



Telecom Order CRTC 2010-397

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Ottawa, 18 June 2010

Novus Entertainment Inc. – Introduction of Competitive Local Exchange Carrier Tariff and Basic Listing Interchange File Agreement

File numbers: 8340-N68-200905870 and Tariff Notices 1, 1A, 1B, and 1C

1. The Commission received an application by Novus Entertainment Inc. (Novus), dated 7 April 2009 and amended on 1, 13, and 21 May 2009, proposing to introduce its Competitive Local Exchange Carrier (CLEC) Tariff. The Commission received a separate application by Novus, dated 7 April 2009, in which the company requested Commission approval for its template Basic Listing Interchange File (BLIF)¹ Agreement, which would be used in conjunction with the BLIF service tariff.
2. In its tariff application, Novus submitted that it was a small CLEC pursuant to the Commission's determinations set out in Telecom Decision 2006-58 and that, accordingly, it should be permitted to comply with some of its CLEC obligations through its partner, MTS Allstream Inc. (MTS Allstream). Novus therefore proposed to indicate in its CLEC Tariff that it would rely on MTS Allstream's facilities for interconnection with other telecommunications service providers.
3. The Commission approved Novus's CLEC Tariff on an interim basis in Telecom Order 2009-402, and approved Novus's BLIF Agreement on an interim basis in Telecom Order 2009-403.
4. The Commission received comments from TELUS Communications Company (TCC). The public records of these proceedings, both of which closed on 21 May 2009, are available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file numbers provided above.
5. The Commission has identified the following two issues to be addressed in its determinations:
 - I. Does the relief granted to certain CLECs in Telecom Decision 2006-58 apply to Novus?
 - II. Are the proposed terms and conditions in Novus's CLEC Tariff appropriate?

¹ BLIF service provides local exchange carriers, independent directory publishers, and alternate operator service providers with a machine-readable file of non-confidential customer listing information that is used to publish telephone directories and/or to provide directory assistance information.

I. Does the relief granted to certain CLECs in Telecom Decision 2006-58 apply to Novus?

6. TCC submitted that Novus does not fit the description of a small CLEC for which relief was granted in Telecom Decision 2006-58. It argued that Telecom Decision 2006-58, and the criteria set out to relieve CLECs from certain obligations, only apply to a particular group of carriers – those that operate in smaller markets. TCC also argued that Novus operates in high-density multi-dwelling units in a major metropolitan area where competition is thriving, and that it has access to a significant customer base. Further, TCC argued that Novus does not offer services through a reseller but directly from a CLEC. TCC requested, therefore, that the Commission direct Novus to meet the obligation to provide equal access,² as other large CLECs do.
7. In reply, Novus indicated that the size of the market and the extent of competition in the market are not part of the relief criteria established in Telecom Decision 2006-58.
8. Novus submitted that it meets all the criteria set out in Telecom Decision 2006-58. It stated that it is a small cable television company that offers voice over Internet Protocol (VoIP) services through a reseller, as outlined in the Master Agreement for Interconnection between Local Exchange Carriers it signed with MTS Allstream.
9. The Commission notes that in Telecom Decision 2006-58, it determined that CLECs that wished to enter the local telephone market using VoIP platforms would be exempt from certain CLEC obligations if the following three criteria were met:
 - They are non-dominant Canadian carriers;
 - They offer local VoIP services through a reseller; and
 - They have fewer than 10,000 local exchange service telecommunications subscribers.
10. However, the Commission did not refer to the size of the market or the extent of competition as criteria. In that decision, the Commission defined the carriers who met the above criteria as “small CLECs.”
11. The Commission considers that Novus meets the above criteria and, therefore, that Novus is subject to the relief granted in that decision. As such, the Commission determines that Novus is relieved from the obligation to provide equal access, and that it is permitted to comply with certain CLEC obligations through MTS Allstream, to the extent prescribed in Telecom Decision 2006-58.

² Equal access allows end-customers to choose a primary interexchange carrier and place long-distance phone calls through this carrier.

12. The Commission reminds Novus that should it exceed the threshold of 10,000 local exchange service subscribers or begin to offer local VoIP services through its own resources rather than through a reseller, it must comply with all the CLEC obligations from which it had obtained relief within six months.

II. Are the proposed terms and conditions in Novus's CLEC Tariff appropriate?

Tariff for interconnection services

13. TCC submitted that the wording in items 200, 300, 400, and 500 of Novus's CLEC Tariff should be revised to remove the requirement to enter into an interconnection arrangement with Novus and to indicate that the direct interconnection will be done through MTS Allstream.
14. The Commission notes that on 1 May 2009, Novus filed an amendment to its CLEC Tariff to incorporate the requested change.
15. The Commission finds that Novus's CLEC Tariff is consistent with the Commission's determinations set out in Telecom Decision 2006-58.

BLIF Tariff and Agreement

16. TCC indicated that it expected to obtain BLIF information about Novus's customers through MTS Allstream. TCC requested that Novus confirm that it would offer BLIF service directly, as indicated by the standard wording in item 201 of its CLEC Tariff.
17. In reply, Novus indicated that BLIF service would be provided by MTS Allstream, and on 1 May 2009, the company filed an amendment to its CLEC Tariff to reflect this statement. However, Novus filed subsequent amendments to its CLEC Tariff on 13 and 21 May 2009, indicating that BLIF service would be provided directly by Novus, rather than by MTS Allstream.
18. The Commission notes that in Telecom Decision 2006-58, it considered that the obligation to file a tariff for directory listings and to provide directory listings to other local exchange carriers did not place an undue burden on small CLECs. Accordingly, the Commission determined that small CLECs must continue to comply with this CLEC obligation.
19. The Commission notes that the template BLIF Agreement filed by Novus is consistent with the template BLIF Agreement developed by the CRTC Interconnection Steering Committee (CISC) and approved in Telecom Decision 2004-60.
20. The Commission finds that the BLIF Tariff and Agreement filed by Novus are consistent with the determinations set out in Telecom Decision 2006-58.

Conclusion

21. In light of the above, the Commission **approves on a final basis** the CLEC Tariff and BLIF Agreement filed by Novus.

Secretary General

Related documents

- Telecom Order CRTC 2009-403, 2 July 2009
- Telecom Order CRTC 2009-402, 2 July 2009
- *Canadian Cable Telecommunications Association – Part VII application regarding the application of some competitive local exchange carrier (CLEC) obligations to certain CLECs*, Telecom Decision CRTC 2006-58, 18 September 2006
- *CRTC Interconnection Steering Committee – Consensus items*, Telecom Decision CRTC 2004-60, 14 September 2004