



## Telecom Order CRTC 2005-62

Ottawa, 17 February 2005

### Bell Canada

Reference: Tariff Notices 6767, 6767A, 6767B, 6767C and 6767D

#### Gateway Access Service and High Speed Access Service

1. The Commission received an application by Bell Canada, dated 8 August 2003 and amended on 18 February, 5 July, 22 July and 19 November 2004, to add General Tariff item 5410, Gateway Access Service, and item 5420, High Speed Access Service.
2. Bell Canada stated that Tariff Notice 6767D resulted from negotiations with digital subscriber line (DSL) service providers. Bell Canada indicated that Tariff Notice 6767D replaced Tariff Notices 6767, 6767A, 6767B, 6767C and Tariff Notice 6622, Asymmetric digital subscriber line (ADSL) access service, dated 18 October 2001. Bell Canada submitted that the interim ADSL service rates approved pursuant to *Asymmetric digital subscriber line access service*, Order CRTC 2001-914, 21 December 2001 (Order 2001-914), for General Tariff item 5400 would not be impacted by this application.
3. The Commission received comments from Call-Net Enterprises Inc. (Call-Net) and Managed Network Systems Inc. (MNSi) on 22 November 2004; Xit Telecom Inc. (Xit) on 26 November 2004; MTS Allstream Inc. (MTS Allstream) on 22 November 2004, 29 November 2004 and 3 December 2004; Primus Telecommunications Canada Inc. (Primus) on 6 December 2004; and IStop.com on 8 December 2004. Reply comments were received from Bell Canada on 21 December 2004 and from Xit and Primus on 22 December 2004.
4. In their comments, MTS Allstream, Call-Net, MNSi, Primus and Xit supported the immediate adoption of Bell Canada's proposed General Tariff items 5410 and 5420. However, MTS Allstream, Xit, and MNSi expressed concern over the implied withdrawal of Tariff Notice 6622.
5. MTS Allstream submitted that both Gateway Access Service (GAS) and High Speed Access (HSA) should be classified as Category II Competitor Services. In reply comments, Bell Canada agreed with this classification.
6. Primus submitted that Bell Canada's proposed volume discount plan violated subsections 27(1) and 27(2) of the *Telecommunications Act* (the *Act*), submitting that all GAS (or HSA) accesses should be subject to a single volume discount plan, rather than the proposed volume discounts based on each speed. Primus noted that it had not been invited to the negotiations that led to the filing of Tariff Notice 6767D, and therefore any claims by Bell Canada of having industry consensus on all aspects of Tariff Notice 6767D were misleading.

7. IStop.com submitted that Tariff Notice 6767D should be rejected in favour of the unbundled solution put forth in Tariff Notice 6622. IStop.com submitted further that if the Commission approved Tariff Notice 6767D, the status of Tariff Notice 6622 should be clarified.
8. In response to Primus' comments, Bell Canada noted that the discount plan was based on market considerations, not technology, and was consistent with the structure of other existing volume and term plans already approved by the Commission (e.g., Digital Network Access (DNA)). Bell Canada submitted that this discount plan was a key part of the negotiated tariff structure which received widespread industry support.
9. The Commission notes that in Tariff Notice 6622, the ADSL access service was proposed to be made available at each serving wire centre, and included other unbundled components such as the associated aggregation and transport services. By contrast, the GAS and HSA services provide a bundled solution, allowing for the provision of ADSL access, aggregation, and transport of ADSL traffic to a common point of interconnection.
10. The Commission agrees with Bell Canada's classification and determines that GAS and HSA services are Category II Competitor Services.
11. The Commission notes that the GAS and HSA tariffs proposed by Bell Canada in Tariff Notice 6767D reflect a negotiated solution between Bell Canada and DSL service providers, and that Primus was excluded from these negotiations. The Commission notes further that the proposed volume discount plan introduced in Tariff Notice 6767D was a key part of these negotiations. The Commission notes also that the current DNA tariffs provide for volume discounts for specified speed levels, and are not available as a single volume discount over all speeds. The Commission is of the view that the proposed volume discount plan in Tariff Notice 6767D is similar to that contained in the DNA tariffs, and does not violate sections 27(1) and 27(2) of the Act as alleged by Primus.
12. Accordingly, the Commission **approves on a final basis** Bell Canada's application under Tariff Notice 6767D, which supersedes Tariff Notices 6767, 6767A, 6767B and 6767C, effective the date of this Order.
13. In granting this approval, the Commission is not ruling on the disposition of Tariff Notice 6622.

Secretary General

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