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Ottawa, 28 March 2013

Regulatory framework for the small incumbent local exchange carriers and related matters

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In this decision, the Commission revises the regulatory framework under which the small incumbent local exchange carriers (ILECs) operate. This regulatory framework includes the following four regimes: price cap, subsidy, long distance (toll) interconnection, and forbearance.

The Commission's determinations in this proceeding were made with the view to achieving the following objectives:

- *ensuring that the small ILECs' customers continue to have access to reliable, innovative, and affordable services;*
- *providing the small ILECs with means and incentives to further increase efficiencies and innovation; and*
- *implementing a regulatory framework for the small ILECs that minimizes regulatory burden to the greatest extent possible.*

Introduction

1. There are currently 35 small incumbent local exchange carriers (ILECs) in Canada that offer a variety of telecommunications services to their customers. These companies operate primarily in high-cost serving areas (HCSAs)[1] in Ontario, Quebec, and British Columbia,[2] and include municipally-owned and publicly and privately held carriers. Collectively, the small ILECs serve approximately 300,000 Network Access Services (NAS),[3] which represents approximately two percent of all NAS in Canada. The small ILECs are listed in Appendix A.

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[1] An HCSA is a clearly defined geographical area where the ILEC's monthly costs to provide basic residential telephone service are greater than the associated revenues generated by service rates.

[2] Two small ILECs serve regions that are not designated as HCSAs; NorthernTel, Limited Partnership serves one such exchange/wire centre and TBayTel serves four such regions. All remaining small ILEC regions are designated as HCSAs.

[3] A NAS is the line that provides subscribers with access to the telephone network.

2. The small ILECs operate under a regulatory framework that includes the following four regimes: price cap, subsidy, long distance (toll) interconnection, and forbearance.

3. Under the price cap regime, a ceiling or price constraint is placed on the rates that a small ILEC can charge its customers, and rules are imposed that generally govern the rates charged to these customers. Price changes are subject to Commission approval, and the small ILEC must demonstrate that the constraints have been met.

4. The subsidy regime refers to the mechanism established by the Commission to ensure that ILECs are adequately compensated for the provision of their residential services in HCSAs where the Commission-approved rate charged for basic residential local service does not recover the associated costs of providing that service.

5. The small ILEC toll interconnection regime consists of the rates and other conditions for the facilities used to interconnect a long distance carrier with a small ILEC. Small ILECs provide toll interconnection services that enable long distance service providers to originate and terminate long distance traffic in small ILEC territories.

6. The small ILEC forbearance regime sets out the conditions and procedures under which the Commission may forbear from the regulation of retail local exchange services in the serving territories of the small ILECs.[4]

7. The Commission issued Telecom Notice of Consultation 2011-348 to initiate its review of the small ILEC regulatory framework. The notice stated that the Commission would examine issues associated with the price cap regime, the subsidy requirements for 2011, the toll interconnection regime, and the forbearance regime. Parties were permitted to submit comments on other relevant issues.

8. Parties that participated in the proceeding included the Association des Compagnies de Téléphone du Québec inc. and the Ontario Telecommunications Association; Bell Aliant Regional Communications, Limited Partnership, Bell Canada, KMTS, and NorthernTel, Limited Partnership (Bell Canada et al.); Bragg Communications Inc., carrying on business as EastLink, representing itself, Amtelecom Limited Partnership and People's Tel Limited Partnership (EastLink); the Canadian Independent Telephone Company Joint Task Force (the JTF) on behalf of 30 small ILECs;[5] MTS Inc. and Allstream Inc. (collectively, MTS Allstream); the Public Interest Advocacy Centre and Canada Without Poverty (collectively, PIAC/CWP); Quebecor Media Inc. on behalf of Videotron G.P. (QMI); Rogers Communications Partnership (RCP); Shaw Telecom G.P. (Shaw); TBayTel; TELUS Communications Company (TCC); and Union des consommateurs.

9. The public record of this proceeding, which closed on 8 November 2012, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.

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4 Rates for services in a forborne exchange are not subject to Commission approval.

5 The small ILECs represented by the JTF are listed in Appendix B.

Issues

10. The Commission has identified the following issues to be addressed in this decision:

    I. The price cap regime, including

       a) basket structure

       b) basket price constraints

       c) additional pricing flexibility for certain services

       d) the duration of the regime

    II. Subsidy requirements and related issues, including

       a) definition of lost NAS

       b) method to calculate 2011 subsidy amounts

       c) calculation of proxy costs

       d) implementation matters

    III. The toll interconnection regime, including

       a) toll interconnection rates

       b) rules pertaining to routing of toll traffic

    IV. The local forbearance regime

    V. Quality of service reporting

11. The Commission’s determinations in this proceeding were made with the view to achieving the following objectives:

    - ensuring that the small ILECs’ customers continue to have access to reliable, innovative, and affordable services;

    - providing the small ILECs with means and incentives to further increase efficiencies and innovation; and

    - implementing a regulatory framework for the small ILECs that minimizes regulatory burden to the greatest extent possible.

I. Price cap regime

Background

12. The small ILECs' current price cap regime was originally set out by the Commission in Telecom Decision 2006-14 and came into effect in 2006 with an applicable period of four years. The regime was extended, with modifications in 2009[6] and 2011[7] to the pricing rules for business and residential rates respectively pending the outcome of this proceeding.

13. The small ILECs' current price cap regime assigns services into baskets with individual basket constraints, as well as, in some instances, specific rate element constraints. The four baskets are: 1) residential primary exchange service (PES); 2) business PES; 3) services with frozen rates; and 4) other services. The pricing constraints associated with each basket are explained below.

14. The first basket (basket 1) includes single-line and party-line residential services, including all mandatory local exchange services such as Touch-Tone service. In Telecom Regulatory Policy 2011-291, given that residential PES rates in regulated HCSAs vary considerably, the Commission established a formula to phase in the use of more uniform residential rates to calculate subsidies. The annual pricing constraints for residential PES were based on this formula.[8] Starting in 2014, all residential PES rates will be permitted to increase annually by the rate of inflation.[9] In addition, the pricing constraints may include adjustments for exogenous factors.[10] In total, monthly rates for residential PES may not increase by more than $4 in any one year.[11]

15. The second basket (basket 2) includes single-line, multi-line, and party-line business services, including mandatory local exchange services. Starting in 2009, monthly rates for business PES were permitted to increase by up to $5 in any one year, including exogenous adjustments, until a rate of $45.45 is reached. After reaching the $45.45 rate, annual increases are limited to the rate of inflation.[12]

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6 See Telecom Regulatory Policy 2009-788.

7 See Telecom Regulatory Policy 2011-291.

8 Increases to monthly residential PES rates under $30 are subject to an annual price constraint equal to one-third of the difference between the rate in effect as of 1 August 2011 and $30. However, if the amount required to eliminate subsidy is less than this constraint, the annual increase is limited to the amount required to eliminate subsidy. Rates that are already at $30 or more are not permitted to increase until 2014.

9 The inflation index is the annual chain-weighted gross domestic product – price index, which is a measure of the national output price change published by Statistics Canada.

10 Exogenous adjustments result from events or initiatives that satisfy the following criteria: a) they are legislative, judicial, or administrative actions that are beyond the control of the company; b) they are addressed specifically to the telecommunications industry; and c) they have a material impact on the company. Adjustments to the price cap basket constraints for such events are represented by the exogenous factor. Any exogenous adjustments are calculated on a case-by-case basis.

11 See Telecom Decision 2006-14.

12 See Telecom Regulatory Policy 2009-788.

16. The third basket (basket 3) includes 9-1-1 service, message relay service, and toll restriction service. Rates for services in this basket are generally frozen.[13]

17. The fourth basket (basket 4) includes all other regulated services offered by the small ILECs, such as optional local services, multi-element service categories, special facilities tariffs, and competitor services. Rates for services in this basket are allowed to increase up to any rate approved by the Commission for the same service.[14]

a. Basket structure

Positions of parties

18. EastLink, MTS Allstream, QMI, RCP, and TCC submitted that a separate basket should be created for competitor services because local competition is now established in the small ILEC territories.

19. Bell Canada et al., the JTF, and TBayTel submitted that there is no need for a separate basket for competitor services since the price constraints for basket 4 are sufficient.

Commission's analysis and determinations

20. The Commission notes that local competition is now established or will shortly be established in many small ILEC territories.

21. The Commission also notes that the current price constraint for basket 4 would permit a small ILEC to change rates for competitor services on an annual basis to match Commission-approved rate levels of any service provider in Canada for the same service. The Commission considers that it would be more appropriate to allow changes to small ILEC competitor service rates with supporting evidence or rationale (e.g. cost study).

22. The Commission further notes that in section I.c. of this decision, it determines that additional pricing flexibility, such as rate ranges and rate de-averaging, will not be available to the small ILECs for their competitor services, consistent with the treatment of similar services for the large ILECs.[15] Therefore, the Commission considers it appropriate to assign the small ILECs' competitor services to a separate basket.

23. In light of the above, the Commission determines that a fifth basket (basket 5) will be established for small ILECs' competitor services. Services offered by small ILECs to competitors on a wholesale basis are to be included in this basket.

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[13] See Telecom Decision 2006-14. Rates may be modified on a case-by-case basis. In particular, expedited treatment of a small ILEC's tariff filing for services in this basket is provided where the proposed rate is a pass-through of an already approved rate for an ILEC.

[14] In addition, an economic study must accompany an application to support proposed rate increases over and above an approved ILEC rate.

[15] Bell Aliant Regional Communications, Limited Partnership, Bell Canada, MTS Inc., Saskatchewan Telecommunications, TCC, Télébec, Limited Partnership

24. In order to ensure proper classification of services, the Commission directs the small ILECs to file for Commission approval, within 90 days of the date of this decision, a list of all of their services to be assigned to each of baskets 4 and 5.

b. Basket price constraints

Positions of parties

25. With regard to basket 1, all parties who commented on the issue agreed, except as noted below, that the current constraints established in Telecom Regulatory Policy 2011-291 remain appropriate. The JTF requested that the maximum annual rate increase be changed from $4 to $6 to cover increases associated with Telecom Regulatory Policy 2011-291 as well as exogenous amounts for recovery of local competition costs. PIAC/CWP opposed the JTF's proposal on the grounds that the increase would be burdensome to customers and the JTF had not provided quantitative evidence to justify the increase.

26. With regard to basket 2, parties who commented on this issue submitted that the small ILECs should be permitted to match approved large ILEC rates in high-cost bands. These parties also submitted that increases to monthly rates that are below the approved large ILEC rate should be limited to a maximum of $5 in any one year and increases to monthly rates that match the approved large ILEC rate should be limited to inflation.

27. With regard to basket 3, most parties who commented on the issue proposed that the current constraint (i.e. frozen rates) be maintained. The JTF proposed that where small ILECs purchase basket 3 services from large ILECs, the small ILECs be permitted to pass any cost increases they incur through to their customers.

28. With regard to basket 4, most parties that commented on the issue proposed that the current constraint (i.e. matching any Commission-approved rate for the same service) be broadened to permit matching a forborne rate for a similar service, in consideration of the extensive amount of local forbearance in the large ILEC territories.

29. With regard to a new basket for competitor services (basket 5), most parties that commented on the issue proposed that prices for small ILEC competitor services be linked in some manner to those of large ILECs. MTS Allstream stated that it would be reasonable to freeze rates for these services since year over year price changes to prices of large ILEC competitor services are minor.

Commission's analysis and determinations

30. With regard to basket 1, the Commission notes that the JTF did not provide quantitative evidence in support of its proposal to change the maximum annual increase from $4 to $6. The Commission estimates that based on the pricing flexibility permitted by Telecom Regulatory Policy 2011-291 and the exogenous amounts for recovery of local competition costs, a $4 annual cap for residential PES

rate increases continues to be appropriate. In light of the above, the Commission finds it appropriate to maintain the current price constraints for basket 1.

31. With regard to basket 2, the Commission considers that allowing a small ILEC business rate to match an approved large ILEC rate in a geographically similar HCSA would permit greater harmonization of business PES rates between small and large ILECs within the same region. The Commission also considers that retaining the $5 maximum annual increase would mitigate the impact on customers. Accordingly, the Commission approves the following price constraints for basket 2:

- small ILECs are permitted to increase monthly business PES rates up to the highest approved ILEC business PES rate in the small ILEC's province in the same rate band, subject to a $5 maximum annual increase until the highest approved rate is reached; and

- after the highest approved rate is reached, the annual increase is limited to inflation.

32. The Commission expects that rate increases on any individual rate element in baskets 1 and 2 will generally be proposed once in a 12-month period.

33. With regard to basket 3, the Commission notes that the current price cap regime addresses the JTF's proposal that small ILECs have flexibility to pass on price increases from providers of wholesale services. In this regard, the Commission expects small ILECs to pass through to customers decreases as well as increases to rates for wholesale services. In light of the above, the Commission finds it appropriate to maintain the current price constraints for basket 3.

34. With regard to basket 4, the Commission notes that no party provided examples of situations in which, due to forbearance, it has been difficult to find Commission-approved rates for services assigned to this basket. The Commission considers that broadening the current constraint to include forborne services would unnecessarily increase the regulatory burden for all parties because additional procedures and criteria would need to be developed to determine if rates are just and reasonable. The Commission further considers that Commission-approved rates for services similar to the ones assigned to this basket will likely continue to be available for the foreseeable future. In light of the above, the Commission finds it appropriate to maintain the current price constraints for basket 4. Tariff applications for services assigned to this basket may be submitted at any time.

35. With regard to basket 5, the Commission notes that initial rates for small ILECs' competitor services have generally been established on a case-by-case basis by matching Commission-approved rates for the same service, with supporting rationale. The Commission considers that it would be more appropriate if the supporting rationale to establish initial rates for small ILECs' competitor services addresses the rates in an adjacent large ILEC territory for the same service.

36. With respect to the proposal to link rates of small ILEC services to those of the large ILECs, the Commission considers that such adjustments would not be appropriate for small ILECs as they would not take into account their specific and unique circumstances. The Commission further considers that changes to small ILEC competitor services rates should be supported by a cost study or other evidence that demonstrates that costs have changed.

37. In light of the above, the Commission finds it appropriate that the initial rates for small ILECs' competitor services assigned to basket 5 be established by matching Commission-approved rates for the same service, with supporting rationale. The supporting rationale must address the appropriateness of the proposed small ILEC rates in light of rates in an adjacent large ILEC territory for the same service. Once rates for the services assigned to basket 5 are established, rate changes will be permitted if a small ILEC provides a cost study or other evidence that demonstrates that costs have changed.

c. Additional pricing flexibility for certain services

Background

38. In order to increase competitiveness and reduce regulatory burden, the Commission has made a number of decisions that give the large ILECs greater flexibility in the pricing of certain services. In this regard, the Commission streamlined the regulatory rules for large ILEC bundles, promotions, and market trials. The Commission also permitted large ILECs to use rate ranges and to rate de-average[16] in their pricing of regulated services. The current rules for the large ILECs pertaining to these measures are summarized in Appendix E.

Positions of parties

39. Except as noted below, all parties that commented on the issue proposed that these rules be extended to the small ILECs. Parties stated that this would result in benefits to consumers (e.g. a wider range of pricing options offered on a timelier basis) and reduced regulatory burden for the small ILECs, as well as greater pricing flexibility to face increasing competition. Parties that commented on the use of rate ranges and rate de-averaging proposed that the minimum rate in a rate range should be the lowest demonstrable rate.

40. PIAC/CWP and RCP argued that rate de-averaging is inappropriate in a non-forborne market where the ILEC has a captive customer base to fund targeted price offerings.

Commission's analysis and determinations

41. In the Commission's view, establishing pricing rules for the small ILECs similar to those set out in Appendix E would benefit consumers and the small ILECs. Consumers would have access to a wider range of services and prices being offered

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[16] Rate de-averaging permits an ILEC to price a regulated service at different levels within an exchange.

on a timelier basis, and small ILECs would have greater pricing flexibility to face increasing competition and a reduced regulatory burden.

42. With respect to the arguments of PIAC/CWP and RCP that rate de-averaging is inappropriate in a non-forborne market, the Commission considers that use of price cap constraints for the maximum rate in a rate range, as is the case for large ILECs, would ensure that rates do not rise to unreasonable levels.

43. The Commission considers that it would be appropriate to permit small ILECs to use rate ranges and rate de-averaging for the same services as for the large ILECs. The Commission notes that large ILECs are not permitted to use rate ranges or to de-average rates for services established to fulfill specific social policy objectives (i.e. small ILEC basket 3) or competitor services (i.e. small ILEC basket 5).

44. The Commission notes that for large ILECs' services for which rates are above cost, the minimum rate in a rate range must pass a price floor test.[17] With respect to the parties' proposal that the minimum rate in a small ILEC rate range be the lowest demonstrable rate in a market, the Commission considers that this would unnecessarily increase the regulatory burden for all parties (i.e. additional procedures and criteria would need to be developed to determine if rates are just and reasonable).

45. The Commission considers that for small ILECs' services other than residential PES in HCSAs, it would be acceptable for the minimum rate to be based on a Commission-approved rate for the same service or on a cost study. The Commission considers that for small ILEC residential PES in HCSAs for which the rates are less than the cost used to calculate subsidies, the minimum rate in a range should be the current rate in that HCSA.

46. In light of the above, the Commission finds that for the small ILECs, it is appropriate to

1) apply the rules set out in Telecom Decisions 2007-117 and 2008-41 with respect to bundles, promotions, and market trials;

2) use rate ranges under the following terms:

   - Rate ranges are permitted for services in baskets 1, 2 and 4;
   - The maximum rate in a range must be less than or equal to the price cap constraint for the service;
   - For services other than residential PES in HCSAs, the minimum rate in a range must be based on a Commission-approved rate for the same service or on a cost study;

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[17] The price floor test establishes a minimum price threshold to ensure that rates are just and reasonable and not unjustly discriminatory. The price floor test also guards against certain anti-competitive pricing, in order to facilitate the development of sustainable competition.

- For residential PES in HCSAs, the minimum rate in the range must be no less than the current rate; and

- Either the maximum or minimum rate in a range, but not both, may be designated confidential in the published tariff; and

3) permit the de-averaging of rates within a local exchange for services in baskets 1, 2 and 4, subject to price cap constraints, including the conditions for minimum rates addressed in the previous paragraph. Small ILECs may rate de-average within an exchange down to the individual subscriber.

d. Duration of the regime

Positions of parties

47. The JTF, PIAC/CWP, and TCC suggested that the regime have a term of four years, which would allow the Commission to review whether any modifications are necessary to the price cap regime and associated measures that were implemented during local competition.

48. Bell Canada et al., EastLink, and TBayTel suggested an open-ended term. These parties noted that the Commission has several years of experience with the price cap regime for small ILECs, that the price cap regime for the large ILECs is open-ended, and that the Commission can re-open the small ILECs' regulatory framework at any time.

Commission's analysis and determinations

49. The Commission considers it appropriate not to have a fixed duration for the small ILEC price cap regime as it can re-open the regime at any time on its own motion or in response to an application from a party. The Commission does not intend to re-open the price cap regime for small ILECs in the near future. Accordingly, the Commission determines that the small ILEC price cap regime will not have a fixed duration.

II. Subsidy requirements and related issues

Background

50. ILECs receive subsidies from the National Contribution Fund (NCF) for providing residential services in HCSAs, where residential PES costs generally exceed the rates charged. The subsidy per residential NAS for each ILEC HCSA band[18] is generally defined as a cost component less a rate component less an implicit contribution amount. The subsidy per residential NAS amount is multiplied by the

[18] An HCSA band represents a group of exchanges or wire centres with similar characteristics, such as number of lines, remoteness, and, in some cases, loop length.

number of residential NAS served to determine a monthly subsidy amount paid to the ILECs by the Central Fund Administrator (CFA).

51. The cost components for the small ILECs' residential PES are proxy amounts based on the costs of the large ILECs for providing the same service. Specifically, the proxy costs were calculated from the national weighted-average band-specific Phase II[19] costs of the large ILECs, as determined in Telecom Decision 2001-238, and then increased by 7.5 percent.[20] Separate proxy costs were established for tax-paying and tax-exempt small ILECs.[21] Since 2001, the proxy costs for the small ILECs' residential PES have not been adjusted although the large ILECs' costs have decreased.[22]

52. The rate components and implicit contribution amount are calculated in the same manner for both large and small ILECs. The rate components reflect the maximum rates for residential PES permitted for each ILEC under the price cap regime.[23] The implicit contribution amount reflects the margins generated by optional local services associated with customers' use of residential PES and has been fixed at a monthly amount of $5 per residential NAS.

53. The subsidy amounts for the small ILECs have been interim since 1 January 2011 and were established for each of the years 2011, 2012, and 2013 in Telecom Decisions 2010-789, 2011-743, and 2012-619, respectively.[24]

54. Parties raised the following issues with regard to subsidies: 1) definition of lost NAS,[25] 2) method to calculate 2011 subsidy amounts, and 3) calculation of proxy costs. Following its decisions on these issues, the Commission sets out the final subsidy amounts for the small ILECs for 2011 and 2012,[26] the revised interim amounts for 2013, the repayment of any excess subsidy received since 1 January 2011, and other related implementation matters.

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19 Phase II costing is an incremental costing approach used by the Commission to assess a company's costs.

20 In Telecom Decision 2001-756, the Commission recognized that there was a lack of cost advantages and/or savings available to the small ILECs in comparison to the large ILECs. Consequently, an upward adjustment of 7.5 percent to the PES cost component to recognize these cost differences was made.

21 See Telecom Decision 2001-756.

22 Prior to 2011, the cost components for the large ILECs were adjusted annually for inflation and productivity. In Telecom Regulatory Policy 2011-291, the Commission eliminated the annual productivity adjustment, effective 1 June 2011, but retained the annual inflation adjustment.

23 See Telecom Regulatory Policy 2011-291.

24 For most small ILECs, subsidy amounts were established in Telecom Decision 2006-14, based on residential PES rates and NAS counts from 2005. The subsidy amount for CityWest Telephone Corporation was established in Telecom Decision 2010-579. Revised subsidy amounts for NorthernTel, Limited Partnership and TBayTel were established in Telecom Regulatory Policy 2011-291.

25 In Telecom Regulatory Policy 2011-291, the Commission set out special considerations, effective 1 June 2011, regarding subsidy amounts for the small ILECs, including subsidies for NAS no longer served following the implementation of local competition or wireless number portability.

26 Prior to 2012, subsidies were determined for the small ILECs in the form of fixed annual amounts. In Telecom Regulatory Policy 2011-291, the Commission determined that the subsidy payment process for the small ILECs would change to a per residential NAS mechanism, similar to the process used for the large ILECs, effective 1 January 2012.

a. Definition of lost NAS

Background

55. In Telecom Regulatory Policy 2011-291, to mitigate the impact of wireless number portability (WNP) and/or local competition, the Commission determined that the small ILECs would receive 50 percent of the subsidy for each of the residential NAS they no longer serve in their territory (i.e. lost NAS) following the implementation of local competition or WNP for a period of three years.

Positions of parties

56. EastLink and the JTF submitted that lost NAS should be determined based upon the number of residential customers that the small ILECs no longer serve because not all customers transfer their existing telephone number when changing service providers.

57. Shaw submitted that lost NAS should apply to any NAS lost as a result of competitive entry. Bell Canada et al., MTS Allstream, and RCP submitted that lost NAS should be determined using counts of telephone numbers transferred to a competitor. TCC submitted that lost NAS should be interpreted as NAS that are lost to a competitor, but noted that losing a customer to a competitor may not involve transferring telephone numbers.

Commission’s analysis and determinations

58. The Commission notes that the lost NAS subsidy will be in effect for a limited time period in a small ILEC territory where local competition or WNP is implemented. The Commission also notes that if counts of transferred telephone numbers were used to determine lost NAS, then both telephone numbers transferring-out and transferring-in would need to be tracked to determine the number of lost NAS. The Commission considers that establishing such a process for a limited time period would be complex and unnecessarily burdensome for the small ILECs.

59. In light of the above and the limited resources of the small ILECs, the Commission is of the view that a lost NAS subsidy based upon tracking transferred numbers would not be efficient and proportionate to its purpose. The Commission considers that it would be appropriate to calculate lost NAS based on differences in monthly NAS counts.

60. Therefore, for the purposes of calculating subsidy associated with lost NAS, effective 1 June 2011, the Commission determines that lost NAS will be defined as the net change in residential NAS starting from the date that local competition or WNP is implemented.

b. Method to calculate 2011 subsidy amounts

Positions of parties

61. The JTF submitted that the subsidy amounts for 2011 should be calculated as follows:

- for the period 1 January 2011 to the effective date of Telecom Regulatory Policy 2011-291 (i.e. 1 June 2011), pro-rate the fixed annual subsidy amounts already paid based on Telecom Decision 2006-14 (for City West Telephone Corporation, Telecom Decision 2010-579); and

- for the period 1 June to 31 December 2011, use the subsidy amounts from Telecom Decision 2006-14, updated to reflect a) residential PES rate increases actually taken, b) the lost NAS subsidy, and c) termination of subsidies in forborne exchanges where the 75 percent competitor presence threshold has been reached.

62. Bell Canada et al., EastLink, and TCC agreed with the JTF, except indicated that, with respect to the residential PES rate increases in 2011, the maximum residential PES rate increases allowed by Telecom Regulatory Policy 2011-291 should be imputed, effective 1 August 2011, regardless of whether the increases were actually taken.

63. MTS Allstream and RCP agreed with Bell Canada et al., EastLink, and TCC, except that they were of the view that 2010 NAS information should be used to calculate the 2011 subsidy amounts because the NAS information used to calculate subsidy amounts in Telecom Decisions 2006-14 and 2010-579 is out of date. Shaw and QMI also submitted that the 2010 NAS information should be used to calculate the 2011 subsidy amounts.

64. TBayTel agreed with the JTF subsidy proposal for the period 1 January to 31 May 2011. However, TBayTel submitted that starting in June 2011, the May 2011 NAS information should be used to calculate the subsidy amounts.

Commission's analysis and determinations

65. The Commission notes that the calculation of subsidies was revised for both large and small ILECs in Telecom Regulatory Policy 2011-291. The Commission considers that it would be reasonable to adjust the 2011 subsidy amounts paid to the small ILECs effective the date of that decision (i.e. 1 June 2011). Specifically, the Commission considers it appropriate to use updated NAS and rate information for residential PES in calculating subsidy amounts following 1 June 2011. The Commission further considers that, in accordance with Telecom Regulatory Policy 2011-291, the maximum allowable residential PES rate increases should be imputed, effective 1 August 2011, regardless of whether the increases were actually taken.

66. In light of the above, the Commission determines that the small ILEC subsidy requirements for 2011 are to be calculated as follows:

- for the period January through May 2011, the fixed annual subsidy amounts from Telecom Decisions 2006-14 and 2010-579 will be used, on a prorated basis;
- for the period June through July 2011, subsidy amounts will be calculated using updated 2010 NAS and rate information for residential PES, on a prorated basis; and
- for the period August through December 2011, subsidy amounts will be calculated using updated 2010 residential NAS and the maximum allowable residential PES rate increases permitted 1 August 2011.

c. Calculation of proxy costs

Positions of parties

67. Bell Canada et al. and TCC submitted that for 2012 and beyond, the proxy costs should be recalculated each year based upon the average cost components (i.e. the costs used for subsidy calculation purposes) of the large ILECs, then increased by 7.5 percent. Both parties noted that a small ILEC would have the choice of either using these updated average costs or filing its own cost study.

68. The JTF submitted that no change to the current proxy costs or the 7.5 percent upward adjustment should occur because there have been no developments that warrant such a change. In addition, there was no evidence to demonstrate that the costs for the small ILEC have diminished to any degree to merit the proposed downward adjustment.

Commission's analysis and determinations

69. As noted above, prior to 2011, annual inflation and productivity adjustments were applied to the large ILEC cost components. As a result, the large ILEC cost components are currently lower than they were in 2001. The small ILEC proxy costs were established based on the 2001 large ILEC costs. The Commission does not consider it appropriate to recalculate the small ILEC proxy costs based upon the current large ILEC subsidy costs, as suggested by Bell Canada at al. and TCC, because doing so would equate to applying a retroactive productivity adjustment to the small ILECs' costs.

70. The Commission notes that, in Telecom Regulatory Policy 2011-291, the annual productivity adjustment to the large ILEC cost component was eliminated, effective 1 June 2011. However, the annual inflation adjustment was retained. Therefore, the Commission does not consider it appropriate to freeze the small ILEC proxy costs because the large ILEC subsidy costs will increase over time due to the annual

inflation adjustment and will eventually surpass their 2001 levels, upon which the small ILEC proxy costs were established.

71. In view of the above, the Commission considers that the small ILECs should be able to adjust their proxy costs annually for inflation, similar to the large ILECs. However, in the Commission's view, it would be inappropriate for this annual inflation adjustment to start immediately because the large ILEC cost components are currently below the levels used to establish the small ILEC proxy costs.

72. Accordingly, the Commission determines that the small ILEC cost components used for subsidy calculation purposes are to begin to be adjusted annually for inflation only when the large ILEC subsidy costs have returned to their 2001 levels. The Commission will indicate in its annual revenue-percent charge decisions when the large ILEC subsidy cost components have returned to their 2001 levels.

d. Implementation matters

73. In addition to the determinations made in this decision, the Commission notes that the subsidy amounts for 2011, 2012, and 2013 set out below take into account the following determinations made in Telecom Regulatory Policy 2011-291, as applicable: (a) allowable residential local rate increases, effective 1 August 2011 and 1 June 2012; (b) exchanges that no longer receive subsidy due to forbearance, effective 1 June 2011; (c) up to $2 per NAS per month of on-going local competition and/or WNP costs; and (d) the lost NAS subsidy, effective 1 June 2011.

2011 subsidy amounts

74. Based on the determinations in this decision, the Commission approves on a final basis, for the period 1 January to 31 December 2011, the subsidy amounts listed in Appendix C. The Commission directs the CFA to adjust the distribution of the 2011 subsidy to reflect the final 2011 subsidy amounts.

75. In Telecom Decision 2010-789, the Commission established the interim 2011 subsidy per residential NAS amounts in small ILEC territories where a competitor was operating. The Commission notes that the final subsidy amounts set out in this decision for the period January to May 2011 are the same as the interim subsidy amounts in Telecom Decision 2010-789.

76. Therefore, the Commission approves on a final basis, for the period 1 January to 31 May 2011, the interim 2011 subsidy per residential NAS amounts set out in Telecom Decision 2010-789 in small ILEC territories where a competitor was operating. The Commission notes that, since the final and interim amounts are the same, no subsidy payment adjustment to a competitor is required by the CFA.

2012 subsidy amounts

77. Based on the determinations in this decision, the Commission approves on a final basis, for the period 1 January to 31 December 2012, the subsidy per residential NAS amounts listed in Appendix D.

78. As noted earlier, in Telecom Regulatory Policy 2011-291, the Commission determined that the small ILECs would move to a subsidy per residential NAS process, effective 1 January 2012. In order for the CFA to calculate subsidy based upon the monthly filing of residential NAS, the wire centres of the small ILECs have to be assigned to the appropriate band/sub-band and the small ILECs have to report their monthly residential NAS by wire centre to the CFA, retroactive to December 2011.

79. Based upon the NAS and wire centre information provided by the small ILECs, the Commission approves the band/sub-band assignments for all wire centres as filed, except for the exchanges of Hearst and South Porcupine in the territory of NorthernTel, Limited Partnership, which are to be assigned to sub-band F-2 based on the band structure set out in Decision 2001-756.

80. The small ILECs are directed to file their monthly residential NAS by wire centre with the CFA retroactive to December 2011 within 30 days from the date of this decision.

81. The Commission directs the CFA to adjust the distribution of the 2012 subsidy to reflect the final 2012 subsidy per residential NAS rates and the monthly NAS information filed by the small ILECs.

2013 subsidy amounts

82. The Commission approves on an interim basis, effective 1 January 2013, the subsidy per residential NAS amounts listed in Appendix D.

83. The Commission directs the CFA to adjust the distribution of the 2013 subsidy to reflect the interim 2013 subsidy per residential NAS rates and the monthly NAS information filed by the small ILECs, starting with the April 2013 data-month.

Repayment of excess subsidy

84. The Commission estimates that most of the small ILECs will have to repay excess subsidy received during 2011, 2012, and 2013. The Commission has established the repayment periods below with the objective of having all excess subsidy repaid by the end of 2013. The Commission has also taken into consideration the move to a per-NAS subsidy process in 2012 and lower subsidy rates in establishing the repayment periods.

85. The Commission directs the CFA to recover any 2011 excess subsidies over a two-month period through an even reduction to the small ILECs' subsidy entitlements over the first two months following the release of this decision.

86. With respect to 2012 excess subsidies, the Commission considers that the repayment period for these amounts should only occur after the two-month repayment period associated with the 2011 excess subsidies. Accordingly, the Commission directs the CFA to recover any 2012 excess subsidies over a five-month period through an even reduction to the small ILECs subsidy entitlements. The Commission directs that this repayment begin in the month following the completion of the repayment of the 2011 excess subsidies.

87. With respect to 2013 excess subsidies, the Commission considers that the repayment period for these amounts should only occur after the repayment periods associated with the 2011 and 2012 excess subsidies. Accordingly, the Commission directs the CFA to recover any 2013 excess subsidies over a two-month period through an even reduction to the small ILECs subsidy entitlements. The Commission directs that this repayment begin in the month immediately following the completion of the repayment of the 2011 and 2012 excess subsidies.

Future filing requirements

88. The Commission directs the small ILECs to file, by 15 April of each year, starting in 2014, (a) the previous year's December 31 residential NAS by band/sub-band, (b) the maximum allowable residential PES rate for the periods i) January to May and ii) June to December, and (c) the average residential PES rate for the year. These rates are to exclude any local competition and/or WNP exogenous adjustments.

89. The Commission reminds the small ILECs that:

    a) the maximum allowable residential PES rate must be used for subsidy calculation purposes, regardless of what rate they actually charge their customers, including rate de-averaging, rate ranges, and/or bundles; and

    b) it is their responsibility to notify the Commission when and where local competition or WNP has been implemented to enable the CFA to pay the lost NAS subsidy.

III. Toll interconnection regime

Background

90. The small ILEC toll interconnection regime consists of 1) a direct connection (DC) rate, and 2) tariffs for the facilities used to interconnect a long distance carrier with a small ILEC. These rates were first established in Telecom Decision 2005-3, and their application was continued in Telecom Decision 2006-14. The DC rates established in Telecom Decision 2005-3 were based on cost studies.[27]

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[27] The Commission established DC rates based on estimated incremental costs for Ontera, NorthernTel, Limited Partnership, and Cochrane Telecom Services, and on two generic incremental cost studies of other small ILECs.

91. In Telecom Decision 2010-908, the Commission directed competitive local exchange carriers (CLECs) to route all long-distance calls to small ILEC customers via toll interconnection trunks, and not over Bell Canada's local transit interconnection service, in order to ensure appropriate compensation to the small ILECs.

Toll interconnection rates

Positions of parties

92. Bell Canada et al., EastLink, the JTF, RCP, and Shaw submitted that small ILEC rates for toll interconnection services should be reduced to Bell Canada levels. MTS Allstream, PIAC/CWP, and QMI submitted that rates should be cost based. TCC argued that rates should either be based on company-specific Phase II cost studies or on any large ILEC rates. TBayTel proposed that the current rates be maintained.

93. Bell Canada et al., EastLink, the JTF, and QMI argued that small ILECs should be fully compensated by the NCF for any revenue reductions in toll interconnection rates since the rate reductions would reflect elimination of implicit subsidies. MTS Allstream, RCP, Shaw, and PIAC/CWP argued that there should be no or minimal compensation for any reductions in interconnection rates. These rate reductions would only reflect decreases in costs, for which the Commission has not previously compensated ILECs. Some of these parties also submitted that the small ILECs had not demonstrated a requirement for additional subsidies above those provided by the NCF.

94. The JTF submitted that in Telecom Decision 2005-3, the Commission acknowledged that toll interconnection rates were set not only to cover costs, but to address the financial impacts on the small ILECs.

95. The JTF stated that Bell Canada rate levels should not be assumed to cover small ILEC toll interconnection costs. The JTF also stated that if small ILECs are not permitted to fully recover the reduction in toll interconnection rates from the NCF, it would be completely reasonable to maintain rates at current levels because the Commission stated in Telecom Decision 2005-3 that they were reflective of small ILEC costs.

Commission's analysis and determinations

96. The Commission notes that rates for interconnection services are generally based on cost studies or other supporting rationale. The Commission also notes that several parties in this proceeding recommended that small ILEC DC rates be benchmarked against those of the large ILECs in some manner. The Commission considers that, despite various parties' requests for reductions to small ILECs' toll interconnection rates, no party provided appropriate evidence, such as cost studies, to support their views in this proceeding.

97. Notwithstanding the above, the Commission considers that it is very likely that costs for the small ILECs' DC services have declined since they were first established. The Commission notes that the cost studies on which the current small ILEC DC rates are based are at least 10 years old. The Commission also notes that the rates for DC service for large ILECs have been reduced over that time period.[28]

98. The Commission notes that the DC rate for TCC in the province of Quebec (TELUS Quebec) was updated recently based on a cost study.[29] The Commission further notes that, similar to the small ILECs, TELUS Quebec operates largely in HCSAs. In light of these considerations, the Commission is of the view that, in the absence of current cost information for the small ILECs, TELUS Quebec's DC rate would likely provide a suitable benchmark for the small ILECs' DC rates.

99. Accordingly, the Commission determines that, effective the date of this decision, the existing rates for each small ILEC DC service are made interim. The Commission directs each small ILEC to file with the Commission, within 90 days of the date of this decision, either

    a) revised tariff pages for DC rates reflecting those of TELUS Quebec, or

    b) notice that within 180 days from the date of this decision, the small ILEC will file for Commission approval tariff pages for DC service in which the proposed rates are supported by a cost study.

100. The cost study at a minimum should reflect the current incremental costs for the DC service and include a diagram of the network elements used by the service. The cost study should also provide the proposed total costs and cost per minute and a breakdown of these costs into capital and expense categories, a description of the various cost components, as well as the methodology, assumptions, and data used to estimate these costs and the markup in the proposed rate.

101. With respect to compensation for any reductions in the small ILEC DC rates, the Commission considers that these rates do not include any subsidy since they were based on cost studies. The Commission notes that it has not compensated the large ILECs for reductions to interconnection rates that are due to cost reductions. The Commission notes for example that no compensation was provided for the very significant reductions to DC rates for Télébec, Limited Partnership and TELUS Quebec in 2012. The Commission considers it appropriate to apply the same principle to the small ILECs.

102. Accordingly, the Commission determines that consistent with its other determinations regarding changes to interconnection rates that reflect cost reductions, small ILECs will not be compensated for any reductions in revenue associated with any changes to DC rates.

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28 See Telecom Order 2012-165, Telecom Order 2012-312, and Telecom Decision 2006-23

29 See Telecom Order 2012-312

b. Rules pertaining to routing of toll traffic

Positions of Parties

103. The JTF submitted that the current routing rules for small ILEC toll interconnection with a long distance carrier operating outside their territories[30] should be maintained to ensure appropriate revenue recovery from toll traffic, even if toll interconnection rates are reduced significantly. The JTF also proposed that new routing rules should be established for situations in which a CLEC competes directly with a small ILEC, specifically to prohibit toll traffic on shared-cost (i.e. bill and keep) trunks.[31]

104. In addition, the JTF requested that the Commission impose a condition of service on all toll service providers directing them to adhere to the current and proposed routing rules. The JTF also proposed that small ILECs be permitted to block non-wireless toll calls that terminate via non-toll interconnections based on originating line number.

105. Most other parties argued that if the small ILECs' toll interconnection rates are significantly reduced, there should be no routing restrictions on toll traffic. These parties noted that there are no such routing restrictions in the large ILEC interconnection regime and argued that the current routing rules for small ILECs result in inefficient interconnection.

106. Most parties argued that the Commission should deny the JTF's proposed condition of service. These parties argued that there is no evidence on the record of the proceeding that demonstrates that carriers are not in compliance with current rules and also that the proposal would be technically complex to implement and administer. These parties also noted that in Telecom Decision 2011-416, the Commission rejected call blocking as a means of enforcing the routing rules and that under the JTF proposal certain voice over Internet protocol (VoIP) calls would be blocked.

Commission's analysis and determinations

107. The Commission notes that the routing rules were established in Telecom Decision 2010-908 in order to ensure appropriate compensation for the small ILECs given the large difference between the small ILECs' rates for toll interconnection and large ILEC rates for other forms of interconnection with the small ILECs. The Commission also notes that its determination earlier in this decision requiring the small ILECs to file revised tariffs for DC rates, which may result in reductions to the small ILECs' toll interconnection rates. In light of the above, in the Commission's view, it would be premature to consider any changes to the current routing rules for small ILEC toll traffic at this time.

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30 See Telecom Decision 2010-908

31 Bill and keep is a compensation method that allows the originating carrier to bill its customer for the call and keep the corresponding revenue; the originating carrier does not compensate the terminating carrier for call termination costs.

108. With respect to the JTF's proposed condition of service, the Commission notes that the JTF proposal raises technical issues that have not been explored in this proceeding, such as the use of special codes to identify wireless calls and a means to address inappropriate blocking of VoIP calls. The Commission also considers that there is no evidence on the record of this proceeding of non-compliance with the current routing rules. In light of the above, the Commission considers that the implementation of such a condition of service would not be efficient and proportionate to its purpose. The Commission therefore denies the JTF's condition of service proposal.

109. Accordingly, the Commission finds that the current routing rules are appropriate and no changes to the rules will be considered until it disposes of the tariff filings with respect to the small ILECs' DC rates.

IV. Local forbearance regime

Background

110. In Telecom Regulatory Policy 2009-379, the Commission set out the framework for forbearance from the regulation of retail local exchange services that applies in the small ILECs' serving territories. This framework is generally based on the local forbearance framework established for the large ILECs in Telecom Decision 2006-15.

111. The main difference between the two frameworks is that the small ILECs' competitor presence threshold to obtain forbearance from the regulation of local exchange services can be much lower than the threshold for the large ILECs. Under the competitor presence threshold test for the large ILECs, competitors must be capable of serving at least 75 percent of the NAS that the incumbent is capable of serving in a particular exchange before forbearance is granted. That threshold can be reduced to 50 percent for the small ILECs.[32]

112. Prior to 2011, subsidy was still provided in an HCSA exchange even after forbearance had been granted. In Telecom Regulatory Policy 2011-291, the Commission determined that subsidy would no longer be provided in forborne exchanges. However, it also decided that the small ILECs would stop receiving subsidies only once the competitor presence in a forborne exchange has reached the same threshold as that in place for the large ILECs (i.e. 75 percent).

Positions of parties

113. No party proposed changes to the small ILEC forbearance regime; however, parties had different views on how to determine when the competitor presence in a small ILEC forborne exchange has reached 75 percent.

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[32] The threshold may be reduced in instances where the small ILEC can demonstrate that the competitor(s) will target the core of the exchange due to the lack of financial incentive or economic ability to offer services in the outskirts of the exchange and where, as a result, the 75 percent competitor presence threshold is unlikely to ever be achieved.

114. Many parties stated that there is little incentive for a small ILEC to apply for forbearance for an exchange or inform the Commission that the 75 percent competitor presence threshold is reached in the exchange as subsidy will no longer be provided.

115. EastLink argued that any small ILEC exchange that meets the 75 percent competitor presence test should be subject to forbearance, regardless of whether the small ILEC has applied for forbearance. EastLink proposed that a tracking program be established for all small ILECs facing competition from at least one wireline competitor so that when the 75 percent competitor presence threshold is met the exchange would be automatically forborne. EastLink submitted that a CLEC would be allowed to submit evidence that it meets the 75 percent competitor presence test in a Part 1 application, which would consider forbearance of the local exchange service and elimination of the subsidy.

116. Bell Canada et al., the JTF, TBayTel, and TCC submitted that forbearance should not be forced on the small ILECs, as could happen under EastLink's proposal. However, similar to EastLink, these parties proposed a tracking program, but only for those small ILECs that received forbearance based on their own forbearance application and on the 50 percent competitor presence threshold. Under these parties' proposal, once the tracking program demonstrated that the 75 percent threshold had been reached, the subsidy would be eliminated.

117. Shaw submitted that tracking competitor presence on a semi-annual or annual basis would cause delays that would have a significant impact on new entrants. Shaw proposed that competitors should be able to file evidence when they reach the 75 percent competitor presence at any point after the small ILEC has been granted forbearance based on the 50 percent competitor presence threshold.

118. RCP submitted that the Commission has no choice but to automatically forbear where the facts demonstrate the appropriate competitor presence. RCP also submitted that the facts required could be provided in a proceeding initiated by the affected ILEC, a consumer, a competitor, or by the Commission itself.

Commission's analysis and determinations

119. As noted earlier, the Commission grants forbearance at a 50 percent competitor presence level when evidence demonstrates that the 75 percent competitor presence threshold is unlikely to ever be achieved. The Commission considers that the competitor presence threshold of 75 percent would rarely be achieved in these situations. Accordingly, the Commission considers that the tracking program proposed by Bell Canada et al., the JTF, TBayTel, and TCC for small ILECs granted forbearance at the 50 percent competitor presence level would not be efficient or proportionate to its purpose and would create unnecessary burden.

120. With respect to the tracking program proposed by EastLink for all small ILECs facing competition, the Commission considers that, if EastLink's proposal were adopted, it

would be logical to consider adopting such a program for the large ILECs as well since they also face competition in HCSAs. The Commission also considers that, since fewer exchanges are being forborne than in recent years, the need to collect information on competitor presence on a regular basis is not required. In light of these considerations, the Commission considers that the tracking program proposed by EastLink would create an unnecessary burden and would not be appropriate.

121. The Commission notes that, under subsection 34 (2) of the *Telecommunications Act* (the Act), the Commission is legally obligated to forbear if it finds that competition is sufficient to protect the interests of users. The Commission also notes that the Act does not preclude an application for forbearance from any party. The Commission further notes that, when it analyses an application for forbearance, the Commission typically considers information from all parties (i.e. ILECs, CLECs, and wireless service providers) and not from one party only.

122. In light of the above, the Commission denies parties' proposals regarding a tracking program related to competitor presence at this time. The Commission clarifies that any party can file an application for forbearance for any small (or large) ILEC exchange, and that the Commission will consider information from all parties when it examines a forbearance application.

V. Quality of service reporting

123. The small ILECs with less than 25,000 NAS are required to report the nature and number of quality of service complaints on an annual basis.[33]

124. PIAC/CWP suggested that the Commission could consider more stringent quality of service rules, such as minimum service standards. PIAC/CWP stated that, at a minimum, the Commission should monitor the small ILECs' quality of service and not hesitate to review the quality of service regime in the event that the small ILECs' quality of service levels decline.

125. In the course of this proceeding, it came to light that many small ILECs had not filed the annual reports and had not retained records of the required information. The JTF stated that, starting with the data year 2013, its members would comply with the annual reporting requirements.

126. The Commission considers that there is insufficient evidence on the record of this proceeding to change the small ILECs' quality of service regime. However, the Commission reminds small ILECs of their obligations with respect to quality of service reporting. The Commission intends to closely monitor the small ILECs' quality of service.

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[33] See Telecom Decision 2001-756, paragraph 147.

Policy Direction

127. The Commission considers that the determinations made in this decision are consistent with the Policy Direction[34] for the reasons set out below.

128. The Policy Direction states that the Commission, in exercising its powers and performing its duties under the Act, shall implement the policy objectives set out in section 7 of the Act, in accordance with paragraphs 1(*a*), (*b*), and (*c*) of the Policy Direction.

129. The regulatory measures under consideration in this decision relate to price cap regulation, subsidy calculations, network interconnection regimes, and the terms and conditions for forbearance. Therefore, subparagraphs 1(*a*)(i) and (ii)[35] and subparagraphs 1(*b*)(i) and (ii)[36] of the Policy Direction apply to the Commission's decisions.

130. Consistent with subparagraph 1(*a*)(i) of the Policy Direction, the Commission has, in the case of pricing rules, relied to the maximum extent feasible on market forces in providing pricing flexibility to the small ILECs (e.g. pricing flexibility when facing competition but pricing constraints where market forces are limited).

131. Consistent with subparagraph 1(*a*)(ii) of the Policy Direction, the Commission considers that the establishment of a separate price cap basket for competitor services with simplified pricing rules is efficient and proportionate to its purpose and interferes with the operation of competitive market forces to the minimum extent necessary to meet the policy objectives.

132. In compliance with subparagraph 1(*b*)(i), the Commission considers that the policy objectives set out in paragraphs 7(*a*), (*b*), (*c*), (*f*), and (*h*)[37] of the Act are advanced by the regulatory measures established in this decision.

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

[35] Paragraph 1(*a*) states: "the Commission should (i) rely on market forces to the maximum extent feasible as the means of achieving the telecommunications policy objectives, and (ii) when relying on regulation, use measures that are efficient and proportionate to their purpose and that interfere with the operation of competitive market forces to the minimum extent necessary to meet the policy objectives."

[36] Paragraph 1(*b*) states: "the Commission, when relying on regulation, should use measures that satisfy the following criteria, namely, those that (i) specify the telecommunications policy objective that is advanced by those measures and demonstrate their compliance with this Order, (ii) if they are of an economic nature, neither deter economically efficient competitive entry into the market nor promote economically inefficient entry, ..."

[37] The cited policy objectives of the Act are,

7(*a*) to facilitate the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions;
7(*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;
7(*c*) to enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications;

133. Consistent with subparagraph 1(*b*)(ii) of the Policy Direction, the Commission considers that its directive to small ILECs to either benchmark their rates for DC service to the TELUS Quebec DC rate or to file evidence in support of different rates will result in rates that are more in line with costs and therefore will neither deter economically efficient competitive entry into the market nor promote economically inefficient entry.

Secretary General

Related documents

- *Final 2012 revenue-percent charge and related matters*, Telecom Decision CRTC 2012-619, 8 November 2012

- *TELUS Communications Company – Revised toll interconnection service rates in Quebec*, Telecom Order CRTC 2012-312, 29 May 2012

- *Télébec, Limited Partnership – Revised toll interconnection service rates*, Telecom Order CRTC 2012-165, 20 March 2012

- *Final 2011 revenue-percent charge and related matters*, Telecom Decision CRTC 2011-743, 1 December 2011

- *TELUS Communications Company – Application for clarification and expedited relief concerning the manner in which Bell Canada intends to implement Telecom Decision 2010-908*, Telecom Decision CRTC 2011-416, 11 July 2011

- *Review of regulatory framework for the small incumbent local exchange carriers and related matters*, Telecom Notice of Consultation CRTC 2011-348, 26 May 2011, as amended by Telecom Notices of Consultation CRTC 2011-348-1, 5 July 2011; 2011-348-2, 28 November 2011; 2011-348-3, 21 December 2011; and 2011-348-4, 30 July 2012

- *Obligation to serve and other matters*, Telecom Regulatory Policy CRTC 2011-291, 3 May 2011, as amended by Telecom Regulatory Policy CRTC 2011-291-1, 12 May 2011

- *Quebecor Media Inc. and Rogers Communications Partnership – Use of Bell Canada's local transit service to deliver long-distance calls to small incumbent local exchange carriers' customers*, Telecom Decision CRTC 2010-908, 3 December 2010

- *Final 2010 revenue-percent charge and related matters*, Telecom Decision CRTC 2010-789, 25 October 2010

7(*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
7(*h*) to respond to the economic and social requirements of users of telecommunications services.

- *CityWest Telephone Corporation – Application to modify its monthly subsidy per residential NAS*, Telecom Decision CRTC 2010-579, 13 August 2010

- *Regulatory framework for the small incumbent local exchange carriers*, Telecom Regulatory Policy CRTC 2009-788, 17 December 2009

- *Forbearance from the regulation of promotions for retail residential and business local wireline services*, Telecom Decision CRTC 2008-41, 22 May 2008

- *Review of general tariff bundling rules and requirements for market trials*, Telecom Decision CRTC 2007-117, 23 November 2007

- *Further rate de-averaging for pay telephone and business services for large incumbent local exchange carriers*, Telecom Decision CRTC 2007-106, 9 November 2007

- *Follow-up to Decision 2006-75 – Range-within-a-range proposal*, Telecom Decision CRTC 2007-36, 25 May 2007

- *Price cap framework for large incumbent local exchange carriers*, Telecom Decision CRTC 2007-27, 30 April 2007

- *Rate ranges for services other than voice over Internet Protocol services*, Telecom Decision CRTC 2006-75, 23 November 2006

- *Aliant Telecom, Bell Canada, MTS Allstream, SaskTel and TCI – Approval of rates on a final basis for Direct Connection service*, Telecom Decision CRTC 2006-23, 27 April 2006

- *Forbearance from the regulation of retail local exchange services*, Telecom Decision CRTC 2006-15, 6 April 2006, as amended by Order in Council P.C. 2007-532, 4 April 2007

- *Revised regulatory framework for the small incumbent local exchange carriers*, Telecom Decision CRTC 2006-14, 29 March 2006

- *Direct toll and network access costing methodology for small incumbent local exchange carriers – Follow-up to Decision 2001-756*, Telecom Decision CRTC 2005-3, 31 January 2005

- *Regulatory framework for the small incumbent telephone companies*, Decision CRTC 2001-756, 14 December 2001

- *Restructured bands, revised loop rates and related issues*, Decision CRTC 2001-238, 27 April 2001, as amended by Telecom Decisions CRTC 2001-238-1, 28 May 2001; and 2001-238-2, 7 August 2001

Appendix A

Small ILECs by province

British Columbia

CityWest Telephone Corporation

Ontario

Amtelecom Limited Partnership
Brooke Telecom Co-operative Ltd.
Bruce Telecom
Cochrane Telecom Services
Dryden Municipal Telephone System
Execulink Telecom Inc.
Gosfield North Communications Co-operative Limited
Hay Communications Co-operative Limited
Huron Telecommunications Co-operative Limited
KMTS
Lansdowne Rural Telephone Co. Ltd.
Mornington Communications Co-operative Limited
Nexicom Telecommunications Inc.
Nexicom Telephones Inc.
North Frontenac Telephone Corporation Ltd.
NorthernTel, Limited Partnership
NRTC Communications
Ontera
People’s Tel Limited Partnership
Quadro Communications Co-operative Inc.
Roxborough Telephone Company Limited
TBayTel
Tuckersmith Communications Co-operative Limited
Wightman Telecom Ltd.
WTC Communications

Quebec

CoopTel
La Cie de Téléphone de Courcelles Inc.
La Compagnie de Téléphone de Lambton Inc.
La Compagnie de Téléphone de St-Victor
La Compagnie de Téléphone Upton Inc.
Le Téléphone de St-Éphrem inc.
Sogetel inc.
Téléphone Guèvremont inc.
Téléphone Milot inc.

Appendix B

Small ILECs represented by the JTF

Members of the Ontario Telecommunications Association

Brooke Telecom Co-operative Ltd.
Bruce Telecom
CityWest Telephone Corporation
Cochrane Telecom Services
Dryden Municipal Telephone System
Execulink Telecom Inc.
Gosfield North Communications Co-operative Limited
Hay Communications Co-operative Limited
Huron Telecommunications Co-operative Limited
Lansdowne Rural Telephone Co. Ltd.
Mornington Communications Co-operative Limited
Nexicom Telecommunications Inc.
Nexicom Telephones Inc.
North Frontenac Telephone Corporation Ltd.
NRTC Communications
Ontera
Quadro Communications Co-operative Inc.
Roxborough Telephone Company Limited
Tuckersmith Communications Co-operative Limited
Wightman Telecom Ltd.
WTC Communications

Members of the Association des Compagnies de Téléphone du Québec

CoopTel
La Cie de Téléphone de Courcelles Inc.
La Compagnie de Téléphone de Lambton Inc.
La Compagnie de Téléphone de St-Victor
La Compagnie de Téléphone Upton Inc.
Le Téléphone de St-Éphrem inc.
Sogetel inc.
Téléphone Guèvremont inc.
Téléphone Milot inc.

Appendix C

Small ILEC Final 2011 annual subsidy amounts ($ 000)

British Columbia	
CityWest Telephone Corporation	126.6
Ontario	
Amtelecom Limited Partnership	2,639.6
Brooke Telecom Co-operative Ltd.	258.3
Bruce Telecom	519.6
Cochrane Telecom Services	145.4
Dryden Municipal Telephone System	141.5
Execulink Telecom Inc.	539.5
Gosfield North Communications Co-operative Limited	282.1
Hay Communications Co-operative Limited	777.1
Huron Telecommunications Co-operative Limited	631.2
KMTS	276.2
Lansdowne Rural Telephone Co. Ltd.	349.9
Mornington Communications Co-operative Limited	328.5
Nexicom Telecommunications Inc.	296.9
Nexicom Telephones Inc.	197.4
North Frontenac Telephone Corporation Ltd.	409.8
NorthernTel, Limited Partnership	3,401.7
NRTC Communications	262.7
Ontera	490.9
People’s Tel Limited Partnership	522.5
Quadro Communications Co-operative Inc.	556.4
Roxborough Telephone Company Limited	101.3
TBayTel	438.8
Tuckersmith Communications Co-operative Limited	481.9
Wightman Telecom Ltd.	731.9
WTC Communications	274.1
Quebec	
CoopTel	632.1
La Cie de Téléphone de Courcelles Inc.	70.7
La Compagnie de Téléphone de Lambton Inc.	235.5
La Compagnie de Téléphone de St-Victor	191.8
La Compagnie de Téléphone Upton Inc.	278.0
Le Téléphone de St-Éphrem inc.	167.9
Sogetel inc.	2,266.4
Téléphone Guèvremont inc.	817.1
Téléphone Milot inc.	1,557.0
Total	21,398.3

Appendix D

Final 2012 monthly subsidy per residential NAS amounts by HCSA Band ($)[38]

Small ILECs	HCSA Band					
	E	F-1	F-2	F-3	F-4	G
British Columbia						
CityWest Telephone Corporation	n/a	n/a	n/a	n/a	0.00	n/a
Ontario						
Amtelecom Limited Partnership	16.01	15.37	n/a	n/a	7.75	n/a
Brooke Telecom Co-operative Ltd.	12.28	n/a	n/a	n/a	n/a	n/a
Bruce Telecom	4.87	4.35	n/a	1.26	n/a	n/a
Cochrane Telecom Services	n/a	n/a	2.51	n/a	n/a	n/a
Dryden Municipal Telephone System	n/a	n/a	n/a	2.37	n/a	n/a
Execulink Telecom Inc.	10.43	9.79	n/a	n/a	n/a	n/a
Gosfield North Communications Co-operative Limited	n/a	11.53	n/a	n/a	n/a	n/a
Hay Communications Co-operative Limited	12.60	11.96	10.38	n/a	n/a	n/a
Huron Telecommunications Co-operative Limited	12.74	n/a	10.52	n/a	n/a	n/a
KMTS	11.85	n/a	n/a	n/a	3.59	n/a
Lansdowne Rural Telephone Co. Ltd.	n/a	12.10	n/a	n/a	n/a	n/a
Mornington Communications Co-operative Limited	n/a	12.67	n/a	n/a	n/a	n/a
Nexicom Telecommunications Inc.	10.90	10.26	n/a	n/a	n/a	n/a
Nexicom Telephones Inc.	n/a	10.02	n/a	n/a	n/a	n/a
North Frontenac Telephone Corporation Ltd.	15.14	n/a	n/a	n/a	n/a	n/a
NorthernTel, Limited Partnership	13.89	13.25	11.67	9.44	n/a	n/a
NRTC Communications	10.72	n/a	n/a	n/a	n/a	n/a
Ontera	4.21	n/a	n/a	n/a	n/a	22.53
People’s Tel Limited Partnership	11.16	n/a	8.94	n/a	n/a	n/a
Quadro Communications Co-operative Inc.	11.92	n/a	n/a	n/a	n/a	n/a
Roxborough Telephone Company Limited	12.74	n/a	n/a	n/a	n/a	n/a
Tuckersmith Communications Co-operative Limited	12.48	n/a	n/a	n/a	n/a	n/a
Wightman Telecom Ltd.	11.21	n/a	n/a	n/a	n/a	n/a
WTC Communications	n/a	n/a	8.51	n/a	n/a	n/a
Quebec						
CoopTel	11.92	n/a	9.70	n/a	n/a	n/a
La Cie de Téléphone de Courcelles Inc.	11.75	n/a	n/a	n/a	n/a	n/a
La Compagnie de Téléphone de Lambton Inc.	n/a	11.74	n/a	n/a	n/a	n/a
La Compagnie de Téléphone de St-Victor	11.98	n/a	n/a	n/a	n/a	n/a
La Compagnie de Téléphone Upton Inc.	n/a	11.11	n/a	n/a	n/a	n/a
Le Téléphone de St-Éphrem inc.	11.89	n/a	n/a	n/a	n/a	n/a
Sogetel inc.	11.77	11.13	n/a	7.32	n/a	n/a
Sogetel inc. – St-Liboire	11.92	n/a	n/a	n/a	n/a	n/a
Téléphone Guèvremont inc.	n/a	n/a	9.82	n/a	n/a	n/a
Téléphone Milot inc.	11.92	11.28	9.70	n/a	n/a	n/a
Téléphone Milot inc. – Nantes	19.67	n/a	n/a	n/a	n/a	n/a

[38] These amounts are also approved, effective 1 January 2013, on an interim basis.

Appendix E

Summary of current rules applicable to large ILECs with respect to bundles, promotions, market trials, rate ranges, and rate de-averaging

1. In Telecom Decisions 2007-117 and 2008-41, the Commission established the current rules applicable to large ILECs with respect to bundles, promotions, and market trials. Specifically,

   a) A large ILEC is not required to file and obtain Commission approval for tariffs for bundles which are comprised of tariffed and non-tariffed services and for which the retail price of the bundle at least equals the sum of the rates of all retail tariffed services;

   b) The Commission forbore from regulating large ILECs' retail residential or business promotions for local wireline services where

      - the combined enrolment and benefit period does not exceed 12 months,
      - there is a cooling-off period equal to at least one-half the combined enrolment and benefit period, and
      - there are no existing or recently elapsed promotions that involve any of the same tariffed service(s) or underlying service(s) in the same geographic area;

   c) The Commission forbore from regulating large ILECs' market trials under the following conditions:

      i. A market trial is the offering of one or more new telecommunications services to determine the level of potential market interest in the service and/or to test the associated operational processes of the service provider. The trial must be offered,

         - for a time period not to exceed one year;
         - under market conditions that are limited in scope – for example, to a limited geographic area and a subset of customers.

      ii. Each large ILEC is required to provide the Commission with advance confidential notice of each trial at least 10 days prior to the provision of the trialled service to any customer participating in the trial. The notice is to include,

         - the duration of the trial and the purpose of the trial;

- limitations of scope associated with the trial, including the geographic area(s) of the trial and the nature of, and approximate number of, customers to whom the trialled service will be offered;

- confirmation that prior to participating in the trial, customers will be advised of the fact that the service is being offered on a trial basis for a limited time and that the terms and conditions under which the service is provided could be modified at any time.

2. In Telecom Decision 2006-75 the Commission established terms for the use of rate ranges by large ILECs. Among other things,

   a) Rate ranges may be used for local exchange and related services, with exceptions for certain services in recognition of the importance of services with regard to such matters as public safety, protection of privacy, and accessibility for persons with disabilities;

   b) The framework for rate ranges is subject to the constraints and safeguards of the large ILECs' regulatory framework, including the existing price cap regime;

   c) Rate ranges for services for which rates are below cost are generally appropriate, provided that the minimum rate in the proposed range is the current rate.

3. In Telecom Decision 2007-36, large ILECs were permitted to offer services within rate ranges where a minimum or maximum rate is published.

4. In Telecom Decision 2007-27 the Commission permitted large ILECs to rate de-average within a local exchange for residential services, including optional local services. In Telecom Decision 2007-106, the Commission permitted large ILECs to rate de-average, for pay telephone and business services that include single and multi-line business local exchange services, other capped services, and uncapped services. The Commission noted that the price cap framework applicable to large ILECs places upward constraints on prices which will ensure that the rates charged to subscribers for these services do not rise to unreasonable or unjust levels. The Commission also noted that the price cap framework applicable to large ILECs includes downward constraints on services. Specifically, any proposal to reduce rates for these services must generally be accompanied by supporting rationale that demonstrates the proposed rates continue to pass a price floor test. Large ILECs are permitted to price de-average down to the individual subscriber.