



Telecom Decision CRTC 2006-14

Ottawa, 29 March 2006

Revised regulatory framework for the small incumbent local exchange carriers

Reference: 8663-C12-200509846

In this Decision, the Commission extends, with minor modifications, the simplified price regulation regime established for the small incumbent local exchange carriers (SILECs) in Regulatory framework for the small incumbent telephone companies, Decision CRTC 2001-756, 14 December 2001, for a period of four years. The Commission also approves the continued use of the rates for direct connect, equal access and toll trunks established in 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, but directs that these rates be applied to actual minutes and toll trunks. In addition, the Commission permits local competition in the territories of all SILECs, effective immediately.

Background

1. There are currently 38 small incumbent local exchange carriers (SILECs) in Canada, which are listed in Attachment 1 to this Decision. Most are dispersed throughout Ontario and Quebec, with one located in British Columbia. These SILECs serve less than 2 percent of the Canadian population in generally rural areas, and almost all have less than 25,000 subscribers.
2. In *Regulatory framework for the small incumbent telephone companies*, Decision CRTC 2001-756, 14 December 2001 (Decision 2001-756), the Commission established a simplified price regulation framework applicable to the SILECs. This framework came into effect in 2002 for a period of four years.
3. Local exchange services were grouped into four baskets of services. Each basket had pricing constraints tailored to meet the circumstances of the relevant services. Prices were permitted to change provided the SILEC demonstrated that the constraints had been met.
4. The SILECs' subsidy requirements were based on the new contribution mechanism¹ established in *Changes to the contribution regime*, Decision CRTC 2000-745, 30 November 2000 (Decision 2000-745). A four-year transition period was established to reduce the financial impact on those SILECs that would receive less subsidy under the new contribution mechanism than they had previously received.
5. For the purpose of determining a SILEC's interconnection revenues, the Commission was unable to determine an appropriate methodology based on the record of the proceeding leading to Decision 2001-756. Consequently, the Commission froze the direct toll (DT) and network access costs and rates at the 2001 levels and made the corresponding rates interim in Decision 2001-756.

¹ On 1 January 2002, the Commission introduced a new subsidy requirement calculation to ensure that the contribution regime provided an appropriate amount of subsidy to maintain affordable primary exchange service in high-cost serving areas.

6. In *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 (Decision 2005-3), the Commission replaced the majority of the SILECs' DT rates with a direct connection (DC) rate, an equal access (EA) charge, and trunking tariffs for the facilities used to interconnect an interexchange carrier's (IXC) point of interconnection with a SILEC's switch. For Ontera, NorthernTel, Limited Partnership (NorthernTel) and Cochrane Telecom Services (Cochrane), the Commission finalized their DC and EA rates that had been made interim in Decision 2001-756.
7. Decision 2001-756 stipulated that a review of the price regulation regime would be initiated in the fourth year of the price regulation period.
8. On 29 July 2005, the Commission received a submission from the Canadian Independent Telephone Company Joint Task Force (CITC Joint Task Force) which included a proposal for establishing the SILECs' next regulatory regime. The CITC Joint Task Force represented the 39 SILECs in Canada. The CITC Joint Task Force was comprised of the Association des Compagnies de Téléphone du Québec inc., the Ontario Telecommunications Association, the Canadian Alliance of Publicly-Owned Telecommunications Systems (CAPTS), the Société d'administration des tarifs d'accès des télécommunicateurs, and NorthernTel.
9. In *Review of regulatory framework for the small incumbent local exchange carriers*, Telecom Public Notice CRTC 2005-10, 19 August 2005 (Public Notice 2005-10), the Commission invited comments on establishing a new regulatory framework for the SILECs that would go into effect in 2006 and incorporated the CITC Joint Task Force's 29 July 2005 submission into the proceeding.

Process

10. On 17 October 2005, the SILECs filed their responses to the interrogatories from the Commission, Bell Canada and TELUS Communications Inc. (TELUS).
11. On 7 November 2005, Bell Canada, the Canadian Cable Telecommunications Association (the CCTA), the Public Interest Advocacy Centre (PIAC) and Shaw Communications Inc. (Shaw) filed comments. On 8 November 2005, TELUS filed comments.
12. On 21 November 2005, the SILECs, Bell Canada and PIAC filed reply comments. On 2 December 2005, Bell Canada filed further comments in reply to the SILEC's 21 November 2005 reply comments.

Overview

13. The SILECs proposed extending the frameworks established in Decision 2001-756 and Decision 2005-3, with minor modifications, for the next four years. The SILECs also proposed a staged approach to the introduction of local competition in their territories. An additional proposal was made by CAPTS with respect to the calculations to be used to determine the subsidy requirements for the municipally-owned, tax-exempt companies.

14. TELUS generally supported the SILECs' proposal to extend the frameworks, but only for a two-year period. Bell Canada proposed bringing the SILECs' next regulatory regime more in line with that of the large incumbent local exchange carriers (ILECs) and reducing the SILECs' interconnection rates and revenues.
15. The CCTA's and Shaw's comments primarily dealt with ensuring that the Commission established a level playing field for local competition in the SILECs' territories. PIAC requested that the Commission establish adequate price protection for consumers of the SILECs.
16. In establishing the new regulatory framework for the SILECs, the Commission has been guided by the following objectives: (1) balancing the interests of the three main stakeholders in the telecommunications markets (i.e. customers, competitors and incumbent telephone companies); (2) providing a transition to local competition; (3) ensuring that the SILECs' customers continue to have access to reliable, innovative and affordable services; (4) providing the SILECs with incentives to increase efficiencies and be more innovative; and (5) adopting a regulatory approach that imposes minimum regulatory burden on the SILECs, compatible with the achievement of the previous four objectives.
17. The components of the SILECs' regulatory framework are set out in this Decision as follows:
 - i) General framework;
 - ii) Calculation of subsidy;
 - iii) Calculation of interconnection revenues;
 - iv) Local competition; and
 - v) Other matters.

General framework

18. In this section, the following issues are discussed: (1) basic components of the pricing constraints; (2) basket design and pricing constraints; (3) treatment of credits for unused rate increases; (4) length of the regulatory regime; and (5) filing requirements.

Basic components of the pricing constraints

19. In Decision 2001-756, the Commission established an inflation factor and an exogenous factor as components for the price constraints for the First and Second Baskets. The Commission did not establish a productivity offset for any of the baskets.
20. The Commission directed the SILECs to use the national Gross Domestic Product - Price Index (GDP-PI) as the measure of inflation.

21. The Commission determined that an exogenous factor adjustment would be considered for events that satisfied the following criteria:
 - a) they were legislative, judicial or administrative actions which are beyond the control of the company;
 - b) they were addressed specifically to the telecommunications industry; and
 - c) they had a material impact on the company.
22. The Commission also determined that the actual financial impact should be used to measure the exogenous factor, where available, and that it be determined on a company-wide basis and assigned on a cost-causal basis between capped and other services.
23. In determining that no productivity offset would be implemented, the Commission took into consideration the SILECs' cost structures and the fact that they would be receiving less subsidy under the framework established in Decision 2001-756. The Commission stated, however, that the application of a productivity factor would be revisited during the regulatory framework review.

Positions of parties

24. Parties proposed no changes regarding the inflation and exogenous factor components. Several parties suggested that the productivity offset component should be included as a component of the SILECs' next price regulation regime. Parties' views varied, however, on what would be an appropriate productivity offset level.
25. The SILECs proposed that a variable productivity offset factor be applied solely to the First and Second Baskets of services (i.e. residential and business primary exchange service (PES)) set equal to the rate of inflation in each year of the regulatory regime.
26. The SILECs argued that productivity opportunities were limited, if not non-existent, for them. The SILECs were of the view that productivity gains would continue to assist them in providing the high level of quality service currently provided to their customers.
27. TELUS agreed with the SILECs' proposal to set the annual productivity factor equal to the annual inflation factor. TELUS noted that under the SILECs' proposal, in the absence of any exogenous adjustments, the SILECs would not be able to raise prices for any residential or business PES local service.
28. Bell Canada and PIAC proposed that a productivity offset should be set and applied to the SILECs in the same manner as was the case for the large ILECs. Both parties argued that the SILECs' new regime should include some expectation of efficiency improvements.
29. Bell Canada considered that each SILEC should use the same productivity offset as currently applied to the large ILECs (3.5 percent), unless a SILEC could demonstrate that its operating circumstances were sufficiently different from those of the large ILECs to warrant a company-specific productivity factor.

30. PIAC was of the view that the difference between the inflation factor and the productivity offset should be reflected through direct rate reductions to the SILECs' customers.
31. In reply, the SILECs noted the application of a productivity offset of 3.5 percent would inappropriately assume that the SILECs shared the same capacity to achieve productivity gains as did the large ILECs. The SILECs submitted that there was no evidence on the record to support a level of 3.5 percent.

Commission's analysis and determinations

32. The Commission notes that no party to this proceeding objected to the inflation and exogenous factor methodologies set out in Decision 2001-756. Accordingly, the Commission will continue to use the methodologies established in Decision 2001-756 to determine the inflation and exogenous factors as part of the SILECs' next regulatory framework.
33. With respect to the issue of a productivity offset, the Commission considers that there is no evidence on the record of this proceeding to support the appropriateness of an explicit productivity offset of 3.5 percent for the SILECs.
34. The Commission notes that the SILECs have an excellent record for high quality of service (Q of S) to its customers. The Commission also notes that the SILECs offer a variety of telecommunications services that are comparable in price and service offerings to those offered elsewhere in Canada. The Commission considers that, due to their relative size and the type of territory they serve (i.e. primarily high-cost serving areas (HCSAs)), the SILECs may not be able to achieve a fixed productivity level without affecting their ability to serve their customers and maintain their capacity to modernize their network and operations.
35. The Commission notes that the majority of the SILECs will receive less subsidy during the next regulatory regime based on the determinations in this Decision with respect to the SILECs' subsidy calculation. The Commission has also determined not to establish a transition period for the SILECs associated with any impact resulting from a loss in subsidy. The Commission considers it appropriate to allow the SILECs to use any productivity gains to help offset the loss of subsidy.
36. Based on the above, the Commission considers that it would be inappropriate to mandate a fixed productivity offset as part of the SILECs' next regulatory framework. The Commission considers, however, that it may be appropriate to review the implementation of a productivity factor at the end of the next regulatory regime.
37. Accordingly, the Commission determines that no explicit productivity offset will be established for the SILECs in their next regulatory regime.

Basket design and pricing constraints

38. In Decision 2001-756, the SILECs' local exchange services were grouped into four separate baskets, each with their own pricing constraints. Prices for services within each basket were permitted to increase or decrease provided that they conformed to the pricing constraints for that basket.

39. The First Basket comprised residential PES, both single-line and party-line, including all mandatory local exchange services such as touch-tone service. Rates for each of these services were permitted to increase each year by no more than inflation, in the absence of any exogenous factors. Where a SILEC's monthly residential PES rate was below \$22.75, the SILEC was permitted to increase rates by no more than \$4 per year to reach \$22.75. This rate increase was over and above the increases allowable for this basket of services.
40. The Second Basket comprised business PES for single-line, multi-line and party-line, including mandatory local exchange services. Rates for each of these services were permitted to increase each year by no more than inflation, in the absence of any exogenous factors. In addition, the Commission allowed the SILECs to increase their monthly business PES rates to a minimum of \$22.75.
41. The Third Basket comprised 9-1-1 service, message relay service (MRS) and toll restriction. The Commission considered it appropriate to freeze these services at the existing tariffed rates. This was based on the same policy reasons enunciated in *Price cap regulation and related issues*, Telecom Decision CRTC 97-9, 1 May 1997 (Decision 97-9).² In Decision 2001-756, the Commission stated that it would give expedited treatment of a SILECs' tariff filing where the proposed rate was a pass-through of an already approved ILEC rate.
42. The Fourth Basket comprised all other exchange services offered by the SILECs, such as optional services, multi-element service categories, special facilities tariffs (SFTs), support structure tariffs and competitor access tariffs, if applicable. Rates for these services were generally allowed to increase up to any already approved rate for the same service. For proposed rate increases that were more than previously approved rates, an economic study was required to accompany the application.

Positions of parties

43. The SILECs proposed that the basket structure and the pricing constraints continue to apply, modified only by the introduction of a variable productivity offset on the PES baskets (i.e. First and Second Baskets).
44. TELUS agreed with the SILECs' proposal. TELUS further submitted that a fifth basket of services and associated pricing methodology for competitor services might be appropriate if the Commission permitted local competition in the SILECs' territories.
45. Bell Canada proposed that a fifth basket of competitor services be established under the same pricing principles, terms and conditions as for the large ILECs. Bell Canada indicated that this basket of services should include unbundled local loops by band, digital subscriber line (DSL) service by band and interconnection tariffs for local exchange carriers (LECs) and that the rates should be set based on Phase II costs plus a 15 percent mark-up. Bell Canada submitted that the rates for these services should then be subject to an individual rate element constraint of inflation minus productivity (I-X). Bell Canada, in addition, proposed that certain competitor services should be capped at their existing rate levels.

² In Decision 97-9, the Commission noted that 9-1-1 service and MRS were generally rated on the basis of Phase II costs and a mark-up which reflected the nature of these services. Given the manner in which the rates for these services had been determined and the nature of these services, the Commission considered it appropriate to freeze these rates.

46. PIAC noted that residential PES rates charged by the SILECs were almost equivalent to rates paid by large ILEC customers. PIAC raised concerns with the possibility of continuing escalation of those rates and that customers might not be able to access services of the SILECs due to affordability concerns. PIAC suggested that both concerns must be addressed, at a minimum, by an effective cap on SILEC residential rates that encouraged reasonable and achievable productivity gains.

Commission's analysis and determinations

Residential and business PES categories (i.e. First and Second Baskets)

47. Prior to Decision 2001-756, many SILECs' local rates were well below those of the large ILECs. The Commission notes that, under the current framework, the SILECs have been permitted to make rate increases to residential and business services during the last four years. These rates have also increased to allow the SILECs to recover costs associated with Commission-approved service improvement plans (SIPs) and to offset reductions in the SILECs' contribution and DT revenues. As a result, most of the SILECs' residential and business rates are comparable to those charged by large ILECs for the same service.
48. The Commission notes that, as discussed later in this Decision, local competition will be permitted in the residential and business PES markets in the SILECs' territories. The Commission considers, however, that competitive entry could be limited in certain territories and that market forces alone may not be sufficient to discipline the SILECs' prices for residential and business local exchange services.
49. The Commission considers that the SILECs' variable productivity factor proposal would be better characterized as a proposal to cap residential and business rates at current levels, in the absence of any exogenous factor and/or unused rate increase credits, during the next regulatory regime. In light of the rate increases, many of them significant in nature, that the SILECs' customers have experienced over the last four years, the Commission considers that this approach would provide the SILECs' customers with some relief from continued rate increases to these services.
50. Accordingly, the Commission caps the SILECs' rates for services in the residential and business PES baskets at existing levels, except for the use of unused rate increase credits to be discussed below, during the next regulatory regime.

Services with frozen rates (i.e. Third Basket)

51. The Commission notes that where a SILEC does not provide the service themselves, the SILEC pays the large ILEC's approved frozen tariffed rate for the service when the ILEC provides that service for them (i.e. 9-1-1 service, MRS and toll restriction). The Commission also notes that it would have already reviewed the costing information and balanced any policy objectives in arriving at the ILEC's approved rate.
52. Accordingly, the Commission retains the expedited treatment of a SILEC's tariff filing for services in this basket where the proposed rate is a pass-through of an already approved rate for an ILEC, as established in Decision 2001-756.

Other services (i.e. Fourth Basket)

53. The Commission notes that over the last four years the vast majority of SILECs who requested a rate increase to a service in the Fourth Basket chose to adopt a tariff rate already approved by the Commission, rather than file a Phase II cost study. In addition, the Commission notes that several of the SILECs that applied for rate increases chose not to increase their rates as high as already approved ILEC rates. The Commission considers rate increases to services in this basket have been reasonable and that the SILECs' customers have been adequately protected under the pricing rule established in Decision 2001-756.
54. In light of the above, the Commission concludes that rates for services in the Fourth Basket will be allowed to increase up to any rate approved by the Commission for the same service, as established in Decision 2001-756. In addition, an economic (Phase II) study must accompany an application to support proposed rate increases over and above an approved ILEC rate.
55. Regarding the proposal by Bell Canada and TELUS to establish a fifth basket of services, the Commission notes that the majority of the SILECs do not have tariffs for competitor services. The Commission also notes that, as outlined later in this Decision, the SILECs will be required to file tariffs for competitor services only when a *bona fide* request has been received. Accordingly, the Commission considers that it would be premature to establish a fifth basket of services and any associated basket constraint as part of the SILECs' next regulatory regime. Accordingly, the Commission denies the request to establish a fifth basket for competitor services.

Treatment of credits for unused rate increases

56. Based on the framework established in Decision 2001-756, the unused rate increase credits for any given year were accumulated and could be requested any time during the four year period within the specified annual constraints.

Positions of parties

57. The SILECs proposed that for the duration of the new framework period, opportunities to increase local PES rates should be limited to any unused rate increases reported in each SILECs' annual filing and exogenous events, such as the reductions in DT revenues in excess of 35 percent, as established in Decision 2005-3. The SILECs further proposed that any SILEC whose PES rates continued to be below the national average monthly rate of \$22.75 would also be permitted to increase PES rates to that rate. The SILECs submitted that the maximum cumulative increase in any one year should continue to be limited to \$4, as prescribed in Decision 2001-756.
58. Bell Canada and PIAC were of the view that the cumulative rate increases should be time-limited, but did not specify when they should expire.

Commission's analysis and determinations

59. The Commission notes that it has encouraged the SILECs to raise residential and business rates and move them closer to their costs. However, several of the SILECs continue to charge residential service rates below the rates for similar services charged by the large ILECs in similar bands. The Commission considers that if the total unused SILEC rate increase credits were used by the SILECs, their rates would continue to be reasonable and would remain comparable to neighbouring HCSA exchange rates elsewhere in Canada for the same service.
60. The Commission considers that carrying forward unused rate increase credits into the next regime would provide the SILECs with the flexibility to implement rate increases contemplated in the previous regime, while at the same time furthering the Commission's objective of moving rates closer to their costs.
61. The Commission considers, however, that rate increases should be limited to \$4 in any 12 month period to mitigate consumer rate shock, and that the unused rate increase credits should be time-limited. The Commission considers that it would be reasonable for these unused rate increase credits to expire at the end of the next regulatory regime.
62. Accordingly, the Commission considers that any unused rate increase credits from the current regime can be carried forward to the next regime. The maximum cumulative rate increase in any 12 month period will continue to be limited to \$4. Any unused rate increase credits, except for any rate increases required to achieve a residential local service monthly rate of \$22.75, will expire at the end of the next regulatory regime.

Length of the regulatory regime

Positions of parties

63. The SILECs proposed a four-year period for the next price regulation framework in order to provide a sufficient period of regulatory stability to counteract market forces operating within their territories, including the deployment of new technologies and the start of local competition.
64. Bell Canada and TELUS submitted that, based upon the SILECs' proposals, the length of the regulatory period should not exceed two years.
65. In reply, the SILECs submitted that, to date, they had enjoyed the benefits of stability and certainty of only one four-year period of price regulation, whereas the large ILECs had already had two four-year periods of full price cap regulation.

Commission's analysis and determinations

66. The Commission considers that a four-year regulation period would allow the benefits of price regulation to continue to be realized, while providing for the possibility of a timely adjustment to correct the regulatory framework for any errors in its structure or to reflect the evolution of competition over the price regulation period. Accordingly, the Commission establishes a four-year price regulation period for the SILECs' next regime, with a review of the regime to be initiated in its last year.

Filing requirements

67. The Commission directs the SILECs to file by **1 May 2006** a schedule which would show any unused rate increase credits resulting from Decision 2001-756 and Decision 2005-3 being carried forward into the new price regulation regime. This schedule should provide a breakdown of unused rate increase credits by year, and by type of credit.
68. The Commission directs the SILECs to provide for each tariff filing a description of the service, the proposed rate changes, and how they have met the associated basket constraints, including an updated schedule of the unused rate increase credits. The Commission expects that rate increases on any individual rate element for a service will generally be permitted once in a 12-month period.
69. If a SILEC wishes to apply for an exogenous factor, the SILEC must identify how they have met the established exogenous factor criteria in their tariff application.

Calculation of subsidy

70. The components of the subsidy per residential network access service (NAS) calculations for the large ILECs are:
 - a) company-specific, band-specific Phase II costs;
 - b) annual adjustments for inflation and productivity (I-X adjustment);
 - c) a 15 percent mark-up for fixed and common costs;
 - d) company-specific, band-specific average residential local service rates; and
 - e) an implicit subsidy of \$60 per NAS per year (\$5 per NAS per month) associated with optional local services.
71. In Decision 2001-756, the Commission determined that the SILECs would move to a subsidy process that was essentially the same as that established for the large ILECs with the following exceptions:
 - a) the SILECs would use the national weighted-average band-specific Phase II costs, increased by 7.5 percent as proxy PES costs, rather than requiring the SILECs to produce detailed Phase II cost studies;
 - b) the SILECs would use a fixed residential local service monthly rate of \$22.75; and

- c) the SILECs would use a banding structure modified to (i) provide four sub-bands for Band F and (ii) exclude the Band F loop length criteria.³

PES cost component

Positions of parties

72. CAPTS proposed that the tax-exempt national weighted-average Phase II PES costs used to determine their subsidy requirements be adjusted upward because, in their view, the impact of income taxes had been overstated in determining the tax-exempt proxy costs.
73. TELUS submitted that it did not support making any changes to the proxy subsidy rates of the tax-exempt SILECs to reflect a change in the tax adjustment method. TELUS further submitted that such a change could only be made with a full investigation of the issue beyond what the current process allowed.
74. Bell Canada submitted that the SILECs' 2006 proxy costs should be reduced by 5 percent to reflect the reduction in the Phase II costs experienced by the large ILECs over the past four years using the I-X adjustment.
75. In reply, the SILECs submitted that the Commission established an I-X adjustment on the large ILECs' PES cost component of their HCSA subsidy calculation as part of the large ILECs' price cap regulatory framework. The SILECs noted that the Commission did not impose such a constraint on the SILECs as part of their price regulatory framework and considered that to do so would be inconsistent with the Commission's determination in Decision 2001-756.

Commission's analysis and determinations

76. With regard to CAPTS's submission, the Commission notes that CAPTS relied on an accounting-based income tax expense definition to develop its proposal. CAPTS's methodology assumed that the tax costs included in a Phase II cost study were the same as the accounting-based income tax expense.
77. The Commission notes that the definition and calculation of taxes payable used to determine the causal incremental Phase II costs are very different from the accounting-based income tax expense definition and calculation used to develop a company's annual financial statement. The Commission also notes that the SILECs' Phase II proxy costs are based on the Phase II costs of the large ILECs in similar bands.
78. The Commission considers that a Phase II estimate of tax costs is required to appropriately adjust the Phase II proxy residential PES cost estimates contained in the subsidy formula. The Commission, therefore, considers that, contrary to CAPTS's submission, the proposed accounting-based income tax cost adjustment methodology will not provide an appropriate estimate that is consistent with the Phase II tax cost calculation.

³ In *Restructure bands, revised loop rates, and related issues*, Decision CRTC 2001-238, 27 April 2001, the Commission determined that Band F subsidy would only be made available if the average loop length was greater than four kilometers. In Decision 2001-756, the Commission determined that the Band F loop length criteria would not apply to the SILECs.

79. Accordingly, the Commission denies CAPTS's request for an upward adjustment to the tax-exempt proxy costs set out in Decision 2001-756.
80. With regard to Bell Canada's submission to reduce the PES cost component, the Commission considers that it would be inappropriate to adjust the SILECs' PES costs based on the large ILECs' I-X adjustment because it would equate to applying a retroactive productivity adjustment to the SILEC's costs. In addition, the Commission notes that, as part of Decision 2001-756, the SILECs were permitted to retain any productivity gains during the four-year period to help offset the lost of contribution revenues as a result of their new framework.
81. Accordingly, the Commission denies Bell Canada's request to reduce the proxy costs by 5 percent.

PES costs going forward

Positions of parties

82. Bell Canada submitted that the cost component of the SILECs' subsidy calculation should be adjusted annually for an I-X adjustment and that the productivity offset should be set at 3.5 percent, similar to the large ILECs.
83. In reply, the SILECs disagreed with Bell Canada and noted that there was no evidence on the record to support a productivity offset of 3.5 percent.

Commission's analysis and determinations

84. The Commission notes that, for the reasons outlined earlier in this Decision, it is not implementing an explicit productivity offset at this time as part of the SILECs' next regulatory framework. In these circumstances, the Commission considers that it would not be appropriate to implement an explicit productivity offset on the PES cost component of the SILECs' subsidy calculation.
85. Accordingly, the Commission denies Bell Canada's request to adjust the SILECs' subsidy calculations annually for an I-X adjustment.

Residential local service rate component

Positions of parties

86. The SILECs submitted that the fixed monthly rate of \$22.75 should continue to be used for subsidy calculation purposes, as the Decision 2001-756 rate was consistent with the proxy PES costs, was a light-handed form of regulation and resulted in subsidies that were consistent within the SILEC industry. The SILECs also submitted that using company-specific rates would reward those companies that had not raised their rates.
87. TELUS submitted that the residential PES revenue component should be adjusted to \$24.88 to reflect what the \$22.75 rate would have been had all of the allowable rate increases been utilized by the SILECs over the past four years.

88. Bell Canada submitted that the revenue component of the subsidy calculation should reflect the actual PES rate for those SILECs whose PES rate exceeded \$22.75, as this would be consistent with what the large ILECs used in their subsidy calculations. Bell Canada also submitted that the revenue component of the subsidy calculation should continue to be \$22.75 for those SILECs whose PES rate was less than \$22.75, for the same reasons set out in Decision 2001-756.
89. In reply, the SILECs submitted that TELUS's proposal was not based on an examination of the actual SILEC revenue data. The SILECs submitted that the revenue component of the subsidy formula must be aligned with the determinations made for the cost component of the formula and that TELUS's proposal only considered one component of the subsidy equation.
90. The SILECs submitted that Bell Canada's proposal would result in a cumbersome subsidy structure that would generate different levels of subsidy for the various SILECs and reduce the certainty and financial predictability that exists in the current framework.

Commission's analysis and determinations

91. In Decision 2001-756, the Commission determined that the SILECs' subsidy requirements would be based upon a fixed monthly rate of \$22.75, including touch-tone service, for the four-year price regulation period because this would, among other things, prevent required contributors to the National Contribution Fund from unduly subsidizing the SILECs.
92. The Commission notes that 25 SILECs currently have residential local rates above \$22.75 and that these SILECs have been permitted to keep the revenues associated with their residential local rates having been above \$22.75 during the last regulatory framework period (i.e. their subsidy was not reduced as residential local rates were increased). The Commission also notes that those SILECs that currently have residential local rates below \$22.75 will still be able to raise their rates to that level under the new regulatory regime.
93. As noted earlier in this Decision, the SILECs' local residential exchange rates are comparable to those charged by the large ILECs elsewhere in Canada. The Commission notes that, in accordance with Decision 2000-745, all of the other ILECs are using their average residential local rates, by band, in their subsidy calculations and that only the SILECs are using a fixed monthly rate amount.
94. In light of the above, the Commission considers that using the higher of actual residential local rates or \$22.75 would move the SILECs' subsidy calculation formula closer to the one set out in Decision 2000-745 and used by the large ILECs. The Commission also considers that it would not be appropriate for the SILECs to continue to receive subsidy based upon a \$22.75 monthly rate while at the same time charging their customers more than \$22.75 and requiring contributors to the National Contribution Fund to pay the additional subsidy.
95. With regard to the SILECs' submission that using company-specific rates would be cumbersome and would reduce financial predictability, the Commission notes that all of the large ILECs have different subsidy levels for each of their respective high-cost bands and that the Commission has attempted to provide some financial certainty in this Decision by establishing fixed subsidy amounts for the next four years.

96. In light of the above, the Commission concludes that the SILECs' subsidy calculations will be based upon the higher of their actual residential local rates or \$22.75.
97. The Commission considers, however, that adjustments are required to the SILECs' actual residential local rates to be used for subsidy purposes to exclude SIP and DT-related local rate increases, which were approved for specific purposes. The Commission notes that this would be consistent with its determination in *Amtelecom Inc.'s request to review and vary Decision 2001-756 and Order 2002-230*, Telecom Decision CRTC 2004-9, 19 February 2004 (Decision 2004-9). The Commission also considers that, after the SIP and DT-related local rate increases are deducted, the rates used for subsidy calculation purposes should not be lower than \$22.75.
98. As outlined later in this Decision, the Commission has determined that actual DT minutes and trunks should be used, as opposed to the 2001 frozen DT minutes and trunks, and that this determination will result in some SILECs receiving more DT revenues than was originally contemplated in Decision 2005-3.
99. Accordingly, the Commission considers that in the event that a SILEC has taken a DT-related local rate increase and that it is no longer entitled to the increase as a result of moving to actual DT minutes and trunks, the revenues from the DT-related local rate increase should be used to reduce the SILEC's subsidy entitlement. The Commission notes that this will apply to Execulink Telecom Inc. (Execulink) and People's Tel Limited Partnership (People's) and therefore concludes that revenues from Execulink's and People's DT-related local rate increases will be used to reduce their subsidy entitlements.

Subsidy amounts

100. In Decision 2000-745, the Commission introduced a subsidy per residential NAS process that resulted in the LECs being required to file monthly residential NAS information with the Central Fund Administrator (CFA).
101. In Decision 2001-756, the Commission established the annual subsidy requirements for the SILECs for the years 2002 to 2005, thereby eliminating the need for them to file monthly residential NAS information with the CFA.

Positions of parties

102. The SILECs proposed that the subsidy per residential NAS rates from Decision 2001-756 be carried forward into the new framework and that their annual subsidy amounts should be determined based on the annual filing of 31 July residential NAS information by 31 October of each year. The SILECs submitted that the CFA would then pay the SILECs subsidy based upon 1/12 of the annual subsidy amounts approved by the Commission in the final revenue-percent charge decision. The SILECs also submitted that if their subsidies were to be reduced, then the reduction must be transitioned over the duration of the new price regulation period.
103. Bell Canada noted that the SILECs' proposal would result in the SILECs receiving higher subsidy than if they used either actual or average NAS. Bell Canada submitted that the SILECs should be required to file monthly NAS information with the CFA and the related NAS audit report with the CFA auditor.

104. In reply, the SILECs submitted that reporting monthly NAS information with the CFA would increase the regulatory burden on both the CFA and the SILECs. The SILECs were of the view that their proposal was consistent with a simplified approach to regulation and one that yielded the maximum amount of regulatory certainty and financial predictability.

Commission's analysis and determinations

105. With regard to Bell Canada's proposal for the SILECs to report their monthly NAS with the CFA, the Commission considers that, at this time, the resources required by the SILECs and the CFA to implement this proposal outweigh the benefits associated with it. While the resources required to implement the SILECs' proposal would be less than for Bell Canada's proposal, the Commission is still concerned with the resources required to implement either proposal.
106. The Commission notes that the SILECs submitted that they would be prepared to accept a freezing of their NAS counts for the next four years should the Commission favour a simpler approach. The Commission further notes that, under this option, the SILECs' annual subsidy amounts for the next four years would be approved at this time and that the CFA would simply be required to make the monthly subsidy payments to the SILECs in accordance with this Decision.
107. The Commission notes that, based upon a \$22.75 monthly rate and the revised NAS information filed during this proceeding, the SILECs would have received approximately the same amount of subsidy in 2005 as was approved by the Commission in Decision 2001-756. Accordingly, the Commission considers that establishing the SILECs' subsidy amounts now for the next four years would provide the SILECs with some financial certainty, while at the same time minimizing their regulatory burden.
108. The Commission notes that basing the subsidy amounts on the SILECs' 31 July 2005 NAS information would be consistent with Decision 2001-756 by providing subsidy for seasonal NAS.
109. The Commission notes that the large ILECs are able to cost recover the revenue-percent charge. The Commission considers it appropriate to allow SILECs who are currently required contributors to the National Contribution Fund to cost recover the revenue-percent charge and has made the necessary adjustments to their subsidy calculations. In addition, the Commission considers that any SILEC who becomes a required contributor in the future should continue to be allowed to file for the cost recovery of the revenue-percent charge through an exogenous adjustment, rather than through adjustments to their subsidy entitlements.
110. With respect to the SILECs' request for a transitional period if subsidies were reduced, the Commission notes that the SILECs' total annual subsidy will decrease by approximately \$3.4 million when compared to the 2005 total subsidy. Given the size of this reduction and in light of the determinations made in this Decision, the Commission does not consider that a transition period is required in the next regulatory regime.
111. Accordingly, the Commission approves on a final basis the subsidy amounts listed in Attachment 2 to this Decision for the four-year period from 2006 to 2009 and directs the CFA to remit monthly subsidy equivalent to 1/12 of the annual subsidy amounts, on a final basis effective 1 January 2006 and on an interim basis effective 1 January 2010.

CLEC access to subsidy

112. The SILECs submitted that, since the likelihood of local competition in a SILEC territory was uncertain, a discussion on the CLEC process would be premature at this time and should be dealt with on a case-by-case basis with the CFA. The SILECs proposed, as one possible alternative, that the SILECs and CLECs could file NAS numbers at the same time, so that the CFA could make the necessary subsidy determinations.
113. The Commission considers that some basic procedures should be established now, so that CLECs will be able to consider these requirements in their business plans.
114. The Commission notes that for a CLEC to receive subsidy in the territories of the large ILECs, the CLEC must report its monthly NAS to the CFA, by ILEC territory and band, and provide an annual NAS audit report to the CFA Auditor. The Commission concludes that this procedure should be used by CLECs operating in the territories of the SILECs. The Commission notes that all of the criteria necessary for a CLEC⁴ to receive subsidy in a large ILEC territory also applies in the SILECs' territories.
115. When a CLEC starts to operate in a specific SILEC territory, the Commission will establish the final subsidy per residential NAS amounts in its next revenue-percent charge decision. As an interim measure, the CFA should make subsidy payments based upon the subsidy per residential NAS amounts that would be paid if the residential local service rates were \$22.75, which are as follows:

Wire centre classification	Tax-paying company	Tax-exempt company
Band E (0 to 1,500 NAS)	\$16.57	\$8.98
Band F-1 (1,501 to 2,500 NAS)	\$15.93	\$8.46
Band F-2 (2,501 to 4,000 NAS)	\$14.35	\$7.17
Band F-3 (4,001 to 6,000 NAS)	\$12.12	\$5.37
Band F-4 (6,001 to 7,999 NAS)	\$8.31	\$2.27
Band G (Remote NAS)	\$37.87	\$27.30

116. Any interim subsidy received by a CLEC prior to the final individual SILEC subsidy per residential NAS amounts being published will be adjusted by the CFA to reflect the final subsidy per residential NAS amounts applicable for that particular SILEC. The Commission notes that the final subsidy per residential NAS amounts will depend on the SILEC's actual residential local service rates.

⁴ An approved CLEC provides both the access and local service components, meets all of the requirements of Decision 97-8 and meets or exceeds the basic service objective established in *Telephone service to high-cost serving areas*, Telecom Decision CRTC 99-16, 19 October 1999.

Calculation of interconnection revenues

Direct connection

117. In Decision 2005-3, the Commission gave final approval to the DC rates for the territories of Cochrane, NorthernTel and Ontera. For the remaining SILECs, Decision 2005-3 established each SILEC's 2005 DC revenues based on the SILEC's 2001 conversation minutes and one of three DC rates, dependent on the total number of the SILECs' 2001 minutes as follows:

Annual conversation minutes	DC rate (per minute)
0 to 5 million minutes	\$0.0178
5+ to 20 million minutes	\$0.0132
20+ million minutes	\$0.0037

118. Where more than one IXC was operating in the territory of a SILEC, each IXC's payment was determined by allocating the SILEC's 2005 DC revenues among the interconnected IXCs in proportion to their actual conversation minutes for 2004, subject to a year-end adjustment based on the actual conversation minutes for 2005.

Positions of parties

119. The SILECs proposed that the DC rates and methodology established in Decision 2005-3 should be extended for the duration of the new regulatory framework. The SILECs proposed that the number of conversation minutes for each SILEC from 1 August to 31 July of the previous year should be used to determine which of the three DC rates established in Decision 2005-3 would apply for the whole year in question. The SILECs submitted that this rate would then be multiplied by the number of annual conversation minutes in order to establish the DC revenues for the year in question. The SILECs proposed that a meeting be held with the IXCs to reach a consensus on the inventory of minutes and trunks.
120. Bell Canada submitted that the Commission should reject the SILECs' proposals. Bell Canada, instead, proposed the following DC rates:

Annual conversation minutes	DC rate (per minute)
0 to 5 million minutes	\$0.0142
5+ to 20 million minutes	\$0.0106
20+ million minutes (except TBayTel) (including Cochrane, NorthernTel, & Ontera)	\$0.0030
TBayTel	\$0.00112

121. Bell Canada noted, among other things, that its proposed rates would: (1) reflect an appropriate reduction to the rates established in Decision 2005-3; (2) be more in line with those of the other ILECs on a going-forward basis; (3) be more reflective of the conditions in TBayTel's territory; and (4) not preclude a SILEC from proposing a company-specific DC rate based on company-specific Phase II costs.
122. Bell Canada proposed that for each subsequent year, those rates be reduced by a factor equal to the rate of inflation less a 3.5 percent productivity offset or company-specific productivity offset, if one were established, similar to the large ILECs' required treatment of those rates.
123. Bell Canada noted, as a separate matter, that there was a flaw in the DC rate structure and proposed that a SILEC not be permitted to increase its DC rate as a result of declining volumes of conversation minutes unless it filed a Phase II cost study to support such a change. Bell Canada proposed that if the number of a SILEC's minutes fell short of the threshold for the SILEC's current band, the DC rate could be frozen at that level for that band for a period of no longer than one year.
124. In reply, the SILECs disagreed with Bell Canada's proposed rates and treatment for declining volumes of conversation minutes. The SILECs considered that, among other things, Bell Canada had made some incorrect assumptions and its approach was unbalanced. The SILECs noted that the rates the SILECs had proposed were based on Phase II-like cost studies, were appropriate considering their recent approval in Decision 2005-3, and were in keeping with their previous regulatory frameworks.
125. With respect to Bell Canada's submission that there was a flaw in the DC rate structure, the SILECs submitted that Bell Canada found a flaw in the rate structure only when there were significant increases in DC revenues for the SILECs, and that Bell Canada neither saw a flaw when significant decreases in DC revenues occurred nor proposed that the reverse should apply.

Commission's analysis and determinations

126. In Decision 2005-3, the Commission found, on balance, that the rates therein would contribute to the Commission's objectives of setting rates based on Phase II-like costs, moving rates more in line with current retail long distance prices and minimizing the financial hardship on the SILECs. The Commission considers that these circumstances have not changed since the release of Decision 2005-3.
127. The Commission considers that Bell Canada's proposal would not adequately compensate each SILEC for its DC costs. In addition, the Commission notes that it took into account the cost of the SILECs' facilities and the recovery of these costs when setting the SILECs' rates in Decision 2005-3.
128. Accordingly, the Commission concludes that the rates set out in Decision 2005-3 continue to apply for the duration of SILECs' next regulatory period, and are to be applied to actual minutes and trunks.
129. Regarding Bell Canada's proposal to move a SILEC to a band with a lower DC rate if its number of minutes exceeded the threshold for that band, the Commission agrees with the SILECs that this approach is unbalanced. The Commission notes that the approved rate

structures were based on a stepped table approach in order to achieve administrative simplicity. This rate structure has negatively impacted those SILECs slightly over a minute threshold, resulting in those SILECs receiving significantly less DC revenues than SILECs that are slightly under the same minute threshold. In light of the above, the Commission rejects Bell Canada's proposal.

Trunking

130. In Decision 2005-3, the Commission established 2005 trunking revenues for each SILEC, excluding Cochrane, NorthernTel and Ontera. A SILEC's total trunks as of 31 December 2002 were used to determine which of the four trunking rate bands established in Decision 2005-3 would apply for that SILEC in 2005. Where there was more than one IXC operating in a SILEC's territory, each IXC's payment was determined by allocating the SILEC's 2005 trunking revenues among the IXCs in proportion to each IXC's trunks and associated distance as of 31 December 2004, with a year-end adjustment based on actual trunk data as of 31 December 2005.

Positions of parties

131. The SILECs proposed that the trunking rates and methodology established in Decision 2005-3 should be extended for the duration of the new regulatory period. The SILECs proposed that, for each SILEC, the trunking rates in Decision 2005-3 should be applied to the trunks in service as of 31 July of the previous year in order to set the trunking revenues for the 12-month period from 1 January to 31 December of the year in question.
132. Bell Canada submitted that the Commission should reject the SILECs' proposal. Bell Canada proposed that the Commission should bring monthly trunking rates in line with Bell Canada's equivalent tariffed rate levels. Bell Canada submitted that service charges should be reduced to reflect Bell Canada's levels and the fact that the installation work for a trunk was split between the SILEC and the IXC. Bell Canada also proposed that each IXC should only pay for its actual trunks in service, in order to obviate the need for complex annual reconciliation and adjustment processes.
133. Bell Canada noted that the SILECs' trunking rates were significantly higher than the ILECs' rates and submitted that the SILECs' Phase II costs for trunks were not examined in the proceeding leading to the rates established in Decision 2005-3, nor had they been examined subsequently. Bell Canada also submitted that the SILECs' service charges for trunks should be significantly reduced.
134. Bell Canada also noted that in the case of installation of trunks between a SILEC and Bell Canada, Bell Canada carried out the necessary installation work at the point of interconnection (POI) end of the circuit, while the SILEC carried out the installation work at its switch. Accordingly, Bell Canada proposed that the service charge for trunks be reduced by 50 percent from the applicable service charge to reflect that the trunks were jointly provisioned.
135. Bell Canada was of the view that under the SILECs' proposal that the Commission use the trunks in service as of 31 July of the previous year to fix each SILEC's trunking revenue for the 12-month period from 1 January to 31 December of the year in question, there would be no

adjustment to reflect the actual number of trunks. Bell Canada submitted that reconciliation and adjustments would, however, apply where more than one IXC connected to a SILEC and where there was a change in the proportion of trunks, or mileage, used by each IXC. Bell Canada was of the view that the SILECs' proposal for a reconciliation process would be unnecessary and would create an undue regulatory burden. Bell Canada proposed that the rating approach for trunking should be revised so that IXCs paid only for the trunks they used.

136. In reply, the SILECs urged the Commission to reject Bell Canada's proposal that SILEC monthly trunking rates and service charges should be brought in line with Bell Canada's retail rates. The SILECs stated that the rates and methods determined in Decision 2005-3 had been judged recently by the Commission to be appropriate for the SILECs and, thus, should remain constant over the next four years of the new regulatory framework period.

Commission's analysis and determinations

137. The Commission considers that without company-specific Phase II cost studies for the SILECs, it would not be reasonable to compare and equate the rates charged by the SILECs, given their unique costs and circumstances. The Commission notes that in Decision 2005-3 it recognized that a trunking rate made up of an adequate mix of both fixed and distance-based components would be reasonable for the SILECs at that time; that the rates were reasonable since they would provide higher base rates for smaller companies, recognizing that the costs per trunk would be greater for companies with fewer trunks; and that the number of interconnection trunks sold by each of the SILECs was insufficient to justify the use of volume and term discounts.
138. The Commission considers that the circumstances surrounding this issue have not changed since the release of Decision 2005-3. Accordingly, the Commission does not consider Bell Canada's proposal that the SILECs' rates should mirror Bell Canada's rates to be reasonable.
139. With regard to Bell Canada's proposal that the service charges should be reduced by 50 percent, the Commission considers that the ILEC's service charge for installation of trunks is to compensate the ILEC for the costs of provisioning the trunks from the ILEC's side of the POI to the switching centre of the ILEC. The service charge does not include costs associated with work on the IXC/CLEC side of the POI, as those costs are incurred by the IXC/CLEC. Accordingly, the Commission rejects Bell Canada's argument.
140. In light of the above, the Commission concludes that the rates and methodology for toll trunks established in Decision 2005-3 continue to apply for the duration of the SILECs' next regulatory period.

Multiple exchanges in non-contiguous areas (i.e. clustering)

141. The SILECs proposed that certain SILECs with multiple exchanges in non-contiguous areas should be permitted to treat each exchange cluster as a separate entity for the purpose of applying the DC and trunking rates in Decision 2005-3.

142. Bell Canada submitted that the Commission should reject the SILECs' proposal and that the current methodology should continue to apply.
143. The Commission notes that it has consistently treated all ILECs in the same manner by not permitting them to treat multiple exchanges in non-contiguous areas as separate entities. The Commission considers that there was insufficient evidence on the record of this proceeding to support a change to this policy. Accordingly, the Commission denies the SILECs' proposal with regard to multiple exchanges in non-contiguous areas.

Revenue impacts

144. In Decision 2005-3, the Commission was concerned that significant toll interconnection revenue losses due to a change in the DT methodology would have a significant impact on the financial viability of some SILECs. Accordingly, the Commission determined that those SILECs whose 2005 revenues for toll interconnection (DC, EA, and trunking revenues) fell by more than 35 percent from 2001 levels could recover that portion of their losses in excess of 35 percent through rate increases to local services (i.e. residential and business PES). These calculations were set out in Appendix B to Decision 2005-3.
145. Based on the determinations in this Decision, the Commission considers it appropriate to reset the SILECs' toll interconnection revenues used to calculate their entitlement for any compensation through local rate increases pursuant to Decision 2005-3. Accordingly, the Commission requires the SILECs, to file by **1 May 2006**, an updated schedule in the same format as Appendix B to Decision 2005-3 that incorporates the determinations in this Decision (i.e., using actual trunks and minutes) to estimate their 2006 revenues for toll interconnection. These 2006 revenues will replace the 2005 revenues in that schedule for the calculation of the SILECs' local rate increase entitlement.

Local competition

146. The framework for local competition in the ILECs' territories was initially set out in *Local competition*, Telecom Decision CRTC 97-8, 1 May 1997 (Decision 97-8), and *Co-location*, Telecom Decision CRTC 97-15, 16 June 1997 (Decision 97-15). The obligations, terms, and conditions applicable to the large ILECs with respect to local competition have been modified and revised in some 200 subsequent public notices, decisions, orders and letters issued by the Commission since May 1997. Some of the main issues related to the implementation of local competition include interconnection arrangements between ILECs and CLECs, the unbundling of the ILECs' networks, local number portability (LNP) and the establishment of a carrier services group (CSG).
147. In Public Notice 2005-10, the Commission invited comments with respect to permitting local competition in the SILECs' territories.

Positions of parties

148. The SILECs proposed the introduction of competition in their territories by means of a staged approach. The SILECs proposed that the first step should be to require a SILEC to file tariffs to allow the resale of local services when a competitor expressed interest in servicing customers within the exchange of an individual SILEC.

149. In addition, the SILECs proposed that a SILEC should only file tariffs for competitor services in response to a *bona fide* request from a competitor. The SILECs considered that if all of those types of tariffs were required, they should be determined using a simplified process rather than full Phase II cost studies.
150. The SILECs also suggested that the current CRTC Interconnection Steering Committee (CISC) process and the procedures developed within that forum might assist in the implementation of local competition in their territories. The SILECs submitted, for example, that rather than developing a complete co-location tariff, access could be granted to a competitor using a SILEC's general tariff and the standard co-location agreement developed by CISC.
151. TELUS proposed that the SILECs be required to immediately file tariffs for interconnection, as well as other mandatory competitor services outlined in Decision 97-8, such as 9-1-1 service, MRS and LNP. TELUS stated, however, that in the alternative, the Commission could require the SILECs to file unbundled services tariffs upon the receipt of a request from competitors.
152. Bell Canada proposed that the same pricing approach, terms and conditions for local competition be adopted for the SILECs as was used for the large ILECs. Bell Canada was of the view that the Commission should direct the SILECs to file tariffs for competitor services within 45 days of signing an interconnection agreement with a CLEC and to provide those services within 90 days. Bell Canada noted that, alternately, the SILECs could choose to adopt Bell Canada's rates. Bell Canada also proposed that the SILECs be required to file proposed tariffs to offer Type 2 co-location upon receiving an application for co-location from an IXC.
153. The CCTA supported the SILEC's proposal for a case-by-case approach to implementing interconnection and related arrangements for local entry. The CCTA added that local interconnection and the related processes should be implemented with CLECs as expeditiously as possible, even if the SILECs had to rely on manual processes and support from other ILECs.
154. Shaw submitted that the rules for local competition should track the rules that had been established for the ILECs, unless a SILEC could establish that its special circumstances necessitated changes. Shaw noted, however, that the Commission had established a simplified approach for CLEC interexchange (IX), EA and interconnection tariffs, where a CLEC must justify any departure from the terms and conditions of an ILEC tariff. Shaw suggested that this simplified approach should be extended to the SILECs for services required by CLECs.
155. Shaw was of the view that the SILECs, in particular the larger ones, should be able to file tariffs for competitor local services within 30 days of a request. Shaw added that the SILECs should be able to implement those tariffs and subsequent processes within 180 days.

Commission's analysis and determinations

Resale of local competition

156. The Commission notes that all parties agreed that some form of local competition should be permitted in the territories of the SILECs. The Commission considers that the SILECs' approach to first allow local competition in their territories through resale has merit. The Commission considers that resale can promote the development of a competitive market while allowing competitors time to construct their own facilities.

157. Accordingly, the Commission permits competitive entry in the SILECs' territories by allowing the resale of the SILECs' local services, effective the date of this Decision. The SILECs are directed to file tariffs by **1 May 2006** to reflect this determination.

Facilities-based local competition in the SILECs' territories

158. While competition through resale can help promote the development of a competitive market, the Commission considers that the full benefits of competition can only be realized with some form of facilities-based competition. The Commission also considers that requiring the unbundling of a greater number of network components would provide more opportunities for competitors wishing to enter the local market, resulting in increased benefits to consumers.
159. The Commission notes, however, that the SILECs' resources are limited. The Commission also notes competitive entry may not occur in every SILEC territory. The Commission considers that it would be inappropriate to require the SILECs to establish tariffs for competitor services if there is no demand from a competitor. The Commission considers that a SILEC should be required to make tariffs for competitor services to a LEC or carrier available in response to a request for those services. Accordingly, the Commission concludes that a SILEC is only required to file proposed tariffs for competitor services if the SILEC receives a *bona fide* request from a competitor.
160. The Commission directs each SILEC, following a formal signed expression of interest from a LEC or carrier requesting to use competitor services within a SILEC's territory, to file an implementation plan with the Commission within 30 days. The implementation plan should include certain details, such as when tariffs will be filed, the nature and cost basis of those tariffs, how customer transfer procedures would be managed, the timing of the implementation of local competitor services, the start-up costs to implement local competition including LNP if appropriate and how those costs will be recovered, and any other implementation issues that may be unique to that SILEC.
161. The Commission considers that a SILEC's implementation plan should be guided by the following principles:
- the interconnection framework that exists in the large ILECs' territories should apply in the SILECs' territories;
 - when a SILEC receives a request from a LEC to make available unbundled network elements, such as local loops, those competitor services should be implemented in a manner similar to that of the large ILECs; and
 - a SILEC, if requested, should make co-location space available to another competitor or a DSL service provider, where space is available, under similar terms and conditions established for co-location services for the large ILECs.
162. The Commission notes that various CISC working groups have developed processes and documentation to aid the SILECs in negotiating arrangements with competitors which may reduce the SILECs' costs.

163. The Commission also notes that some ILECs have voluntarily implemented a dry loop service where no dial tone is present on the loop from a central office to a customer, which allows an ILEC to provision the loop for high-speed Internet service and a customer to choose another service provider for local voice services. The Commission encourages the SILECs to make this service available if requested by another LEC.
164. With respect to LNP, the Commission considers that when local competition is implemented in the territories of the SILECs, customers who choose to change service providers should be able to retain their telephone numbers. The LNP process for the SILECs would have two components: 1) "porting out", where a SILEC releases a customer's telephone number to another LEC; and 2) "porting in", where a customer returns to the SILEC with his/her telephone number.
165. The Commission notes, however, that LNP could be expensive for the SILECs to implement. The Commission also notes that the process of porting in adds administrative costs to the LNP process. The Commission considers that the porting out process is important to the development of local competition in its early stages since SILEC customers will be able to switch local service providers without changing their telephone numbers. The Commission also considers that significant cost savings could be achieved by the SILECs if they were only required to establish a porting out process.
166. Accordingly, the Commission concludes that when local competition is implemented in a SILEC's territory, the SILEC must implement LNP and participate in the LNP porting process. However, the Commission concludes that while a SILEC must implement the porting out process, it can choose whether to implement the porting in process.
167. The Commission has required the large ILECs to establish a CSG function when competitors have entered their particular territory in order to offer services in competition with the large ILEC. The Commission considers that the separation of the retail activities from the wholesale activities of an ILEC is important to protect the interests of the ILEC and the new entrant. Accordingly, the Commission concludes that whenever a SILEC is approached by a competitor requesting access to competitive services including resale, the request should be channelled through a CSG.
168. The Commission considers, however, that it may be too costly and inefficient for each SILEC to establish a dedicated CSG function. Accordingly, the Commission considers that where resource restrictions do not allow for a dedicated CSG to be established within a SILEC's territory, alternative arrangements should be explored, such as the use of an appropriate third party, a joint CSG serving a number of SILECs, or the establishment of one CSG per province. The operation of the CSG function should be addressed by each SILEC in its implementation plan.

Other matters raised with respect to removing competitive barriers to entry

Head start rule

169. In *Application by telephone companies to carry on broadcasting distribution undertakings*, Public Notice CRTC 1997-49, 1 May 1997 (Public Notice 1997-49), the Commission envisioned that competition in local services in the territories of the ILECs could come from cable companies. The Commission recognized the potential for cable companies and ILECs to

offer a mix of services in their own territories that was traditionally limited to either a cable company or an ILEC. The Commission concluded that it would only be appropriate for the telephone companies to apply for Broadcasting Distribution Undertaking (BDU) licences once the barriers to entry, such as interconnection, co-location and the unbundling of network components, in the local telephone market were sufficiently addressed (i.e. the head start rule).

170. The SILECs submitted that the head start rule detailed in Public Notice 1997-49 should not apply in their territories. The SILECs submitted that the first competitors in their territories would likely be cable companies offering local VoIP services, and cable companies may not require co-location or unbundled elements. In addition, the SILECs noted that cable companies would likely use the services of the ILECs for interconnection.
171. The CCTA opposed the SILECs' proposal that the head start rule not apply in their territories. The CCTA submitted that a SILEC should only be permitted to obtain a BDU licence upon implementation of the arrangements necessary for facilities-based local competition.
172. The CCTA considered that if the head start rule were set aside for the SILECs, it would remove a critical incentive for the SILECs to work towards opening up their core markets to competitive local entry. The CCTA stated, however, that the head start rule should not apply where there was no cable BDU providing broadcasting distribution services in a SILEC's operating territory.
173. Shaw submitted that the head start rule recognized that permission to enter local SILEC markets was meaningless if fundamental barriers to entry remained in place. Shaw stated that co-location, interconnection, and LNP were barriers to entry.

Commission's analysis and determinations

174. The Commission notes that Amtelecom Inc., Nexicom Telecommunications Inc. and Execulink were granted BDU licenses prior to the implementation of local competition in their serving territories. The Commission notes that the head start rule could apply to the remaining SILECs.
175. The Commission notes however, that applications from ILECs to obtain a BDU license (i.e. thereby permitting the ILECs to enter the cable companies' core business) were generally not permitted until rules were established to eliminate barriers to entry into the ILECs' local telephony market. The Commission further notes that this head start rule was developed to ensure a level playing field between cable companies and ILECs when competing in each other's core business. In this Decision, the Commission has established a framework for local competition in the SILECs' territories which sufficiently addresses the barriers to entry to allow for the development of effective competition.
176. In light of the above, the Commission concludes that the head start rule should not apply to the SILECs.

Cost recovery of equal access

177. In *Regulatory framework for the independent telephone companies in Quebec and Ontario (except Ontario Northland Transportation Commission, Québec-Téléphone and Télébec Ltée)*, Telecom Decision CRTC 96-6, 7 August 1996, the Commission provided the SILECs with a

ten-year recovery period of start-up costs associated with the implementation of equal access that could not end later than 31 December 2007.

178. The SILECs noted that equal access had been implemented, but the process to recover the associated costs would continue until 2014 for some of the SILECs that implemented equal access as late as 2004.
179. Bell Canada requested that the Commission impose a final date for the recovery of equal access costs as 31 December 2007, and that it should not be extended beyond that date.
180. The Commission considers that for those SILECs that had not implemented equal access on 1 January 1998, the ten-year recovery period to recover start-up costs associated with equal access could end later than 31 December 2007.
181. Accordingly, the Commission concludes that for those SILECs that will not have recovered their equal access start-up costs by 31 December 2007, the 10-year recovery period will be extended beyond that date.

Access to support structures

182. Some of the SILECs have tariffs for access to their support structures. These tariffs were developed under the existing framework governing access to support structures which is similar to that of the large ILECs.
183. The CCTA submitted that the SILECs should have a requirement to provide access to support structures under the SILECs' control. The CCTA was of the view that the lack of access to support structures on a timely and reasonable basis impeded CLECs from launching facilities-based local telephone services.
184. Shaw noted that access to support structures and municipal rights-of-way were fundamental barriers to facilities-based local entry.
185. The Commission considers that the current approach with respect to support structures is appropriate and should continue to apply. Accordingly, the Commission concludes that if a SILEC receives a request for access to its support structures and no tariff exists for that service, the SILEC is required to file tariffs for access to its support structures within 30 days of the request.

Other matters

Competitive safeguards

186. In *Promotions of local wireline services*, Telecom Decision CRTC 2005-25, 27 April 2005 (Decision 2005-25), the Commission determined that ILEC promotions in the local wireline market were permitted, subject to a number of competitive safeguards.
187. In various decisions, the Commission has also placed certain restrictions on ILECs' ability to directly communicate with former local exchange service customers in an attempt to win them back (winback rule). This rule was established to prevent the ILECs from deriving an unfair or undue competitive advantage, or otherwise benefit from an unfair opportunity, arising from

their incumbency advantages, such as control of, and access to, detailed customer-specific information concerning almost all local exchange service customers.

188. With competitive entry permitted in the SILECs' territories pursuant to this Decision, the Commission directs the SILECs to show cause by **1 June 2006**, as to why the determinations made in Decision 2005-25 and the local winback rule should not apply to them.

Regulatory framework for VoIP services

189. In *Regulatory framework for voice communication services using Internet Protocol*, Telecom Decision CRTC 2005-28, 12 May 2005 (Decision 2005-28), the Commission set out its regulatory framework for VoIP services. In Decision 2005-28, the Commission deferred its determination on the framework for the provision of local VoIP services in the territories of the ILECs not subject to local competition.
190. Accordingly, with the introduction of local competition in the SILECs' territories, the Commission directs the SILECs to show cause by **1 June 2006**, as to why the determinations made in Decision 2005-28 should not apply to them.

Quality of service

191. With respect to the reporting of Q of S in the territories of the SILECs, only those SILECs that have NAS above 25,000 are required to report Q of S statistics. Two SILECs (NorthernTel and TBayTel) satisfy this criterion and report Q of S statistics on a quarterly basis in a manner similar to that of the large ILECs. The SILECs with NAS below 25,000 are required to report the nature and number of complaints on an annual basis.

Positions of parties

192. The SILECs proposed that, since the present Q of S reporting system was working very well, the existing floor of 25,000 NAS be increased to 100,000 NAS before Q of S reporting was required. The SILECs submitted that the practice of filing information on the number and nature of complaints by those SILECs with NAS below 25,000 appeared to be satisfactory in meeting the monitoring requirements of the Commission. The SILECs submitted that there was no compelling reason to believe this would not be the same for the remaining SILECs.
193. The SILECs submitted that it was not their intent to downplay the importance of reporting requirements. The SILECs were of the view, however, that in the absence of monitoring it did not follow that there would be degradation in service quality. The SILECs considered that the high quality level of the SILEC's service would not change as a result of a change in the level of Q of S reporting requirements.
194. TELUS submitted that the Commission had no record on which to make the requested change, as SILECs had not offered any reasons for their proposed change.
195. PIAC noted that the potential degradation of service quality associated with a failure to maintain reporting requirements was a serious concern for the customers of the SILECs. PIAC submitted that the evidence provided by the SILECs did not reassure customers of the SILECs

that were exempted from service quality monitoring because of the size of their customer base. PIAC submitted that reporting requirements represented benchmarks that should be measured by any company delivering local service, regardless of size.

Commission's analysis and determination

196. The Commission notes that only two SILECs are required at this time to report retail Q of S statistics on a quarterly basis while the rest of the SILECs file on an annual basis. The Commission considers that the SILECs have not provided sufficient rationale to justify a change in the reporting requirement for Q of S results that would effectively remove all SILECs from the quarterly filing requirement. Accordingly, the Commission concludes that the current Q of S reporting requirement should remain unchanged.
197. The Commission considers that it is important that service quality to the SILECs' retail customers remains high due to the potential for local competition in the SILEC territories. Accordingly, while the Commission considers that there should be no modification to the current retail Q of S framework, it will closely monitor the retail Q of S results in those SILEC territories where local competition will occur. Where this monitoring indicates a reduction in the level of Q of S to the SILECs' customers, the Commission may review the current Q of S framework at that time.
198. The Commission notes that when local competition is implemented in the territory of a SILEC, services may need to be provided to competitors. In order to ensure that competitors can compete effectively, the Commission considers that these services may need to be subjected to the Q of S framework established in *Finalization of quality of service rate rebate plan for competitors*, Telecom Decision CRTC 2005-20, 31 March 2005 (Decision 2005-20).
199. The Commission directs the SILECs to show cause by **1 June 2006**, why the determinations made in Decision 2005-20 should not apply to them in the event that they are required to offer services to competitors.

Secretary General

This document is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>

List of SILECs subject to Public Notice 2005-10

British Columbia

CityWest Telephone Corporation

Ontario

Amtelecom Inc.
Brooke Telecom Co-operative Ltd.
Bruce Telecom
Cochrane Telecom Services
Dryden Municipal Telephone System
Execulink Telecom Inc.
Gosfield North Communications Co-operative Limited
Hay Communications Co-operative Limited
Huron Telecommunications Co-operative Limited
Kenora Municipal Telephone System
Lansdowne Rural Telephone Co. Ltd.
Mornington Communications Co-operative Limited
Nexicom Telecommunications Inc.
Nexicom Telephones Inc.
North Frontenac Telephone Corporation Ltd.
North Renfrew Telephone Company Limited
NorthernTel, Limited Partnership
Ontera
People's Tel Limited Partnership
Quadro Communications Co-operative Inc.
Roxborough Telephone Company Limited
TBayTel
Tuckersmith Communications Co-operative Limited
Westport Telephone Company Limited
Wightman Telecom Ltd.

Quebec

Cooptel
La Cie de Téléphone de Courcelles Inc.
Téléphone Guèvremont inc.
La Corporation de Téléphone de La Baie (1993)
La Compagnie de Téléphone de Lambton Inc.
Téléphone Milot inc.
Compagnie de téléphone Nantes inc.
Sogetel inc.
Le Téléphone de St-Éphrem inc.
La Compagnie de Téléphone de St-Victor
La Compagnie de Téléphone Upton Inc.
La Compagnie de Téléphone de Warwick

SILEC	Annual Subsidy 2006 – 2009 (\$ 000)
British Columbia	
CityWest Telephone Corporation	0.0
Ontario	
Amtelecom Inc.	2,677.5
Brooke Telecom Co-operative Ltd.	281.6
Bruce Telecom	580.7
Cochrane Telecom Services	173.5
Dryden Municipal Telephone System	79.5
Execulink Telecom Inc.	570.7
Gosfield North Communications Co-operative Limited	313.9
Hay Communications Co-operative Limited	842.2
Huron Telecommunications Co-operative Limited	663.4
Kenora Municipal Telephone System	96.2
Lansdowne Rural Telephone Co. Ltd.	379.8
Mornington Communications Co-operative Limited	345.2
Nexicom Telecommunications Inc.	301.4
Nexicom Telephones Inc.	205.1
North Frontenac Telephone Corporation Ltd.	415.4
North Renfrew Telephone Company Limited	262.7
NorthernTel, Limited Partnership	3,988.5
Ontera	546.1
People's Tel Limited Partnership	557.9
Quadro Communications Co-operative Inc.	590.4
Roxborough Telephone Company Limited	105.4
TBayTel	1,053.0
Tuckersmith Communications Co-operative Limited	518.2
Westport Telephone Company Limited	282.0
Wightman Telecom Ltd.	746.7
Quebec	
Cooptel	660.5
La Cie de Téléphone de Courcelles Inc.	73.4
Téléphone Guèvremont inc.	835.1
La Corporation de Téléphone de La Baie (1993)	83.2
La Compagnie de Téléphone de Lambton Inc.	252.9
Téléphone Milot inc.	852.3
Compagnie de téléphone Nantes inc.	48.1
Sogetel inc.	2,359.8
Le Téléphone de St-Éphrem inc.	176.5
La Compagnie de Téléphone de St-Victor	197.4
La Compagnie de Téléphone Upton Inc.	291.9
La Compagnie de Téléphone de Warwick	637.5
TOTAL	23,045.6