Telecom Decision CRTC 2015-525

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Canadian Independent Telephone Company Joint Task Force – Request for approval of Execulink Telecom Inc.'s Direct Connect service rate as a proxy for use by other small incumbent local exchange carriers

The Commission ***denies*** *the Canadian Independent Telephone Company Joint Task Force's application, in which it requested that small incumbent local exchange carriers be permitted to use the rate approved for Execulink Telecom Inc.'s Direct Connect (DC) service as a proxy for their own DC service rates.*

Background

1. In Telecom Regulatory Policy 2013-160, the Commission considered that costs for the small incumbent local exchange carriers' (ILECs) direct connect (DC) services[1] had most likely declined since the last time rates for these services were approved, in January 2005.[2] Accordingly, the Commission directed each small ILEC to file with the Commission either (a) revised tariff pages for DC service rates reflecting the rate approved for TELUS Communications Company (TCC) in Quebec (TELUS Quebec),[3] or (b) notice that the small ILEC would file for Commission approval tariff pages for DC service in which the proposed rates would be supported by a cost study.

2. Seven small ILECs adopted the TELUS Quebec DC service rate. The other 28 small ILECs notified the Commission that they would propose DC service rates by filing tariff pages with supporting cost studies. On 2 August 2013, Execulink Telecom Inc. (Execulink) was the first small ILEC to file a tariff application and a supporting cost study to update its DC service rate. The remaining 27 small ILECs were permitted to file their applications after the Commission had issued its determinations regarding Execulink's tariff application.

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[1] DC service enables long distance service providers to connect to ILECs and end-customers. DC service rates recover the costs of switching and aggregating long distance traffic at the local switch, which is the point where long distance calls are handed off to the ILEC.

[2] See Telecom Decision 2005-3.

[3] The Commission approved TELUS Quebec's DC service rate of $0.001661 per conversation minute in Telecom Order 2012-312. In Telecom Regulatory Policy 2013-160, the Commission considered that this rate would likely provide a suitable benchmark for the small ILECs' DC service rates.

3. In Telecom Order 2014-499, the Commission approved a DC service rate of $0.002175 per conversation minute for Execulink. Execulink subsequently submitted an application, in which it requested that the Commission review and vary that order.

4. The remaining 27 small ILECs were granted a further extension for the submission of their cost studies pending the Commission's determinations with regard to Execulink's review and vary application.

5. Execulink's application was denied by majority decision in Telecom Decision 2015-215. Consistent with their initial commitment following Telecom Regulatory Policy 2013-160, all but five of the remaining 27 small ILECs subsequently filed proposed DC service rates with supporting cost studies.

Application

6. The Commission received an application, dated 15 June 2015, in which five small ILECs (the applicants), filing collectively through the Canadian Independent Telephone Company Joint Task Force (JTF), requested that, in addition to the two options described in Telecom Regulatory Policy 2013-160, small ILECs also be permitted to use Execulink's DC service rate as a proxy for their own DC service rates.[4] The JTF also submitted that, in the event that the Commission were to deny the application, the applicants reserved the right to re-evaluate their decision not to file their own company-specific proposed rates.

7. The Commission received interventions regarding the JTF's application from Allstream Inc. (Allstream) and TCC. The public record of this proceeding, which closed on 27 July 2015, is available on the Commission's website at www.crtc.gc.ca or by using the file number provided above.

Should small ILECs be permitted to use Execulink's DC service rate as a proxy for their own DC service rates?

8. The JTF noted that the Commission's rationale for selecting TELUS Quebec's DC service rate as a proxy was that (i) TELUS Quebec's rate had been updated recently based on a cost study, (ii) TELUS Quebec operates largely in high-cost serving areas (HCSAs), and (iii) in the absence of current cost information from the small ILECs, TELUS Quebec's DC service rate would likely provide a suitable benchmark for them.

9. The JTF submitted that TELUS Quebec's DC service rate is not an appropriate proxy because the company is not a small ILEC and its operations are not exclusively in HCSAs. Furthermore, it argued that the Commission's conclusion in Telecom Regulatory Policy 2013-160 that costs have "likely" declined over the past ten years,

[4] The applicants, Bruce Telecom, CoopTel, CityWest Cable & Telephone Corp., Groupe Maskatel LP, and Wightman Telecom Ltd., had initially committed to file proposed DC service rates with supporting cost studies following Telecom Regulatory Policy 2013-160.

and that TELUS Quebec's DC service rate would "likely" be a suitable proxy for the small ILECs' DC service rates, was largely speculative. The JTF also submitted that there are significant differences in DC service demand and population densities between the small ILECs and TELUS Quebec. For example, TELUS Quebec's demand for DC service is more than 12 times greater than that of Sogetel inc., the largest small ILEC JTF member.

10. The JTF argued that Execulink's recently approved DC service rate is a more accurate proxy than that of TELUS Quebec because Execulink is a small ILEC, its small ILEC operations are exclusively in HCSAs, and its cost study has provided the Commission with current cost information for a small ILEC. The JTF submitted that the rate should therefore be available for use by other small ILECs as an alternative to both the TELUS Quebec rate and the labour and expense of developing a company-specific DC service rate based on Phase II cost principles.[5]

11. TCC acknowledged that the preparation of cost studies can be burdensome. Nonetheless, it submitted that Telecom Order 2014-499 addressed many of the uncertainties with respect to allowable costs, and that future DC service rate reviews should be completed more smoothly. TCC, along with Allstream, submitted that the fact that 23 small ILECs had already filed cost studies for their DC service rates indicates that doing so is not a significant burden.

12. Allstream submitted that the JTF did not clearly explain why the applicants were unable to propose company-specific DC service rates with supporting cost studies, aside from avoiding the associated labour and expense.

13. Allstream also submitted that Execulink's DC service rate may not be an appropriate proxy because, unlike Execulink, the applicants have contiguous serving areas and higher traffic volumes.

14. The JTF replied that the option to adopt TELUS Quebec's DC service rate was intended to offer a less burdensome regulatory approach, and that reference to an alternative proxy rate would be consistent with the Commission's past decisions to apply a lighter regulatory approach to small ILECs.

15. The JTF submitted that the record associated with Execulink's tariff application clearly demonstrated that Execulink's development of a company-specific DC service rate was an expensive and time-consuming process. The JTF argued that even though small ILECs relied on the Commission's determinations for Execulink in the development of its company-specific DC service rate, the preparation of cost studies was still an expensive undertaking for each of them. The JTF submitted that it may take a significant amount of time for the small ILECs to recover such costs due to low margins on retail and wholesale long distance services.

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[5] The Phase II costing approach is used to calculate the incremental, forward-looking costs causal to the provision of a specific service.

16. The JTF submitted that Execulink's final DC service rate confirms that TELUS Quebec's DC service rate would have been an inappropriately low proxy that would not have enabled Execulink to recover its own DC service costs. The JTF also noted that the lowest company-specific DC service rate proposed by a small ILEC is higher than TELUS Quebec's DC service rate, and that the average of the 22 small ILECs' proposed DC service rates is higher than Execulink's final DC service rate. In light of this, the JTF considered that Execulink's DC service rate would represent a conservative and appropriate proxy for the small ILECs that chose not to file cost studies.

Commission's analysis and determinations

17. Section 27(1) of the *Telecommunications Act* states that every rate charged by a Canadian carrier for a telecommunications service shall be just and reasonable. In this instance, with regard to the DC service rate, the Commission considers that the most accurate means of determining whether a company's DC service rate is just and reasonable is on the basis of that company's Phase II costs, supported by a cost study.

18. Notwithstanding the above, it has been the Commission's general practice to impose less stringent regulatory requirements on small ILECs than on their larger ILEC counterparts, given their size and limited resources. Consistent with this approach, when the Commission determined that DC service rates should be revised in Telecom Regulatory Policy 2013-160, the Commission gave special consideration to all small ILECs by providing two options for how DC service rates should be revised. All small ILECs, with the exception of the applicants, adopted one of these options.

19. The majority of small ILECs, including some much smaller in size than the applicants, filed cost studies in support of their proposed rates, which indicates that preparing cost studies for DC service is not as burdensome as claimed by the applicants. The Commission considers that the fact that seven small ILECs chose to adopt TELUS Quebec's DC service rate indicates that this rate is a reasonable proxy for at least some of the small ILECs.

20. In Telecom Order 2014-499, the Commission approved costs for Execulink's DC service that were unique to the company. The Commission considers that the JTF submitted minimal evidence to demonstrate that Execulink's DC service rate was in fact reflective of the applicants' actual costs.

21. Further, the applicants have failed to demonstrate why they should be provided with additional special consideration beyond what was already provided to all small ILECs as set out in Telecom Regulatory Policy 2013-160.

22. In light of the above, there is no reason why the applicants should not be required to file proposed DC service rates with supporting cost studies, consistent with their initial commitment following Telecom Regulatory Policy 2013-160.

23. Accordingly, the Commission **denies** the JTF's application. Further, the Commission **directs** Bruce Telecom, CoopTel, CityWest Cable & Telephone Corp., Groupe

Maskatel LP, and Wightman Telecom Ltd. to file for Commission approval, within **30 days** of the date of this decision, proposed tariff pages for their DC service rates, supported by cost studies.

Secretary General

Related documents

- *Execulink Telecom Inc. – Application to review and vary Telecom Order 2014-499 regarding the company's Direct Connect service rate*, Telecom Decision CRTC 2015-215, 25 May 2015
- *Execulink Telecom Inc. – Revision to Direct Connect service rate*, Telecom Order CRTC 2014-499, 26 September 2014
- *Regulatory framework for the small incumbent local exchange carriers and related matters*, Telecom Regulatory Policy CRTC 2013-160, 28 March 2013
- *TELUS Communications Company – Revised toll interconnection service rates in Quebec*, Telecom Order CRTC 2012-312, 29 May 2012
- *Direct toll and network access costing methodology for small incumbent local exchange carriers – Follow-up to Decision 2001-756*, Telecom Decision CRTC 2005-3, 31 January 2005