Canadian Radio-television and Telecommunications Commission | Conseil de la radiodiffusion et des télécommunications canadiennes

Telecom Regulatory Policy CRTC 2012-211

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Bell Aliant Regional Communications, Limited Partnership and Télébec, Limited Partnership – Application regarding the price ceiling applicable to residential primary exchange services in regulated non-high-cost serving areas

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In this decision, the Commission denies a request by Bell Aliant and Télébec to change the pricing constraints for residential primary exchange service rates in regulated non-high-cost serving areas.

Background

1. In order to ensure that Canadians have access to basic telephone service, regardless of where they live, incumbent local exchange carriers (ILECs) are required to provide residential primary exchange service (PES)[1] throughout their operating territory.[2]

2. The rates charged to customers for residential PES vary by ILEC and are subject to price ceilings and constraints set by the Commission. Also, the rates for residential PES depend on whether the service is provided in an area where the Commission forbore from regulating the rates (forborne area) or whether the service is provided in an area where the Commission continues to regulate these rates. In certain regulated areas, called high-cost serving areas (regulated HCSAs), the Commission-approved rate charged for residential PES does not recover the associated costs of providing that service so subsidies are provided to ILECs to adequately compensate them for the provision of this service.[3]

3. In recent years, the price ceilings and constraints associated with residential PES rates were set out in Commission decisions. For the large ILECs,[4] the price ceilings and constraints associated with residential PES in the different areas are set out below.

[1] PES is a telephone service that provides customers with unlimited local calling within a defined area at a flat monthly rate, as well as access to a long distance network of the customer's choice.
[2] The terms and conditions associated with this requirement are set out in the ILECs' respective General Tariffs, and, in the case of Bell Canada, they are also set out in the *Bell Canada Act*.
[3] The current subsidy regime was established in 2000.
[4] The large ILECs include Bell Aliant Regional Communications, Limited Partnership (Bell Aliant); Bell Canada; MTS Allstream Inc. (now known as MTS Inc. and Allstream Inc. (collectively referred to as MTS Allstream)); Saskatchewan Telecommunications (SaskTel); Télébec, Limited Partnership (Télébec); and TELUS Communications Company (TCC).

4. Prior to 2011, the price ceilings for stand-alone residential PES[5] rates in forborne areas were those rates in effect when forbearance was granted. In Telecom Regulatory Policy 2011-291, the Commission decided to give ILECs more flexibility in the pricing of this service in forborne areas and set the price ceiling at $30.[6]

5. Also, in Telecom Regulatory Policy 2011-291, the Commission modified the rules for changes to residential PES rates in regulated HCSAs. In that decision, the Commission determined, among other things, that where subsidies in the regulated HCSAs had not yet been eliminated and monthly residential PES rates were below $30, ILECs would have the flexibility to increase rates to the lesser of $30 or the amount required to eliminate subsidy.[7]

6. In Telecom Decisions 2007-27 and 2007-60, for areas which are not forborne and in which the rates are generally greater than the costs to provide the service (regulated non-HCSAs), the large ILECs' rates for residential PES were generally capped at existing levels.[8]

The application

7. The Commission received an application from Bell Aliant Regional Communications, Limited Partnership and Télébec, Limited Partnership (collectively, the Companies), dated 6 October 2011, in which the Companies proposed that the same price ceilings and annual pricing constraints established by the Commission in Telecom Regulatory Policy 2011-291 for stand-alone residential PES in forborne areas should also apply to ILECs' residential PES in regulated non-HCSAs.

8. More specifically, the Companies proposed the following: (a) set the price ceiling for ILECs' residential PES rates in regulated non-HCSAs at $30; (b) allow any rate increases to be phased in over a three-year period and set an annual price constraint equal to one-third of the difference between the rate in effect as of the date of the Commission's decision on this application and the $30 price ceiling; (c) establish 1 June 2011 as the starting point of the three-year phase-in period; and (d) increase the price ceiling annually by the rate of inflation, effective 1 June 2014.

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[5] Stand-alone PES refers to the situation where the customer subscribes only to PES and to no other telecommunications service.

[6] If an ILEC decides to increase a stand-alone residential PES rate to reach the $30 price ceiling, such rate increases are subject to an annual price constraint equal to one-third of the difference between the rate in effect as of the date of Telecom Regulatory Policy 2011-291 and the price ceiling. Effective 1 June 2014, the $30 price ceiling is to be increased annually by the rate of inflation.

[7] Any rate increases are to be phased in over a three-year period subject to the constraints set out in paragraph 123 of Telecom Regulatory Policy 2011-291. Rates below $30 where the subsidy has been eliminated are permitted to increase annually by inflation. Rates above $30 cannot be increased during the phase-in period. Effective 1 June 2014, the $30 price ceiling is to be increased annually by the rate of inflation.

[8] Changes to the price ceilings for residential PES in regulated non-HCSAs were not considered in the proceeding leading to Telecom Regulatory Policy 2011-291.

9. The Commission received comments regarding this application from Bell Canada, MTS Allstream Inc. (now known as MTS Inc. and Allstream Inc. (collectively referred to as MTS Allstream)),[9] the Public Interest Advocacy Centre (PIAC), Rogers Communications Partnership (RCP), and TELUS Communications Company (TCC).

10. The public record of this proceeding, which closed on 7 November 2011, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.

Should the Commission change the upward pricing constraints for residential PES rates in regulated non-HCSAs?

11. The Companies, Bell Canada, MTS Allstream, and TCC submitted that Telecom Regulatory Policy 2011-291 created a pricing anomaly whereby ILECs are permitted to raise residential PES rates in forborne areas and in regulated HCSAs, but not in regulated non-HCSAs. They also stated that ILEC rates for residential PES in regulated non-HCSAs vary significantly within provinces and across the country and that this variation is a historical anomaly. Further, they stated there would be merit in allowing the ILECs to harmonize rates for basic residential PES.

12. PIAC and RCP submitted that regulated non-HCSAs are not subject to sufficient levels of competition and that rates for residential PES in regulated non-HCSAs were capped in order to protect customers from unreasonable rate increases and provide ILECs with an incentive to improve efficiency. Further, they stated that allowing pricing flexibility in regulated HCSAs was done in order to reduce the amount of subsidy and harmonize rates as a component of that subsidy and that this rationale does not apply to regulated non-HCSAs.

13. In addition, RCP submitted that the Companies' proposal would provide the ILECs with a financial windfall. PIAC noted that increasing prices with no discernible increase in service tends to make rates less, not more, affordable and that accessibility of telephone service may be affected.

Commission's analysis and determinations

14. With respect to the argument that there would be merit in harmonizing rates for basic residential PES, the Commission considers, as set out below, that the reasons for changing the pricing constraints in Telecom Regulatory Policy 2011-291 for residential PES in forborne areas and in regulated HCSAs do not apply to regulated non-HCSAs.

[9] As of early 2012, MTS Allstream Inc. became known as two separate entities, namely, MTS Inc. and Allstream Inc.

15. The Commission notes that there remains a limited presence of competitors in regulated non-HCSAs and that, unlike forborne areas, the majority of customers in regulated non-HCSAs do not have access to alternative service providers for residential PES. Consequently, the Commission considers that market forces alone cannot be relied upon in regulated non-HCSAs to ensure that rates for residential PES remain just and reasonable and to protect the interests of customers.

16. The Commission notes that, in Telecom Regulatory Policy 2011-291, it considered that since some rates for residential PES in regulated HCSAs were being subsidized more than others, it would be economically efficient and fair if rates used to calculate subsidies were more uniform. Accordingly, the Commission allowed the ILECs the flexibility to increase residential PES rates in regulated HCSAs to compensate them for the reduction of subsidy. The Commission considers that, since rates in regulated non-HCSAs are not subsidized, this rationale to harmonize rates does not apply in regulated non-HCSAs.

17. Furthermore, as noted earlier, rates charged for residential PES in regulated non-HCSAs generally exceed the costs to provide the service. The Commission further notes that the Companies did not submit any financial or economic evidence to support the increase of monthly rates or to indicate that the costs exceed the rates. In the absence of this evidence, the Commission considers that it would not be appropriate to change the pricing constraints that were established for residential PES in regulated non-HCSAs in Telecom Decisions 2007-27 and 2007-60.

18. In light of the above, the Commission considers that it would not be appropriate to grant the Companies’ request to provide in regulated non-HCSAs the same pricing flexibility that was granted in Telecom Regulatory Policy 2011-291 for forborne areas. Accordingly, the Commission **denies** the Companies’ proposal.

19. The Commission considers that its determination in this decision is consistent with the Policy Direction[10] as market forces alone cannot be relied upon in regulated non-HCSAs to protect the interest of customers regarding the provision of residential PES.

Secretary General

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[10] The Policy Direction, among other things, requires that the Commission rely on market forces to the maximum extent feasible as a means of achieving the policy objectives set out in the *Telecommunications Act* and regulate, where there is still a need to do so, in a manner that interferes with market forces to the minimum extent necessary to meet these policy objectives. See *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006.

Related documents

- *Obligation to serve and other matters*, Telecom Regulatory Policy CRTC 2011-291, 3 May 2011, as amended by Telecom Regulatory Policy CRTC 2011-291-1, 12 May 2011

- *Follow-up to Decision 2007-27 - Show cause submission related to the application of the price cap regime to Télébec, Limited Partnership*, Telecom Decision CRTC 2007-60, 30 July 2007, as amended by Telecom Decision CRTC 2007-60-1, 10 August 2007

- *Price cap framework for large incumbent local exchange carriers*, Telecom Decision CRTC 2007-27, 30 April 2007