Telecom Order CRTC 2009-498

Route reference: Commission letter dated 26 August 2008

Ottawa, 14 August 2009

Review of rates for Competitor Digital Network link services

File number: Bell Aliant Tariff Notice 218
Bell Canada Tariff Notice 7163
SaskTel Tariff Notices 189 and 189A
TCC Tariff Notice 168D

Introduction

1. The Commission received tariff applications for Competitor Digital Network (CDN) link services, dated 27 October 2008, from Bell Aliant Regional Communications, Limited Partnership (Bell Aliant), Bell Canada, Saskatchewan Telecommunications (SaskTel), and TELUS Communications Company (TCC). All of these companies also filed cost studies, except for Bell Aliant, which indicated that it was relying on Bell Canada's cost study in support of its proposed rates for CDN link services.

2. These tariff applications and supporting cost studies replaced previously filed applications.

3. The Commission received comments from MTS Allstream Inc. (MTS Allstream), Primus Telecommunications Canada Inc. (Primus), and Rogers Communications Inc. (RCI). Bell Aliant and Bell Canada (collectively, the Bell companies), SaskTel, and TCC provided responses to a number of Commission interrogatories.

4. The public record of this proceeding, which closed on 17 April 2009, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file numbers provided above.

Background

5. In Telecom Decision 2007-6, the Commission stated that to the extent that an incumbent local exchange carrier (ILEC) considered that costs incurred to connect a CDN service to any other service in a central office (CO) were not recovered through the services being connected, the ILEC could file proposed tariffs to recover such costs.

6. In response to that decision, the Commission received applications from Bell Aliant, Bell Canada, and SaskTel.[1] In those applications, which were supported by cost studies, the companies proposed to introduce a competitor link service to recover the additional costs associated with connecting a CDN service with a non-CDN service. Those applications were given interim approval in a number of Commission orders.[2]

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1 See Bell Aliant Tariff Notice 82, Bell Canada Tariff Notice 7028, and SaskTel Tariff Notices 136, 136A, and 136B.
2 See Telecom Orders 2007-130, 2007-173, and 2007-264.

7. In addition, TCC filed an application[3] to amend its existing CDN Other CO Connection Link tariff, which had been approved on an interim basis in Telecom Order 2005-323. The Commission approved that application on an interim basis in Telecom Order 2007-59.[4]

8. In Telecom Order 2007-430, the Commission determined, among other things, that the CDN link service rates, terms, and conditions were to remain interim pending the conclusion of the proceedings to review Phase II costing and essential services related issues.

9. The Commission set out its determinations regarding Phase II costing issues in Telecom Decision 2008-14.[5] Subsequently, in Telecom Decision 2008-17, the Commission determined, among other things, that CDN links were to be classified as conditional essential services and would continue to be priced at company-specific Phase II costs plus a mark-up of 15 percent. Subsequent to the issuance of these decisions, the Commission, in a letter dated 26 August 2008, directed the concerned ILECs to submit revised cost studies and the associated tariff pages for their CDN link services.

Issues

10. The Commission has identified the following three issues to be addressed in its determinations:

    I. Should ILECs modify their CDN link service rate structures by eliminating the one-time service charge?

    II. Are the ILECs' proposed CDN link service rates just and reasonable?

    III. Should the ILECs' CDN link service rates apply retroactively and, if so, from what date?

I. Should ILECs modify their CDN link service rate structures by eliminating the one-time service charge?

11. MTS Allstream submitted that only a single monthly rate and no one-time service charge should be applied by all ILECs for the CDN link service. MTS Allstream further requested that the Commission direct the Bell companies, SaskTel, and TCC to modify their respective tariffs to eliminate the one-time service connection charge in favour of a monthly recurring rate.

12. SaskTel noted that, in Telecom Order 2007-430, the Commission considered that the varied rate structures proposed by the ILECs for this service were appropriate. SaskTel argued that nothing in Telecom Decisions 2008-14 and 2008-17 has impacted these rating models and, as such, there is no apparent reason that the Commission's ruling should be overturned.

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[3] See TCC Tariff Notice 168A.

[4] Subsequent to the issuance of Telecom Order 2007-59, TCC filed Tariff Notices 168B and 168C; these tariff notices were given interim approval in Telecom Order 2007-173.

[5] As a follow-up to Telecom Decision 2008-14, the Commission approved the ILECs' Regulatory Economic Studies Manuals in Telecom Order 2008-237.

13. TCC noted the Commission's finding in Telecom Order 2005-323 that it is appropriate for TCC to charge a one-time service connection charge to recover the costs associated with the provisioning of the CDN CO Copper Link which occur on a one-time basis and are treated as an expense item. TCC submitted that MTS Allstream provided no evidence to suggest that the CDN link service is provisioned in any other way than that noted by the Commission in Telecom Order 2005-323.

14. The Commission notes that the Bell Companies have proposed to apply only a single monthly rate and no one-time service charge for their CDN link service.

15. The Commission also notes that, in Telecom Order 2007-430, it addressed the issue of differing ILEC rate structures for CDN link services and found that the application of one-time service charges by SaskTel and TCC was appropriate because the costs associated with these charges related to expense rather than capital-related items.

16. The Commission considers that its findings in Telecom Order 2007-430 with respect to the application of service charges by SaskTel and TCC still apply. Accordingly, the Commission **denies** MTS Allstream's proposal that the Commission direct the ILECs to modify their CDN link tariffs to eliminate the one-time service connection charge in favour of a monthly recurring rate.

II. Are the ILECs' proposed CDN link service rates just and reasonable?

17. In assessing the proposed rates submitted by the ILECs, the Commission has reviewed each ILEC's CDN link cost study and associated methodologies in light of each ILEC's provisioning practice and the specific costing issues raised by parties. The Commission notes that with the exception of the six costing issues discussed below, all other proposed costing methods and cost estimates associated with each ILEC's CDN link service were found to be appropriate.

a) Should SaskTel's CDN link service cost study period be modified?

18. Primus noted that SaskTel was the only ILEC proposing to increase its monthly CDN link rates from those approved by the Commission on an interim basis. Primus and MTS Allstream claimed that the much-higher SaskTel rates were mostly as a result of SaskTel's use of a five-year study period, as compared to the ten-year study period used by the other ILECs. MTS Allstream submitted that employing a five-year study period reduces the time allotted for the recovery of capital expenditures, which effectively raises the proposed service rates. Primus and MTS Allstream submitted that SaskTel should be directed to use a ten-year study period for this service.

19. SaskTel submitted that in its original Competitor Link cost studies, filed in conjunction with SaskTel Tariff Notice 136B, the company also used a five-year study period. Accordingly, the five-year study period has not contributed to an increase in the proposed rate.

20. SaskTel further submitted that since all of the costs reflected in the proposed monthly recurring charge elements contained in its current application are causal to demand, the addition of more years of demand would also result in the addition of more years of costs. As such, the length of the study period would have little impact on the overall Phase II cost per unit.

21. Regarding MTS Allstream's comments on the recovery of capital expenditures, SaskTel noted that all the capital equipment in its cost study has been assumed to be fungible and, therefore, only that portion of the capital consumed within the study period will be recovered within the study period.

22. The Commission notes that the cost studies submitted by SaskTel in support of its proposed monthly recurring charges incorporate only costs that are causal to demand, with no costs causal to the service. The Commission considers that extending the study period from five to ten years would require the inclusion of additional years of demand along with corresponding costs, resulting in service per-unit costs which would not be materially different.

23. In light of the above, the Commission considers that an extension of the study period from five to ten years would not have a material impact on the costs for SaskTel's CDN link service. Accordingly, the Commission **denies** the request by MTS Allstream and Primus to direct SaskTel to refile its supporting costing studies using a ten-year study period.

b) Should the ILECs use an all-carriers approach to determine demand in their respective CDN link cost studies?

24. MTS Allstream submitted that the Bell companies, SaskTel, and TCC have all employed a number of different assumptions regarding demand and capital costs in their cost studies. MTS Allstream noted that only TCC used an all-carriers approach[6] to determine total forecast demand, and submitted that an all-carriers approach should be used by the other ILECs in developing cost studies in support of their proposed rates.

25. SaskTel argued that all its cost inputs are demand-driven and therefore the actual level of demand has little impact on the results. SaskTel noted that the demand model it used is the same demand model used in the cost studies approved by the Commission in Telecom Order 2007-430. SaskTel submitted that nothing in Telecom Decisions 2008-14 and 2008-17 impacted SaskTel's demand model, and no changes were made to the basic demand methodology used in the approved studies.

26. SaskTel noted that, in their updated Regulatory Economic Studies Manuals (the Manuals), neither MTS Allstream nor SaskTel have CDN services, including CDN links, on the list of services for which the all-carriers approach is used. SaskTel argued that it would be contrary to SaskTel's Manual to file this cost study using an all-carriers approach as well as illogical to calculate the costs of only one component of a potential CDN circuit in this manner.

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[6] Under the all-carriers approach, prospective incremental costs associated with certain wholesale services are developed based on the combined demand of the ILEC and its competitors, rather than based on competitor demand only.

27. The Commission notes that the application of an all-carriers approach is not required for CDN services.

28. In light of this, the Commission finds that it is not necessary for the ILECs to use an all-carriers approach in the development of their CDN link costs.

c) Should the Bell companies' and SaskTel's CDN link cost studies be modified to exclude certain capital costs?

29. MTS Allstream submitted that the majority of the costs included in the Bell companies' and SaskTel's Phase II cost studies are capital costs related to Alcatel 1631 equipment, a SONET Ring Manager or a digital cross connect, or a digital multiplexer. MTS Allstream submitted that these capital costs, along with associated space, power, and maintenance expenses are not causal to the provision of CDN link services and are already captured as part of the charges for CO channelization. As such, MTS Allstream submitted that these costs should be eliminated from the applicants' cost studies.

30. The Bell companies argued that CDN link service is not only a path between two digital cross-connect panels but can include other types of equipment. In this regard, the Bell companies noted that in some instances the CDN link service terminates on the port of the Alcatel 1631 equipment. Accordingly, the Bell companies indicated that they included in their cost study the cost of the port for the Alcatel 1631 equipment, which cost inclusion was based on the percentage of CDN links in service terminating on such equipment at the time when their cost study was prepared.

31. SaskTel noted that, in Telecom Order 2007-430, the Commission agreed with the inclusion of its capital cost components, stating that it reviewed the configurations submitted by SaskTel and considered that they do not raise concerns that would cause the Commission to adjust the associated Phase II costs.

32. Both the Bell companies and SaskTel confirmed that the costs in question are not already recovered in the rates for their CDN channelization services.

33. The Commission has reviewed the proposed configurations and associated costs for CDN link services provided by the Bell companies and SaskTel, and considers that the inclusion of the costs as they pertain to the above-discussed equipment in the Bell companies' and SaskTel's supporting cost studies are appropriate, given that these costs are causal to the provision of the service and are not being recovered through the applicants' CDN channelization rates.

34. Accordingly, the Commission **denies** MTS Allstream's request that the applicants be directed to eliminate these costs from their cost studies.

d) Should SaskTel's cost studies be adjusted to remove outside equipment costs?

35. Only SaskTel included outside plant equipment costs in its CDN link service cost studies. In response to a Commission interrogatory, the company relied on section 3.4.3.3 and Appendix K of its Manual, and submitted that the outside plant equipment costs included in its CDN link cost studies reflect structure costs estimates based on the application of structure cost factors (SCFs). Further, SaskTel submitted that neglecting to apply these SCFs would result in an underestimation of the structure costs on a total-company basis.

36. The Commission notes that, as reflected in paragraph 3-46 of the Manual, SCF cash flows are to be estimated by applying SCFs to capital expenditures for related equipment. In this regard, the Commission further notes that SCFs, as set out in Appendix K of the Manual, include SCFs for poles and conduit.

37. The Commission notes, however, that no outside plant equipment is required to provide the CDN link services.

38. The Commission considers it inappropriate to include outside plant costs derived from the application of SCFs for poles and conduit to determine capital costs associated with CDN links that are provisioned within the CO. In light of the above, the Commission has adjusted the costs for SaskTel's DS-1 and DS-3 CDN link services by removing these outside plant costs from the company's CDN link service cost studies.

e) Should the cost study for the Bell companies be modified to exclude certain provisioning costs?

39. In response to a Commission interrogatory, the Bell companies provided a breakdown of their service provisioning cost estimates into the following major components: inward provisioning; outward provisioning; and interconnection project management costs.

40. The Commission has reviewed the service provisioning cost inclusions for the Bell companies and finds that the interconnection project management costs include double-counting of Tier C management costs. Accordingly, the Commission has adjusted the Bell companies' cost study so as to exclude the double-counting of Tier C management costs for interconnection project management. The Commission has also modified certain labour-related expenses to reflect the Bell companies' current estimates of the associated labour unit costs.

f) Should SaskTel's cost estimates be adjusted for expenses related to bad debt, consumer and enterprise sales, and customer services operations?

41. SaskTel indicated that it had included expenses for bad debt, consumer and enterprise sales, and customer services operations in its cost studies by applying cost factors.

42. The Commission considers that these cost factors are developed based on, and relate to, SaskTel's retail experience. The Commission considers that such retail-based factors should not be used to develop expenses for wholesale services such as CDN link services.

43. Accordingly, the Commission has removed the expenses related to bad debt, consumer and enterprise sales, and customer services operations from SaskTel's CDN link service cost studies.

III. Should the ILECs' CDN link service rates apply retroactively and, if so, from what date?

44. MTS Allstream submitted that once the tariffs filed by the applicants have been modified to reflect its requested changes, the applicants should be directed to rebate competitors for overpayment of CDN link charges from the date the interim tariffs came into effect: 16 September 2005 for TCC, 10 April 2007 for the Bell companies, and 2 May 2007 for SaskTel.

45. The applicants argued against retroactive application of CDN service link rates.

46. The Commission notes that, in Telecom Order 2007-430, it stated that it expected that the rates, terms, and conditions for CDN link services would not be applied retroactively when disposed of on a final basis. The Commission considers that no party in this proceeding provided a compelling reason as to why rates should be applied retroactively. In the circumstances, the Commission considers that it would not be appropriate to apply the CDN link service rates approved in this order retroactively.

Conclusion

47. The Commission considers that its determinations in this order advance the telecommunications policy objectives set out in paragraphs 7(*b*), (*f*), and (*h*) of the *Telecommunications Act*.[7] The Commission further considers that its determinations are consistent with the Policy Direction[8] requirements that (a) the measures in question be efficient and proportionate to their purposes, and that they minimally interfere with competitive market forces to meet the above policy objectives, and (b) the measures neither deter economically efficient competitive entry into the market nor promote economically inefficient entry.

48. In light of the above determinations, the Commission **approves** the following revised CDN link service rates for Bell Aliant, Bell Canada, SaskTel, and TCC, effective the date of this order:

DS-1 rates

Bell Aliant/Bell Canada	$10.40
SaskTel	$12.51

DS-3 rates

SaskTel	$168.62

One-time service connection charges

SaskTel	$172.81
TCC	$152.22

Each ILEC is to issue the associated tariff pages within 15 days of the date of this order.

Secretary General

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7 The cited policy objectives of the Act are
(*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;
(*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
(*h*) to respond to the economic and social requirements of users of telecommunications services.

8 *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

Related documents

- *Regulatory Economic Studies Manuals - Follow-up proceeding to Telecom Decision 2008-14*, Telecom Order CRTC 2008-237, 25 August 2008
- *Revised regulatory framework for wholesale services and definition of essential service,* Telecom Decision CRTC 2008-17, 3 March 2008
- *Review of certain Phase II costing issues*, Telecom Decision CRTC 2008-14, 21 February 2008, as amended by Telecom Decision CRTC 2008-14-1, 11 April 2008
- *Competitor Digital Network service - Competitor link service*, Telecom Order CRTC 2007-430, 16 November 2007
- Telecom Order CRTC 2007-264, 26 July 2007
- Telecom Order CRTC 2007-173, 16 May 2007
- Telecom Order CRTC 2007-130, 19 April 2007
- Telecom Order CRTC 2007-59, 22 February 2007
- *Rogers Wireless Partnership – Part VII application with respect to the applicability of retail Digital Network Access link charges to Competitor Digital Network facilities*, Telecom Decision CRTC 2007-6, 2 February 2007, as amended by Telecom Decision CRTC 2007-6-1, 20 March 2007
- *Competitor Digital Network Services – Other Central Office Connecting Link (copper-based)*, Telecom Order CRTC 2005-323, 16 September 2005