



## Telecom Order CRTC 2006-183

Ottawa, 18 July 2006

### Bell Canada

Reference: Tariff Notice 6948

#### Changes to Competitor Digital Network Service tariff

1. The Commission received an application by Bell Canada, dated 15 May 2006, proposing revisions to its Access Services Tariff (AST), item 130, Competitor Digital Network (CDN) Services.
2. Bell Canada submitted that its proposed revisions were required to improve the clarity of its CDN service tariff, to reflect *Competitor Digital Network Services*, Telecom Decision CRTC 2005-6, 3 February 2005, as amended by Telecom Decision CRTC 2005-6-1 dated 28 April 2006 (Decision 2005-6), and to reflect a Commission staff letter dated 10 May 2005 (10 May Commission staff letter) to parties to the proceeding begun by *Competitor Digital Network Access service proceeding*, Telecom Public Notice CRTC 2002-4, 9 August 2002.

#### Background

3. In Decision 2005-6, the Commission approved rates and terms for the CDN service of the major incumbent local exchange carriers (ILECs). This service replaced the ILECs' Competitor Digital Network Access (CDNA) service, which made certain digital network access facilities available as a Competitor Service on an interim basis between 1 June 2002 and 2 February 2005. The Commission approved rates and terms for these access facilities on a final basis. It also approved, effective 3 February 2005, CDN service rates for ILEC facilities and functionalities that had not been available as part of the CDNA service: additional access facilities, intra-exchange facilities, channelization facilities for a competitor that was not co-located in a given ILEC wire centre and certain metropolitan interexchange facilities. To date, competitors have migrated circuits leased under other Bell Canada tariffs to the CDN service tariff without the payment of termination charges.
4. In Decision 2005-6, the Commission also directed the ILECs to file, within 30 days of the date of that Decision, their deferral account draw-down estimates associated with the CDN service approved in that Decision. In the 10 May Commission staff letter, competitors were required to provide CDN-eligible demand information to the appropriate ILEC by 27 June 2005, and the date by which ILECs were to file their deferral account draw-down estimates associated with Decision 2005-6 was extended to 27 July 2005.

#### The application

5. Bell Canada proposed to specify in item 130.3(c) of its AST that, when a customer was newly co-located in a serving wire centre, Bell Canada would re-rate all existing CDN central office channelizing services within that serving wire centre in accordance with its retail tariff (channelization term).

6. Bell Canada proposed to include in item 130.3(h) of its AST a term providing that, if a competitor submitted a list of circuits for migration from other Bell Canada service tariffs to the CDN service tariff on or before 27 June 2005, CDN service rates would apply as of 3 February 2005 without termination charges, provided the arrangement did not require modification to meet the terms of the CDN service tariff (notification term). Bell Canada also proposed to include in item 130.3(h) of its AST a term providing that "Those circuits submitted after 27 June 2006 will be subject to contract termination charges as per the specific services' tariff, in addition to the applicable CDN service charges" (termination charge term).
7. Finally, Bell Canada proposed to add item 130.3(p) to its AST, which would provide that each channel within a multi-channel CDN service component must comply with the prohibition on simple resale of the CDN service (simple resale term).

#### **Process**

8. MTS Allstream Inc. (MTS Allstream) filed comments on 15 June 2006. Bell Canada filed reply comments on 23 June 2006.

#### **Positions of parties**

9. MTS Allstream opposed Bell Canada's proposed changes to its CDN service tariff and submitted that the proposed terms were not supported by Decision 2005-6 or the 10 May Commission staff letter.
10. MTS Allstream argued that Bell Canada's channelization term was unnecessary because its tariff already provided that CDN central office channelization is available only in a serving wire centre if the competitor is not co-located in that wire centre. MTS Allstream objected to Bell Canada's notification term on the basis that various activities (e.g. confirmation by Bell Canada that circuits were CDN-eligible) would have to take place after 27 June 2005. MTS Allstream also submitted that, subsequent to 27 June 2005, the Commission clarified certain determinations with respect to CDN service eligibility. MTS Allstream also argued that Bell Canada's simple resale term was unnecessary because it would repeat the existing tariff prohibition on simple resale.
11. In its reply, Bell Canada argued that its proposed channelization term responded to requests from customers for increased tariff clarity, and that this term would minimize costs associated with customer inquiries.
12. With respect to its notification term, Bell Canada argued that MTS Allstream's CDN service tariff contained an almost identical provision, except that Bell Canada's proposed term was less restrictive than MTS Allstream's tariff item. Bell Canada submitted further that it had selected 27 June 2005 as the date by which notification of migration was to be provided because it was the date set out in the 10 May Commission staff letter for the identification by competitors to the ILECs of CDN-eligible demand.
13. With respect to its simple resale term, Bell Canada argued that this proposed term responded to requests from customers for increased tariff clarity due to differences in practices among ILECs. In this regard, Bell Canada noted that under its proposal both CDN and non-CDN

circuits could be terminated on a CDN channelized component as long as the non-CDN circuits were not used for simple resale. Bell Canada submitted that this was less restrictive than the CDN service tariff of TELUS Communications Company, which provides that all such circuits were to be CDN-eligible.

#### **Commission's analysis and determinations**

14. The Commission notes that Bell Canada's proposed channelization term reflects the Commission's determinations in Decision 2005-6 with respect to the provision of channelization as a component of the CDN service, and considers that its inclusion in Bell Canada's CDN service tariff would enhance the clarity of that tariff. The Commission therefore considers that Bell Canada's proposed channelization term should be approved. The Commission also considers that Bell Canada's proposed simple resale term is appropriate and would enhance the clarity of its CDN service tariff.
15. With respect to Bell Canada's notification term, the Commission notes that Decision 2005-6 did not specify a date by which competitors were to notify the ILECs of their wish to migrate circuits leased under other service tariffs to the CDN service. The Commission considers, however, that Bell Canada's proposed term is consistent with the Commission's determination in Decision 2005-6 to compensate Bell Canada from its deferral account for lost revenue due to the migration of retail services used by competitors to the CDN service approved in that Decision and with the dates set out in the 10 May Commission staff letter.
16. With respect to MTS Allstream's submission that various confirmation activities would occur after the proposed 27 June 2005 deadline, the Commission notes that the relevant date (that is, on or before 27 June 2005) for the application of CDN service rates as of 3 February 2005 would remain the date the list was provided to Bell Canada. The Commission also notes that MTS Allstream's own CDN service tariff contains a comparable term with the same dates. With respect to MTS Allstream's submission that the Commission clarified certain service eligibility requirements after June 2005, the Commission notes that its determinations in *Rogers Telecom Holdings Inc. – Application with respect to Competitor Digital Network Access service*, Telecom Decision CRTC 2006-8, 15 February 2006, related to the eligibility of certain circuits for CDNA, not the CDN service. The Commission also notes that Bell Canada's proposed notification term would not apply to these CDNA circuits because its CDN tariff provides that CDNA circuits are migrated to the CDN service without notification. The Commission therefore considers that Bell Canada's proposed notification term should be approved.
17. The Commission notes that, to date, Bell Canada has not applied termination charges with respect to services migrated to the CDN service. With respect to Bell Canada's termination charge term, the Commission notes that competitors have been in a position since 3 February 2005 to determine if they wish to obtain service under Bell Canada's CDN service tariff or under its other service tariffs. The Commission therefore agrees that it would be appropriate for Bell Canada to apply termination charges in respect of other services leased by a competitor when that competitor subsequently wishes to avail itself of the CDN service tariff.

18. The Commission considers, however, that Bell Canada should notify its CDN service customers of item 130.3(h) of its AST by posting this item on its website within seven days of the date of this Order. The Commission further considers that Bell Canada's proposed date of 27 June 2006 (by which competitors would provide Bell Canada with a list of circuits to be migrated to the CDN service without the application of termination charges) should be amended to 11 August 2006 to reflect the time required for this posting after the issuance of this Order. Finally, the Commission considers that, for greater clarity, Bell Canada should amend the last sentence of item 130.3(h) of its AST to read: "Those services leased under other service tariffs that are submitted for migration to the CDN service tariff after 11 August 2006 will be subject to contract termination charges as per the specific services' tariff, in addition to the applicable CDN service charges."
19. In light of the above, the Commission **approves** Bell Canada's application with the modifications set out in the preceding paragraph. The Commission therefore directs Bell Canada to issue revised tariff pages reflecting the Commission's determinations in this Order and to notify its CDN service customers of item 130.3(h) of its AST by posting this item, amended as set out in the preceding paragraph, in an appropriate location on its website within seven days of the date of this Order.

Secretary General

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