



Telecom Decision CRTC 2010-183

Ottawa, 25 March 2010

New Telecommunications Fees Regulations

File number: 8657-C12-200914441

In this decision, the Commission advises that it has made, with the approval of the Treasury Board, the Telecommunications Fees Regulations, 2010.

Introduction

1. In Telecom Decision 2006-71, the Commission considered an application by Aliant Telecom Inc. (now Bell Aliant Regional Communications, Limited Partnership (Bell Aliant)) and Bell Canada requesting that it revise the *Telecommunications Fees Regulations, 1995* (the 1995 Fees Regulations) and, in particular, the basis on which telecommunications fees are levied. In that decision, the Commission determined that the telecommunications fees regulations should be changed, from the tariff-based regime in the 1995 Fees Regulations, to a revenue-based approach similar to that implemented by the Commission for the contribution regime in Decision 2000-745.
2. In Telecom Decision 2009-681, the Commission confirmed Telecom Decision 2006-71 after the Federal Court of Appeal ruled that the proposed amendments to, or replacement of, the 1995 Fees Regulations were not subject to the requirements of the *User Fees Act*.
3. Concurrent with the issuance of Telecom Decision 2009-681, the Commission issued Telecom Notice of Consultation 2009-682, in which it invited interested parties to comment on the text of the proposed new *Telecommunications Fees Regulations, 2010*.
4. The Commission received submissions from Bell Aliant, Bell Canada, Saskatchewan Telecommunications, and Télébec, Limited Partnership; MTS Allstream Inc.; the Ontario Telecommunications Association; Quebecor Media Inc., on behalf of Videotron Ltd.; Rogers Communications Inc. (RCI); TekSavvy Solutions Inc. (TekSavvy); TELUS Communications Company; and one individual. The public record of this proceeding, which closed on 14 January 2010, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.
5. The Commission notes that, while interested parties generally supported the proposed new *Telecommunications Fees Regulations, 2010*, RCI and TekSavvy did raise specific issues that need to be addressed in this decision. These issues are addressed below.

RCI's and TekSavvy's comments

6. RCI submitted that the payment of telecommunications fees should not be limited to those telecommunications service providers (TSPs) that generate a substantial amount of regulatory activities, but should also take into account whether TSPs benefit substantially from the Commission's regulatory activities. In support of this view, RCI submitted that there is no

evidence that TSPs with less than \$10 million of Canadian telecommunications service revenue (CTSR) generate less regulatory activities than other TSPs. Further, RCI suggested that some of the most resource-intensive policy proceedings in recent years were initiated by or at the request of TSPs, many of which are likely to have had CTSR of less than \$10 million. RCI submitted that a review of the interested parties' lists for these proceedings would reveal that any correlation between revenue size and regulatory activity is weak at best.

7. RCI also noted that smaller TSPs often do not have an in-house regulatory team and are likely to generate a significant amount of regulatory activity by way of contact with Commission staff. In fact, the Commission has established a helpline for small TSPs.
8. RCI concluded that the \$10 million threshold for telecommunications fees should be eliminated; however, if a revenue threshold is deemed necessary for administrative ease, it should be set no higher than \$1 million.
9. TekSavvy noted that the proposed regulations require TSPs to use calendar-year information for telecommunications fees purposes, rather than fiscal-year information as is used within the contribution regime.
10. TekSavvy submitted that it was very concerned with having to use calendar-year information because not all TSPs have a 31 December year-end. For TSPs not having a 31 December year-end, the proposed regulations would create a lot of additional effort and expense to provide calendar-year information.

Commission's analysis and determinations

11. With respect to RCI's submission, the Commission notes that it established a minimum threshold of \$10 million of CTSR in the contribution regime to allow smaller companies to attain a certain size before being required to contribute and to increase the administrative efficiency of the regime by reducing the number of parties contributing.
12. The Commission also notes that, in Telecom Decision 2002-35, it streamlined the contribution reporting requirements for TSPs with total operating revenues of less than \$10 million.
13. The Commission considers that using the \$10 million minimum threshold for telecommunications fees purposes would ensure regulatory symmetry with the contribution regime, achieve the administrative efficiency outlined in paragraph 11 above, and streamline the reporting requirements of TSPs by allowing one submission to be used for two purposes (i.e. the contribution regime and telecommunications fees). In this regard, reducing the minimum threshold would also eliminate the administrative efficiencies introduced in Telecom Decision 2002-35 because TSPs with total operating revenues of less than \$10 million would have to provide full annual revenue reports.
14. Therefore, the Commission does not consider it appropriate to eliminate or reduce the \$10 million minimum threshold for telecommunications fees purposes.
15. With respect to TekSavvy's submission, the Commission notes that its intention with the *Telecommunications Fees Regulations, 2010* is to use the preceding calendar year's fiscal-year information, as is done within the contribution regime.

16. The Commission has made minor wording changes to the *Telecommunications Fees Regulations, 2010* to clarify that the preceding calendar year's fiscal-year information should be used for telecommunications fees purposes.
17. Pursuant to subsection 68(1) of the *Telecommunications Act*, the Commission has received Treasury Board approval and has **made** the proposed *Telecommunications Fees Regulations, 2010*, modified to reflect that the preceding calendar year's fiscal-year information should be used for telecommunications fees purposes. These Regulations were registered on 17 March 2010, and will be published in the *Canada Gazette*, Part II on 31 March 2010. The Regulations come into force on 1 April 2010. A copy of the *Telecommunications Fees Regulations, 2010* is attached.
18. The Commission notes that, in accordance with the transitional provision set out in the new fees regulations, for the purposes of the 2010 telecommunications fees invoices, companies that paid telecommunications fees in 2009 (i.e. companies with a tariff) will receive an invoice in 2010 to cover the true-up adjustment, that represents the difference between the estimated costs initially billed and the actual costs incurred, for the Commission's 2009/10 fiscal year. In addition, companies paying contribution in 2010 will receive an invoice in 2010 to cover the Commission's estimated telecommunications costs for its 2010/11 fiscal year. The Commission anticipates that the assessment of these telecommunications fees will be done in June 2010 with a payment due date in July 2010.

Secretary General

Related documents

- *Call for comments on proposed new Telecommunications Fees Regulations, 2010*, Telecom Notice of Consultation CRTC 2009-682, 30 October 2009
- *Confirmation of Telecom Decision 2006-71 regarding revisions to or replacement of the Telecommunications Fees Regulations, 1995*, Telecom Decision CRTC 2009-681, 30 October 2009
- *Part VII application to revise the Telecommunications Fees Regulations, 1995*, Telecom Decision CRTC 2006-71, 6 November 2006
- *Changes to the annual contribution reporting requirements*, Telecom Decision CRTC 2002-35, 31 May 2002
- *Changes to the contribution regime*, Decision CRTC 2000-745, 30 November 2000

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>.

TELECOMMUNICATIONS FEES REGULATIONS, 2010

INTERPRETATION

1. The following definitions apply in these Regulations.

"Canadian telecommunications services revenues" has the same meaning as in Part B of the *Telecom Circular CRTC 2007-15, The Canadian revenue-based contribution regime*, published on June 8, 2007. (*revenus des services de télécommunication canadiens*)

"contribution-eligible revenues" means revenues calculated in accordance with the formula set out in Part A of the *Telecom Circular CRTC 2007-15, The Canadian revenue-based contribution regime*, published on June 8, 2007. (*revenus admissibles à la contribution*)

"related" in relation to telecommunications service providers, means two or more telecommunications service providers that are related parties within the meaning of Section 3840 of the *Canadian Institute of Chartered Accountants Handbook* as amended from time to time. (*apparentés*)

"telecommunications service" has the same meaning as in section 23 of the *Telecommunications Act*. (*service de télécommunication*)

FEES AND ADJUSTMENTS

2. A telecommunications service provider shall, in every calendar year and within 30 days after the date of the invoice sent by the Commission, pay to the Commission the annual fee calculated in accordance with subsection 3(1), the supplementary fee calculated in accordance with subsection 3(2) and the annual adjustment calculated in accordance with subsection 3(5) if

(a) the telecommunications service provider was in operation on April 1 of the year; and

(b) the telecommunications service provider had at least \$10 million in Canadian telecommunications services revenues for its fiscal year ending in the preceding calendar year or is one of a group of related telecommunications service providers which in the aggregate had at least \$10 million in Canadian telecommunications services revenues for its fiscal year ending in the preceding calendar year.

3. (1) The annual fee shall be the amount determined by the formula

$$A/B \times C$$

where

A is the telecommunications service provider's contribution-eligible revenues for its fiscal year ending in the preceding calendar year;

B is the aggregate of the contribution-eligible revenues for the fiscal year ending in the preceding calendar year of the telecommunications service providers that are required to pay under section 2; and

C is the estimated total regulatory costs of the Commission for the fiscal year as set out in the Commission's Expenditure Plan published in Part III of the *Estimates* of the Government of Canada.

(2) The supplementary fee shall be the amount determined by the formula

$$A/B \times D$$

where

A is the telecommunications service provider's contribution-eligible revenues for its fiscal year ending in the preceding calendar year;

B is the aggregate of the contribution-eligible revenues for the fiscal year ending in the preceding calendar year of the telecommunications service providers that are required to pay under section 2; and

D is the supplementary estimated regulatory costs of the Commission for the fiscal year as set out in the *Supplementary Estimates* of the Government of Canada.

(3) The regulatory costs of the Commission for the fiscal year is the sum of the following amounts:

(a) the costs of the Commission's Telecommunications Activity; and

(b) the share

(i) of the costs of the Commission's administrative activities that is attributable to its Telecommunications Activity, and

(ii) of the other costs that are taken into account to arrive at the net cost of the Commission's program that is attributable to its Telecommunications Activity.

(4) The Commission shall publish, each year, the estimated total regulatory costs referred to in subsection (1) and the supplementary estimated regulatory costs referred to in subsection (2) in a public notice in the *Canada Gazette*, Part I.

(5) The annual adjustment shall be determined by the following formula:

$$A/B \times E$$

where

A is the telecommunications service provider's contribution-eligible revenues;

B is the aggregate of contribution-eligible revenues of the telecommunications service providers that are required to pay under section 2; and

E is the difference between the sum of the estimated regulatory costs referred to in subsections (1) and (2) and the actual total regulatory costs for the fiscal year.

(6) The annual adjustment amount shall be charged or credited to the telecommunications service provider in the following year's invoice and shall not result in a disbursement of monies on the part of the Commission.

TRANSITIONAL

4. A telecommunications service provider who is required to pay an annual adjustment under the *Telecommunications Fees Regulations*, 1995 for the fiscal year ending on March 31, 2010 shall pay that adjustment within 30 days after the date of the invoice sent by the Commission.

REPEAL

5. The *Telecommunications Fees Regulations, 1995*¹ are repealed.

COMING INTO FORCE

6. These Regulations come into force on April 1, 2010.

¹ SOR/95-157

EXPLANATORY NOTE

(This note is not part of the Regulations.)

The purpose of making the Telecommunications Fees Regulations, 2010 is to implement the Commission's Telecom Decision CRTC 2006-71, so that telecommunications service providers, including those not required to file tariffs, would pay fees using the same approach that applies under the existing contribution regime. This regime is described in detail in the Telecom Circular CRTC 2007-15 entitled *The Canadian revenue-based contribution regime*, dated June 8, 2007.