



## Telecom Order CRTC 2007-92

Ottawa, 26 March 2007

### TELUS Communications Company

Reference: TCI Tariff Notice 150, former TCI Tariff Notices 534 and 535, and former TCBC Tariff Notices 4216 and 4217

### IP-Evolution Service

#### Background

1. The Commission received five applications dated 23 August 2004, under TCI Tariff Notice 150, former TELUS Communications Inc. (TCI) Tariff Notices 534 and 535, and former TELUS Communications (B.C.) Inc. (TCBC) Tariff Notices 4216 and 4217, by which TCI, now TELUS Communications Company (TCC), proposed to introduce General Tariff item 210 – IP-Evolution Service as an alternative to its Centrex service. TCC also planned to offer an IP-Evolution Messaging service and proposed revisions to its tariffs related to message relay, directory listings, and extended area service to accommodate the proposed introduction of IP-Evolution Service. These tariff notices were approved on an interim basis in *TELUS Communications Inc. – IP Evolution Service*, Telecom Order CRTC 2004-445, 23 December 2004 (Order 2004-445).
2. TCC submitted that IP-Evolution Service was a hosted Internet Protocol (IP) based multi-line retail service that would be offered to business customers in both Alberta and British Columbia. The company also submitted that IP-Evolution Service was similar to its current Centrex service, and was being offered as either an enhancement or an alternative to Centrex service. It submitted, further, that IP-Evolution was also being offered as an alternative to businesses that currently employed private branch exchanges (PBXs) or other premises-based communication solutions.
3. The Commission received comments from Xit telecom Inc., on behalf of itself and Xittel telecommunications inc. (Xit telecom), dated 22 September 2004, and from MTS Allstream Inc. (MTS Allstream), dated 24 September 2004. The Commission received reply comments from TCC, dated 4 October 2004.

#### Positions of parties

4. MTS Allstream submitted that if, as TCI had stated, its proposal was similar to Bell Canada's Managed Internet Protocol Telephony (MIPT) service, then it was likely to raise the same types of questions and concerns that were raised by Bell Canada's MIPT proposal that the Commission approved on an interim basis in *Bell Canada – Managed Internet Protocol Telephony service*, Telecom Order CRTC 2004-256, 30 July 2004. MTS Allstream also submitted that these questions and concerns, which had yet to be properly answered and resolved, included the following:

- the use of penalties in long term Centrex contracts to encourage Centrex customers to migrate to IP-Evolution Service and discourage Centrex customers from migrating to the IP-based telephony services of competitors;
  - the use of proprietary specifications to prevent alternate data access providers from interconnecting with the IP-Evolution service, that is, whether the service truly allowed for third-party access in practice;
  - the use of closed or proprietary specifications to prevent competitors from providing services which interworked with IP-Evolution Service;
  - the treatment of the bottleneck facilities;
  - the provision of unique 9-1-1/E 9-1-1 and message relay service capabilities to IP-Evolution Service customers on an exclusive basis; and
  - the unclear treatment of National Centrex customers under the IP-Evolution Service offering.
5. MTS Allstream submitted that TCC had failed to file the customer agreement associated with the proposed IP-Evolution Service, which MTS Allstream argued was required in order for it to comment in a meaningful way. In addition, MTS Allstream questioned aspects of the proposed tariff that required the customer-provided local area network/wide area network (LAN/WAN) to be certified by TCC, and also certain technical details related to the interoperability of a customer's IP-Evolution and Centrex services.
  6. Xit telecom requested that the Commission establish a revised process that would allow interested parties to pose interrogatories concerning the proposed interconnection of the IP-Evolution service with the public switched telephone network (PSTN) and to determine if this use of a WAN was in accordance with the uses contemplated in *Forbearance granted for telcos' wide area network services*, Order CRTC 2000-553, 16 June 2000 (Order 2000-553).
  7. Xit telecom submitted that the absence of a "voice access path" element in the proposed tariff was a further indication that TCC had completely disregarded Order 2000-553. Xit telecom requested that TCC make available the media gateways that it was self-supplying as part of IP-Evolution, as a separate service to competitors.

#### **TCC's response**

8. TCC submitted that the terms and conditions of its proposed IP-Evolution Service were similar to those found in its Centrex service tariffs and that its proposed rates passed the Commission's imputation test.
9. In response to MTS Allstream's statement that it could not meaningfully comment on TCC's proposal without a copy of the IP-Evolution service agreement, TCC submitted that the contract that would be used for IP-Evolution customers would be TCC's standard service agreement, supplemented with specific conditions taken directly from the terms and conditions

proposed for IP-Evolution Service. TCC also submitted that there was nothing in the contract that was not already in the terms and conditions of its proposal or that were not already contained in its General Terms of Service. TCC argued that, therefore, contrary to MTS Allstream's assertion, the requested information was already available to permit meaningful scrutiny.

10. Regarding MTS Allstream's questions related to the requirement for certification of a customer-provided LAN/WAN, TCC submitted that certification was required to ensure that a LAN or WAN connection could support an IP-based voice service. TCC also submitted that the technical requirements necessary for a LAN/WAN connection to carry voice-grade service differed from those required for carrying general data traffic.
11. TCC submitted that unlike data traffic, which could tolerate some degree of packet loss and other degradations in transmission quality, IP voice traffic must be managed to a higher degree in order to limit jitter, latency, packet loss, and other characteristics that could adversely affect the quality of an IP voice signal. TCC argued that without a LAN/WAN connection capable of supporting an IP-based voice service to an acceptable quality of service level, the customer would not be able to access IP-Evolution Service or would, at best, receive a lower quality of service level of voice service.
12. TCC submitted that it needed to ensure that the LAN/WAN connection could support IP voice traffic and maintain that traffic within acceptable quality of service parameters, since the customer was responsible to provide this connection from its location to the IP-Evolution access port. TCC argued that this condition of service was necessary in order to protect TCC, or any reseller of IP-Evolution Service, from a situation where a customer's lack of diligence around its LAN and its ability to support IP-based voice traffic resulted in unreliable voice quality, for which the customer might ultimately try to hold TCC or the reseller accountable.
13. TCC indicated that certification would occur at the quote stage, prior to the establishment of a customer order for IP-Evolution Service. It also indicated that as part of the certification process, the customer would identify how it intended to provide the LAN/WAN connection from its locations to TCC's IP-Evolution access ports.
14. TCC submitted that once the nature and source of the intended connection had been identified, it would work with the customer to test the LAN/WAN connection in order to determine whether it would support IP voice signals and, if not, what changes would be necessary. The company noted that the certification process for customers who obtained the LAN/WAN connection from other service providers was the same as for those who obtained their LAN/WAN connection from TCC.
15. Regarding MTS Allstream's questions with respect to interworking of a customer's IP-Evolution and Centrex-type services, TCC submitted that it did not plan to offer feature networking between its IP-Evolution Service features and Centrex service or IP-Centrex services provided by other service providers. The company also submitted that there were a number of significant technical issues that would have to be addressed before its IP-Evolution Service features could work with the Centrex service platforms of other service providers.

16. TCC submitted, further, that interworking between the platforms of different Centrex service providers had not been successfully resolved at the working group level in the CRTC Interconnection Steering Committee (CISC). It argued that it was unrealistic to expect interworking between time division multiplexing (TDM)-based Centrex service and a non-TDM-based service like IP-Evolution Service, when the same issues between Centrex systems had yet to be resolved.
17. TCC indicated that 9-1-1 calls would be routed to the public service answering point (PSAP) associated with the user's normal business location. It also indicated that for resellers of its IP-Evolution Service, 9-1-1 calls from the reseller's customers would be treated in the same manner as calls from TCC's customers. TCC indicated, further, that the 9-1-1 charges for IP-Evolution Service would be applied in the same way as they were for its current Centrex service customers.
18. TCC also indicated that message relay service calls from IP-Evolution Service users would be treated in the same manner as calls from any other TCC service and that this would also apply to calls placed from resale customers of IP-Evolution Service.
19. TCC argued that Xit telecom's comments regarding the voice access path were misleading and out of context. It submitted that, as was clearly stated in various places in its proposal, IP-Evolution Service customers were responsible for providing their own voice path or LAN/WAN connection to TCC's IP-Evolution service. TCC also submitted that its proposal made it clear that customers were free to choose their service provider for this LAN/WAN connection.
20. TCC submitted that the costs for the switching platform required to route calls from IP-Evolution Service customers to the PSTN were reflected in its proposed rates and were included in the cost study submitted with its application. It also submitted that since PSTN access was included in the proposed rates for IP-Evolution Service, resellers would not have to pay any additional charges for PSTN access.
21. TCC disagreed with the need for a revised process that would allow interested parties to pose interrogatories, as Xit telecom had requested. TCC submitted that its responses to MTS Allstream's and Xit telecom's comments provided ample information regarding the proposed service and its underlying costs and features.

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

22. As noted above, the Commission approved TCC's proposed introduction of IP-Evolution Service on an interim basis in Order 2004-445. In that Order, the Commission dealt with the matters raised by MTS Allstream and Xit telecom related to Centrex contract early termination penalties, 9-1-1 and message relay call treatment, voice access path, and the imputation test. The Commission also directed TCC to file its customer agreement related to IP-Evolution Service for information purposes.
23. With regard to 9-1-1, the Commission notes that in Order 2004-445 it referred to its preliminary views set out in *Regulatory framework for voice communication services using Internet Protocol*, Telecom Public Notice CRTC 2004-2, 7 April 2004, as amended by

Telecom Public Notice CRTC 2004-2-1, 22 July 2004 (Public Notice 2004-2). In that Public Notice, the Commission considered that it was of fundamental importance that subscribers to local voice communication services using Internet Protocol (VoIP services) were made aware of the nature and terms of the service being offered to them, and that it expected all local VoIP service providers to specifically and clearly advise potential and existing subscribers of such information, including the availability of and limitations on 9-1-1/E9-1-1 service.

24. The Commission further notes that in *Emergency service obligations for local VoIP service providers*, Telecom Decision CRTC 2005-21, 4 April 2005 (Decision 2005-21), the Commission, among other things, directed all Canadian carriers offering local VoIP services to provide initial customer notification, regarding any limitations that may exist with respect to 9-1-1/E9-1-1 service, before service commencement.
25. The Commission considers that TCC's customer agreement, submitted pursuant to the Commission's directive in Order 2004-445, specifically and clearly advises potential and existing subscribers information related to the availability of and limitations on 9-1-1/E9-1-1 service, consistent with the Commission's determinations in Decision 2005-21.
26. The Commission considers that TCC has fully addressed MTS Allstream's and Xit telecom's comments related to third-party access and service interworking.
27. The Commission notes that TCC submitted that certification was required to ensure that a LAN or WAN connection could support an IP-based voice service and that the certification process for customers who obtained their LAN/WAN connections from other service providers would be the same as for those who obtained their LAN/WAN connections from TCC. The Commission considers that TCC has adequately addressed the certification requirement of a customer provided LANs/WANs.
28. The Commission notes that TCC submitted that it did not plan to offer feature networking between its IP-Evolution service features and Centrex service or IP-Centrex services provided by other service providers, since a number of significant technical issues would have to be addressed. The Commission also notes that TCC submitted that it was unrealistic to expect such interworking when the same issues between Centrex systems had yet to be resolved. The Commission is satisfied with TCC's response and considers that, to the extent parties wish to pursue this matter, CISC would be the appropriate forum for any such parties to make a proposal for industry consideration and discussion.
29. Regarding Xit telecom's request for a revised process that would allow interested parties to pose interrogatories concerning TCC's proposal, the Commission considers that the normal comment period for tariff applications pursuant to the *CRTC Telecommunications Rules of Procedure* has provided parties with a sufficient opportunity to raise all relevant issues related to TCC's proposal.

#### **Impact of policy directive**

30. The Governor in Council issued a Direction to the Commission, effective 14 December 2006, pursuant to section 8 of the *Telecommunications Act* (the Act) with respect to the implementation of the Canadian telecommunications policy objectives set out in section 7 of the Act (the Direction).

31. The Direction states, among other things, that the Commission should rely on market forces to the maximum extent feasible and, when relying on regulation, use measures that are efficient and proportionate to their purpose. The Direction further states that the Commission, when relying on regulation, should use measures that satisfy certain criteria, including specifying the telecommunications policy objective that is advanced by those measures.
32. The Commission notes that TCC's existing IP-Evolution service is an IP based multi-line retail service that is offered, on a tariffed basis, to business customers in Alberta and British Columbia. The present applications did not seek forbearance for this service, and thus tariff regulation applies. Accordingly, the Commission's reliance on regulation continues to be appropriate.
33. The Commission notes that the terms of IP-Evolution service contain standard industry provisions that allow customers flexibility to migrate contracted services to other contracted services offered by the company without incurring termination charges. The Commission considers, consistent with past practice, that encouraging customers to migrate to newer technology-based services is not anti-competitive. Consistent with the Direction, the Commission is of the view that its determinations in this Order do not deter economically efficient competitive entry into the retail market for IP telephony, nor do they promote economically inefficient entry.
34. The Commission notes that it granted interim approval to the company's initial tariff applications, thus minimizing regulatory interference to the planned introduction of IP-Evolution service in the competitive marketplace as an alternative to TCC's Centrex service. The Commission considers that granting final approval to the tariff applications meets the requirements for reliance on market forces to the maximum extent feasible, within the context of tariff regulation. The approval granted in this Order will advance the policy objectives, set out in sections 7(a), (b) and (f) of the Act, of facilitating the orderly development in Canada of a telecommunications system that serves to strengthen the economic fabric of Canada; rendering reliable and affordable telecommunications services of high quality to Canadians; and ensuring that regulation, where required, is efficient and effective.

#### **Conclusion**

35. In light of the above, the Commission **approves on a final basis** TCI Tariff Notice 150, former TCI Tariff Notices 534 and 535, and former TCBC Tariff Notices 4216 and 4217.

Secretary General

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