



Telecom Decision CRTC 2014-159

PDF version

Ottawa, 2 April 2014

Rogers Communications Partnership – Application to review and vary Telecom Order 2013-287 regarding third-party transit arrangements

File number: 8662-R28-201312610

The Commission denies an application from Rogers Communications Partnership to review and vary certain elements of Telecom Order 2013-287 pertaining to third-party transit arrangements. However, the Commission clarifies that if parties cannot reach agreement on a third-party transit arrangement, the default interconnection arrangement is direct interconnection, pursuant to Cochrane's Wireless Access Tariff rates. The Commission also clarifies that direct interconnection tariffed rates should not apply to third-party transit arrangements unless wireless carriers agree to pay these rates for these arrangements.

Background

1. In Telecom Order 2013-287, the Commission approved, with changes, an application¹ by Cochrane Telecom Services (Cochrane) to, among other things, update the company's Wireless Access Tariff to allow wireless carriers to connect their voice and signalling networks to Cochrane's network. In particular, the Commission
 - considered that Cochrane's proposed tariff did not preclude the possibility of a third-party interconnection arrangement being used as an alternative to direct network interconnection, and
 - determined that there was no basis for directing Cochrane to allow Rogers Communications Partnership (RCP) to use a third-party transit arrangement.²

Application

2. The Commission received an application from RCP, dated 11 September 2013, in which the company requested that the Commission review and vary certain decisions in Telecom Order 2013-287 related to signalling system 7 (SS7) third-party transit arrangements between RCP and Cochrane. In seeking a review and variance of the

¹ See Cochrane Tariff Notice 65.

² See paragraphs 17 and 18 of Telecom Order 2013-287.

Commission's determinations set out in paragraphs 17 and 18 of Telecom Order 2013-287, RCP specifically requested that the Commission

- vary Telecom Order 2013-287 by mandating Cochrane to accept SS7 third-party transit arrangements, and
 - direct Cochrane to include a specific clause in its Wireless Access Tariff that would stipulate that the monthly SS7 port charges can only be applied when direct SS7 links are used between a wireless service provider (WSP) and a small incumbent local exchange carrier (ILEC).
3. In support of its application, RCP submitted that Telecom Order 2013-287 contains errors in fact and in law, and fails to consider a basic principle which had been raised in the proceeding that led to Telecom Order 2013-287. As such, RCP argued that there is substantial doubt as to the correctness of certain rulings set out in Telecom Order 2013-287.
 4. The Commission received interventions from Cochrane and Allstream Inc. (Allstream). The public record of this proceeding, which closed on 18 November 2013, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.

Issues

5. In Telecom Information Bulletin 2011-214, the Commission outlined the criteria it would use to assess review and vary applications that are filed pursuant to section 62 of the *Telecommunications Act*. Specifically, the Commission stated that applicants must demonstrate that there is substantial doubt as to the correctness of the original decision, due to, for example, one or more of the following: i) an error in law or in fact, ii) a fundamental change in circumstances or facts since the decision, iii) a failure to consider a basic principle which had been raised in the original proceeding, or iv) a new principle which has arisen as a result of the decision.
6. The Commission has identified the following issues to be addressed in this decision:
 - I. Did the Commission commit an error in law or fail to consider a basic principle raised in the original proceeding?
 - II. Did the Commission commit an error in fact?
 - I. Did the Commission commit an error in law or fail to consider a basic principle raised in the original proceeding?**
7. As noted earlier, RCP submitted that the Commission committed an error in law and failed to consider a basic principle raised in the original proceeding culminating in Telecom Order 2013-287. In support of this position, RCP noted that the Commission had mandated, in earlier decisions, Northwestel Inc. (Northwestel),

MTS Inc. (MTS), and TELUS Communications Company (TCC)³ to permit SS7 transiting via third-party transit arrangements in their Wireless Access Tariffs. In RCP's view, these past rulings by the Commission established that third-party transit arrangements represent a default SS7 interconnection arrangement, and that this principle should also apply to the small ILECs.

8. Cochrane submitted that the Commission's previous rulings specifically addressed large ILEC tariff provisions concerning SS7 transiting via third parties by WSPs, i.e., they did not discuss or apply to the small ILECs. Cochrane submitted that mandating small ILECs to permit SS7 transiting via third parties would limit the flexibility of small ILECs to consider the appropriateness of such third-party arrangements based on their unique circumstances.
9. Cochrane further submitted that Telecom Order 2013-287 is consistent with Telecom Regulatory Policy 2012-24, where the Commission stated that its approach with respect to the regulation of small ILECs has been to establish frameworks that are, as much as possible, consistent with those of the large ILECs. Cochrane argued that the Commission's current policy towards small ILEC SS7 interconnection continues to be appropriate, and there are no grounds to establish and apply the approach proposed by RCP.

Commission's analysis and determinations

10. The Commission notes that, in Telecom Order 2004-330, it approved a proposal by Northwestel to introduce a signalling network interconnection service. The Commission further notes that, in response to comments from parties in the proceeding that led to the same order, Northwestel proposed tariff wording to clarify that wireless carriers would not be prevented from arranging third-party transit arrangements.
11. In Telecom Decision 2004-70, the Commission approved an application by MTS Allstream Inc.⁴ to introduce Enhanced 9-1-1 service. The Commission notes that MTS Allstream Inc. confirmed that there would be no obligation for a WSP accessing MTS Allstream Inc.'s 9-1-1 network to obtain SS7 signalling only from MTS Allstream Inc.
12. In Telecom Decision 2010-129, the Commission directed TCC to permit the transiting of signalling traffic via third-party arrangements by WSPs. The Commission notes, however, that TCC had initially taken the position that its interconnection tariffs did not provide WSPs with the option of using third-party signalling transit arrangements. In Telecom Decision 2010-129, the Commission stated that it considered that TCC's tariff wording did not clearly prohibit WSPs from using such transit arrangements.

³ See Telecom Order 2004-330, and Telecom Decisions 2004-70 and 2010-129.

⁴ Telecom Decision 2004-70 provided directions to the former MTS Allstream Inc. As of early 2012, MTS Allstream Inc. became known as two separate entities, namely, MTS Inc. and Allstream Inc.

13. In light of all of the above, the Commission considers that it has never been its policy to mandate that local exchange carriers (LECs) permit SS7 transiting via third-party transit arrangements in Wireless Access Tariffs. Similarly, the Commission considers that it has never established a policy that signalling interconnection via third-party arrangements should represent a default interconnection arrangement between wireless carriers and LECs.
14. While the Commission directed TCC to permit the transiting of signalling traffic via third-party arrangements in Telecom Decision 2010-129, the Commission notes that, in the proceeding leading to that decision, TCC had argued that its tariff wording clearly stated that WSPs were not permitted to access TCC's service via third-party signalling transit arrangements. The Commission further notes that, in that decision, it found that TCC's tariff wording did not prohibit WSPs from using such third-party transit arrangements and, in fact, actually contemplated that WSPs could do so.
15. The Commission therefore determines that it did not commit an error in law in Telecom Order 2013-287, or fail to apply the policy established in past rulings related to signalling transiting via third-party arrangements.
16. The Commission notes that
 - it approved Cochrane's tariff application related to direct network interconnection arrangements with WSPs in Telecom Order 2013-287, and
 - WSPs and LECs are permitted to enter into negotiated arrangements as an alternative to direct interconnection without the need for Commission approval, pursuant to Telecom Regulatory Policy 2012-24.
17. RCP and Cochrane have submitted that they are willing to negotiate a third-party transit arrangement but have been unable to agree on the charges to be paid.
18. The Commission considers that to the extent the parties cannot reach an agreement on a third-party signalling transit arrangement, the default interconnection arrangement between RCP and Cochrane is direct interconnection, pursuant to Cochrane's Wireless Access Tariff rates. However, the Commission also clarifies that direct interconnection tariffed rates should not apply to third-party transit arrangements unless wireless carriers agree to pay these rates for these arrangements.

II. Did the Commission commit an error in fact?

19. RCP submitted that the Commission committed an error in fact because it failed to recognize the distinction between the signalling and voice aspects of the interconnection between a WSP and a small ILEC.
20. Cochrane argued that it is clear that the Commission's discussion of third-party transit arrangements in Telecom Order 2013-287 relates to signalling arrangements. Furthermore, Cochrane submitted that as RCP's review and vary application itself

specifically requests that the Commission vary its decision on signalling interconnection by mandating Cochrane to accept third-party transit arrangements, RCP cannot be confused over whether the Commission was referring to signalling interconnection or voice interconnection.

Commission's analysis and determinations

21. The Commission notes that RCP, in its initial intervention in the proceeding leading to Telecom Order 2013-287, requested that the Commission direct Cochrane to remove the direct interconnection service from its tariff until such time as it provisioned Signalling Transfer Points in its network. RCP then noted that the only means of interconnecting with Cochrane would therefore be via a third-party transit arrangement for the purposes of exchanging signalling information, citing that it already had transit arrangements in place with third-party providers. The Commission therefore considers that it was understood that RCP wanted to establish a third-party transit arrangement with Cochrane in order to exchange signalling information.
22. The Commission considers that the language in Telecom Order 2013-287 in relation to third-party transit arrangements applies equally to both voice and signalling interconnection even though the Commission understood that RCP was seeking interconnection with Cochrane for the purposes of exchanging signalling information only.
23. Therefore, the Commission considers that it did not fail to recognize the distinction between the signalling and voice aspects of the interconnection between RCP and Cochrane, and determines that it did not commit an error in fact in Telecom Order 2013-287.

Conclusion

24. In light of the above, the Commission concludes that RCP has failed to demonstrate that there is substantial doubt as to the Commission's determinations in Telecom Order 2013-287. The Commission therefore **denies** RCP's application to review and vary Telecom Order 2013-287.

Secretary General

Related documents

- *Cochrane Telecom Services – Revisions to Wireless Access Tariff and Carrier Access Tariff regarding network interconnection*, Telecom Order CRTC 2013-287, 13 June 2013
- *Network interconnection for voice services*, Telecom Regulatory Policy CRTC 2012-24, 19 January 2012

- *Revised guidelines for review and vary applications*, Telecom Information Bulletin CRTC 2011-214, 25 March 2011
- *Globalive Wireless Management Corp. – Application for CCS7 transiting arrangements*, Telecom Decision CRTC 2010-129, 4 March 2010
- *MTS Allstream Inc. – Introduction of Wireless Service Provider Enhanced 9-1-1 Service*, Telecom Decision CRTC 2004-70, 4 November 2004
- *Northwestel Inc. – Interconnection services for wireless service providers*, Telecom Order CRTC 2004-330, 30 September 2004