



Telecom Order CRTC 2009-613

Ottawa, 2 October 2009

Téléphone Guèvremont inc. – Introduction of an asymmetric digital subscriber line data access service

File numbers: 8622-S74-200806995
Tariff Notices 53, 53A, and 53B

1. On 30 June 2008, the Commission received an application by Téléphone Guèvremont inc. (Guèvremont) under Tariff Notice (TN) 53, in which the company proposed to add item 9, Asymmetric Digital Subscriber Line (ADSL) Data Access service, to its General Tariff. Guèvremont filed the application in response to a complaint filed on 8 May 2008 by 9164-3122 Québec inc., operating under the name Sogetel Numérique (Sogetel Numérique).¹ According to the complaint, Sogetel Numérique had not been properly charged for services provided by Guèvremont since 9 January 2008.
2. On 15 July 2009, Guèvremont amended its application with TN 53A, requesting that the Commission ratify the rates it had proposed in its application for the period of 9 January 2008 to the date of coming into force of the proposed tariff. In support of its amended application, Guèvremont submitted a copy of the invoices sent to Sogetel Numérique, which are based on the rates proposed in TN 53, for the services it provided beginning 9 January 2008. Guèvremont maintained that the invoices took overcharges into account and that the purpose of its application was to resolve the complaint filed by Sogetel Numérique.
3. On 21 July 2009, Sogetel Numérique filed comments with the Commission regarding the wording of the proposed tariff. On 27 July 2009, Guèvremont filed TN 53B in order to amend the wording of the tariff and respond to Sogetel Numérique's comments.
4. In Telecom Order 2009-465, dated 30 July 2009, the Commission approved on an interim basis the introduction of the ADSL Data Access service as proposed by Guèvremont in TNs 53, 53A, and 53B. The Commission indicated that it would address Guèvremont's ratification request in a subsequent order and, if necessary, any other issues related to TNs 53, 53A, and 53B.
5. The record of this proceeding, which closed on 26 August 2009, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file numbers provided above.
6. The Commission has identified the following two issues to be addressed in its determinations:
 - I. Is the proposed tariff acceptable?
 - II. Should the Commission ratify the proposed rates, and if so, for what period?

¹ On 1 January 2009, 9164-3122 Québec inc. merged with Sogetel inc.

I. Is the proposed tariff acceptable?

7. In Telecom Decision 2006-14, the Commission extended, with some modifications, the regulatory framework established in Decision 2001-756 for the small incumbent local exchange carriers (ILECs). The Commission established four baskets of services. The fourth basket comprised optional services, multi-element service categories, special facilities tariffs, support structure tariffs, and competitor access tariffs. The Commission notes that the ADSL Data Access service proposed by Guèvremont is an access service to its competitors and is therefore part of the fourth basket.
8. In Telecom Decision 2006-14, the Commission concluded that rates for services in the fourth basket would be allowed to increase up to any rate approved by the Commission for the same service, as established in Decision 2001-756. The Commission notes that when small ILECs introduce a new service that is included in the fourth basket, they normally have to submit cost data to show that the proposed tariffs are compensatory. However, the Commission has sometimes deemed it acceptable for small ILECs to propose, for new services, tariffs that the Commission has already approved for another ILEC for the same service instead of submitting cost data.
9. The Commission notes that the ADSL data access service proposed by Guèvremont has two components: (1) the ADSL DS-1 service provider interface (ADSL DS-1 interface) and (2) ADSL access line administration and support.
10. Regarding the ADSL DS-1 interface, the Commission notes that Guèvremont proposed to adopt a rate approved by the Commission in Bell Canada's Access Services Tariff item 124 – Ethernet T1 Access. That access service allows data to be transmitted at a speed of 1.544 megabits per second (DS-1 transmission speed). The Commission notes that none of the ADSL data access services it has approved is offered at DS-1 transmission speed. The Commission considers that the ADSL DS-1 interface service offered by Guèvremont is comparable to Bell Canada's Ethernet T1 Access service and therefore determines that the proposed rate is acceptable.
11. Regarding ADSL access line administration and support, the Commission notes that Guèvremont proposed to adopt a rate approved by the Commission for NorthernTel, Limited Partnership for the same service and therefore determines that the proposed rate is acceptable.
12. The Commission reviewed the proposed terms and conditions and determines that they are acceptable.
13. Consequently, the Commission **approves on a final basis** Guèvremont's ADSL data access service as proposed.

II. Should the Commission ratify the proposed rates, and if so, for what period?

14. As noted earlier, Guèvremont requested that the Commission ratify the rates it charged Sogetel Numérique for ADSL data access service from 9 January 2008 to the date of approval of its tariff. The Commission notes that (1) Guèvremont supplied the elements of its ADSL data access service to Sogetel Numérique during the period covered by the application for ratification, (2) Guèvremont charged Sogetel Numérique for the service provided during that period based on Guèvremont's proposed rates, and (3) Sogetel Numérique did not oppose Guèvremont's application.
15. The Commission considers that Guèvremont's application is acceptable. Subsection 25(4) of the *Telecommunications Act* states that the Commission may ratify the charging of a rate otherwise than in accordance with a tariff approved by the Commission if the Commission is satisfied that the rate was charged because of an error or other circumstance that warrants the ratification. For the reasons stated above, the Commission ratifies, from 9 January 2008 to 30 July 2009, the charging of the rates proposed by Guèvremont.

Other considerations

16. In its 8 May 2008 complaint, Sogetel Numérique alleged that Guèvremont had charged rates for services that it was not providing. Sogetel Numérique therefore requested that the Commission rectify the situation by ordering Guèvremont to submit a tariff commensurate with the services Guèvremont was providing. Sogetel Numérique also requested that the Commission order Guèvremont to refund to Sogetel Numérique the overpayments made since 9 January 2008.
17. In conjunction with its complaint, Sogetel Numérique sent a letter to Guèvremont asking it, among other things, to submit to the Commission for approval a tariff for ADSL data access service similar to the one provided by under Bell Canada's General Tariff item 5400 – Asymmetric Digital Subscriber Line (ADSL) Access Service. Sogetel Numérique stated that that service would meet its needs.
18. The Commission notes that Sogetel Numérique's complaint was made under Part VII of the *CRTC Telecommunications Rules of Procedure*. The Commission therefore opened file 8622-S74-200806995 in order to address the issues raised by the complaint.
19. The Commission considers that the tariff proposed in this application is consistent with the services Guèvremont has provided to Sogetel Numérique since 9 January 2008 and that, based on the invoices sent to Sogetel Numérique and filed in support its application, Sogetel Numérique has been compensated for the overpayments it made after that date. Consequently, the Commission closes Sogetel Numérique's file.

Secretary General

Related documents

- *Téléphone Guèvremont inc. – Asymmetric Digital Subscriber Line (ADSL) Data Access Service*, Telecom Order CRTC 2009-465, 30 July 2009
- *Revised regulatory framework for the small incumbent local exchange carriers*, Telecom Decision CRTC 2006-14, 29 March 2006
- *Regulatory framework for the small incumbent telephone companies*, Decision CRTC 2001-756, 14 December 2001

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