



Telecom Decision CRTC 2016-355

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Ottawa, 2 September 2016

File number: 8661-S4-201602400

Sogetel inc. – Application to use TELUS Communications Company in Quebec’s Direct Connect service rate and to withdraw Sogetel inc.’s Tariff Notice 175 and Téléphone Milot inc.’s Tariff Notice 80

*The Commission **denies** an application from Sogetel inc. (Sogetel) to use TELUS Communications Company in Quebec’s Direct Connect service rate and to withdraw Sogetel’s Tariff Notice 175 and Téléphone Milot inc.’s Tariff Notice 80. The Commission **directs** Sogetel to reply, within **30 days** of the date of this decision, to Commission staff’s request for information dated 22 October 2015.*

Background

1. In Telecom Regulatory Policy 2013-160, the Commission determined that costs for the small incumbent local exchange carriers’ (ILECs) direct connect (DC)¹ service had declined since they were first established in Telecom Decision 2005-3. The Commission therefore directed each small ILEC to file with the Commission, within 90 days of the date of that decision, revised tariff pages for DC service reflecting the rate of \$0.001661 per conversation minute charged by TELUS Communications Company (TCC) in its serving territory in Quebec (TCC in Quebec)² or notice that the small ILEC would file for Commission approval a revised rate for its DC service, supported by a cost study.
2. Seven small ILECs (namely Amtelecom Limited Partnership; DMTS; KMTS; NorthernTel, Limited Partnership; Ontera; People’s Tel Limited Partnership; and TBayTel) filed applications to revise their DC service rates to reflect the rate approved for TCC in Quebec. These applications were approved on a final basis in Telecom Decision 2013-594.

¹ DC service enables a long distance service provider to connect to the ILEC and to the end-user. It involves a point where toll calls are handed off to the competitor and, in the case of DC service, this is done at the local switch. DC service charges recover the costs of switching and aggregating toll traffic at the local switch.

² This rate was approved in Telecom Decision 2012-312.

3. The other 28 small ILECs (including Sogetel inc. [Sogetel] and the former Téléphone Milot inc. [Milot]) informed the Commission that they would propose their own DC service rates by filing tariff pages, supported by cost studies. On 22 June 2015, the Commission received proposed rates, supported by cost studies, for 22 of 27 small ILECs,³ including those for Sogetel and Milot.
4. Specifically, the Commission received proposed rates from Sogetel and Milot through Tariff Notices 175 and 80 (TNs 175 and 80), respectively. On 1 October 2015, Sogetel and Milot revised their proposed rates in response to comments from Allstream Inc. and Bell Canada regarding costs.
5. In a letter dated 22 October 2015, Commission staff requested that the 22 small ILECs that had filed proposed rates supported by cost studies, including Sogetel and Milot, provide additional information on their supporting costs by 8 December 2015. On 8 December 2015, Sogetel and Milot informed the Commission that they would be unable to provide the requested information due to the upcoming merger of their companies. Sogetel and Milot merged on 1 January 2016.

Application

6. The Commission received an application from Sogetel, dated 7 March 2016, in which the company requested permission to withdraw TNs 175 and 80, as well as the cost studies supporting the two companies' proposed rates for their respective DC services. Sogetel requested that the Commission approve the company's use of the rate approved for TCC in Quebec to replace these rates.
7. Sogetel indicated that due to a lack of resources, Sogetel and Milot had been unable to produce, within the prescribed time frames, the information requested by Commission staff in its letter dated 22 October 2015.
8. Sogetel submitted that its application should be accepted for the following reasons:
 - the conservation of separate proposed rates for Sogetel and Milot and the continuation of their respective analyses are no longer necessary since the two rates will have to be harmonized due to the merger of the two companies;
 - due to the merger of the two companies, the cost studies filed with TNs 175 and 80 are no longer valid, and an update to the costing information in order to respond to the 22 October 2015 request for information would require significant resource investment;

³ On 15 June 2015, the other five small ILECs requested to use Execulink Telecom Inc.'s DC service rate (which the Commission approved in Telecom Order 2014-499 and reconfirmed in Telecom Decision 2015-215) as a proxy for their own DC service rates, in addition to the two options offered in Telecom Regulatory Policy 2013-160, thereby delaying the filing of their proposed rates.

- the submission of new cost studies that reflect Sogetel and Milot's new situation would require a process lasting several months and draw upon significant resources from Sogetel, interveners, and the Commission. This update does not represent the least intrusive and the least onerous solution possible, consistent with the Policy Direction;⁴ and
 - the adoption of the rate approved for TCC in Quebec is more effective and would not result in prejudice against those who must pay it, since the Commission has already determined the rate to be valid.
9. The Commission received an intervention regarding Sogetel's application from Bell Canada. The public record of this proceeding, which closed on 18 April 2016, is available on the Commission's website at www.crtc.gc.ca or by using the file number provided above.

Positions of parties

10. Bell Canada submitted that the Commission should deny Sogetel's application and direct the company to revise its cost studies as requested by Commission staff, taking into account the effect of the merger of Sogetel and Milot. Specifically, Bell Canada indicated that
- Sogetel's application was submitted long after the period granted to the small ILECs in Telecom Regulatory Policy 2013-160 to choose between using the rate approved for TCC in Quebec and filing company-specific rates, supported by cost studies;
 - Sogetel and Milot proposed rates specific to their companies rather than adopting the rate approved for TCC in Quebec. Telecom Regulatory Policy 2013-160 does not allow the small ILECs to change their initial choice;
 - the rate approved for TCC in Quebec would not be just and reasonable for the merged Sogetel, or for Sogetel and Milot separately, because it would be too high. Bell Canada specified that the effect of the merger of Sogetel and Milot on their DC service costs, as well as the application of the adjustments requested by Commission staff, would result in rates that are lower than the one approved for TCC in Quebec; and
 - in denying Sogetel's application, the Commission would avoid giving Sogetel preferential treatment with respect to the other small ILECs that either filed rates supported by cost studies or used the rate approved for TCC in Quebec, as allowed in Telecom Regulatory Policy 2013-160.

⁴ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

Commission's analysis and determinations

11. Subsection 27(1) of the *Telecommunications Act* states that every rate charged by a Canadian carrier for a telecommunications service must be just and reasonable. In this regard, the most accurate method to determine whether a company's DC service rate is just and reasonable is to base it on the company's costs, supported by a cost study.
12. Notwithstanding the preceding, the Commission generally imposes less strict regulatory requirements on the small ILECs than on the large ILECs because of their size and limited resources. Consistent with this approach, when the Commission determined in Telecom Regulatory Policy 2013-160 that the small ILECs' DC service rates should be reviewed, it paid particular attention to all the small ILECs by offering them two options for how their DC service rates should be revised.
13. Sogetel and Milot have already chosen and proposed rates supported by their specific costs. Sogetel and Milot's cost calculation models and methods are now developed and being studied by the Commission. Regarding the merger of Sogetel and Milot, Sogetel did not file sufficient evidence to demonstrate (i) the magnitude of the burden resulting from an update to the costs to reflect the merger or to respond to Commission staff's request for information, (ii) the lack of resources required to continue the TN 175 and 80 process once the merger was complete, and (iii) the reason why it should benefit from particular attention in addition to that already offered to all the small ILECs pursuant to Telecom Regulatory Policy 2013-160.
14. In light of the above, there is no justification to end the tariff approval process already initiated by TNs 175 and 80, which is consistent with Sogetel's and Milot's initial commitment pursuant to Telecom Regulatory Policy 2013-160, the result of which will be the establishment of rates based on the companies' costs.
15. Regarding Sogetel's comment that Sogetel's and Milot's DC service rates would eventually be harmonized due to the merger of the two companies, the Commission has deemed it acceptable in the past for ILECs to maintain separate rates after merging with other ILECs. In the present case, considering the timing of the merger and the small difference between each company's proposed rate, a single DC service rate would be an acceptable option.

Conclusion

16. In light of the above, Sogetel's and Milot's DC service rate(s) should be established based on Sogetel's and Milot's costs and not on the rate approved for TCC in Quebec. The Commission **denies** Sogetel's application and **directs** the company to respond, within **30 days** of the date of this decision, to Commission staff's request for information dated 22 October 2015.

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*
- *Direct connection service rates for certain small incumbent local exchange carriers, Telecom Decision CRTC 2013-594, 7 November 2013*
- *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*