



Telecom Order CRTC 2014-499

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Ottawa, 26 September 2014

File numbers: Tariff Notices 72, 72A, 72B, and 72C

Execulink Telecommunications Inc. – Revision to Direct Connect service rate

*The Commission **approves on a final basis**, with changes, Execulink Telecommunications Inc.'s proposed revision to its Direct Connect service rate. The approved rate is effective 28 March 2013, the date the rate was made interim.*

Background

1. In Telecom Regulatory Policy 2013-160, the Commission determined that costs for the small incumbent local exchange carriers' (ILECs) direct connect (DC) service¹ had declined since they were first established in Telecom Decision 2005-3. The Commission therefore directed each small ILEC to file with the Commission revised tariff pages for DC service reflecting the rate of \$0.001661 per conversation minute charged by TELUS Communications Company (TCC) in its serving territory in Quebec (TCC in Quebec),² or propose a revised DC service rate with a supporting cost study.
2. Pursuant to Telecom Regulatory Policy 2013-160, seven small ILECs, namely Amtelecom Limited Partnership; DMTS; KMTS; NorthernTel, Limited Partnership; Ontera; People's Tel Limited Partnership; and TBayTel, filed applications to revise their DC service rates to reflect the rate approved for TCC in Quebec. These applications were approved on final basis in Telecom Decision 2013-594.
3. On 2 August 2013, the Commission received Tariff Notice (TN) 72, later amended by TNs 72A, 72B, and 72C, from Execulink Telecommunications Inc. (Execulink). In its application, Execulink proposed a revised rate, supported by a cost study, for its DC service.
4. The Commission received interventions regarding Execulink's application from Bell Aliant Regional Communications, Limited Partnership (Bell Aliant) and Bell Canada (collectively, the Bell companies); the Canadian Independent Telephone Company Joint Task Force (JTF); MTS Inc. and Allstream Inc. (collectively, MTS Allstream); TBayTel;

¹ Direct connect service allows a long distance provider to connect to the ILEC and the end-customer. It is a point where toll calls are handed off to the competitor and, in the case of DC service, it is at the local switch. DC charges recover the costs of switching and aggregating toll traffic at the local switch.

² This rate was approved in Telecom Decision 2012-312.

and TCC. The public record of this proceeding is available on the Commission's website at www.crtc.gc.ca or by using the file numbers provided above.

Issues

5. The Commission has identified the following issues to be addressed in this order:
 - Is Execulink's proposed approach to estimate the costs of fibre cable and transmission equipment appropriate?
 - What costing adjustments, if any, should be made to Execulink's proposed DC service costs?
 - What is the appropriate markup for Execulink's DC service rate?
 - Should the final rate be applied retroactively to the date that the rate was made interim?

Is Execulink's proposed approach to estimate the costs of fibre cable and transmission equipment appropriate?

Background

6. With respect to estimating costs of fibre cable and transmission equipment, Appendix B – Capacity Cost Method of each large ILEC's³ Regulatory Economic Study Manual (the Manual) states that for a shared facility, the capacity cost method is used to estimate the causal cost. The capacity cost method determines the per-unit cost by dividing the installed cost of the shared facility by its maximum capacity and then dividing this ratio by the appropriate working fill factor (WFF).⁴
7. The Manual also states that for certain shared facilities with unlimited capacity, such as fibre cable in the inter-office network, the capacity cost method is not an adequate method for estimating the causal cost. Rather, the fibre cost factor (FCF) approach is appropriate.
8. FCFs are calculated by determining the ratio of total capital expenditures for a particular structure or technology to the total capital expenditures for equipment making use of the structure or technology. FCFs are developed generally using the average of the last three years of actual costs (historical data) and one year of forecast data, expressed in current-year dollars.

³ "Large ILECs" refers to Bell Aliant, Bell Canada, MTS Allstream, Saskatchewan Telecommunications, and TCC.

⁴ The WFF is a measure of the utilization of a shared facility and is used to recognize the non-working capacity (spare units, units required for maintenance [i.e. administrative] functions, etc.) of the shared facility, and to apportion the cost of non-working capacity to the per-unit cost of the working capacity.

9. With respect to the capacity costing approach to estimate the causal costs of fibre cable in both the access network and inter-office network, and of transmission equipment (shared facilities), Execulink submitted that the use of maximum capacity, as required in the Manual, would significantly underestimate the costs for provisioning DC service.
10. Accordingly, the company proposed to use maximum attainable capacity (obtained from actual usage) instead of maximum capacity of shared facilities, along with the Commission-mandated minimum WFFs for large ILECs (i.e. 64 percent for fibre cable and transmission in the access network and 60 percent for fibre cable in the inter-office network).
11. Execulink proposed to use this approach because the company has to provision a minimum equipment configuration that is typically designed to satisfy the requirements of larger carriers, and it has not developed its own company-specific WFFs.
12. Execulink submitted that the proposed approach recognizes that the company's demand is not large enough to approach the maximum capacity of the installed shared facility.
13. Execulink also submitted that its proposed costing approach preserves the use of the Commission-approved capacity costing approach and reflects the realities and costs of a smaller carrier, consistent with previous determinations made in Telecom Decision 2005-3 and Telecom Regulatory Policy 2013-160 regarding small ILEC costs.
14. With respect to using the FCF approach to estimate the causal cost of fibre cable in the inter-office network, Execulink submitted that it does not have sufficient capital expenditure volume to permit development of a credible and consistent FCF.
15. JTF supported Execulink's proposed costing approach.
16. The Bell companies and TCC submitted that Execulink's proposed approach is not consistent with the methodology set out in the Manual, and that it would overstate the costs of fibre cable and transmission equipment.

Commission's analysis and determinations

17. The Commission recognizes that the total capacity of Execulink's facilities is not expected to approach the maximum capacity of the installed transmission equipment because of low expected demand. Accordingly, the Commission considers that it is appropriate to allow Execulink to use the maximum attainable capacity instead of the maximum capacity of transmission equipment.
18. The Commission notes that under the capacity cost approach, maximum capacity is adjusted by the WFF to account for the spare capacity. The Commission also notes that under Execulink's proposed approach, maximum attainable capacity is adjusted by the WFF to account for the spare capacity. The Commission considers that Execulink's adjustment is inappropriate because Execulink's maximum attainable capacity is based on actual usage and therefore does not require any adjustment to account for spare capacity.

19. With respect to using FCF for estimating inter-office fibre costs, the Commission notes that Execulink has submitted that its FCF is not stable and hence not credible.
20. The Commission considers that the use of a proxy FCF approved for a large ILEC would not be appropriate given the relatively small size of Execulink's operations.
21. In view of the above, the Commission finds that it is appropriate for Execulink to use its proposed approach, but without adjusting the maximum attainable capacity by the WFF (i.e. set the WFF to 100 percent) to estimate the cost of both fibre and transmission equipment in the access network, and fibre in the inter-office network.

What costing adjustments, if any, should be made to Execulink's proposed DC service costs?

Cost study and regulatory activity expenses

22. Execulink filed cost studies that included expenses required to prepare, adjust, explain, and defend vis-à-vis the Commission and the interveners the rationale and basis for its proposed DC cost study and associated methodology.
23. TCC submitted that the cost associated with conducting a cost study is not an eligible expense consistent with the determinations set out in Telecom Decision 2008-14.
24. As noted above, the Commission, in Telecom Regulatory Policy 2013-160, provided small ILECs the flexibility to either use an ILEC's existing approved rate as a proxy or to file their own rate with a supporting cost study.
25. Unlike certain other companies, Execulink chose not to adopt the DC rate approved for TCC in Quebec but, rather, decided that it would undertake the work necessary to propose a rate that would be more specific to its own circumstances. The proposed rate was significantly higher than the TCC rate in Quebec. The Commission notes that a number of revisions were required to be made to the initial cost study, which resulted in increased cost study expenses for Execulink.
26. The Commission considers that a fundamental regulatory requirement is for expense inclusions to be consistent across all regulatory cost studies based on prospective incremental costing. Accordingly, in Telecom Decision 2008-14, the Commission determined the expense exclusions from regulatory economic studies. The Commission notes that the preparation of material to support a company's position in regulatory proceedings, responses to interrogatories, expenses associated with service evaluation, and preparation of material for the filing of tariff applications are not to be included in regulatory economic studies.⁵
27. In view of the above, the Commission **denies** the inclusion of Execulink's cost study expenses.

⁵ See paragraphs 12 and 20 in Appendix 1 of Telecom Decision 2008-14.

Switching-equipment costs

28. Execulink provided a breakdown of its switching-equipment costs into sub-components and identified the unit of capacity of each sub-component. Execulink further submitted that certain switching components are expressed in terms of both network access service (NAS) and common channel signalling by the vendor.
29. Execulink also submitted that all switching components are traffic-sensitive.
30. The Bell companies submitted that any switching components whose costs are not impacted by DC demand should not be included in the cost study.
31. The Commission is of the view that the switching components that are provisioned based on NAS are not traffic-sensitive and should therefore be excluded from the cost study.
32. Accordingly, the Commission **denies** the inclusion of costs for switching equipment provisioned on a NAS basis.

Maintenance expenses

33. Execulink estimated its annual percentage maintenance expense factor for its fibre facilities at 10 percent of fibre cable and transmission equipment capital expenditures.
34. The Bell companies and MTS Allstream submitted that Execulink's maintenance expenses are overstated and that the Commission has limited maintenance expense levels for the large ILECs' DC services to a range of 7.5 to 11 percent of present worth of capital expenditures.
35. On 29 May 2014, Execulink revised its maintenance expense factor for its fibre facilities from 10 percent to 2.5 percent to reflect the removal of TV and Internet expenses.
36. The Commission notes that Execulink's revised proposed annual percentage maintenance expense factor of 2.5 percent for its fibre facilities is based on actual company expenditures.
37. Accordingly, the Commission finds that Execulink's revised level of maintenance expenses is reasonable.

Billing-system costs

38. Execulink included costs for an upgrade to its billing system because the company will be assuming the responsibility for its own billing activities going forward. At present, Bell Canada provides billing services.
39. MTS Allstream submitted that the billing-system costs included in the cost study are excessive.
40. The Bell companies submitted that these expenses should not be allowed unless the upgrade of the billing system is associated with the DC service rate.

41. The Commission considers that the billing system upgrade costs are reasonable and are required for Execulink to manage individual billing activities for its interexchange toll carriers.
42. Accordingly, the Commission finds that the billing expenses included in the cost study are appropriate.

Annual changes in capital expenditures and impact of productivity improvements

43. Execulink noted that inflation factors and productivity improvement had not been applied to capital since there were practically no capital additions beyond the beginning of the study period.
44. The Bell companies submitted that Execulink should apply a productivity factor of 1.3 percent.
45. The Commission notes that the exclusion of the impact of the productivity improvements is consistent with previous Commission determinations⁶ that, due to their relative size and type of territory, small ILECs, such as Execulink, may not be able to achieve a fixed productivity improvement level.
46. Accordingly, the Commission finds that the exclusion of annual changes in capital expenditures and the impact of productivity improvements is reasonable.

Costs of inter-office facilities between Port Franks and Burgessville

47. The Bell companies submitted that the cost of inter-office facilities between Port Franks and Burgessville should not be included in the cost study.
48. Execulink submitted that the Bell companies were consulted with respect to Execulink's network reconfiguration, and that the Bell companies agreed to the changes.
49. The Commission considers that Execulink has the prerogative to set up the network configuration that best suits its needs, and notes that, according to Execulink, the Bell companies were consulted prior to the network configuration changes.
50. In view of the above, the Commission finds it is reasonable to include the costs of the inter-office facilities between Port Franks and Burgessville.

What is the appropriate markup for Execulink's DC service rate?

51. Initially, Execulink proposed a revised DC service rate that included a markup of 25 percent. It subsequently proposed a revised markup of 40 percent, supported by JTF, to compensate for higher fixed and common costs.

⁶ See Telecom Decision 2006-14.

52. Execulink submitted that small ILECs should receive a higher markup compared to TCC in Quebec and Télébec, Limited Partnership (Télébec) to reflect the significant differences in operating conditions and characteristics, economies of scale, and financial hardships. Execulink also relied on the Commission's determination in Telecom Regulatory Policy 2013-711 that a 40-percent markup was appropriate with respect to Northwestel Inc.'s (Northwestel) Wholesale Connect service in recognition of that company's operating conditions and characteristics.
53. The Bell companies submitted that the proposed markup of 40 percent is inappropriate because Execulink's higher fixed and common costs are already captured in the 25-percent markup, which is higher than the 15-percent markup included in the large ILECs' DC service rates.
54. The Bell companies further submitted that a markup of 40 percent was approved for Northwestel's Wholesale Connect service since it was a new service offered by Northwestel in order to recognize the additional risk associated with its upfront investment in fibre facilities. Other existing Northwestel wholesale services (such as unbundled local loops and local interconnection services) have a markup of 25 percent.
55. The Bell companies also submitted that in Telecom Order 2013-594, the Commission approved DC rates that reflect a 25-percent markup for seven small ILECs that adopted the DC service rate of TCC in Quebec.

Commission's analysis and determinations

56. DC service is classified as an interconnection service, and has a markup of 15 percent for large ILECs and 25 percent for small ILECs. The difference in markups is in recognition of the diverse operating conditions and characteristics between large ILECs and small ILECs.
57. The Commission also notes that the markup on Northwestel's Wholesale Connect service recognized the company's unique circumstances. The Commission considered that the risk associated with the upfront investment in fibre facilities is greater than, and distinguishable from, the risk associated with other Northwestel facilities. In contrast, Execulink's DC service has been in place for many years and does not involve any significant investment in fibre facilities.
58. Accordingly, the Commission determines that a markup of 25 percent is appropriate and constitutes a reasonable contribution to Execulink's fixed and common costs.

Should the final rate be applied retroactively to the date the rate was made interim?

59. In Telecom Regulatory Policy 2013-160, issued on 28 March 2013, the Commission made the existing DC rates of the small ILECs, including Execulink, interim.
60. In Telecom Decision 2013-594, issued on 7 November 2013, the Commission approved revised DC rates for small ILECs that adopted the rate of TCC in Quebec, and made the final rates effective the date that the existing rates were made interim, i.e. 28 March 2013.

61. Similarly, the Commission finds it appropriate to make the final DC rate for Execulink effective the date on which the existing rate was made interim, i.e. 28 March 2013.

Conclusion

62. In light of all the above, the Commission **approves on a final basis**, with changes, Execulink TNs 72, 72A, 72B, and 72C. The proposed monthly rate of \$0.006072 per conversation minute is modified to \$0.002175 and is effective 28 March 2013. The Commission **directs** Execulink to issue, within **10 days** of the date of this order, revised tariff pages⁷ for the provisioning of DC service which reflect the determinations set out above.

Secretary General

Related documents

- *Northwestel Inc. – Regulatory Framework, Modernization Plan, and related matters*, Telecom Regulatory Policy CRTC 2013-711, 18 December 2013
- *Direct connection service rates for certain small incumbent local exchange carriers*, Telecom Order CRTC 2013-594, 7 November 2013
- *Regulatory framework for the small incumbent local exchange carriers and related matters*, Telecom Regulatory Policy CRTC 2013-160, 28 March 2013
- *TELUS Communications Company – Revised toll interconnection service rates in Quebec*, Telecom Order CRTC 2012-312, 29 May 2012
- *Review of certain Phase II costing issues*, Telecom Decision CRTC 2008-14, 21 February 2008, as amended by Telecom Decision CRTC 2008-14-1, 11 April 2008
- *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

⁷ Revised tariff pages can be submitted to the Commission without a description page or a request for approval; a tariff application is not required.