



Telecom Decision CRTC 2012-73

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Ottawa, 6 February 2012

EastLink – Application with respect to Telecom Decision 2010-680 and charging for rejected local service requests

File number: 8633-E17-201108978

In this decision, the Commission confirms that it disposed of Reduction of local service request (LSR) rejections, Consensus Report BPRE079a in Telecom Decision 2010-680, thus permitting the Bell companies to start charging for LSR rejections as of 10 December 2010. The Commission denies EastLink's request that local exchange carriers (LECs) other than the Bell companies be exempt from paying these charges until they implement their own LSR rejection charge tariffs or, in the alternative, that these LECs be permitted to charge for LSR rejections retroactive to 10 January 2011.

Background

1. On 4 July 2008, Bell Aliant Regional Communications, Limited Partnership and Bell Canada (collectively, the Bell companies) filed tariff notices to introduce a local service request (LSR) rejection charge in their operating territories in Ontario and Quebec. This charge, which would be levied against telecommunications service providers (TSPs) that have levels of LSR rejections above certain thresholds, was intended to incent TSPs to make greater use of the Bell companies' Access to Operational Support Systems (OSS) Service, thus reducing the number of LSR rejections and the resulting manual interventions necessary to correct information on LSRs.
2. On 23 December 2009, the Commission issued Telecom Order 2009-805 authorizing the Bell companies to introduce an LSR rejection charge. However, in that order, the Commission stated that those who would be subject to these charges should be given an opportunity to propose solutions for reducing the number of rejected LSRs before the charge is implemented. The Commission therefore requested that the CRTC Interconnection Steering Committee (CISC) file a report with proposed solutions to reduce the number of rejected LSRs, and stated that the Bell companies could not introduce their LSR rejection charge until 90 days after the Commission has disposed of this CISC report.
3. The CISC Business Process Working Group (BPWG) subsequently filed *Reduction of LSR Rejections*, Consensus Report BPRE079a (the report) with the Commission for approval. The report contained 14 recommendations, which the Commission addressed in Telecom Decision 2010-680.

EastLink's application

4. EastLink filed an application, dated 27 May 2011, requesting that the Commission clarify
 - a. whether Telecom Decision 2010-680 disposed of the report for the purposes of implementing the Bell companies' LSR rejection charges, and
 - b. whether work arising from the report and follow-up discussions on solutions to reduce LSR rejections will be subject to Commission approval.
5. EastLink requested that in the event that the Commission had in fact disposed of the report, carriers other than the Bell companies either be exempt from paying the rejection charges until their own LSR rejection charge tariffs are approved or be permitted to bill for LSR rejection charges retroactively to 10 January 2011, the date that the Bell companies started applying the charges.
6. Comments were filed by the Canadian Network Operators Consortium Inc., Globility Communications Corporation, MTS Allstream Inc., and Rogers Communications Partnership (collectively, the interveners), as well as by the Bell companies. The public record of this proceeding, which closed on 11 July 2011, can be found at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.

Issues

7. The Commission has identified the following issues to be addressed in this decision:
 - I. Did the Commission dispose of the report in Telecom Decision 2010-680, thus permitting the Bell companies to start billing for LSR rejections?
 - II. Should all carriers have the same start date for the charging of rejected LSRs?
- 1. Did the Commission dispose of the report in Telecom Decision 2010-680, thus permitting the Bell companies to start billing for LSR rejections?**
8. EastLink, supported by the interveners, argued that Telecom Decision 2010-680 did not dispose of the report for the purposes of implementing the Bell companies' LSR rejection charge, since
 - the Commission neither specifically stated that it approved the report nor addressed how the report met the Commission's requirements set out in paragraph 42 of Telecom Order 2009-805;¹

¹ In paragraph 42(b), the Commission requested that "...CISC submit a report to the Commission, within 90 days of the date of this order, that identifies the reasons for LSR rejections and proposes solutions for reducing the number of LSR rejections."

- the Commission accepted the report's recommendation that further work was to be completed, including further reports to the Commission and the development of a work plan; and
 - wireless carriers did not participate in the development of solutions and therefore did not have a proper opportunity to propose solutions for reducing the number of LSR rejection charges before implementation of the Bell companies' LSR rejection charge.
9. EastLink and the interveners argued that, without disposal of the report, the Bell companies' right to implement their LSR rejection charge was not triggered and that the charges should not have been levied.
 10. The Bell companies submitted that the Commission did in fact dispose of the report in Telecom Decision 2010-680 by agreeing to and accepting its recommendations, including the proposed action plan. They further argued that the ongoing CISC BPWG work on measures to reduce LSR rejections forms part of the CISC BPWG's regular activities and does not alter the fact that the Commission had disposed of the report.

Commission's analysis and determinations

11. The Commission considers that although Telecom Decision 2010-680 did not explicitly state that it disposed of the report, its acceptance of the report's recommendations, without a request for any additional activities outside those included in the report, constitutes a disposal of the report. The Commission notes that the report's recommendation for further follow-up work is a common practice of CISC working groups. In addition, the Commission did not state that it would suspend implementation of the Bell companies' LSR rejection charges because of this work.
12. Regarding the participation of wireless carriers, the Commission notes that participation in CISC working groups is open to all, and that it expects that parties will participate in order to ensure their views and requirements are considered and incorporated into any reports prepared by the various working groups. The fact that the wireless carriers chose not to participate does not diminish the fact that they had the opportunity to do so. The Commission reminds parties that any recommendations or agreements made by working groups and accepted or approved by the Commission are binding on all parties regardless of their participation in the working groups.
13. As such, the Commission confirms that Telecom Decision 2010-680 did in fact dispose of the report in its entirety, thus permitting the Bell companies to begin applying their approved LSR rejection charge.

II. Should all carriers have the same start date for the charging of rejected LSRs

14. In its application, EastLink requested that implementation of the Bell companies' LSR rejection charge tariffs be delayed until all other carriers have equivalent approved tariffs in place. In the alternative, EastLink asked that these other carriers be permitted to bill for their LSR rejection charges retroactively to 10 January 2011. This request was supported by a number of other parties.

15. EastLink submitted that it had delayed requesting its own LSR rejection charge tariff because it understood that Telecom Decision 2010-680 had not disposed of the report. It also submitted that it and other carriers had been disadvantaged by facing charges from the Bell companies without being able to apply equivalent charges of their own.
16. The Bell companies opposed this request, arguing that the parties have had ample time since the release of Telecom Order 2009-805 to prepare, submit, and obtain Commission approval for their own LSR rejection charge tariffs.

Commission's analysis and determinations

17. The Commission notes that, in Telecom Order 2009-805, it approved the Bell companies' LSR rejection charge tariff on the basis that the charge was designed to incent use of the Bell companies' Access to OSS Service. The Commission did not state that this approval was contingent on an equivalent charge being approved for other carriers, only that they be provided the opportunity to propose ways to reduce LSR rejections before such a charge was implemented.
18. The Commission notes that EastLink filed an LSR rejection charge tariff approximately four months after the Bell companies had begun to bill it for the LSR rejection charges, and that it had not requested any retroactive treatment for the effective date of its tariff at that time. The Commission has since approved this tariff, and similar ones for Bluewater TV Cable Ltd. and Iristel Inc.
19. The Commission notes that no carriers other than the Bell companies and TELUS Communications Company currently provide access to their OSS services. This has raised concerns about whether the other carriers' LSR rejection charge tariffs are appropriate. This matter is addressed in Telecom Notice of Consultation 2012-72, also issued today.
20. In light of the above, the Commission **denies** EastLink's request that the Bell companies' LSR rejection charge tariffs be delayed until all carriers have approved LSR rejection charge tariffs in place, or that carriers be permitted to bill retroactively to 10 January 2011.

Secretary General

Related documents

- *Review of conditions for approval of a local service request rejection charge*, Telecom Notice of Consultation CRTC 2012-72, 6 February 2012
- *CISC Business Process Working Group – Consensus report BPRE079a – Reduction of local service request rejections*, Telecom Decision CRTC 2010-680, 10 September 2010
- *Bell Aliant Regional Communications, Limited Partnership and Bell Canada – Introduction of Local Service Request Rejection Charge*, Telecom Order CRTC 2009-805, 23 December 2009
- *Competitive local exchange carrier access to incumbent local exchange carrier operational support systems*, Telecom Decision CRTC 2005-14, 16 March 2005