



Telecom Decision CRTC 2006-31

Ottawa, 19 May 2006

Rogers Wireless Inc. – Part VII application seeking review of line-side wireless access service interconnection rates in the territories of Société en commandite Télébec, TELUS Communications Company operating in Quebec and the small incumbent local exchange carriers in Ontario and Quebec

Reference: 8661-R11-02/01

*The Commission **approves on a final basis**, effective the date of this Decision, revised rates for the line-side wireless access service (WAS) of the small incumbent local exchange carriers currently operating in Ontario and Quebec, and of Société en commandite Télébec.*

*The Commission **denies** Rogers Wireless Inc.'s request to apply the revised line-side WAS rates retroactively to 1 January 2002.*

Introduction

1. The Commission received a Part VII application by Rogers Wireless Inc. (RWI), dated 17 December 2001, seeking a review of the line-side wireless access service (WAS) interconnection rates in the territories of the companies that were, at that time, referred to as the independent telephone companies operating in Ontario and Quebec, which included Société en commandite Télébec (Télébec) and the former TELUS Communications (Quebec) Inc., now TELUS Communications Company (TCC).¹ These companies, excluding Télébec and TCC, are now considered to be small incumbent local exchange carriers (SILECs) operating in Ontario and Quebec.
2. Specifically, RWI requested that the Commission reduce the line-side WAS rates of Télébec, TCC and the SILECs operating in Ontario and Quebec, effective 1 January 2002, by removing the implicit subsidy from these rates. RWI requested that if the Commission were unable to remove the implicit subsidy by 1 January 2002, the Commission should make these rates interim on 1 January 2002, with the final subsidy-free rates retroactive to 1 January 2002.
3. The line-side WAS tariffs under consideration in this Decision contain several rate elements. RWI's application relates to telephone number rates and network charge rates (line-side WAS rates).

¹ Effective 1 July 2004, TELUS Communications Inc. (TCI) assumed all rights, entitlements, liabilities and obligations relating to the provision of telecommunications services in the territory previously served by TELUS Communications (Quebec) Inc. Effective 1 March 2006, TCI assigned and transferred all of its assets and liabilities, including all of its service contracts, to TCC. All references to TCC in this Decision refer to TCC's operations in Quebec.

Background

4. In *Line-side wireless access service rates for independent carriers*, Order CRTC 2000-355, 28 April 2000 (Order 2000-355), the Commission approved, on a final basis, line-side WAS rates for Télébec, TCC and the following SILECs operating in Ontario and Quebec: Northern Telephone Limited, now NorthernTel, Limited Partnership (NorthernTel); Bruce Municipal Telephone System, now Bruce Telecom (Bruce); The Corporation of the City of Thunder Bay – Telephone Division, now TBayTel; Kenora Municipal Telephone System (Kenora); Ontario Northland Transportation Commission, now Ontera; and Sogetel inc. (Sogetel) (collectively, the SILECs operating in Ontario and Quebec).
5. In Order 2000-355, the Commission approved line-side WAS rates on a final basis for Télébec based on Télébec's 1998 Phase II costs plus a 25 percent mark-up and, based on Télébec's rates, approved proxy rates on a final basis for the SILECs operating in Ontario and Quebec, other than Sogetel. The Commission approved line-side WAS rates on a final basis for Sogetel based on its interim rates, amended to reflect the network charge rates approved for Télébec in that order. Further, in Order 2000-355, the Commission approved TCC's interim line-side WAS rates on a final basis. These rates were based on Bell Canada's 1997 interim rates.²
6. In Order 2000-355, the Commission indicated that Télébec's proposed cost-based rates, revised to include a 25 percent mark-up, would be appropriate for the SILECs operating in Ontario and Quebec, and would provide adequate levels of contribution in lieu of an explicit per-circuit contribution surcharge. In paragraph 29 of that order, the Commission noted that the line-side WAS rates of TCC did not include an explicit per-circuit contribution surcharge.³
7. In *Changes to the contribution regime*, Decision CRTC 2000-745, 30 November 2000 (Decision 2000-745), the Commission introduced a new subsidy requirement calculation to ensure that the contribution regime provided an appropriate amount of subsidy to maintain affordable primary exchange residential service in high-cost serving areas. As a result, Télébec, TCC and the SILECs receive an explicit subsidy per network access service⁴ for providing service in their respective high-cost bands.

Process

8. TBayTel and Microcell Telecommunications Inc. (Microcell), now part of RWI, submitted comments on 16 January 2002. RWI submitted reply comments on 28 January 2002.
9. Responses to Commission interrogatories were received from the SILECs in Ontario and Quebec; Amtelecom Inc. (Amtelecom); People's Telephone Company of Forest Inc., now People's Tel Limited Partnership (People's); Télébec and TCC on 4 November 2002 and 12 December 2002.

² Approved in Telecom Order CRTC 97-83, 21 January 1997, related to Bell Canada's line-side WAS.

³ A contribution surcharge was added to the line-side WAS tariffs of some incumbent local exchange carriers so that the wireless service providers paid a contribution similar to that of the wireline carriers for the interexchange traffic they carried on their wireless access connection.

⁴ Télébec and TCC have received subsidy for high-cost bands, effective 1 January 2001, and the SILECs have received subsidy for high-cost bands, effective 1 January 2002.

Positions of parties

10. RWI submitted that, in Order 2000-355, the Commission set line-side WAS rates to include an implicit subsidy for basic local residential service. RWI noted that the Commission stated in that order that the rate determination, among other things, "maintains implicit levels of contribution for interexchange traffic that is carried on the wireless access connections."
11. RWI submitted that, in Decision 2000-745, the Commission established a national revenue-based contribution collection mechanism to replace the previous per-minute/per-circuit mechanism. RWI noted that the new mechanism was in effect 1 January 2001 for the former Stentor members, Télébec and TCC. RWI further noted that, in Decision 2000-745, the Commission did not replace the funding mechanism for the SILECs operating in Ontario and Quebec, effective 1 January 2001. Instead, the Commission established that 2001 would be a transition year for the SILECs operating in Ontario and Quebec, with a view to implementing the revenue-based collection mechanism on 1 January 2002.
12. RWI submitted that wireless service providers (WSPs) were subject to the revenue-based collection mechanism and would therefore be explicitly paying to subsidize basic local services in the territories of Télébec, TCC and the SILECs operating in Ontario and Quebec as of 1 January 2002. RWI submitted that if there were no reduction to the line-side WAS rates approved for these companies to remove the implicit subsidy, WSPs would be over-paying contribution, effective 1 January 2002. RWI therefore requested that the Commission lower the line-side WAS rates for these companies, as they would be eligible to receive money from the National Contribution Fund (NCF) to subsidize local residential services in their high-cost areas, effective 1 January 2002.
13. Microcell submitted that it supported RWI's application and characterized the implicit subsidy as hidden and redundant.
14. TBayTel noted that, in Order 2000-355, the Commission had approved line-side WAS telephone number and network access rates based on Télébec's Phase II cost study rates, revised to reflect a 25 percent mark-up. TBayTel further submitted that Télébec was the only company that had filed a Phase II cost study in the proceeding initiated by Telecom Order CRTC 97-1960, 30 December 1997. TBayTel argued that, therefore, in establishing the line-side WAS rates on the basis of the only Phase II cost study that had been submitted, the Commission had recognized the difficulties of the independent companies in determining appropriate cost-based rates.
15. TBayTel also argued that RWI neither identified any rate reduction in its application nor attempted to quantify the level of implicit subsidy because it was virtually impossible to determine these, particularly in the absence of costing information. TBayTel further submitted that if time and resources were dedicated to this exercise, the line-side wireless interconnection rates might increase over existing levels. TBayTel also submitted that, in *Regulatory framework for the small incumbent telephone companies*, Decision CRTC 2001-756, 14 December 2001, the Commission had allowed the rates for several of its services, including optional services

and multi-element service categories, to increase to levels approved for major incumbent local exchange carriers (ILECs) without the requirement of an economic study. According to TBayTel, this was consistent with the regulatory framework set out in *Regulatory framework for the independent telephone companies in Quebec and Ontario (except Ontario Northland Transportation Commission, Quebec-Téléphone and Télébec ltée)*, Telecom Decision CRTC 96-6, 7 August 1996. TBayTel further submitted that in most cases, it and other independent companies would not be relying on costing information.

16. TBayTel requested that the Commission dismiss RWI's application, as the amount of any implicit or explicit subsidy included in the line-side WAS rates was marginal and would not reduce the corresponding rates materially.
17. In response to TBayTel's submission, RWI submitted that only the Commission was in a position to state with any certainty the level of implicit subsidy included in the line-side WAS rates established by Order 2000-355. RWI submitted further that the level of subsidy was irrelevant since any level of subsidy was inappropriate in light of the explicit revenue-based collection mechanism and the eligibility of the SILECs to receive money from the NCF, effective 1 January 2002.
18. RWI submitted that if the line-side WAS interconnection rates approved in Order 2000-355 for Télébec, TCC and the SILECs operating in Ontario and Quebec were not lowered, the WSPs offering services in these territories would be paying an implicit and explicit contribution to subsidize basic local residential services in their high-cost areas.
19. RWI noted that the penetration of wireless services in the territories of Télébec, TCC and the SILECs operating in Ontario and Quebec was less than in more populated areas. In RWI's view, maintaining line-side WAS rates that included more subsidy than required distorted the market and impeded the advancement of wireless services in these areas.
20. RWI submitted that TBayTel had not rebutted the fact that the line-side WAS rates for TCC, Télébec and the SILECs operating in Ontario and Quebec were too high by an amount equal to the implicit subsidy. RWI noted that the current line-side WAS rates in these companies' territories were not set at the same level as Bell Canada's rates for comparable services. RWI argued that there was no indication that these companies' line-side WAS rates did not cover their costs. RWI noted that none of these companies had filed Phase II cost studies to support their rates. RWI submitted that if these companies wanted higher rates, they should file cost studies that could be reviewed by interested parties.

Commission's analysis and determinations

21. The Commission notes that although Order 2000-355 only applied to certain SILECs operating in Ontario and Quebec,⁵ RWI requested that the Commission reduce the line-side WAS rates for Télébec, TCC and all SILECs operating in Ontario and Quebec that provided line-side WAS service. The Commission further notes that in response to interrogatories, the SILECs operating

⁵ Order 2000-355 applied to the SILECs identified in paragraph 4 of this Decision but did not apply to Amtelecom and People's.

in Ontario and Quebec that stated that they provided line-side WAS service were NorthernTel, Bruce, TBayTel, Kenora, Ontera and Sogetel, as well as Amtelecom and People's. As such, the Commission's decision regarding the line-side WAS rates applies to Télébec, TCC, NorthernTel, Bruce, TBayTel, Kenora, Ontera, Sogetel, Amtelecom and People's.

22. The Commission notes that the current line-side WAS rates of TCC, Télébec, and the SILECs operating in Ontario and Quebec, including Amtelecom and People's, are significantly different.
23. The Commission notes that the line-side WAS rates approved for TCC based on Bell Canada's 1997 interim line-side WAS rates and the telephone number rates approved for Sogetel are less than half of the rates approved in Order 2000-355 for Télébec and the SILECs identified in that order. The Commission further notes that since the current line-side WAS rates of Amtelecom and People's are higher than those approved for the SILECs in Order 2000-355, TCC's line-side WAS rates and Sogetel's telephone number rates are also less than half of the current line-side WAS rates for Amtelecom and People's.
24. The Commission notes that the general costs of provisioning local interconnection services, such as line-side WAS, have declined since 1998. For example, the Commission notes the significant reductions in the ILECs' costs for the Access Tandem (AT) service over a similar time frame.⁶ The Commission further notes that the ILECs' AT service is an interconnection service similar to line-side WAS.
25. The Commission therefore considers that, with the exception of Sogetel's telephone number rates,⁷ the costs underlying the current line-side WAS rates for Télébec and the SILECs operating in Ontario and Quebec now significantly overstate these companies' service costs. The Commission also considers that these rates recover an implicit subsidy, which is no longer appropriate in light of the explicit subsidy mechanism approved in Decision 2000-745.
26. The Commission is of the view that TCC's current line-side WAS rates reflect more reasonable cost estimates of provisioning line-side WAS for Télébec and the SILECs operating in Ontario and Quebec, and do not contain implicit subsidy. Further, the Commission considers that adopting TCC's line-side WAS rates for Télébec and the SILECs operating in Ontario and Quebec would recognize the SILECs' resource constraints with respect to the development of Phase II cost studies and would provide a uniform rating approach in respect of these line-side WAS rates for all SILECs operating in Ontario and Quebec.
27. In light of the above, the Commission considers that, with the exception of Sogetel's telephone number rates, it would be appropriate to adopt TCC's current line-side WAS rates, as set out in the Appendix to this Decision, for Télébec and the SILECs operating in Ontario and Quebec, including Amtelecom and People's.

⁶ Bell Canada's proposed December 2002 AT cost estimate was \$0.0017 per-minute per-end, compared to its previous November 1995 estimate of \$0.0042 per-minute per-end, which is more than a 50 percent reduction over this seven-year period.

⁷ Sogetel's current telephone number rates are the same as those listed in the Appendix.

Retroactivity

28. The Commission notes that the line-side WAS rates under consideration in this proceeding have been approved on a final basis. The Commission considers that retroactively modifying rates that have previously been granted final approval would create uncertainty as to the finality of Commission decisions and notes that it typically does not modify such rates with retroactive effect. The Commission also expects that if the recommended rates were applied retroactively, as proposed by RWI, any revenue shortfall caused by retroactive rate adjustments would have to be compensated for by local subscribers through a local rate increase. To mitigate the impact on local subscribers from potential rate increases and the potential revenue impact on the affected companies, the Commission considers that it would not be appropriate to apply the recommended rates retroactively to 1 January 2002, as requested by RWI.
29. Accordingly, the Commission **denies** RWI's request to apply the revised rates retroactively to 1 January 2002.
30. With the exception of Sogetel's telephone number rates, which remain unchanged, the Commission **approves on a final basis**, effective the date of this Decision, the line-side WAS rates in the Appendix to this Decision for Télébec, NorthernTel, Bruce, TBayTel, Kenora, Ontera, Sogetel, Amtelecom and People's.
31. The Commission directs Télébec, NorthernTel, Bruce, TBayTel, Kenora, Ontera, Sogetel, Amtelecom and People's to issue revised tariff pages, within 10 days of this Decision, reflecting the revised line-side WAS rates in the Appendix to this Decision.

Secretary General

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Line-side WAS rates

WAS rate element	Monthly WAS rates
Telephone number active	\$0.14
Telephone number reserved	\$0.04

Network charge per channel is as follows:

Each channel up to 12 channels	\$5.00
Each channel up to 24 channels	\$8.75
Each channel up to 36 channels	\$11.25
Each channel up to 48 channels	\$11.25
Each channel up to 60 channels	\$12.50
Each channel up to 72 channels	\$12.50
Each channel up to 84 channels	\$12.50
Each channel in excess of 84 channels	\$13.75