



Telecom Decision CRTC 2015-70

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Bell Aliant Tariff Notices 495 and 496

Bell Canada Tariff Notices 7438 and 7439

Télébec Tariff Notices 474 and 475

Bell Aliant Regional Communications, Limited Partnership; Bell Canada; and Télébec, Limited Partnership – Proposed rate reductions and customer rebates resulting from the expiry of certain time-limited exogenous factors

*The Commission **approves** the approach proposed by Bell Aliant, Bell Canada, and Télébec (collectively, Bell Canada et al.) of reversing four time-limited exogenous factors and determining associated rebates for their customers. The Commission also **approves** the companies' proposed rate reductions that would bring their rates into compliance with the above-referenced approach. However, the Commission finds it appropriate, in the circumstances of this case, to require Bell Canada et al. to add compound interest to the amounts to be credited to customers for the period of time they were overcharged.*

Introduction

1. The Commission received a Part 1 application from Bell Aliant Regional Communications, Limited Partnership (Bell Aliant); Bell Canada; and Télébec, Limited Partnership (Télébec) [collectively, Bell Canada et al.], dated 2 September 2014, in which they requested approval of rate reductions, rebates, and updates to their price cap indices for certain price cap baskets to reflect the expiry of certain time-limited exogenous factors.¹ Concurrent with this filing, each company filed two tariff notices, in which they set out the proposed rate reductions that would bring their respective rates into compliance with the proposed reversal of the time-limited exogenous factors identified above.
2. Specifically, Bell Canada et al. identified four time-limited exogenous factors that had expired between 2 and 51 months previously, but that were not reversed at the time of their expiry. They submitted that the reversal had not occurred due to an administrative oversight.

¹ Exogenous factors are approved adjustments to the large incumbent local exchange carriers' (ILECs) price cap indices to enable the recovery of costs related to events or initiatives that satisfy the following: they are legislative, judicial, or administrative actions that are beyond the control of the company; they are addressed specifically to the telecommunications industry; and they have a material impact on the company. Adjustments for exogenous amounts are reviewed on an individual basis and assigned to the appropriate service baskets.

3. To reverse the time-limited exogenous factors referenced above, Bell Canada et al. proposed to implement rate reductions and to rebate customers via bill credits, effective 1 January 2015. The proposed total credit amount for all three companies was estimated to be \$882,000, and the proposed rate reductions ranged from \$0.01 per month for some residential services to \$2.80 per month for Digital Channel Link service. Bell Canada et al. proposed that if the Commission were unable to issue a determination in time for a 1 January 2015 effective date, the rate reductions and rebates should be made effective 1 June 2015.
4. Bell Canada et al. submitted that they have no other time-limited exogenous factors remaining, but that if another time-limited exogenous factor were approved in the future, they would implement an administrative process to ensure that this factor would be reversed from the affected price cap indices at the appropriate time.
5. The Commission received an intervention from the Consumers' Association of Canada (CAC) and the Public Interest Advocacy Centre (PIAC) [collectively, CAC/PIAC]. The public record of this proceeding, which closed on 16 October 2014, is available on the Commission's website at www.crtc.gc.ca or by using the file numbers provided above.
6. The Commission has identified the following issues to be addressed in this decision:
 - Should Bell Canada et al.'s application be approved?
 - Should the proposed rate reductions reflected in Bell Canada et al.'s tariff notices be approved?
 - Should Bell Canada et al. be required to include interest on the amounts to be credited to customers?

Should Bell Canada et al.'s application be approved?

Background

7. The Commission regulates prices for the large incumbent local exchange carriers (ILECs) through its price cap framework. Under that framework, each year, the large ILECs are required to provide the Commission with their price cap calculations and file tariff notices to increase or decrease regulated rates.²
8. Under the price cap framework, telephone services are grouped into baskets with specific service basket and rate element pricing constraints. Allowable average price changes to service baskets are reflected through a service band limit (SBL). The

² The Commission's price cap framework was established in Telecom Decision 97-9. It was most recently revised for all large ILECs except Télébec in Telecom Decision 2007-27. The price cap framework for Télébec, as well as TELUS Communications (Québec) Inc. (now part of TELUS Communications Company), was established in Telecom Decision 2002-43, and most recently revised for Télébec in Telecom Decision 2007-60.

actual average price changes are reflected through a service band index (SBI). The SBLs of the applicable baskets are adjusted to reflect any exogenous factors.

9. The SBI must be equal to or less than the SBL for each basket. When the SBI is less than the SBL, the difference may be referred to as “headroom.” When there is headroom, companies have the flexibility to increase their prices to the level of the SBL.

Time-limited exogenous factors previously approved by the Commission

10. The four time-limited exogenous factors identified by Bell Canada et al. are as follows:
 - \$8.83 million annually for six years to recover costs associated with the implementation of wireless number portability (WNP), which was approved in Telecom Decision 2007-88;
 - \$1.4 million annually for three years to recover costs associated with the implementation of expanded local calling areas (ELCAs) for the cities of Ottawa/Gatineau and Hamilton, which was approved in Telecom Decision 2007-124;
 - \$285,000 annually for three years to recover costs associated with the implementation of an ELCA for the city of Sudbury, which was approved in Telecom Decision 2008-65; and
 - \$677,000 annually for four years to recover a cumulative shortfall of \$2.7 million in Télébec’s deferral account, which was approved in Telecom Decision 2007-89.

Bell Canada et al.’s application

11. To reverse the first three time-limited exogenous factors referenced above, Bell Canada et al. proposed that Bell Aliant and Bell Canada adjust their past price cap models by removing the exogenous amounts as of the associated expiry dates for all capped baskets except the residential non-high-cost serving area (HCSA) basket. For the residential non-HCSA basket, Bell Canada et al. proposed to reverse the drawdowns they had taken from the deferral account.
12. To reverse the fourth time-limited exogenous factor referenced above, Bell Canada et al. proposed that Télébec adjust its price cap model by removing the exogenous amounts as of the associated expiry date for all capped baskets.
13. In cases where the data for a service basket shows that the SBI exceeded the adjusted SBL for a given year in the past, Bell Canada et al. calculated a proposed rebate amount for customers because they were overcharged for that basket in that price cap year. To modify the current price cap model where the SBI exceeds the adjusted SBL, Bell Canada et al. have proposed to lower rates for all capped baskets,

including the residential non-HCSA basket for Bell Aliant and Bell Canada, to bring these baskets into compliance with the adjusted SBL.

14. In cases where the SBI is less than the adjusted SBL, Bell Canada et al. proposed that no rebate is required because the companies had sufficient headroom available under the price cap framework to accommodate the reversal of the exogenous adjustment.
15. Bell Canada et al. proposed that only customers of services that remain subject to price cap treatment under the affected service baskets would receive a related rebate and/or a rate reduction, since only regulated services subject to a price cap are affected by the expiry of the original exogenous adjustments. The companies proposed that rebates be issued as bill credits for each applicable service that is in-service in regulated areas on the date of implementation of the rebate.
16. To reverse the drawdowns from their deferral account for their residential non-HCSA baskets, Bell Aliant and Bell Canada calculated the monthly per-line drawdown based on the original basket's exogenous allocation and the original total number of network access services (NAS) in that basket. They then multiplied this value by the total number of months by which they have exceeded the expiry date. They proposed to rebate the resulting amount to current customers of services within that basket.
17. Bell Canada et al. submitted that if their rebate proposal was made effective 1 January 2015, estimated total rebates to customers would be \$101,000 for Bell Aliant, \$395,000 for Bell Canada, and \$387,000 for Télébec.
18. CAC/PIAC submitted that Bell Canada et al. had minimized the impact on themselves by proposing to reflect only a portion of the impact of the exogenous factors' expiry. In CAC/PIAC's view, it appeared that Bell Canada et al. had determined whether price adjustments should be granted to their customers only after retroactively granting themselves any available headroom in their relevant service baskets. Further, CAC/PIAC submitted that the amalgamation of Bell Aliant's and Bell Canada's data could cause distortions in the data.
19. Bell Canada et al. submitted that if there is headroom remaining in a given price cap year in a given basket, then they did not recover the full amount that they were permitted to recover via rate adjustments. In their view, if there is sufficient headroom, the reversal of the exogenous factor should not trigger any change for customers because the rates they paid were below what the companies were permitted to charge.
20. Bell Canada et al. submitted that if they had reversed the exogenous adjustments at the time they expired, they would have taken into account any available headroom before determining the amount of related rate reductions that should be made, consistent with the price cap rules.

21. Regarding CAC/PIAC's comments about the amalgamation of Bell Aliant's and Bell Canada's data, Bell Canada et al. submitted that exogenous amounts associated with the implementation of WNP and ELCA's that were assigned to the residential non-HCSA basket for both companies had been approved as drawdowns from Bell Canada's deferral account because the account related to the entire serving area in question and had been created before restructuring between Bell Aliant and Bell Canada occurred in 2006.

Commission's analysis and determinations

22. The Commission considers that it is appropriate that Bell Canada et al. (i) remove each specific exogenous factor from the SBL formula as of the date they expired by adjusting the price cap indices for each affected basket, and (ii) terminate the drawdown from the deferral account for the residential non-HCSA basket as of the date of the exogenous factor expiry.
23. The Commission considers that adjusting the price cap models that existed at the time of the expiry of the exogenous factor allows for the correction of the allowable price changes (SBL) against the actual price changes (SBI) at the time. This allows the companies to evaluate if and how much they overcharged customers in a given year. The Commission considers that Bell Canada et al.'s proposal to correct past price cap filings is an appropriate way to evaluate customer rebates. It provides a snapshot of the relevant price cap indices and the revenues for the regulated customer base at the time the exogenous factors expired.
24. Further, it is appropriate that Bell Canada et al. only provide rebates to customers of regulated services, as proposed. In this regard, the Commission notes that, for the implementation of the Bell Canada ELCA and WNP initiatives, the Commission directed Bell Canada to calculate the cost allocation based on 2006 NAS. In 2007, approximately 85 percent of Bell Canada's exchanges became forborne and, therefore, local services in these exchanges were no longer part of the price cap revenue and indices calculations.
25. The Commission also notes that only regulated services that are currently subject to a price cap will be affected by the expiry of the exogenous adjustments in question. As such, the Commission considers that forborne NAS should not be included in the distribution of rebates.
26. The Commission finds that the proposal put forward by Bell Canada et al. to provide rebates in the form of credits to subscribers of record is consistent with past Commission determinations.³
27. Regarding CAC/PIAC's comments about the amalgamation of Bell Aliant's and Bell Canada's data, the Commission considers that Bell Canada et al.'s proposals reflect the evolution of the structure of these two companies since 2006. Specifically,

³ For example, see Telecom Decisions 2006-9 and 2010-637.

the drawdowns from the deferral account for services in the residential non-HCSA basket were based on the number of NAS in the territory that belonged to Bell Canada prior to the restructuring between itself and Bell Aliant in 2006; therefore, the credits should be given to customers in that same territory.

28. The Commission has reviewed Bell Canada et al.'s calculations and finds them to be consistent with the approach proposed in their application.
29. In light of the above, the Commission **approves** Bell Canada et al.'s application, with an effective date of **1 June 2015**. The Commission considers that this would allow Bell Canada et al. to make the necessary revisions in response to this decision at the time they make their annual rate adjustments for price-capped services, thus helping to minimize confusion and disruption to customers.
30. Further, the Commission **directs** Bell Canada et al. to recalculate the amount of the rebates, with an effective date of **1 June 2015**, and to provide the Commission with the details of the recalculation of the revised rebates by the end of March 2015, coincident with the companies' price cap filings.

Should the proposed rate reductions reflected in Bell Canada et al.'s tariff notices be approved?

31. The Commission has reviewed the tariff notices filed by Bell Canada et al., and finds that the proposed rates in those applications reflect reductions in rates consistent with the methodology proposed in their Part 1 application.
32. Accordingly, the Commission **approves** the proposed rates set out in Bell Canada et al.'s tariff notices associated with this proceeding, effective **1 June 2015**. The Commission directs each of the companies to issue revised tariff pages⁴ coincident with their 2015 price cap filings.

Should Bell Canada et al. be required to include interest on the amounts to be credited to customers?

33. CAC/PIAC argued that Bell Canada et al.'s rebates should include compound interest, noting that the applicants had full use of the funds in question, and their customers did not, for periods of several years in some cases.
34. Bell Canada et al. submitted that the exogenous factor reversals were not completed on the correct dates due to an administrative error, and noted that in recent decisions, the Commission had only required companies to pay back amounts owing, without charging interest. As an example, Bell Canada et al. cited Telecom Decision 2013-630, which dealt with an error made by MTS Inc. (MTS) in its subsidy rate calculations for the years 2011 to 2013. Bell Canada et al. viewed their case as being similar to that of MTS, which they considered was the result of a similar

⁴ Revised tariff pages can be submitted to the Commission without a description page or a request for approval; a tariff application is not required.

administrative error. They submitted that, therefore, they should not be required to pay interest on amounts they proposed to credit to their customers.

Commission's analysis and determinations

35. Bell Canada et al.'s application covers four separate exogenous events that expired, in some cases, over four years before they filed the application. Further, the applicants reviewed their approved exogenous adjustment expiry dates only after becoming aware, in May 2014, of NorthernTel, Limited Partnership's (NorthernTel) situation regarding the expiry of one of its time-limited exogenous factors.⁵ The Commission considers that if Bell Canada et al. had not become aware of NorthernTel's situation, they might have continued to overcharge customers for an even longer period of time.
36. The Commission notes that Bell Canada et al. submitted that they would implement an administrative process in the future, should another time-limited exogenous factor be approved in the future. However, the Commission considers that such an administrative process should already have been in place and that it is the companies' responsibility to make sure that they comply with the Commission's directions. Prior to the expiry of exogenous factors, companies should have the appropriate tracking mechanisms in place to ensure that their reversal activities meet the approved expiry dates.
37. In the MTS example cited by the applicants, the Commission directed MTS to repay excess funds received from the National Contribution Fund. MTS had included a rate component in its calculations that was not eligible for subsidy consideration. The Commission notes that no MTS customers were directly affected in that case. The Commission considers that the MTS example differs from the applicants' circumstances, in which Bell Canada et al. should have reversed all time-limited rate increases as of the approved dates. As well, the applicants' error occurred for four initiatives, over a period of more than four years in some cases, and customers were directly affected by the delay in reversing the adjustment of the time-limited exogenous factors.
38. The Commission considers that Bell Canada et al. have benefited from the additional revenue related to the expired exogenous events, while customers have not benefited from lower rates, as they should have. For that reason, and considering the scale of the applicants' errors in not reversing the time-limited exogenous factors addressed above, the Commission finds that it would be appropriate under the circumstances to require Bell Canada et al. to add compound interest to the amounts credited to customers for the period of time they were overcharged.
39. The Commission considers that the interest rate used to calculate compound interest should match the cost of debt that applied to each applicant over the period of time

⁵ NorthernTel filed Tariff Notice 368 regarding an expired exogenous factor on 15 November 2013. In that application, NorthernTel proposed to reverse exogenous adjustments that had expired less than five months previously. The Commission approved the application on a final basis in Telecom Order 2014-631.

customers were overcharged. In addition to being the interest rate that companies would be charged by financial institutions when they borrow funds, the cost of debt is also the interest rate that the Commission directed the large ILECs to apply annually to funds to be included in their deferral account.⁶

40. The Commission **directs** Bell Canada et al. to add compound interest to the amounts rebated to customers for the period of time they were overcharged, at the same interest rate as each company's respective cost of debt over this same period. Calculations supporting the compound interest amounts should also be included in the recalculated rebate details provided to the Commission, as referenced in paragraph 30 above.
41. The Commission notes that, in the future, should any of these companies fail to reverse a time-limited exogenous factor as of the appropriate expiry date, the Commission will consider all available deterrence measures, including whether administrative monetary penalties should be imposed.⁷

Secretary General

Related documents

- *NorthernTel, Limited Partnership – Proposed rate decreases due to the removal of an exogenous factor*, Telecom Order CRTC 2014-631, 5 December 2014
- *Final 2013 revenue-percent charge and related matters*, Telecom Decision CRTC 2013-630, 27 November 2013
- *Follow-up to Telecom Decision 2008-1 – Proposal by Bell Aliant Regional Communications, Limited Partnership and Bell Canada to dispose of the funds remaining in the deferral account*, Telecom Decision CRTC 2010-637, 31 August 2010
- *Bell Aliant Regional Communications, Limited Partnership and Bell Canada's request to recover the net incremental operating costs to implement an expanded local calling area in the city of Greater Sudbury*, Telecom Decision CRTC 2008-65, 22 July 2008
- *Bell Aliant and Bell Canada – Application seeking recovery of the net incremental operating costs associated with the implementation of certain expanded local calling areas*, Telecom Decision CRTC 2007-124, 7 December 2007

⁶ See Telecom Decision 2002-34.

⁷ On 16 December 2014, Bill C-43, the *Economic Action Plan Act, No. 2*, received Royal Assent. This means, among other things, that the Commission can now issue administrative monetary penalties to any company or person that violates the *Telecommunications Act* or related Commission decisions or regulations.

- *Télébec, Limited Partnership – Part VII application seeking recovery of price cap deferral account shortfall*, Telecom Decision CRTC 2007-89, 14 September 2007
- *Bell Canada – Application seeking exogenous treatment of wireline-related costs associated with the implementation of wireless number portability*, Telecom Decision CRTC 2007-88, 14 September 2007
- *Follow-up to Decision 2007-27 – Show cause submission related to the application of the price cap regime to Télébec, Limited Partnership*, Telecom Decision CRTC 2007-60, 30 July 2007, as amended by Telecom Decision CRTC 2007-60-1, 10 August 2007
- *Price cap framework for large incumbent local exchange carriers*, Telecom Decision CRTC 2007-27, 30 April 2007
- *Disposition of funds in the deferral accounts*. Telecom Decision CRTC 2006-9, 16 February 2006
- *Implementation of price regulation for Télébec and TELUS Québec*, Telecom Decision CRTC 2002-43, 31 July 2002
- *Regulatory framework for second price cap period*, Telecom Decision CRTC 2002-34, 30 May 2002, as amended by Telecom Decision CRTC 2002-34-1, 15 July 2002
- *Price cap regulation and related matters*, Telecom Decision CRTC 97-9, 1 May 1997