Telecom Order CRTC 2005-255

Ottawa, 8 July 2005

Call-Net Communications Inc.

Reference: Tariff Notice 22

LSR Processing for Customer Transfer Service

1. The Commission received an application by Call-Net Communications Inc. (CNCI), dated 14 February 2005, proposing changes to its General Tariff in order to introduce item 203, LSR Processing for Customer Transfer (LPCT) service at a charge of $12.25 per local service request (LSR). CNCI submitted that the LPCT service would permit it to apply a service charge to recover the costs of processing LSRs that it receives from other local exchange carriers (LECs) for transferring a local end-customer from CNCI to that LEC.

2. The Commission received comments from the Canadian Cable Telecommunications Association (CCTA) and from Quebecor Média Inc. (QMI), on behalf of its subsidiaries Vidéotron ltée and Vidéotron Télécom ltée, on 16 March 2005, and from Bell Canada on 30 March 2005. The Commission also received reply comments from CNCI on 28 March 2005 and 5 April 2005.

The application

3. CNCI noted that when one of its local end-customers is acquired by another LEC, that LEC submits an LSR to CNCI in order to initiate the process of disconnecting the end-customer, the loop, the telephone number and service features from the company's facilities so that the acquiring LEC can provide its services to that end-customer. The company submitted that the LPCT service charge would allow it to recover the incremental costs for performing these activities, which it is required to perform as part of its competitive local exchange carrier (CLEC) obligations. CNCI filed a cost study for LSR processing to reflect the time estimates for the functions completed and the associated costs to the company.

4. CNCI noted that it was receiving hundreds of LSRs each day from other LECs and that the LSR activities and the subsequent LSR processing costs would increase dramatically for CLECs as competition took hold in the local exchange service market. The company argued that the LPCT service charge was an acquisition cost for the LEC which the LEC could recover in its retail service price. The company submitted that it expected to pay similar charges when it acquired an end-customer from another CLEC that had filed a tariff similar to the LPCT tariff.

5. CNCI noted that in *CRTC denies CNCI's application to introduce service charges for local exchanges carriers*, Order CRTC 2000-744, 10 August 2000 (Order 2000-744), the Commission denied the company's proposal filed under Tariff Notice 12, as amended by Tariff Notice 12A, to apply the incumbent local exchange carriers' (ILECs') per order and per loop service charges to a LEC wishing to obtain a loop in order to provide local service to an end-customer previously served by CNCI. CNCI submitted that its current tariff proposal was completely different from the one it had made in Tariff Notices 12/12A. The company

submitted that, while the activities performed could be similar in certain respects to some of the activities undertaken by the ILECs when they provisioned a local loop, its LPCT service involved fewer activities and the corresponding costs were different than those of the ILECs.

6. CNCI noted that in Order 2000-744, the Commission expressed the concern that the costs of activities that the company sought to recover were comparable to those required to disconnect an end-customer who had chosen to terminate service. The company submitted that unlike its proposal made under Tariff Notices 12/12A, the proposed LPCT charges would apply only to the cases in which it processed an LSR in direct response to the LEC's acquisition of CNCI's end-customer. The company noted that it did not perform all of the LPCT activities where the end-customer is being terminated by CNCI due to bad credit or where the end-customer is re-locating and terminates the company's local service and then purchases local service from another LEC in a new location.

7. CNCI noted that in Order 2000-744, the Commission had also expressed concern that the ILECs did not charge a separate fee to port a local number to a CLEC. The company argued that the ILECs were compensated for these costs as part of their local competition and local number portability (LNP) start-up cost exogenous factor. The company submitted that it was not proposing to charge for making the end-customer's number available for use with another LEC's service. The company argued that the LPCT service charge would instead recover the incremental costs of processing the LSR to the logical point where the acquiring LEC could provide service, which included the transferring of the telephone number to the acquiring LEC. The company argued that, unlike the ILECs, it did not have the privilege of recovering these costs as start-up costs, even though the activities it performed for LPCT were beneficial to the industry and to competition.

Comments

8. The CCTA, QMI and Bell Canada requested that the Commission deny the application. They argued that CNCI was seeking compensation from competing LECs for activities which all LECs were obliged to undertake and which were simply a cost of doing business.

9. The CCTA and Bell Canada submitted that the application was similar to CNCI's previous application filed under Tariff Notices 12/12A, which the Commission had denied. Bell Canada argued that the only difference between the current application and Tariff Notices 12/12A was that, in the current application, CNCI had proposed its own specific rates to recover costs rather than using the ILECs' per order and per loop service charges.

10. The CCTA argued that CNCI was seeking to recoup its disconnection costs from acquiring LECs and that the LPCT service charge would introduce unnecessary costs which would harm the development and growth of local competition. The CCTA submitted that CNCI's proposal was related to its own administrative efforts rather than to any activity performed for the benefit of other LECs. The CCTA further argued that, as with any other cause of end-customer disconnection, CNCI's administrative costs were its alone to bear and should not be recoverable from external sources. The CCTA noted that like all LECs, CNCI was obliged to facilitate the porting of numbers to acquiring LECs when end-customers sought to change service providers.

11. QMI submitted that in the near term, the LPCT service charges would fall disproportionately on the newest entrants to the local telephony market, who would have few end-customers to lose and many to gain. QMI further submitted that this would result in the creation of a financial disincentive to enter the local market, which would be contrary to the Commission's objective of opening up this still heavily monopolized sector.

12. QMI noted that in the medium term, when the local telephony market was more mature, it expected that LSR flows to and from the various market participants would be roughly balanced. QMI submitted that the imposition of LSR processing charges by LECs would result in an increased administrative burden accompanied by minimal net financial transfers. QMI submitted that the medium term financial transfers between LECs could be substantial if different LECs secured approval for widely different LSR processing rates, which would raise serious policy concerns. QMI argued that the least efficient LECs would thus receive financial compensation for their inefficiency.

Reply comments

13. CNCI submitted that the proposed LPCT service charge would permit the company to recover costs incurred as a result of activities taken by other LECs. The company submitted that it would be unfair to allow the ILECs to recover the costs through the price cap mechanism and to require CLECs to bear those costs directly, without the ability to similarly recover such costs. The company further submitted that the cost of processing an LSR should not be viewed as a cost of doing business, as argued by the interveners, as such costs should be under its control and not incurred as a result of the actions of its competitors.

14. CNCI argued that without allowing it to recover its costs for processing customer transfer orders, the company would be left with a cost structure that was highly exposed to the aggressive and finely targeted marketing activity of all LECs that acquired CNCI's end-customers. The company submitted that its costs were driven by the end-customer acquisition actions of its competitors and that it would be required to add additional capacity to meet its competitors' demands for transferring end-customers.

15. CNCI submitted that the arguments that approval of the LPCT service charge would create a barrier to entry for new local service providers, jeopardize local competition and fall disproportionately on new entrants should be dismissed. The company submitted that it had paid the ILECs tens of millions of dollars for end-customer transfers, which provided proof that a $12.25 charge could not be considered a barrier to entry. The company argued that permitting it to recover the costs caused by other LECs would level the playing field.

16. CNCI argued that after seven years of local competition, the market was still predominantly ILEC controlled, and that the medium term, as submitted by QMI, was so far into the future that it did not justify any contemplation at this time.

17. CNCI alleged that the CCTA's objection to the proposed LPCT was that the cable companies would be able to acquire, at no cost, all the end-customers that it had fought hard to acquire over the past several years while the cable companies waited on the side-lines. The company submitted that the cable companies were looking for preferred status despite having enjoyed a monopoly in the provision of cable services and a resulting subsidized infrastructure.

18. CNCI submitted that Bell Canada's comments were out of process and should be dismissed, and that in any event, its earlier comments addressed most of the points raised by Bell Canada.

Commission's analysis and determinations

19. The Commission notes that under Tariff Notices 12/12A, CNCI had proposed to apply the ILECs' per order and per loop service charges to LECs wishing to acquire a loop to provide local service to an end-customer previously served by CNCI. In Order 2000-744, the Commission considered that the administrative activities CNCI must perform to "coordinate the transfer of an existing local loop" were comparable to those it would have to execute to disconnect an end-customer who had chosen to change its LEC. The Commission noted that the ILECs did not charge CLECs a separate charge to recover the administrative costs to port or disconnect telephone numbers. The Commission was of the view that CNCI's costs to co-ordinate the transfer of an existing local loop were normal costs of doing business for CNCI. Accordingly, the Commission denied CNCI's application.

20. When offering local exchange service to a customer, a LEC would generally lease the loop used to provide service to that end-customer from the ILEC and would have to incur costs for the installation of the service, ongoing costs for providing the service and, eventually costs for disconnecting the service. Once the end-customer terminates service, the LEC would return the leased loop to the ILEC as part of the disconnection process. The Commission therefore considers that the costs associated with these activities are integral to providing telephone service to its end-customers and that it would not be appropriate for a LEC to recover these costs from other LECs.

21. The Commission disagrees that the ILECs have been able to recover ongoing LNP costs through exogenous adjustments during the price cap regime. In that regard, the Commission notes that the exogenous adjustments in question allowed for the recovery of local competition and LNP start-up costs as opposed to the ongoing costs associated with porting telephone numbers.

22. The Commission notes that none of the interveners supported CNCI's proposal, but rather all considered that the costs of processing an LSR are normal costs incurred in offering local services.

23. Consistent with its determination in Order 2000-744, the Commission considers that 1) CNCI's costs to co-ordinate the transfer of an existing local loop or to transfer a telephone number are a normal cost of doing business, and 2) given this, it is not appropriate to recover from competitors the costs associated with the limited administrative activities involved in arranging for the disconnection or porting of an end-customer's telephone number when it changes its LEC.

24. In light of the foregoing, the Commission **denies** CNCI's application.

Secretary General

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