



## Telecom Decision CRTC 2009-35

Route reference: Telecom Decision 2007-27, Telecom Order 2008-171

Ottawa, 28 January 2009

### **Bell Aliant Regional Communications, Limited Partnership and Bell Canada – Application to review and vary portions of Telecom Order 2008-171**

File number: 8662-B54-200809379

*In this Decision, the Commission varies its determinations in Telecom Decision 2007-27 regarding the recovery of approved exogenous adjustments. As a result, the Commission approves Bell Canada's proposed rate range for residential primary exchange service in its Tariff Notice 7108.*

### **Introduction**

1. The Commission received an application by Bell Aliant Regional Communications, Limited Partnership (Bell Aliant) and Bell Canada (collectively, the Bell companies), dated 7 July 2008, requesting that the Commission review and vary Telecom Order 2008-171 by
  - concluding that the rules set out in Telecom Decision 2007-27 permit incumbent local exchange carriers (ILECs) to recover exogenous adjustments pertaining to their residential baskets through rate increases for any element(s) within those baskets, provided those increases comply with the five percent rate element constraint; and
  - approving Bell Canada's proposed rate range for residential primary exchange service (PES) set out in its application associated with Tariff Notice 7108, which was denied in Telecom Order 2008-171.
2. The Bell companies further requested that if the method identified in Telecom Order 2008-171 to recover exogenous amounts is determined to be correct, the Commission vary Telecom Decision 2007-27 to permit recovery of exogenous adjustments pertaining to their residential baskets through rate increases for any element(s) within those baskets, provided those increases comply with the five percent rate element constraint.
3. The Commission received no comments regarding this application. The public record of this proceeding, which closed on 6 August 2008, is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."

## **Background**

4. In its Tariff Notice 7108, Bell Canada proposed a rate range for residential local PES in sub-band F2 in order to recover two exogenous amounts that the Commission had previously approved. Bell Canada noted that the upper limit of the rate range did not exceed the five percent rate element constraint established in Telecom Decision 2007-27.
5. In Telecom Order 2008-171 the Commission, among other things, denied Bell Canada's proposed rate range. The Commission found that the company did not meet the constraint applicable to rates for services assigned to the Residential High-Cost Serving Areas (HCSAs) Services basket as set out in Telecom Decision 2007-27. Bell Canada's proposed rate range, while not exceeding five percent, would have exceeded the rate of inflation and the impact of the two exogenous factors when applied at the rate element level. Based on this, the Commission found that an ILEC would only be able to recover the approved exogenous amount if it were to increase the rate for each single rate element in the affected basket by the same percentage.

### **Is there substantial doubt as to the correctness of the Commission's determination in Telecom Order 2008-171 regarding the recovery of the approved exogenous adjustments that were the subject of that order?**

6. The Bell companies submitted that their proposed methodology for recovering the approved exogenous amounts was consistent with the determinations in Telecom Decision 2007-27 and would enable ILECs to recover the exogenous adjustment through selective rate adjustments, taking into account potential customer impacts and market conditions.
7. The Bell companies noted that in Telecom Decision 2007-27 the Commission had indicated that applying an exogenous factor adjustment, as set out in Telecom Decisions 2002-34 and 2002-43, remained appropriate for the next price cap regime. The Bell companies interpreted this statement to mean that the Commission would continue to permit the ILECs to recover exogenous adjustments pertaining to a given basket through rate increases to any element within that basket, provided that the increases complied with the applicable constraints.
8. The Bell companies submitted that the methodology identified in Telecom Order 2008-171 would significantly limit the ILECs' flexibility by requiring increases, in many cases by very small amounts, to every single rate element in their residential baskets in order to recover exogenous adjustments. They also submitted that for ILECs such as Bell Aliant, adopting this method would require increases to several hundred rate elements in order to recover approved exogenous adjustments, which would be inefficient, inflexible, and not customer-friendly.

9. The Bell companies submitted that the recovery methodology contemplated in Telecom Order 2008-171 would not allow for the full recovery of approved exogenous amounts in all instances when the rate element-level increases required to recover approved exogenous amounts were only fractions of a cent – which for practical purposes could not be implemented. They also submitted that the forgone revenues associated with these "forgone" increases across the basket as a whole could amount to a significant proportion of the approved exogenous amount.
10. The Bell companies submitted that the Commission's method for the implementation of exogenous factor adjustments for services in the ILECs' residential baskets was contrary to the Policy Direction.<sup>1</sup> In this regard, the Bell companies submitted that the methodology was inefficient, was not proportionate to its purpose, and did not interfere with market forces to the minimum extent necessary to meet the policy objective of protecting consumers. They also submitted that requiring rate increases to potentially hundreds of rate elements was not a streamlined or minimally intrusive process, as required by the Policy Direction. The Bell companies further submitted that the five percent rate element constraint would protect consumers.
11. The Bell companies submitted that when the Commission approves an exogenous factor adjustment for a given ILEC, then that ILEC is entitled to the recovery of the approved amount. In their view, in such cases the Commission should adopt a method that allows the recovery of the approved amount in a full and efficient manner.

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

12. In determining whether there is substantial doubt as to the correctness of the Commission's determinations in Telecom Order 2008-171, the Commission will examine whether the interpretation set out in that order is the only methodology consistent with the framework adopted in Telecom Decision 2007-27.
13. Telecom Decision 2007-27 established the current price cap regime that applies to certain ILECs.<sup>2</sup> The current price cap regime, unlike previous regimes, did not establish basket level constraints for the Residential Services baskets. Further, with respect to the Residential HCSAs Services basket, which is the basket under consideration in Telecom Order 2008-171, the Commission determined that a rate element constraint equal to the lesser of the annual rate of inflation or five percent would apply to the services in that basket. The Commission also determined that the application of exogenous factor adjustments continued to be appropriate and, in this case, rate increases would be capped at five percent per year per rate element.

---

<sup>1</sup> *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

<sup>2</sup> These ILECs are Bell Aliant, Bell Canada, MTS Allstream Inc., Saskatchewan Telecommunications, TELUS Communications Company, and Télébec, Limited Partnership.

14. The Commission agrees that methodologies employed in the previous price cap regimes permitted the ILECs to recover exogenous adjustments assigned to the Residential Services baskets by allowing them to choose which services within the appropriate basket would be subject to the rate increases. This was because, unlike the current price cap regime, these regimes included basket level constraints.
15. Given the absence of a basket constraint, the Commission considers that the methodology contemplated by Telecom Order 2008-171, namely the recovery of exogenous adjustments through increases to every single rate element in the Residential Services basket, is consistent with the framework set out in Telecom Decision 2007-27.
16. However, following careful examination of the submissions put forward by the Bell companies in this proceeding, the Commission is persuaded that there is substantial doubt as to the correctness of its determination in Telecom Order 2008-171 that the methodology set out in that order is the only one consistent with Telecom Decision 2007-27. The Commission finds particularly persuasive the Bell companies' submission that they would not be able to recover the full exogenous amount from increases to the individual rate elements in the Residential Services basket if the methodology in Telecom Order 2008-171 were the only one permitted to be applied. The Commission agrees that there are circumstances where this methodology would limit the ILECs' ability to fully recover the exogenous amount – for example, if there is a large number of rate elements or a small exogenous adjustment.
17. The Commission considers that its determination in Telecom Decision 2007-27 to permit the recovery of exogenous factor adjustments contemplated that an ILEC should be able to fully recover the adjustment(s) in question. Accordingly, the Commission finds that the ILECs should have the flexibility to adopt a different approach for the recovery of exogenous amounts assigned to the Residential HCSAs Services basket, and similarly the Residential non-HCSAs Services basket, provided that each rate increase does not exceed the cap of five percent per year per rate element.
18. The Commission is also persuaded that giving ILECs the flexibility to choose the appropriate method of recovering approved exogenous factor adjustments, provided that the increases comply with the five percent rate element constraint, would be consistent with the Policy Direction. In this respect, the Commission considers that such a regulatory measure would be consistent with the telecommunications policy objectives set out in paragraphs 7(b), 7(f), and 7(h) of the *Telecommunications Act*.<sup>3</sup>

---

<sup>3</sup> The cited objectives of the *Telecommunications Act* are  
7(b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada;  
7(f) to foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective; and  
7(h) to respond to the economic and social requirements of users of telecommunications services.

19. In light of the above, the Commission concludes that the Bell companies have demonstrated that there is substantial doubt as to the correctness of the Commission's determination in Telecom Order 2008-171 that exogenous factor adjustments can only be recovered by increasing each rate element level for services in the Residential HCSAs Services basket by the same percentage.
20. Accordingly, the Commission finds that exogenous factors assigned to the Residential HCSAs Services basket and the Residential non-HCSAs Services basket can be recovered either through rate increases to specific rate elements in these baskets, provided that any proposed rate element increase does not exceed five percent, or through rate increases of the same percentage for each single rate element.
21. Given the above, the Commission **approves** Bell Canada's rate range for residential PES as proposed in its Tariff Notice 7108. Further, consistent with the Commission's determinations in this proceeding, Bell Aliant is not required to show cause why the rates approved in Telecom Order 2007-254 are compliant with the pricing constraints set out in Telecom Decision 2007-27.

Secretary General

### **Related documents**

- *Bell Aliant Regional Communications, Limited Partnership and Bell Canada – Work-function Structure, Push Button Dialing, and Rate Schedules for Local Primary Exchange Service*, Telecom Order CRTC 2008-171, 18 June 2008
- Telecom Order CRTC 2007-254, 20 July 2007
- *Price cap framework for large incumbent local exchange carriers*, Telecom Decision CRTC 2007-27, 30 April 2007
- *Implementation of price regulation for Télébec and TELUS Québec*, Telecom Decision CRTC 2002-43, 31 July 2002
- *Regulatory framework for second price cap period*, Telecom Decision CRTC 2002-34, 30 May 2002, as amended by Telecom Decision CRTC 2002-34-1, 15 July 2002

*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>*