



Telecom Decision CRTC 2013-733

PDF version

Ottawa, 19 December 2013

Bell Aliant Regional Communications, Limited Partnership and Bell Canada – Request to waive the price floor test for non-recurring charges associated with residential local exchange services

File number: 8661-B54-201309600

In this decision, the Commission waives the requirement for the Bell companies to pass the price floor test for certain non-recurring charges associated with residential local exchange services, subject to the conditions set out in the decision.

Introduction

1. The Commission received an application from Bell Aliant Regional Communications, Limited Partnership and Bell Canada (collectively, the Bell companies), dated 27 June 2013, in which the Bell companies requested that the Commission waive the requirement for them to pass the price floor test¹ for the non-recurring charges associated with residential local exchange services in their serving areas in Ontario and Quebec. This waiver would be subject to the Bell companies' commitment to charge a uniform, province-wide amount in forborne and regulated areas in Ontario and Quebec for each affected non-recurring charge.
2. The Bell companies subsequently proposed to limit their application to the following non-recurring charges (referred to hereafter as “the non-recurring charges”):
 - the Service Connection² charge;
 - the Order Processing³ charge;
 - the References of Calls Service⁴ charges;
 - the Telephone Number Reservation Service⁵ charges;

¹ The price floor test establishes a minimum price threshold to ensure that rates are just and reasonable, and are not unjustly discriminatory. The price floor test also guards against anti-competitive pricing to facilitate the development of sustainable competition.

² This service covers work done in receiving, recording, and processing information to comply with a customer's request for the installation of each primary exchange service (PES).

³ This service covers the tasks of receiving, recording, and processing information to comply with each customer request for work other than the provisioning of PES to be completed at the same time as the PES provisioning and on the same premises.

⁴ This service enables callers to be advised that a user's previous telephone number has been changed to a new number, without any charge to the caller, for an extended period (i.e. three or six months).

- the Prestige Telephone Numbers Service⁶ charge; and
 - the Express Service⁷ charge.
3. The Bell companies are currently authorized to offer a \$49.95 residential Service Connection charge in Ontario and Quebec on a promotional basis.⁸ The Bell companies indicated that this charge does not pass the price floor test for customers receiving a stand-alone residential local exchange service.
 4. The Commission received comments regarding the Bell companies' application from Allstream Inc. (Allstream) and Saskatchewan Telecommunications (SaskTel). The public record of this proceeding, which closed on 16 August 2013, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.
 5. The price floor test was established in Telecom Decision 94-13 for incumbent local exchange carriers' (ILECs) long distance services, and was extended to ILECs' retail local exchange services in Telecom Decision 97-8. In Telecom Regulatory Policy 2009-80, the Commission reviewed the price floor test and concluded that it remained appropriate and necessary in light of the Policy Direction.⁹ In that decision, the Commission considered that eliminating the price floor test on the basis that market forces can be relied upon would not be appropriate because the test applies only to services in non-forborne markets, where competition has not yet developed or is not sufficiently developed.

Positions of parties

6. The Bell companies submitted that charging a uniform, province-wide amount in Ontario and Quebec for the non-recurring charges would ensure that these charges in regulated areas would never be lower than the level in forborne areas and could therefore not be construed as being anti-competitive. The Bell companies also submitted that in exchanges where their monthly local exchange rates are subject to regulation, it is unlikely that a competitor would be driven out of the market or be prevented from entering the market as a result of the Bell companies' non-recurring charges being below the minimum amount permitted under the price floor test.

⁵ This service enables customers to reserve one or more telephone numbers for a maximum period of one year.

⁶ This service enables customers to select their telephone number.

⁷ This service enables eligible residential customers to request that the installation of certain services be carried out by a due date that is earlier than the original system due date.

⁸ This charge is usually tariffed at \$55 in non-high-cost serving areas and at a maximum of \$64.77 in high-cost serving areas in the Bell companies' serving areas in Ontario and Quebec.

⁹ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

7. The Bell companies indicated that their billing systems are not capable of handling the differences in charges across forborne and regulated areas. They added that the costs to implement system modifications to accommodate these differences would be significant, and that these costs would not be recovered from additional revenues stemming from service rates that meet the price floor test in regulated areas.
8. SaskTel supported the Bell companies' application. Allstream indicated that it would agree with the Bell companies' proposal on the condition that the companies apply an equivalent rate reduction to their equivalent underlying competitor service. Allstream submitted that maintaining the current charges for the equivalent underlying competitor service would make it more difficult for competitors to offer viable alternatives for consumers, which would put competitors at a disadvantage.
9. In reply, the Bell companies submitted that it is not anti-competitive to charge a lower retail rate as compared to the rate charged for the equivalent underlying competitor service. The Bell companies noted that under the Commission's current pricing rules, the Bell companies may reduce or waive retail service charges for their customers in forborne areas, while competitors that make use of the equivalent underlying competitor services are still subject to a regulated service charge. The Bell companies also submitted that since underlying competitor service charges are set based on associated costs plus a predetermined markup,¹⁰ the Bell companies may not fully recover their costs associated with underlying competitor services if they reduce the rates for these services.

Commission's analysis and determinations

10. The Commission has recognized that rates that fail to pass the price floor test are not necessarily anti-competitive in nature, for example, for market trials and promotions. The Commission considers that the Bell companies' proposal to apply uniform, province-wide amounts in Ontario and Quebec for the non-recurring charges would limit the Bell companies' capacity to target specific markets in an anti-competitive manner within its regulated areas. The Commission also considers that, with the exception of the residential Service Connection charge, the non-recurring charges do not have a critical impact on competitive entry in residential local exchange service markets, since the services associated with these charges are not required for customers to receive local exchange service.
11. The residential Service Connection charge applies to work done as a result of a customer's request to receive local exchange service. This work is therefore integral to the provision of local exchange service. The Commission notes, however, that it is common practice within the industry to waive or lower this charge in competitive markets, and that the Bell companies would have to incur significant costs to modify their billing systems to allow for differences in their non-recurring charges across forborne and regulated areas.

¹⁰ A markup is the difference between a service's cost and its rate. For example, if the markup is 15 percent, the rate of a service that costs \$100 would be \$115.

12. The Commission considers that a pricing restriction for the residential Service Connection charge continues to be necessary to facilitate competitive entry in local exchange service markets where competition is low or non-existent. However, the Bell companies should be given more flexibility than is currently allowed under the existing price floor test for this charge.
13. Accordingly, the Commission finds it appropriate to waive the price floor test for the Bell companies' non-recurring charges in Ontario and Quebec, subject to the Bell companies' commitment to charge a uniform, province-wide amount for each of these charges. The Commission also finds it appropriate to impose a new minimum price of \$49.95 in Ontario and Quebec for the Bell companies' residential Service Connection charge.
14. Regarding Allstream's proposal to reduce the rates for the underlying competitor services, the Commission notes that competitor service charges are set based on associated costs plus a predetermined markup. The Commission therefore considers that it would not be appropriate to require the Bell companies to apply a rate reduction to the equivalent underlying competitor services, since the Bell companies may not fully recover their costs associated with these services. The Commission also considers that since Allstream's proposed condition would apply only to certain non-recurring charges, the impact on competitors of any rate differences between the Bell companies' retail services and their equivalent underlying competitor services would be limited. The Commission further notes that competitors that make use of the Bell companies' services to provide services to their own customers have the option of applying the associated non-recurring service charges to their customers.
15. In light of the above, the Commission
 - waives the Bell companies' requirement to pass the price floor test in Ontario and Quebec for their Service Connection charge, Order Processing charge, References of Calls Service charges, Telephone Number Reservation Service charges, Prestige Telephone Numbers Service charge, and Express Service charge, provided that they charge a uniform, province-wide amount in Ontario and Quebec for these charges; and
 - imposes a new minimum price of \$49.95 in Ontario and Quebec for the Bell companies' residential Service Connection charge.
16. In the event that the Bell companies file a tariff application for Commission approval of a price that is below the price floor test, the Bell companies must ensure that their proposed tariff complies with the Commission's determinations set out in this decision.

Policy Direction

17. The Policy Direction states that the Commission, in exercising its powers and performing its duties under the *Telecommunications Act* (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.

18. The Commission considers that its findings in this decision advance the policy objectives set out in paragraphs 7(c), (f), and (h)¹¹ of the Act. The Commission also considers that its determinations will enable eligible customers to benefit from lower rates and will provide the Bell companies with some pricing flexibility while limiting any potential anti-competitive impact of such flexibility in areas where competition is low or non-existent. The Commission therefore considers that, in accordance with subparagraphs 1(a)(ii) and 1(b)(ii) of the Policy Direction, its determinations in this decision (a) are efficient and proportionate to their purpose, and interfere with competitive market forces to the minimum extent necessary to meet the policy objectives noted above, and (b) neither deter economically efficient competitive entry into the market nor promote economically inefficient entry.

Secretary General

Related documents

- *Review of the price floor test and certain wholesale costing methodologies*, Telecom Regulatory Policy CRTC 2009-80, 19 February 2009
- *Local competition*, Telecom Decision CRTC 97-8, 1 May 1997
- *Review of regulatory framework – Targeted pricing, anti-competitive pricing and imputation test for telephone company toll filings*, Telecom Decision CRTC 94-13, 13 July 1994

¹¹ The cited policy objectives of the Act are:

7(c) to enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications;

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.