



Telecom Notice of Consultation CRTC 2015-554

PDF version

Ottawa, 16 December 2015

File number: 8620-C12-201513656

Call for comments

Consideration of whether the Commission should forbear with respect to off-tariff negotiated agreements for domestic GSM-based wholesale mobile wireless roaming services

Deadline for submission of interventions: 4 February 2016

[\[Submit an intervention or view related documents\]](#)

The Commission initiates a proceeding to determine whether, in circumstances where there is a default tariff, it should forbear from regulating off-tariff negotiated agreements between Bell Mobility Inc., Rogers Communications Partnership, or TELUS Communications Company, and other wireless carriers that offer mobile wireless services in Canada, for the provision of domestic Global System for Mobile communications (GSM)-based wholesale mobile wireless roaming services.

Introduction

1. Since 2008, incumbent local exchange carriers (ILECs) and large cable carriers (collectively, incumbent carriers) have been able to enter into commercially negotiated agreements with competitors for the provision of various wholesale wireline services without Commission approval, notwithstanding the presence of a tariff. Such agreements were initially limited to wholesale services that were being phased out from mandated provision,¹ but were later extended to include other wholesale wireline services.²
2. The Commission has generally found that permitting off-tariff negotiated agreements gives incumbent carriers and competitors greater flexibility in making provisioning arrangements, and that doing so is consistent with the Policy Direction³ requirement to rely on market

¹ The agreements were at first limited to wholesale wireline services that were found to be non-essential and subject to phase-out pursuant to the framework set out in Telecom Decision 2008-17. Services in the non-essential subject to phase-out category were those that the Commission had determined did not meet the definition of an essential service and were not classified as conditional mandated non-essential, public good, or interconnection services.

² In Telecom Regulatory Policy 2009-19, the Commission allowed incumbent carriers to enter into off-tariff negotiated agreements for mandated wholesale wireline services such as unbundled local loops and aggregated wholesale high-speed access services.

³ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

forces to the maximum extent feasible as a means of achieving the telecommunications policy objectives set out in section 7 of the *Telecommunications Act* (the Act).

3. In Telecom Regulatory Policy 2015-177, the Commission determined that the domestic Global System for Mobile communications (GSM)-based wholesale mobile wireless roaming services (GSM roaming services) provided by Bell Mobility Inc., Rogers Communications Partnership, and TELUS Communications Company (collectively, the national wireless carriers) to other wireless carriers offering mobile wireless service in Canada (collectively, other wireless carriers) should be mandated and should be provided pursuant to Commission-approved rates, terms, and conditions. The Commission directed the national wireless carriers to issue interim tariff pages that would be in effect until the Commission approved, on a final basis, tariff pages that reflected cost-based rates.
4. In a response to the interim tariff pages issued pursuant to Telecom Regulatory Policy 2015-177, Bragg Communications Incorporated, operating as Eastlink; Quebecor Media Inc., on behalf of its affiliate Videotron G.P.; and WIND Mobile Corp. filed a joint application in which they argued that the terms and conditions that the national wireless carriers had included in the interim tariffs were more onerous than those found in existing agreements that were negotiated prior to the publication of Telecom Regulatory Policy 2015-177. In their interventions to the application, the national wireless carriers were generally of the view that the existing agreements they had in place with other wireless carriers could remain valid, and relied on the Commission's determination in Telecom Regulatory Policy 2009-19 regarding off-tariff negotiated agreements for wireline services.
5. In a letter dated 30 November 2015, the Commission directed the national wireless carriers to revise their interim tariff pages in a way that would incorporate by reference the terms and conditions of their agreements with other wireless carriers that were in place on 5 May 2015. The Commission also stated that its forbearance determinations regarding off-tariff negotiated agreements applied to wireline services only, and that a new forbearance determination would be needed before off-tariff negotiated agreements for GSM roaming services could take effect. In its letter, the Commission stated that it intended to initiate a proceeding shortly to examine the appropriateness of making such a forbearance determination.

Call for comments

6. In light of the above, the Commission invites parties to file comments, with supporting rationale, on whether, in circumstances where there is a default tariff, the Commission should forbear from regulating off-tariff negotiated agreements for GSM roaming services between the national wireless carriers and other wireless carriers.
7. In particular, the Commission seeks comments as to whether refraining from exercising its powers under sections 25, 29, and 31, and subsections 27(1), 27(5), and 27(6) of the Act with respect to GSM roaming services provided pursuant to negotiated agreements would be consistent with the telecommunications policy objectives set out in section 7 of the Act.

8. Additionally, in the instance that it permits off-tariff negotiated agreements for GSM roaming services, the Commission seeks comments on whether
 - such negotiated agreements should only be permitted once the Commission has approved a final tariff; and
 - there should be filing and disclosure requirements and, if so, what these requirements should be.

Procedure

9. The *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) apply to this proceeding. The Rules of Procedure set out, among other things, the rules for the content, format, filing, and service of interventions, answers, replies, and requests for information; the procedure for filing confidential information and requesting its disclosure; and the conduct of public hearings. Accordingly, the procedure set out below must be read in conjunction with the Rules of Procedure and related documents, which can be found on the Commission's website at www.crtc.gc.ca, under "[Statutes and Regulations](#)." The guidelines set out in Broadcasting and Telecom Information Bulletin 2010-959 provide information to help interested persons and parties understand the Rules of Procedure so that they can more effectively participate in Commission proceedings.
10. Interested persons who wish to become parties to this proceeding must file an intervention with the Commission regarding the above-noted issues by **4 February 2016**. The intervention must be filed in accordance with section 26 of the Rules of Procedure.
11. Parties are permitted to coordinate, organize, and file, in a single submission, interventions by other interested persons who share their position. Information on how to file this type of submission, known as a joint supporting intervention, as well as a [template](#) for the accompanying cover letter to be filed by parties, can be found in Telecom Information Bulletin 2011-693.
12. All documents required to be served on parties to the proceeding must be served using the contact information contained in the interventions.
13. All parties may file replies to interventions with the Commission by **15 February 2016**.
14. The Commission encourages interested persons and parties to monitor the record of this proceeding, available on the Commission's website at www.crtc.gc.ca, for additional information that they may find useful when preparing their submissions.
15. Submissions longer than five pages should include a summary. Each paragraph of all submissions should be numbered, and the line *****End of document***** should follow the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.

16. Pursuant to Broadcasting and Telecom Information Bulletin 2015-242, the Commission expects incorporated entities and associations, and encourages all Canadians, to file submissions for Commission proceedings in accessible formats (for example, text-based file formats that enable text to be enlarged or modified, or read by screen readers). To provide assistance in this regard, the Commission has posted on its website [guidelines](#) for preparing documents in accessible formats.
17. Submissions must be filed by sending them to the Secretary General of the Commission using **only one** of the following means:

by completing the
[\[Intervention form\]](#)

or

by mail to
CRTC, Ottawa, Ontario K1A 0N2

or

by fax to
819-994-0218

18. Parties who send documents electronically must ensure that they will be able to prove, upon Commission request, that filing of a particular document was completed. Accordingly, parties must keep proof of the sending and receipt of each document for 180 days after the date on which the document is filed. The Commission advises parties who file and serve documents by electronic means to exercise caution when using email for the service of documents, as it may be difficult to establish that service has occurred.
19. In accordance with the Rules of Procedure, a document must be received by the Commission and all relevant parties by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due. Parties are responsible for ensuring the timely delivery of their submissions and will not be notified if their submissions are received after the deadline. Late submissions, including those due to postal delays, will not be considered by the Commission and will not be made part of the public record.
20. The Commission will not formally acknowledge submissions. It will, however, fully consider all submissions, which will form part of the public record of the proceeding, provided that the procedure for filing set out above has been followed.
21. The Commission expects to publish a decision on the issues raised in this notice within four months of the close of record.

Important notice

22. All information that parties provide as part of this public process, except information designated confidential, whether sent by postal mail, facsimile, email, or through the Commission's website at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's website. This includes all personal information, such as full names, email addresses, postal/street addresses, and telephone and facsimile numbers.
23. The personal information that parties provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.
24. Documents received electronically or otherwise will be posted on the Commission's website in their entirety exactly as received, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.
25. The information that parties provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission's website with the help of either its search engine or a third-party search engine will not provide access to the information that was provided as part of this public process.

Availability of documents

26. Electronic versions of the interventions and other documents referred to in this notice are available on the Commission's website at www.crtc.gc.ca by using the file number provided at the beginning of this notice or by visiting the "Participate" section of the Commission's website, selecting "Submit Ideas and Comments," then selecting "our open processes." Documents can then be accessed by clicking on the links in the "Subject" and "Related Documents" columns associated with this particular notice.
27. Documents are also available from Commission offices, upon request, during normal business hours.

Commission offices

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Secretary General

Related documents

- *Filing submissions for Commission proceedings in accessible formats*, Broadcasting and Telecom Information Bulletin CRTC 2015-242, 8 June 2015
- *Regulatory framework for wholesale mobile wireless services*, Telecom Regulatory Policy CRTC 2015-177, 5 May 2015
- *Filing of joint supporting interventions*, Telecom Information Bulletin CRTC 2011-693, 8 November 2011
- *Guidelines on the CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010
- *Bell Canada et al.'s application to review and vary Telecom Decision 2008-17 with respect to negotiated agreements*, Telecom Regulatory Policy CRTC 2009-19, 19 January 2009
- *Revised regulatory framework for wholesale services and definition of essential service*, Telecom Decision CRTC 2008-17, 3 March 2008