



Telecom Decision CRTC 2010-867

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Ottawa, 23 November 2010

Bell Aliant Regional Communications, Limited Partnership and Bell Canada – Application regarding which central office channelizing service rate should be charged to the affiliates of competitors

File number: 8661-B54-201010636

In this decision, the Commission denies the Bell companies' request that Fido Solutions Inc. should be charged retail rates for the Bell companies' central office channelizing services.

Introduction

1. The Commission received an application by Bell Aliant Regional Communications, Limited Partnership and Bell Canada (collectively, the Bell companies), dated 29 June 2010, requesting that the Commission confirm that affiliates of competitors, where the competitor is co-located in an incumbent local exchange carrier's (ILEC) central office (CO), are appropriately billed for channelization¹ of Competitor Digital Network (CDN) access circuits terminating in that CO at retail rates,² pursuant to Telecom Decision 2005-6.
2. The Bell companies submitted that the filing of their application is as a result of a dispute between themselves and Rogers Communications Inc. (RCI), and its affiliate Fido Solutions Inc. (Fido). Specifically, the Bell companies noted that Fido has disputed paying retail, rather than wholesale, channelization charges in a CO where RCI is co-located. The Bell companies requested that the Commission direct Fido to pay them all amounts related to this dispute.
3. The public record of this proceeding, which closed on 10 August 2010, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above. The record includes comments received from RCI, dated 10 August 2010, in response to the Bell companies' reply comments.

¹ Channelization either combines multiple channels of the same bandwidth into a single channel of higher bandwidth, or de-channelizes a single channel of a higher bandwidth into multiple channels of the same lower bandwidth.

² A competitor is entitled to pay the lower wholesale CDN channelization rate where it is not co-located.

Does the Commission's ruling in Telecom Decision 2005-6 regarding applying retail CO channelization charges when a competitor is co-located, also apply to affiliates of the co-located competitor?

4. The Bell companies argued that RCI, and its affiliated company Fido, should be considered as a single customer for the application of their tariffs. The Bell companies stated that this would be consistent with Telecom Decisions 97-4 and 2003-67, as well as Telecom Order 97-1176, wherein the Commission had clearly defined what constitutes an affiliated company for the purpose of the application of their tariffs.
5. The Bell companies noted that RCI was co-located in the COs involved in this dispute, and argued that RCI should be able to provide channelizing services to Fido. Further, the Bell companies noted the Commission's determination in Telecom Decision 2005-6 that a carrier that is co-located in a CO must pay the higher retail channelization rates if it requires the ILEC to provide CO channelizing services. The Bell companies submitted that Fido, as an affiliate of RCI, must also pay the higher retail rates for CO channelizing services as both entities must be treated as a single customer.
6. RCI submitted that, even though Fido is its affiliate, previous Commission decisions with respect to parent companies and their affiliates do not state that parent companies and their affiliates always constitute a single customer. For example, RCI noted that the Commission, in Telecom Decision 97-4, recognized that affiliates and their parent companies may in certain cases choose to be treated as separate customers.
7. RCI also submitted that the Bell companies already treat RCI and Fido as separate customers under some of their tariffs. In support of this position, RCI cited a number of examples, including the following:
 - a. Local interconnection traffic imbalances are calculated separately, generally resulting in a higher imbalance in favour of the Bell companies;
 - b. RCI and Fido pay separate rates to access the Bell companies' Operational Support System, resulting in higher revenues for the Bell companies; and
 - c. RCI and Fido are separate customers for extended area service transiting and transit services resulting in higher revenues for the Bell companies.
8. Finally, RCI stated that it would be impractical for it to provide channelizing service to Fido in its small co-location space due to insufficient riser space and power as well as inadequate entrance ducts.

Commission's analysis and determinations

9. With regard to the argument by the Bell companies that the Commission's previous decisions require that a competitor and its affiliates be treated as a single customer, the Commission considers that the various affiliate and customer definition decisions³ do not establish that parents and affiliates must be treated as a single customer in all cases. Rather, in these decisions the Commission clarified the definition of a customer, as it relates to affiliates, for the purpose of the resale and sharing tariffs, and more specifically, to
 - a. respond to specific disputes about the aggregation of services provided to parents and affiliates to obtain volume discounts;
 - b. respond to cases where a carrier might use an affiliate reseller to save on the difference between the line-side contribution charge for resellers and that for interexchange carriers; and
 - c. distinguish between a single customer and a reseller or sharing group.
10. The Commission notes that competitors and their affiliates are not always treated as a single customer. For example, in Telecom Decision 97-4, the Commission recognized that some affiliates may choose to be customers in their own right and pay for services solely on the basis of the traffic that they generate themselves.
11. The Commission notes the evidence of RCI indicating that the Bell companies do not currently treat RCI and Fido as a single customer in several other cases when applying their tariffs. The Commission also notes that the Bell companies provided no examples of other instances where they treat RCI and Fido as a single customer, and that they did not respond to RCI's evidence in this regard.
12. Further, the Commission is not persuaded, in this instance, that it would be feasible for RCI to provide the channelizing service to Fido from its co-located space.
13. In light of all the above, the Commission considers that its determination in Telecom Decision 2005-6 regarding applying retail CO channelization charges when a competitor is co-located is not applicable to Fido in the circumstances of this case.
14. Accordingly, the Commission **denies** the Bell companies' request that Fido should be charged retail rates for its CO channelizing service.

Secretary General

³ For examples, see Telecom Decisions 94-6, 97-4, and 2003-67, and Telecom Order 97-1176.

Related documents

- *Competitor Digital Network Services*, Telecom Decision CRTC 2005-6, 3 February 2005, as amended by Telecom Decision CRTC 2005-6-1, 28 April 2006
- *Modifications to the affiliate rule*, Telecom Decision CRTC 2003-67, 2 October 2003
- Telecom Order CRTC 97-1176, 27 August 1997
- *Definition of customer*, Telecom Decision CRTC 97-4, 26 February 1997
- *Affiliate rule*, Telecom Decision CRTC 94-6, 4 March 1994