's proposed tariff pages. Consequently, Guèvremont's CAT contained only the DC rate of \$0.0037 that applied to companies with annual toll conversation minutes exceeding 20 million. Similarly, Guèvremont's CAT contained only those toll interconnection trunking rates that applied to companies operating between 4 and 7 DS-1 toll interconnection trunks in the 0 to 5 mile band.²
14. In Decision 2006-14, the Commission extended the DC and toll interconnection trunking rates established in Decision 2005-3 for a four-year period. However, the Commission directed that these rates were to be applied to actual annual toll conversation minutes and actual toll interconnection trunks.
15. Based on the information in Guèvremont's application, it is apparent that the company has continued to charge IXCs the rates currently specified in its General Tariff.

Proposed DC and toll interconnection trunking rates

16. The Commission notes that in Decision 2005-3 it established a rate structure for DC and toll trunking rates that were to replace the SILECs' DT rates. The Commission also notes that in Decision 2006-14 it maintained the rate structure for both DC and toll trunking that had been established in Decision 2005-3 but determined that, going forward, the applicable DC and toll trunking rates were to be established on the basis of, and applied to, actual annual toll conversation minutes and actual toll interconnection trunks.
17. The Commission notes that, notwithstanding this modification, Guèvremont's current tariff pages continue to specify the single DC rate of \$0.0037 per conversation minutes approved for companies whose annual toll traffic exceeds 20 million minutes, and the higher toll interconnection trunking rate approved for companies operating between 4 and 7 such toll trunks.
18. The Commission notes, however, that Guèvremont's actual annual toll conversation minutes have fallen below 20 million, which would allow Guèvremont to charge the DC rate of \$0.0132 per conversation minutes approved for companies that originate and terminate between 5 and 20 million toll conversation minutes per year. Similarly, the Commission also notes that Guèvremont's actual toll interconnection DS-1 trunks in the 0 to 5 mile band increased from 7 to 11 as of 31 July 2005.
19. The Commission notes that Guèvremont's proposed rates are those that had been approved for companies originating and terminating between 5 and 20 million annual toll conversation minutes, and for companies operating between 8 to 30 DS-1 toll interconnection trunks in the 0 to 5 mile band.

² While Decision 2005-3 set out a uniform linking rate per DS-1 toll interconnection trunk for all affected carriers irrespective of the amount and/or distance covered by the trunks in operation, it also set out varying base rates. For DS-1 trunks covering a distance between 0 and 5 miles – the only toll interconnection trunks operated by Guèvremont – the per-trunk base charge approved for companies operating between 4 and 7 such trunks was set at \$1,440.00, while it was set at \$935.00 for companies operating between 8 and 30 such trunks.

20. Accordingly, the Commission **approves** Guèvremont's revised DC and toll interconnection trunking rates. The Commission considers that this would bring Guèvremont's rates in line with the Commission's determination regarding the application of DC and toll interconnection trunking rates set out in Decision 2006-14.

Request for retroactive application of revised rates

21. Regarding Guèvremont's request for retroactive approval of its revised rates to 1 January 2006, the Commission considers that the period between 1 January 2006 and 29 March 2006 – the date of Decision 2006-14 – raises different considerations from those related to the period between 29 March 2006 and 15 September 2006, the date Guèvremont filed its application.
22. While Guèvremont asked for Commission approval of the proposed rates retroactive to 1 January 2006, the Commission notes that its determination regarding the establishment of DC and toll interconnection trunking rates and their application to actual toll conversation minutes and actual toll interconnection trunks only took effect on 29 March 2006. Consequently, the Commission considers that the regime established in Decision 2005-3 remained in effect until that date.
23. Accordingly, the Commission considers that it would not be appropriate to approve Guèvremont's revised DC and toll interconnection trunking rates with an effective date retroactive to 1 January 2006.
24. Regarding the period from 29 March 2006 to the date of Guèvremont's current application, the Commission notes that as a matter of regulatory policy, rates approved on a final basis are not generally subject to retroactive adjustment. The Commission also notes that in *CRTC denies application by Call-Net and AT&T Canada for a refund of amounts paid for direct connection service*, Order CRTC 2001-137, 14 February 2001, it considered that retroactively adjusting rates, which had previously been granted final approval, would create uncertainty regarding the finality of Commission determinations. The Commission further notes that it expressed the view that allowing retroactive adjustments of final rates would potentially give rise to frequent changes in rates, after the fact, giving rise to further uncertainty.
25. Given the circumstances of this application, the Commission considers that approving the proposed rates retroactive to 29 March 2006 would adversely affect the IXCs that have been paying Guèvremont for origination or termination of their toll traffic. As indicated previously in this Order, the DC and toll trunking rates currently in Guèvremont's General Tariff were granted final approval on 25 May 2005. The Commission considers that the IXCs should be able to rely on rates contained in a telecommunications carrier's tariff pages that the Commission has approved on a final basis. The Commission therefore determines that it would not be just and reasonable to approve the company's revised DC and toll interconnection trunking rates retroactive to the date of Decision 2006-14.
26. Accordingly, the Commission considers that it is not appropriate to approve Guèvremont's request for retroactive application of its proposed DC and toll interconnection trunking rates and **denies** this aspect of the company's application.
27. In light of the above, the Commission determines that Guèvremont's revised DC and toll trunking rates should apply on a prospective basis only, effective the date of this Order.

Conclusion

28. The Commission therefore directs Guèvremont to issue revised tariff pages within 10 days of the date of this Order and to include in the revised tariff pages the appropriate rates and wording necessary to ensure that it charges IXCs:
- a DC rate that reflects Guèvremont's actual annual conversation minutes; and
 - toll interconnection trunking rates that are determined by – and are applied to – the number of toll trunks actually in use over the monthly billing period, rather than on the basis of the number of toll trunks in operation on 31 July of the previous year.

Secretary General

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