



Telecom Decision CRTC 2009-213

Route reference: Telecom Order 2008-305

Ottawa, 23 April 2009

Bell Aliant Regional Communications, Limited Partnership and Bell Canada – Application to review and vary portions of Telecom Order 2008-305 regarding the elimination of the recurring balance in Bell Canada's deferral account

File number: 8662-B2-200816118

In this decision, the Commission varies its determinations in Telecom Order 2008-305 with respect to the assignment of the \$16.3 million recurring balance in Bell Canada's deferral account. As a result, \$11.7 million of this amount is assigned to residential primary exchange services and the remaining \$4.6 million is assigned to residential optional local services.

Introduction

1. The Commission received an application by Bell Aliant Regional Communications, Limited Partnership (Bell Aliant) and Bell Canada (collectively, the Bell companies), dated 1 December 2008, requesting that the Commission issue a stay of Telecom Order 2008-305 and review and vary the order to:
 - reflect a methodology such that 71.8 percent of the \$16.3 million recurring balance in Bell Canada's deferral account (Bell Canada's recurring balance), or \$11.7 million, be assigned to stand-alone residential primary exchange services (PES) [residential PES] and that 28.2 percent, or \$4.6 million, be assigned to residential optional local services;
 - allow the Bell companies to evenly distribute the \$11.7 million portion of Bell Canada's recurring balance among Bell Aliant's and Bell Canada's residential PES customers in non-high-cost serving areas (non-HCSAs); and
 - determine that the Bell companies are not required to clear Bell Canada's recurring balance assigned to residential optional local services, or, as an alternative, to obtain Commission approval of their rate reduction with an immediate notional rate increase of the same amount.
2. In a Commission letter dated 23 December 2008, pursuant to section 50 of the *Telecommunications Act* (the Act), the Commission extended the period by which the Bell companies were to implement the various directions set out in Telecom Order 2008-305. The Commission stated that it would determine the implementation date as part of the disposition of this application.

3. The Commission received no comments regarding this application. The public record of this proceeding, which closed on 31 December 2008, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.

Background

4. In Bell Canada Tariff Notice 7110 and Bell Aliant Tariff Notice 164, the Bell companies proposed to eliminate Bell Canada's recurring balance through rate reductions to only the monthly rates for non-forborne residential PES in non-HCSAs, which corresponded to \$1.3 million of the \$16.3 million recurring balance.
5. In Telecom Order 2008-305, the Commission denied the Bell companies' applications and determined that all residential PES customers in non-HCSAs in their serving territories in Ontario and Quebec should benefit from the elimination of Bell Canada's recurring balance in its entirety. Accordingly, the Commission directed the Bell companies to evenly distribute Bell Canada's recurring balance of \$16.3 million among Bell Aliant's and Bell Canada's forborne and non-forborne residential PES customers in non-HCSAs residing in Bell Aliant's Ontario and Quebec serving territory and in Bell Canada's serving territory on the basis of the most current network access service count. As a result, the price ceilings, and rates where necessary, were to be reduced in non-HCSAs.

Is there substantial doubt as to the correctness of the Commission's determination in Telecom Order 2008-305 regarding the directive to clear Bell Canada's recurring balance assigned to residential optional local services?

6. The Bell companies stated that they opposed only the directive in Telecom Order 2008-305 regarding the assignment of the \$4.6 million portion of Bell Canada's recurring balance that would otherwise have been assigned to residential optional local services in non-HCSAs.
7. The Bell companies submitted that the determination in Telecom Order 2008-305 with respect to the \$4.6 million is contrary to the directions in subparagraphs 1(a)(i) and (ii) of the Policy Direction,¹ which require that the Commission place maximum reliance on market forces and engage in minimal, efficient, and proportionate regulation. The Bell companies submitted that Telecom Order 2008-305 is inconsistent with these provisions because it requires the implementation of rate reductions for residential PES in non-HCSAs that, pursuant to the Commission's determination in Telecom Decision 2006-9, should have been targeted to residential optional local services.
8. The Bell companies indicated that such treatment distorts market forces by lowering residential PES rates in non-HCSAs by more than would otherwise have been required according to Telecom Decision 2006-9, resulting in unwarranted revenue losses for the Bell companies that are not justifiable under the current regulatory framework.

¹ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

9. The Bell companies noted that, under the price cap regime adopted in Telecom Decision 2007-27, the Commission uncapped residential optional local services. The Bell companies submitted that, despite being aware of the directives in Telecom Decision 2006-9, the Commission has determined that it would be appropriate to eliminate any prior rate reduction obligation that would have pertained to those services and has provided the incumbent local exchange carriers (ILECs) the flexibility to do so.
10. The Bell companies submitted that, due to various proceedings, it was not until late 2007 that they had a nearly complete determination of the net recurring amount in Bell Canada's deferral account and the amount that would have to be returned to residential subscribers. The Bell companies submitted that, if the rate reductions at issue had been implemented prior to 1 June 2007, under the current pricing rules the impact of those reductions could have been reversed via subsequent rate increases, thereby eliminating the associated deferral account obligation. The Bell companies noted that other ILECs, when eliminating deferral account balances, had reduced rates for residential optional local services and subsequently raised these rates when they became uncapped.
11. In light of how other ILECs were able to clear portions of the net recurring amounts of their deferral accounts through residential optional local service rate reductions, the Bell companies submitted that it would be unfair to penalize them by forcing them to transfer reductions initially assigned to residential optional local services to residential PES. The Bell companies submitted that this unique, asymmetric treatment was unjustified and raised additional doubt as to the correctness of Telecom Order 2008-305.
12. The Bell companies also noted that, in support of the determinations in Telecom Order 2008-305, the Commission stated that residential optional local service subscribers are necessarily residential PES customers and that most PES customers subscribe to one or more residential optional local services. The Bell companies disputed this statement, submitting that a large proportion of their residential PES subscribers do not subscribe to residential optional local services.
13. The Bell companies indicated that, if the directive in Telecom Order 2008-305 were implemented, a significant proportion of subscribers would benefit from a rate reduction for services they did not subscribe to. Thus, according to the Bell companies, the elimination of the recurring balance assigned to residential optional local services through reductions to residential PES rates in non-HCSAs would spread the rate reductions over too large a base of subscribers in non-HCSAs. The Bell companies submitted that this is clearly contrary to the directive in Telecom Decision 2006-9 that a portion of the net recurring amount in the ILECs' deferral accounts should be targeted solely to those residential customers who subscribe to optional local services.

Commission's analysis and determinations

14. In Telecom Decision 2006-9, the Commission determined that the majority of the ILECs² were required to implement monthly rate reductions to eliminate the recurring amounts accruing to their deferral accounts. These reductions were to apply to PES and optional local services for residential subscribers in non-HCSAs. Specifically, the recurring amounts to be eliminated by rate reductions were to be assigned to the Residential Local Services in non-HCSAs basket and proportionally allocated, based on revenues, to the Residential Local Exchange Services in non-HCSAs and the Residential Optional Local Services in non-HCSAs sub-baskets.
15. The Commission agrees that, in assigning the entire amount of Bell Canada's recurring balance to residential PES in non-HCSAs, it has treated the Bell companies differently from the other ILECs. Further, the Commission notes that its determinations could result in revenue losses for the Bell companies since they would have to reduce residential PES rates to levels lower than would otherwise be required.
16. The Commission also notes the Bell companies' statement that a large proportion of their residential PES subscribers do not subscribe to residential optional local services and the resulting concern that the elimination of the recurring balance assigned to residential optional local services through reductions to residential PES rates in non-HCSAs would spread the rate reductions over too large a base of subscribers in non-HCSAs. The Commission acknowledges that this situation would result in customers who subscribe only to residential PES benefiting from rate reductions that should have been targeted solely to those residential customers who subscribe to optional local services.
17. Following careful examination of the submission put forward by the Bell companies in this proceeding, the Commission concludes that the Bell companies have demonstrated that there is substantial doubt as to the correctness of its determinations in Telecom Order 2008-305 to i) assign to residential PES in non-HCSAs the amount of Bell Canada's recurring balance that would otherwise have been assigned to residential optional local services in non-HCSAs; and ii) require that this amount be eliminated through reductions to residential PES rates in non-HCSAs.
18. The Commission considers that permitting the assignment of a portion of the recurring balance to residential optional local services would be consistent with Telecom Decision 2006-9. Further, such assignment would be consistent with the Policy Direction. In this respect, the Commission considers that varying its determination and allowing the Bell companies to assign \$4.6 million to residential optional local services would be consistent with the telecommunications policy objectives set out in paragraphs 7(c) and (f) of the Act.³

² Télébec, Limited Partnership was excepted.

³ The cited objectives of the Act are as follows:

7(c) to enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications;

7(f) to foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective.

19. As a result, the Commission concludes that the \$4.6 million of Bell Canada's recurring balance assigned to residential optional local services in non-HCSAs is to be further assigned proportionately, based on revenues, to residential optional local services which have been forborne from regulation as well as to those which are non-forborne.
20. As noted above, in Telecom Decision 2006-9 the Commission determined that monthly rate reductions were to apply to residential optional local services. In making its determination, the Commission considered that rate reductions for residential subscribers met the established criteria for use of the funds in the deferral accounts by providing an immediate, direct, and ongoing benefit to residential subscribers in the ILECs' territories. In addition, the Commission considered that these rate reductions would not be a deterrent to the development of competition in the residential local market.
21. The Commission considers that it would not be appropriate to reduce rates for residential optional local services which have been forborne from regulation. However, with respect to non-forborne residential optional local services, the Commission considers that, although these rates are not subject to any upper pricing constraints, requiring rate reductions would be consistent with the determinations in Telecom Decision 2006-9 and would ensure that the Bell companies are treated in the same manner as the other ILECs.
22. Accordingly, the Commission **approves** a methodology for the elimination of the recurring balance such that 71.8 percent of Bell Canada's recurring balance of \$16.3 million as of 1 June 2007, or \$11.7 million, is assigned to residential PES in non-HCSAs and 28.2 percent of Bell Canada's recurring balance, or \$4.6 million, is assigned to residential optional local services in non-HCSAs.
23. The Bell companies are to reduce the price ceilings on forborne and non-forborne residential PES rates. They are also to reduce rates for non-forborne residential optional local services in non-HCSAs. The reductions to PES and optional local service rates applicable to residential customers in non-HCSAs should be by an amount sufficient to eliminate Bell Canada's recurring balance assigned to these non-forborne services in non-HCSAs.
24. The Commission directs the Bell companies to issue revised tariff pages, file with the Commission the new price ceilings on forborne residential PES rates in non-HCSAs, and update their websites to reflect these changes by **1 June 2009**. The revised rates for non-forborne residential PES in non-HCSAs will become the new price cap on rates for those services.

Secretary General

Related documents

- *Bell Aliant Regional Communications, Limited Partnership and Bell Canada – Elimination of the recurring balance in Bell Canada's deferral account, Telecom Order CRTC 2008-305, 30 October 2008*

- *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

This document is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>