



## Telecom Decision CRTC 2006-11

Ottawa, 9 March 2006

### Bell Digital Voice Service

Reference: 8661-C12-200507973 and Bell Canada Tariff Notices 6874, 6874A and 6878

*In this Decision, the Commission renders its determination in the proceeding initiated by Bell Digital Voice Service, Telecom Public Notice CRTC 2005-9, 7 July 2005. The Commission approves on a final basis Tariff Notices 6874, 6874A and 6878, subject to certain conditions.*

### Background

1. In *Regulatory framework for voice communication services using Internet Protocol*, Telecom Decision CRTC 2005-28, 12 May 2005 (Decision 2005-28), the Commission set out the details of the regulatory regime applicable to the provision of voice over Internet protocol (VoIP) services.
2. Bell Canada filed an *ex parte* application on 26 May 2005, amended on 8 June 2005, under the cover of Tariff Notice 6874 (TN 6874) and Tariff Notice 6874A (TN 6874A), respectively, proposing to introduce General Tariff item 7020, Bell Digital Voice. The application was approved on an interim basis, effective 14 June 2005, in Telecom Order CRTC 2005-223, 9 June 2005 (Order 2005-223). Bell Digital Voice service is an access independent VoIP service.
3. Bell Canada filed Tariff Notice 6878 (TN 6878) on 16 June 2005, proposing revisions to the Bell Digital Voice service regarding the provision of 9-1-1 service, pursuant to the Commission's directives in *Emergency service obligations for local VoIP service providers*, Telecom Decision CRTC 2005-21, 4 April 2005 (Decision 2005-21). Bell Canada also proposed a revision to reflect that per-line call display blocking was not available at that time. TN 6878 was approved on an interim basis in Telecom Order CRTC 2005-246, 29 June 2005.
4. In *Bell Digital Voice Service*, Telecom Public Notice CRTC 2005-9, 7 July 2005 (Public Notice 2005-9), the Commission invited interested parties to the *Regulatory framework for voice communication services using Internet Protocol*, Telecom Public Notice CRTC 2004-2, 7 April 2004 (Public Notice 2004-2) process to provide comments on any aspect of the Bell Digital Voice service, and to address interrogatories to Bell Canada.
5. Subsequent to the issuance of Public Notice 2005-9, Bell Canada changed the name of its service from Bell Digital Voice to Bell Digital Voice Lite.
6. On 29 August 2005, the Commission received Bell Canada's responses to interrogatories.

7. On 21 October 2005, the Commission received comments from the Canadian Cable Telecommunications Association (the CCTA), MTS Allstream Inc. (MTS Allstream), Quebecor Media inc. (QMI), Primus Telecommunications Canada Inc. (Primus), TELUS Communications Inc. (TCI), Yak Communications (Canada) Inc. (Yak), and Xit telecom inc. on behalf of itself and 9141-9077 Quebec inc. (Xit).
8. On 4 November 2005, the Commission received Bell Canada's reply comments.

### **Issues**

9. The following issues were considered in this proceeding:

- Imputation test;
- Confidential rate ranges;
- Eligibility for contribution subsidy;
- Price cap treatment;
- Local number portability;
- Equal access; and
- Other matters.

### **Imputation test**

#### ***Positions of parties***

10. MTS Allstream argued that Bell Canada had omitted the cost of the local loop from its cost study in support of TN 6874. MTS Allstream submitted that the only means of preventing anti-competitive pricing by the incumbent local exchange carriers (ILECs) was to have the ILECs impute the tariffed rates for all Category I Competitor services including unbundled loops, irrespective of whether an ILEC claimed a service was access dependent or access independent.
11. In reply, Bell Canada submitted that it had provided an economic evaluation, including an imputation test, in support of its proposal for the introduction of Bell Digital Voice Lite service. Bell Canada was of the view that access costs were properly excluded from the causal costs of providing the service and did not include unbundled loop tariffs in the imputation test because an access component was not part of the Bell Digital Voice Lite service. Bell Canada stated that if access costs or unbundled loop tariffs had been included, the effect would be to double charge the customer for access.

#### ***Commission's analysis***

12. The Commission notes that the imputation test was established as a mechanism to prevent the ILECs from engaging in anti-competitive pricing of tariffed services, by ensuring that a service's projected revenues exceeded expected costs.

13. The Commission finds that the costs included in the imputation test for Bell Digital Voice Lite service are appropriate, and that the rates, as currently approved on an interim basis, meet the Commission's imputation test requirements.

#### **Confidential rate ranges**

##### ***Positions of parties***

14. MTS Allstream argued that Bell Canada's proposal for a range of rates and the approval of that range of rates without public disclosure were unprecedented and did not allow the public and other parties to comment or intervene on those proposed rates. MTS Allstream also argued that market conditions did not warrant increased flexibility in the pricing of ILEC local voice services at that time, and that the Commission's streamlined tariff approval process already permitted Bell Canada to modify its services in a timely manner.
15. TCI supported Bell Canada's price range proposal and tariff publication process.
16. In reply, Bell Canada submitted that there is no requirement specified in section 39, or anywhere else in the *Telecommunications Act* (the Act), to disclose confidential information when the Commission issued a decision. Bell Canada stated that the fact that its proposal had no precedent was immaterial. Bell Canada noted that the Act specifically grants the Commission the authority to approve a price range.
17. Bell Canada requested that the Commission maintain the confidential status of the proposed rate ranges after their approval, on the basis that disclosure of the minimum and/or maximum end(s) of the range would cause Bell Canada financial harm and would cause prejudice to its competitive position. Bell Canada submitted that the ranges provided it with the ability to respond to quickly changing market conditions, and that disclosure of the ranges to competitors would defeat their purpose. Bell Canada argued that disclosure would provide its competitors with advance notice of the range within which Bell Digital Voice Lite service would be priced in the future, enabling its competitors to tailor their competitive strategies and offerings to Bell Canada's detriment.

##### ***Commission's analysis***

18. The Commission notes that subsection 25(1) of the Act states that no Canadian carrier shall provide a telecommunications service except in accordance with a tariff filed with and approved by the Commission that specifies the rate or the maximum or minimum rate, or both, to be charged for the service. Subsection 25(3) states that a tariff shall be filed and published or otherwise made available for public inspection by a Canadian carrier in the form and manner specified by the Commission and shall include any information required by the Commission to be included. Subsection 27(1) states that every rate charged by a Canadian carrier for a telecommunications service shall be just and reasonable. Subparagraph 39(1)(c)(ii) indicates that a person who submits information to the Commission may designate it as confidential if its disclosure could reasonably be expected to prejudice the competitive position of any person.

19. The Commission considers that approval of Bell Canada's proposal of minimum and maximum rates, within which Bell Digital Voice Lite service would be priced, as well as of the proposal that amended tariff pages would be issued concurrent with the coming into effect of any new rate disclosing that rate, are consistent with the Act with respect to the requirements that rates for telecommunication services be approved and that tariffs be published for public inspection.
20. The Commission also considers that the rates proposed by Bell Canada in TN 6874 and TN 6874A, and approved on an interim basis by the Commission in Order 2005-223, are just and reasonable, consistent with subsection 27(1) of the Act.
21. The Commission is of the view that disclosure of the minimum and/or maximum rate(s) of the Bell Digital Voice Lite service rate ranges would likely result in Bell Canada being placed at a competitive disadvantage by providing its competitors with advance knowledge of potential future pricing initiatives, thereby reducing the market effectiveness of those potential initiatives. The Commission is also of the view that the specific direct harm likely to result from such disclosure would outweigh the public interest in its disclosure. Accordingly, the Commission is not requiring that the minimum and/or maximum rate(s) of the Bell Digital Voice Lite service rate ranges be disclosed by Bell Canada.

#### **Eligibility for contribution subsidy**

##### ***Positions of parties***

22. The CCTA submitted that the Commission should clarify the circumstances, if any, under which Bell Digital Voice Lite service would be eligible to receive a subsidy when provided in a high-cost serving area (HCSA). The CCTA noted that Bell Canada's proposed service was an access-independent service that could be used with any high-speed Internet service, but questioned whether a subsidy would be available where a subscriber to Bell Digital Voice Lite service also subscribed to a Bell Canada access service, such as high-speed Internet or primary exchange service (PES).
23. In reply, Bell Canada noted that in Decision 2005-28, the Commission determined that local residential VoIP service providers would be eligible to receive subsidy from the National Contribution Fund (NCF) in those circumstances in which the service provider provided the underlying access and the local services components, and met all of the criteria for receiving a subsidy established by the Commission in *Local competition*, Telecom Decision CRTC 97-8, 1 May 1997 (Decision 97-8), and subsequent related determinations. Bell Canada submitted that the Commission's criterion would be met when Bell Canada was providing the customer with its Bell Digital Voice Lite service and its Sympatico high-speed Internet service.

##### ***Commission's analysis***

24. In Decision 2005-28, the Commission determined that local residential VoIP service providers would be eligible to receive the existing subsidy per residential network access service (NAS) from the NCF, when the service provider provided both the underlying access and the local services components, and met all of the criteria for receiving subsidy established by the Commission in Decision 97-8 and subsequent related determinations. The Commission also

stated that such criteria included, among others, the requirement that the service provider comply with all local exchange carrier (LEC) obligations and that it meet or exceed the basic service objective.

25. The Commission established the following basic service objective for LECs in *Telephone service to high-cost serving areas*, Telecom Decision CRTC 99-16, 19 October 1999:
- individual line local service with touch-tone dialling, provided by a digital switch with capability to connect via low-speed data transmission to the Internet at local rates;
  - enhanced calling features, including access to emergency services, Voice Message Relay service, and privacy protection features;
  - access to operator and directory assistance services;
  - access to the long distance network; and
  - a copy of a current local telephone directory.
26. The Commission notes that Bell Digital Voice Lite service does not currently support message relay service (MRS), supports only some privacy protection features, and does not support operator assisted calling. The Commission also notes that Bell Digital Voice Lite service currently does not include provisions for equal access as required in Decision 97-8. Accordingly, Bell Digital Voice Lite service, as currently offered, does not meet the Commission's basic service objective for LECs, nor does it meet all of the requirements for LECs established in Decision 97-8.
27. In light of the above, the Commission considers that Bell Digital Voice Lite service, even when offered in conjunction with Sympatico high-speed Internet service, would not be eligible for the existing subsidy per residential NAS from the NCF at this time.

#### **Price cap treatment**

##### ***Positions of parties***

28. The CCTA submitted that Bell Canada's proposal for treating the Bell Digital Voice Lite service as an uncapped service should be rejected. The CCTA argued that the proposed service was a bundle that included a residential local exchange service or a residential optional local service in combination with toll services. The CCTA submitted that if the Commission determined that the proposed service were considered as capped, the actual rates charged for the Bell Digital Voice Lite service, not the maximum end of the approved rate range, should be used in calculating the Service Basket Index (SBI).
29. MTS Allstream was of the view that Bell Canada's intention might be to game the Commission's price cap system by slowly migrating customers over to its digital voice platform, proposed to be classified as uncapped, thereby allowing Bell Canada to completely escape the price cap safeguards. MTS Allstream stated that Bell Canada had acknowledged publicly that it intended to migrate its network to an Internet protocol (IP) platform.

30. In reply, Bell Canada noted that in *Regulatory framework for second price cap period*, Telecom Decision CRTC 2002-34, 30 May 2002 (Decision 2002-34), the Commission determined that Centrex and certain other services should be classified as uncapped under the price cap regime. Bell Canada stated that the Commission's rationale for assigning Centrex to the uncapped services basket was that Centrex was used as a substitute for single-line and multi-line business local exchange services, and the latter services were already capped. Bell Canada argued that the same rationale justified assigning Bell Digital Voice Lite service to the uncapped services basket. Bell Canada indicated that its residential local exchange services served as a substitute for its Bell Digital Voice Lite services, and that residential local exchange services, whether offered on a stand-alone basis or as part of a bundle, were capped. Bell Canada stated that the substitute services to the Bell Digital Voice Lite service were already constrained via price caps, thereby removing the need to impose a cap on prices for Bell Digital Voice Lite service.
31. Bell Canada was of the view that if its Bell Digital Voice Lite services were placed in the capped residential local service sub-baskets, the calculation of the SBIs for these sub-baskets would have to take into account the fact that Bell Canada was permitted to change the price of the services within an approved range. Bell Canada submitted that, therefore, the impact of changes to the actual price charged should not be reflected in the SBIs when the new price was within the approved range.

*Commission's analysis*

32. In Decision 2002-34, the Commission indicated that it did not anticipate that competition would be sufficient to discipline the ILECs' residential local exchange and residential optional local service rates during the second price cap period and, accordingly, those services would be subject to pricing constraints. The Commission noted that, from the perspective of a residential customer, services that bundled a residential local exchange service or a residential optional local service with other telecommunication services were discretionary, and the Commission found it appropriate to consider service bundles that included a residential local exchange service or a residential optional local service as an optional service. The Commission concluded that the sub-basket of residential optional local services would contain service bundles that included a residential local exchange service or a residential optional local service.
33. In *Extension of the price regulation regime for Aliant Telecom Inc., Bell Canada, MTS Allstream Inc., Saskatchewan Telecommunications and TELUS Communications Inc.*, Telecom Decision CRTC 2005-69, 16 December 2005, and *Extension of the price regulation regime for Société en commandite Têlébec and TELUS Communications (Québec) Inc.*, Telecom Decision CRTC 2005-70, 16 December 2005, the Commission stated that it was hopeful that VoIP technology, utilizing existing cable and ILEC infrastructure, would lead to increased competition, including facilities-based competition, in the local services market and particularly in the residential market. The Commission noted, however, that the use of VoIP technology to provide local services was in the early stages of deployment and that it was too soon to assess the impact of VoIP services on the local market.

34. The Commission considers that Bell Digital Voice Lite service is an optional service that bundles certain local exchange service functionality, optional features and long distance calling capabilities, and notes that the service is available to Bell Canada's residential customers in Quebec and Ontario without distinction between different rate bands. The Commission also notes that the service is dependent on customers purchasing high-speed Internet access from their choice of service provider. Furthermore, Bell Canada did not identify in its cost study that the cost of providing Bell Digital Voice Lite service varied between HCSAs and non-HCSAs within its operating territory.
35. The Commission concludes that there is no need to differentiate Bell Digital Voice Lite service between HCSAs and non-HCSAs for the purpose of applying different pricing rules. Moreover, the Commission does not consider Bell Digital Voice Lite service in the same context as other local services provisioned in HCSAs.
36. In light of the above, the Commission considers that Bell Digital Voice Lite should be included in the sub-basket of residential optional local services in non-HCSAs. The Commission also considers that Bell Canada should file a proposal with respect to the actual mechanics of the required price cap model SBI calculations, as well as the calculations that would be required in the event that Bell Canada were to propose, at a future point in time, revised minimum and/or maximum rate(s) of a range. Such a proposal would take into account the fact that minimum and maximum rates have been approved by the Commission for certain service elements and that Bell Canada is permitted to change the price of its service within the approved range.

#### **Local number portability**

##### ***Positions of parties***

37. The CCTA noted that in Bell Canada Tariff Notice 6897 (TN 6897), filed 1 September 2005, Bell Canada had identified a number of limitations to its Bell Digital Voice Lite service with respect to local number portability (LNP). The CCTA submitted that limitations regarding the ability of customers to migrate their numbers, either primary or secondary, to other local service providers would act as a potential impediment to competition in the local market.
38. Bell Canada noted that TN 6897 was not one of the tariff filings being addressed by the Commission in this proceeding. Bell Canada indicated that TN 6897 was being addressed through the normal comment process associated with a tariff filing.

##### ***Commission's analysis***

39. The Commission notes that it has already made a determination on this matter. In *Bell Canada - Bell Digital Voice Lite service*, Telecom Order CRTC 2005-397, 2 December 2005 (Order 2005-397), Bell Canada was directed to issue revised tariff pages to reflect the service limitations with regard to LNP and, to implement solutions for LNP within six months of the date of that Order for out-of-territory telephone numbers used as primary numbers, as well as for both in-territory and out-of-territory telephone numbers used as secondary numbers.

## **Equal access**

### ***Positions of parties***

40. Bell Canada considered that, in addition to the issues identified by the Commission in Decision 2005-28 for resolution by the CRTC Interconnection Steering Committee (CISC), further industry discussion was necessary to address the Commission's requirement that VoIP services provided by Canadian carriers offer equal access.
41. MTS Allstream argued that there were no technical reasons why Bell Canada could not comply with the Commission's directives on the provision of equal access for VoIP services in Decision 2005-28. MTS Allstream was of the view that Bell Canada's proposal to have CISC mandated to address this issue was merely a delay tactic.
42. QMI was of the view that, until such time as the Commission might choose to revisit the equal access obligation, no party should be permitted to confer upon itself the right not to abide by the equal access obligation. QMI argued that, while Bell Canada maintained that it was not technically able to provide equal access in conjunction with Bell Digital Voice Lite service, in response to a Commission interrogatory Bell Canada had provided a roadmap for its compliance with its equal access obligation.
43. Primus argued that Bell Canada, in its responses to interrogatories, provided no further information as to why equal access issues should be referred to CISC. Primus was of the view that Bell Canada's assertion that the issue should be referred to CISC was nothing more than a stalling tactic.
44. Yak argued that the issue of LECs complying with equal access requirements for their VoIP offerings was examined during the Decision 2005-28 proceeding. Yak submitted that Bell Canada had chosen not to comply with the Commission's equal access requirements, and that Bell Canada had provided no meaningful information as to the issues associated with the implementation of equal access that should be addressed at CISC.
45. TCI stated that it supported Bell Canada's recommendation that the ongoing necessity of the equal access obligation be assessed with a view to eliminating it within a specified timeframe.
46. In reply, Bell Canada submitted that providing equal access for access-independent services would present the industry with considerable technical and economic challenges. Bell Canada submitted that, in most instances, access-independent VoIP traffic would not be routed at the point of call origination via traditional Class 4 or Class 5 switches, and that existing interconnection arrangements for the delivery of long distance traffic to interexchange carriers (IXCs) would not apply.
47. Bell Canada was of the view that supporting equal access with its Bell Digital Voice Lite service would require routing all calls to a Public Switched Telephone Network (PSTN) switch at the originating end of the call. Bell Canada noted that this would result in the replication of the call flow followed in traditional circuit-switched telephony for its new VoIP services and that much, if not all, of the network efficiencies and advanced features offered by routing to the Internet would be lost in the process.



48. Bell Canada submitted that certain multimedia services used multimedia communications servers (MCSs) to route IP communications over the Internet or over managed data networks, and could not be offered over the PSTN. Bell Canada noted that it had already deployed MCSs in a number of locations and that those MCSs were not compatible with equal access.
49. Bell Canada stated that the softswitches deployed in its network did not support equal access, and that the softswitch vendor had advised that it had no plan to develop equal access capability on the softswitch platform deployed in Bell Canada's network.

***Commission's analysis***

50. In Decision 2005-28, the Commission considered that the possibility of a LEC conferring undue or unreasonable preference with respect to access to its networks continued to be a valid concern, and further considered that consumers should continue to have options by being able to select IXC's when subscribing to a VoIP service from a LEC.
51. The Commission notes that Bell Canada, in response to a Commission interrogatory, stated that it was in the process of reviewing its Bell Digital Voice network in order to provide equal access capability by introducing an intermediary softswitch platform. Bell Canada submitted that the softswitch platform would be used to determine when a Bell Digital Voice customer made a call and whether the call was long distance and, if it was, to route the call to a media gateway where the customer's choice of IXC would be ascertained and the call would be routed to the customer's selected IXC.
52. Accordingly, the Commission considers that Bell Canada should implement equal access capabilities for Bell Digital Voice Lite service within one year. The Commission also considers that Bell Canada should submit a report to the Commission, within 90 days of the date of this Decision and updated every three months, identifying the work activities to be conducted, projected timing, and progress of implementation.

***Other matters***

***Positions of parties***

53. MTS Allstream argued that Bell Canada's proposed service did not include a number of standard features, including certain privacy features and the ability to make calls to particular numbers, because Bell Canada had not seen fit to design the service to provide those features. MTS Allstream submitted that this was not a sufficient reason to allow Bell Canada to limit access to these features.
54. Primus argued that the 9-1-1 call arrangements available to Bell Canada's Bell Digital Voice Lite service appeared to be superior to the 9-1-1 call routing arrangements available to non-Bell Canada local VoIP service providers, and submitted that the same capability provided to Bell Digital Voice Lite was not available to other VoIP service providers.
55. Xit was of the view that Bell Canada had deployed an enormous VoIP gateway capacity in its territory simply to meet its own internal needs. Xit argued that Bell Canada must not be allowed to keep the benefits of VoIP technology to itself, and that it should be required to implement IP-based local network interconnection.

56. In reply, Bell Canada stated that in TN 6874 it had identified that its Bell Digital Voice Lite service did not, at that time, support two of the six privacy features listed in Decision 2005-28, namely provision of per-line call display blocking to qualified end-customers and provision of universal call trace. Bell Canada further stated that, consistent with the requirements established by the Commission in Decision 2005-28, it would obtain the customer's express acknowledgement of the extent to which the privacy safeguards were not available prior to the commencement of service.
57. Bell Canada noted that in Decision 2005-28, the Commission had requested that CISC assess the technical issues associated with implementing those privacy safeguards that could not be implemented immediately. Bell Canada stated that it would seek approval for modifications to its Bell Digital Voice Lite service tariff as required to implement CISC consensus items and associated Commission determinations.
58. With regard to 9-1-1 call routing, Bell Canada stated that the arrangements for the routing of 9-1-1 calls placed from nomadic VoIP services were the subject of extensive discussions in CISC. Bell Canada was of the view that CISC and the proceeding associated with Bell Canada Tariff Notice 6879, filed on 20 June 2005, in which it proposed the introduction of a VoIP 9-1-1 call routing service, were the appropriate fora to address that matter.
59. With regard to IP interconnection, Bell Canada submitted that that matter was beyond the scope of Public Notice 2005-9, and noted that in Decision 2005-28 the Commission had requested CISC to file, by November 2005, IP-to-IP interconnection interface guidelines and a report detailing its progress and any outstanding issues. Bell Canada submitted that the Commission also indicated its intention to determine what, if any, further course of action might be required at that time.

#### *Commission's analysis*

60. The Commission notes that initial discussions in CISC on matters related to the implementation of privacy safeguards, MRS over VoIP, and IP-to-IP interconnection interface guidelines have concluded and that reports have been submitted to the Commission, pursuant to Decision 2005-28. The Commission also notes that, pursuant to Decision 2005-21, discussions are ongoing at CISC with regard to 9-1-1/E9-1-1 service delivery when local VoIP services are offered on a nomadic basis, and that a report is due to the Commission by April 2006.
61. However, in order to avoid potential customer confusion, the Commission considers that Bell Canada should clearly identify all service limitations related to privacy safeguards, MRS and restrictions on calling to particular numbers, and should obtain, prior to service commencement, the customer's express acknowledgement of these service limitations.

#### **Commission's determination**

62. The Commission **approves on a final basis**, Tariff Notices 6874, 6874A and 6878, subject to the following:
  - Bell Canada is to issue tariff pages to disclose the operative price points for Bell Digital Voice Lite at any given time, and provide, in confidence, copies to the Commission two business days in advance;

- Bell Digital Voice Lite service, even when offered in conjunction with Sympatico high-speed Internet service, is not to receive the existing subsidy per residential NAS from the NCF because it is not eligible at this time;
- Bell Digital Voice Lite is to be included in the sub-basket of residential optional local services in non-HCSAs;
- Bell Canada is to file a proposal within 30 days of the date of this Decision with respect to the actual mechanics of the required price cap model SBI calculations, as well as the calculations that would be required in the event that Bell Canada were to propose, at a future point in time, revised minimum and/or maximum rate(s) of a range. Such a proposal would take into account the fact that minimum and maximum rates have been approved by the Commission for certain service elements and that Bell Canada is permitted to change the price of its service within the approved range;
- LNP capabilities are to be implemented as directed by the Commission in Order 2005-397;
- Bell Canada is to implement equal access capabilities for Bell Digital Voice Lite service within one year of the date of this Decision, and to submit a report to the Commission, within 90 days of the date of this Decision and updated every three months, identifying the work activities to be conducted, projected timing, and progress of implementation; and
- Bell Canada is to clearly identify all service limitations related to privacy safeguards, MRS and restrictions on calling to particular numbers; to obtain, prior to service commencement, the customer's express acknowledgement of the service limitations, including those related to standard features and calling to particular numbers; and to submit to the Commission, within 30 days of the date of this Decision, its proposed text for customer notification.

Secretary General

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