



Telecom Regulatory Policy CRTC 2011-291

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Obligation to serve and other matters

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The Commission's determinations in this decision are the result of a public proceeding initiated on 28 January 2010 to review issues associated with the obligation to serve, the basic service objective, and the local service subsidy regime. Additionally, as part of this process, the Commission considered the role it should play with respect to broadband Internet access in Canada. It also re-examined the local competition and wireless number portability (WNP) frameworks that apply in the territories of the small incumbent local exchange carriers (small ILECs).

Obligation to serve and basic service objective

The obligation to serve and the basic service objective are regulatory measures imposed on incumbent local exchange carriers (ILECs), in both regulated exchanges and those exchanges with respect to which the Commission has forborne from regulation (forborne exchanges), to meet certain policy objectives within the telecommunications market.

The Commission considers that residential customers residing in regulated exchanges have a limited choice of service providers. The Commission therefore retains the obligation to serve and the basic service objective for ILECs in regulated exchanges, subject to a minor modification allowing ILECs to choose to make print copies of residential directory listings available only upon request rather than mass-distributing them.

In the case of forborne exchanges, the Commission considers that wireline and wireless competition is sufficiently pervasive that it is no longer necessary or appropriate to retain the basic service objective in order to protect the interests of consumers. Accordingly, the Commission eliminates the basic service objective in forborne exchanges.

However, the Commission considers that there continues to be a need to have safeguards in place for consumers in forborne exchanges who rely exclusively on stand-alone primary exchange service (PES), which includes unlimited local calling at a flat monthly rate and a choice of long distance service provider. Consequently, the Commission retains the obligation for ILECs to provide stand-alone PES in forborne exchanges, subject to a modified price ceiling of \$30. Further, the Commission finds that, in these exchanges, mobile wireless voice services may be used to satisfy this obligation.

Broadband Internet access

Virtually all Canadians, regardless of whether they live in urban centres or in rural and remote areas, benefit from having access to Internet services using a variety of technologies, including wireless and satellite technologies. The rollout of broadband Internet access has been successful through a combination of market forces, targeted funding, and public-private partnerships at all levels of government.

The Commission considers that the deployment of broadband Internet access services, including deployment in rural and remote areas, should continue to rely on market forces and targeted government funding, an approach which encourages private and public partnerships. Accordingly, the Commission concludes that it would not be appropriate at this time to establish a funding mechanism to subsidize the deployment of broadband Internet access services.

However, recognizing that Internet service is an increasingly important means of communication, the Commission considers that it would be in the public interest to establish universal target speeds for broadband Internet access in Canada. This should ensure that all Canadians, particularly those in rural and remote areas, can benefit from a greater level of broadband connectivity. In this decision, the Commission establishes target speeds of 5 megabits per second (Mbps) downstream and 1 Mbps upstream. These speeds should be available to all Canadians, through a variety of technologies, by the end of 2015. Further, the Commission will continue to gather information from Internet service providers in order to monitor progress towards reaching these target speeds.

Subsidy regime

In this proceeding, the Commission has considered parties' views on the initiation of a general review of the costs used in calculating subsidies in high-cost serving areas (HCSAs), as well as on possible modifications to the various components of the subsidy regime. The Commission concludes that, at this time, it would not be appropriate to initiate a full cost review. In reaching this conclusion, the Commission has taken into account modifications to the subsidy regime that are the result of this decision, which are intended to make that regime more effective.

Because ILECs have realized significant productivity gains in HCSAs, the Commission considers that it is no longer appropriate to impute a continuing increase in efficiency to ILECs in computing the cost component of the subsidy calculation (these considerations are more fully explained in the body of the decision). Consequently, the Commission eliminates the productivity offset factor from ILECs' subsidy calculations, effective 1 June 2011.

Given that residential PES rates in regulated HCSAs vary considerably, resulting in some areas being subsidized more than others, the Commission considers that it would be economically efficient and fair if rates used to calculate subsidies were more uniform. Therefore, the Commission determines that these rates will be imputed to the lesser of \$30 or the amount required to eliminate subsidy. The increases to the rate component will be phased in over a period of three years.

The Commission concludes that it is not necessary to modify the \$5 implicit contribution amount used in the calculation of the subsidies.

Finally, the Commission considers that, since competition among service providers is robust in forborne HCSA exchanges, it is no longer appropriate to subsidize the provision of residential service in these exchanges, except as noted below for the small ILECs. The Commission also considers that only ILECs should receive subsidies in regulated HCSAs, since they are the only carriers with an obligation to serve. Accordingly, the Commission eliminates subsidies in forborne exchanges and will no longer make subsidies available to competitors, effective 1 June 2011.

Small ILEC regulatory regime

Competition provides consumers with a choice of service providers and service characteristics, and the Commission considers that customers who reside in small ILEC territories should not be denied these benefits. Accordingly, the Commission determines that WNP and local competition, including local number portability (LNP), will continue to be introduced in the territories of the small ILECs.

The Commission recognizes, however, that the recovery of local competition implementation costs, combined with potentially reduced revenues due to the loss of customers, might affect the small ILECs' ability to meet their service obligations. The Commission is therefore of the view that the small ILECs should be subject to special considerations.

The Commission considers that local competition implementation costs represent a disproportionate burden on very small ILECs, given the small number of network access services (NAS) they serve. Consequently, the Commission determines that small ILECs serving 3,000 NAS or fewer will have their local competition implementation costs reimbursed, over a period of three years, by the new entrant(s).

In order to assist all small ILECs to recover their ongoing local competition costs, the Commission will allow the imputed \$30 rate component used in calculating the subsidy requirement to be lowered by an amount equal to the lesser of the following: the approved ongoing local competition costs on a per-NAS, per-month basis, or \$2 per NAS per month.

The Commission also determines that, during the first three years following the implementation of local competition, the small ILECs will receive full subsidies, calculated pursuant to the new regime, for all the NAS they serve, plus 50 percent of the subsidy for each NAS lost. After the three-year period, the small ILECs will continue to receive subsidies only for the number of NAS they serve in those exchanges.

Finally, given that the competitor presence threshold for the small ILECs to obtain forbearance from the regulation of local exchange services can be much lower (50 percent) than the threshold used for the large ILECs (75 percent), the Commission considers that it would not be appropriate for the small ILECs to lose all subsidies once their exchanges are forborne. Therefore, the Commission determines that it would be appropriate to continue to distribute subsidies to the small ILECs in forborne exchanges until competitor presence reaches the same threshold used for the large ILECs.

The dissenting opinion of Commissioner Lamarre is attached.

History

1. Since the invention of the telephone, telecommunications services have played an important role in Canada. The Canadian telecommunications system was initially built by Bell Canada, which created networks across the country from Nova Scotia to what is now Alberta, and by numerous small companies that served British-Columbia.
2. Bell Canada later sold its interests in Atlantic Canada to private investors, while provincial governments acquired Bell Canada's operations in western Canada and created their own regional companies. The small service providers in British-Columbia mostly amalgamated to form one private company. In addition, small independent local telephone companies emerged in parts of Canada that were either underserved or not served at all by the large regional companies. By the 1970s, there were as many as 850 independent local telephone companies. Each of the large regional and small independent telephone companies was the sole provider of telecommunications services within its serving territory (i.e. the incumbent telephone company).
3. Today, the incumbent telephone companies, which are frequently referred to as incumbent local exchange carriers (ILECs), consist of privately and publicly owned large regional telephone companies (large ILECs)¹ and smaller independent local telephone companies (small ILECs).² These companies provide service in southern Canada, while Northwestel Inc. (Northwestel) provides service in the far north.
4. Since ILECs were the sole providers of telephone services in their respective serving territories, regulation was required to ensure that the rates they charged were affordable. Until the early 1990s, the Canadian telecommunications system was under federal and provincial jurisdiction. As a result of various court rulings, all telecommunications companies in Canada are now subject to federal jurisdiction and are therefore regulated by the Commission.

Introduction

5. To meet the objectives of the *Telecommunications Act*³ (the Act), the Commission has approved terms of service pursuant to which ILECs are obliged to provide service (the obligation to serve), and has articulated the elements of basic residential local service (the basic service objective) to be provided by ILECs.

¹ The large ILECs include Bell Aliant Regional Communications, Limited Partnership (Bell Aliant); Bell Canada; MTS Allstream Inc. (MTS Allstream); Saskatchewan Telecommunications (SaskTel); Télébec, Limited Partnership (Télébec); and TELUS Communications Company (TCC).

² There are currently 35 small ILECs: one in British-Columbia and the rest in Ontario and Quebec. See Appendix A for the list of small ILECs.

³ The relevant objectives are set out in paragraphs 7(a), (b), (c), (f), (g), and (h).

6. The obligation to serve requires ILECs to provide telephone service to existing customers, new customers requesting service where the ILEC has facilities, and new customers requesting service beyond the limits of the ILEC's facilities.⁴
7. The basic service objective consists of the following: individual line local Touch-Tone service; access to low-speed Internet at local rates; access to the long distance network and to operator/directory assistance services; enhanced calling features, including access to emergency services, voice message relay service, and privacy protection features; and a copy of the current local telephone directory.
8. The Commission has also established a mechanism to ensure that carriers are adequately compensated for the provision of their residential services where the Commission-approved rate charged for basic residential local service does not recover the associated costs of providing that service. This is referred to as the local service subsidy regime (the subsidy regime).⁵

From monopoly to competition

9. As has been observed,⁶ until the early 1990s, telecommunications services in Canada were provided by regionally based telephone companies that operated on a monopoly basis within their serving territories. These ILECs were subject to an obligation to serve so that all Canadians would have reasonable access to basic telephone service.⁷
10. For ILECs in a monopoly environment, telephone rates were set at just and reasonable levels, which ensured that carriers earned a reasonable rate of return. Cross-subsidization was required from ILECs' high-margin services (primarily long distance voice services) to allow basic residential local service to be provided at rates that were below the costs associated with such service.⁸
11. During the 1990s, in a series of decisions, the Commission opened various regulated telecommunications markets to competition, including the long distance voice market in 1992. In consequence, the Commission expected that cross-subsidization of local service by ILECs would become less sustainable as price competition eroded long distance profit margins. An explicit subsidy regime was therefore established for long distance service providers to contribute towards subsidizing local residential services throughout ILECs' serving territories.⁹

⁴ The terms and conditions associated with such service extensions are set out in the ILECs' respective General Tariffs.

⁵ Further details on this regime are provided in Section III of this decision.

⁶ See Telecom Regulatory Policy 2010-632, paragraph 1.

⁷ In Telecom Decision 86-7, the Commission established the terms of service for those ILECs that were then under its jurisdiction. In subsequent decisions, the Commission approved generally similar terms of service for all ILECs that later came under its jurisdiction. In the case of Bell Canada, the obligation to serve is also set out in the *Bell Canada Act*.

⁸ See Telecom Decision 92-12.

⁹ This regime was established in Telecom Decision 92-12. Further details on the current mechanism are provided in paragraphs 87 to 95 of this decision.

12. In 1997, the Commission also opened the local voice market to competition.¹⁰ In 1998, rate-of-return regulation, which is principally based on revenues and costs, was replaced by a price cap regulatory model for ILECs' local services.¹¹
13. In 1999, the Commission established the basic service objective, which reflected the level of service available at that time to most Canadians.¹² ILECs were required to submit service improvement plans designed to achieve this objective in their entire serving territory, including rural and remote areas where costs to provide service were higher than in urban areas. Further, the Commission anticipated that the subsidy regime would be specifically targeted at high-cost serving areas (HCSAs).¹³
14. In 2002, the new subsidy regime was implemented to subsidize the provision of basic residential service in HCSAs.¹⁴ All telecommunications service providers that generated more than \$10 million of revenue annually, subject to certain conditions, were required to contribute a proportion of their contribution-eligible revenues to the National Contribution Fund,¹⁵ from which subsidies were distributed to local service providers that met the basic service objective in HCSAs.¹⁶

Recent changes in the telecommunications environment

15. Since 2002, substantial changes in both competition and technology have transformed the Canadian telecommunications market. Local competition, initially slow, began to increase rapidly in 2005, when cable companies started to offer telephone service. Cable company offerings have now grown to represent sustainable competitive alternatives to ILECs' telephone services. And competitive service providers are not limiting their service offerings to large urban markets; they have made requests to compete in even the smallest ILEC markets.

¹⁰ See Telecom Regulatory Policy 2010-632, footnote 2.

¹¹ See Telecom Decision 97-9. Price cap regulation is based on service pricing rather than on overall earnings. A ceiling is placed on prices that a carrier can charge its customers, and rules are imposed that generally govern the rates charged to residential and business consumers. For example, at that time, residential rates were permitted to increase annually by the rate of inflation.

¹² See Telecom Decision 99-16.

¹³ See Telecom Decision 99-16. An HCSA is a clearly defined geographical area where the ILEC's monthly costs to provide basic service are greater than the associated revenues generated by service rates.

¹⁴ See Decision 2000-745.

¹⁵ In Decision 2000-745, the Commission established the National Contribution Fund to subsidize basic residential local telephone service in high-cost rural and remote parts of Canada. The fund is independently administered by the Central Fund Administrator.

¹⁶ The local subsidy requirement decreased from approximately \$920 million in 2001 to \$175 million in 2010.

16. The vigorous competition between ILECs and cable companies has developed to the point that the Commission, in recognition of market forces, has determined that rates need not be regulated¹⁷ for over 70 percent of the network access services (NAS)¹⁸ in Canada.
17. Wireless usage has been one of the large shifts in technology. In 2002, wireless telephone service was generally used as a complement to wireline service. Mobile wireless service packages were not priced for full-time usage, and prices for handsets were generally high. Today, in contrast, competitive wireless service providers offer a wide variety of service packages that include bundles of voice, data, and text services. As a result, some consumers, particularly in urban areas, are choosing to replace their local wireline service with a mobile wireless offering.
18. There have also been significant changes to Internet access services available to Canadians.¹⁹ When the basic service objective was established in 1999, dial-up service was the dominant form of residential Internet access. Since then, technology has evolved considerably, to the point where a majority of Internet users in Canada use broadband Internet access connections. Today, broadband Internet services (excluding satellite technologies) are available to 95 percent of Canadian households, and in the areas where they are available, 65 percent of households have adopted them.²⁰
19. The regulatory climate has also been shaped by the 2006 Policy Direction, issued by the Governor-in-Council to the Commission.²¹ The Policy Direction requires that the Commission rely on market forces to the maximum extent feasible as a means of achieving the policy objectives set out in the Act and regulate, where there is still a need to do so, in a manner that interferes with market forces to the minimum extent necessary to meet these policy objectives. With respect to regulatory measures that are of a social or non-economic nature, the Policy Direction requires that the Commission, to the greatest extent possible, implement measures in a symmetrical and competitively neutral manner.

¹⁷ The rates for services provided in a regulated exchange must be approved by the Commission, while the rates for services in a forborne exchange are not subject to Commission approval. Forbearance for services in a large ILEC's exchange is granted when competitors are capable of serving at least 75 percent of the number of network access services (NAS) that the ILEC is capable of serving (see Telecom Decision 2006-15). By contrast, services in a small ILEC's exchange may be forborne when competitors are capable of serving at least 50 percent of the number of NAS that the small ILEC is capable of serving (see Telecom Regulatory Policy 2009-379). In addition to these competitor presence tests, forbearance may be granted when an ILEC does not have market power, based on the criteria set out in paragraph 213 of Telecom Decision 2006-15.

¹⁸ NAS is the line that provides subscribers with access to the telephone network.

¹⁹ Internet access services are available at a variety of speeds. Low-speed, or narrowband, access services operate at speeds of up to 64 kilobits per second (Kbps) and are typically provided using dial-up access lines. High-speed access services, including wideband (up to 1.5 megabits per second (Mbps)) and broadband (faster than 1.5 Mbps), generally operate using digital subscriber lines, coaxial cables, terrestrial wireless technologies, satellites, and fibre optic cables.

²⁰ See *CRTC Communications Monitoring Report, 2010*.

²¹ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

Regulation of small ILECs

20. In 1994, as a result of a ruling by the Supreme Court of Canada,²² the small ILECs were brought under federal jurisdiction. The small ILECs serve approximately 2 percent of the residential NAS in Canada, which are primarily located in HCSAs.
21. In Telecom Decision 96-6, given the size of the small ILECs and in order to minimize their regulatory burden, the Commission established a regulatory framework for them that was lighter than the framework in place for the large ILECs. That small ILEC framework was based on rate-of-return regulation. In Decision 2001-756, the Commission established a revised regulatory framework for the small ILECs that included a simplified price regulation regime.
22. In Telecom Decision 2006-14, the Commission determined, among other things, that local competition would be allowed in the territories of the small ILECs. An important element of local competition is the ability of customers to switch service providers and retain their telephone numbers, a process known as local number portability (LNP).²³
23. In 2008, the Commission established a framework for wireless number portability (WNP) implementation in the small ILECs' serving territories.²⁴ WNP allows customers to keep their telephone numbers when switching to or from a wireless service provider. The Commission considered that there is no technical impediment to implementing WNP before implementing local competition and LNP.

Background

The proceeding

24. The Commission, in initiating this proceeding, issued Telecom Notice of Consultation 2010-43 to review, among other matters, issues associated with access to basic telecommunications service, including the obligation to serve, the basic service objective, and the local service subsidy regime. In addition, the Commission considered that, since any changes to the subsidy regime could affect the small ILECs, it would be appropriate to re-examine the local competition and WNP frameworks that apply in the territories of the small ILECs.

²² *Téléphone Guèvremont Inc. v. Québec (Régie des télécommunications)*, [1994] 1 S.C.R. 878

²³ The LNP process has two components: "porting out," where the ILEC releases a customer's telephone number to another carrier; and "porting in," where a customer returns to the ILEC with his/her telephone number. The small ILECs were required, at a minimum, to implement the porting out component.

²⁴ See Telecom Decision 2008-122. The WNP regime established for the small ILECs was similar to that established for the large ILECs in Telecom Decision 2005-72, with processes and procedures adapted to reflect the small ILECs' particular circumstances.

25. Further, the Commission requested comments on what role, if any, it should have in advancing broadband Internet access. In addition to examining technical specifications with respect to such access, the Commission sought comments on whether broadband Internet access should be considered part of basic service and, if so, whether it should be subsidized from the subsidy regime.
26. The Commission noted that its review in this proceeding would be done in light of the telecommunications policy objectives, set out in section 7 of the Act, and the Policy Direction.
27. Parties that participated in the proceeding included the large ILECs, the small ILECs, and Northwestel²⁵ (collectively, the ILECs); cable carriers and other telecommunications companies; industry and government organizations; municipalities; consumer groups; research groups; and individuals. Parties filed written submissions and/or participated in the oral component of the public hearing, which took place in both Timmins, Ontario and Gatineau, Quebec. The Commission received over 1,200 comments from members of the public, with the vast majority coming from the online consultation initiated by the Commission.²⁶
28. The public record of this proceeding, which closed on 12 November 2010, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file numbers provided at the beginning of this decision.

Issues

29. The Commission has identified the following major issues to be addressed:
 - I. whether the obligation to serve and the basic service objective should be modified, and if so, in what way;
 - II. whether the Commission should play a role with respect to access to broadband Internet services;
 - III. whether the subsidy regime should be modified for all HCSAs, and more particularly for the territories of the small ILECs,²⁷ and if so, in what way; and
 - IV. whether the regimes with respect to local competition (including LNP) and WNP in the small ILECs' territories should be modified, and if so, in what way.

²⁵ Northwestel has a unique subsidy regime, and local competition is not yet permitted in its territory. Therefore, only the determinations with respect to the obligation to serve and the basic service objective in regulated markets, as well as those related to broadband Internet access services, apply to Northwestel. As stated in Telecom Decision 2010-274, the Commission will initiate a review of Northwestel's regulatory framework following the publication of the current decision.

²⁶ Transcripts from the online consultation are available on the Commission's website at www.crtc.gc.ca.

²⁷ These issues as they pertain to the small ILECs are addressed in Section IV of this decision.

I. The obligation to serve and the basic service objective

30. All Canadians, regardless of whether they live in forborne or regulated exchanges, are entitled to receive primary exchange service (PES). PES is a wireline-based telephone service that provides customers with unlimited local calling within a defined area at a flat monthly rate, as well as access to a long distance network of the customer's choice. In regulated exchanges (both HCSAs and non-HCSAs), ILECs continue to have an obligation to serve (i.e. provide all tariffed services, including PES, throughout their territories), subject to the basic service objective, as described in paragraph 7.
31. In forborne exchanges (both HCSAs and non-HCSAs), the large ILECs are subject to a limited obligation to serve, as set out in Telecom Decision 2006-15. The large ILECs are required to provide residential stand-alone PES²⁸ in such exchanges, generally subject to a price ceiling set at the rate in effect prior to forbearance and in a manner consistent with the basic service objective. In Telecom Regulatory Policy 2009-379, the Commission applied the same conditions to the small ILECs.

Positions of parties

32. Most parties agreed that the terms and conditions associated with the obligation to serve and the basic service objective, as they pertain to voice service, remain appropriate.²⁹ Where the obligation to serve is retained, most parties also agreed that it should be applied only to ILECs (i.e. asymmetrically applied), given their ability to provide service uniformly throughout their respective incumbent serving territories.
33. Parties generally disagreed, however, on which exchanges (i.e. forborne or regulated) should be subject to the obligation to serve and the basic service objective. In this regard, parties generally proposed three approaches.
34. Certain parties, including Saskatchewan Telecommunications (SaskTel), the small ILECs, and the Public Interest Advocacy Centre (PIAC), submitted that the obligation to serve and the basic service objective should be retained in both regulated and forborne exchanges. These parties generally argued that reliance on market forces alone, even in forborne exchanges, would not ensure that vulnerable (e.g. low-income) and uncontested (i.e. without access to competitive wireline services) customers would continue to have access to quality voice services at affordable rates.

²⁸ Stand-alone PES refers to the situation where the customer subscribes only to PES and to no other telecommunications service.

²⁹ The issue of whether broadband Internet access should be included as part of the basic service objective is dealt with in the next section.

35. Other parties, including Bell Aliant Regional Communications, Limited Partnership (Bell Aliant) et al.,³⁰ Bell Canada, MTS Allstream Inc. (MTS Allstream), and TELUS Communications Company (TCC), argued that the obligation to serve and the basic service objective should be eliminated in forborne exchanges and retained in regulated exchanges. These parties generally argued that market forces are sufficient in forborne exchanges to ensure that high-quality PES continues to be accessible to all subscribers.
36. Finally, most of the large cable carriers³¹ submitted that the obligation to serve and the basic service objective should be eliminated wherever at least one competing alternative wireline or wireless voice service is provided within an ILEC's serving territory. These parties argued that mobile wireless services are pervasive across the vast majority of Canada and are substitutes for wireline services.
37. Notwithstanding their positions, some of the large ILECs indicated that, if the obligation to serve and the basic service objective are retained in forborne exchanges, the associated obligations should be modified to provide ILECs with greater pricing flexibility. In this regard, they proposed that the price ceiling on stand-alone PES be raised to the highest affordable level in forborne exchanges.
38. MTS Allstream proposed eliminating the obligation to mass-distribute residential telephone directory listings (white pages) in regulated exchanges, to be consistent with the Commission's policy for forborne exchanges.

Commission's analysis and determinations

39. The Commission notes that the primary goal of the obligation to serve and the basic service objective is for all Canadians, regardless of where they reside, to have reasonable access to basic telecommunications services. The Commission's determinations with respect to these measures are set out below, separately for regulated and forborne exchanges.

Regulated exchanges

40. The Commission notes that only ILECs are capable of providing access to basic wireline telephone service for all customers in their respective regulated exchanges. Given this situation and the minimal presence of wireline competitors in those exchanges, the Commission considers that market forces cannot be relied upon to achieve the policy objectives of the Act.

³⁰ Bell Aliant et al. refers to Bell Aliant, Télébec, NorthernTel, Limited Partnership, and KMTS, which made joint submissions.

³¹ The large cable carriers are Videotron Ltd., Cogeco Cable Inc., Rogers Communications Inc., and Shaw Cablesystems Ltd.

41. The Commission recognizes that mobile wireless substitution is a growing trend in Canada. However, the Commission considers that most consumers in regulated exchanges, the majority of which are in rural and remote areas, view these services as complementary to, rather than substitutes for, wireline service, due to issues related to pricing and quality of service.
42. With respect to the symmetrical application of the obligation to serve and the basic service objective, the Commission considers that it would not be appropriate to impose an obligation to serve on competitors, given that the majority of competitors have a minimal presence in regulated exchanges.
43. Accordingly, the Commission concludes that the obligation to serve and the basic service objective, as they currently apply to voice services, are retained for ILECs in regulated exchanges (both HCSAs and non-HCSAs).
44. With respect to the distribution of the white pages in regulated exchanges, the Commission concludes that, consistent with its policy for forborne exchanges, it is appropriate to allow ILECs to choose to make print copies of the white pages available only upon request in regulated exchanges, subject to certain conditions.³²

Forborne exchanges

45. The Commission considers that, in forborne exchanges, competition continues to be strong and pervasive across most areas, thereby allowing market forces to work and making it unnecessary to insist upon the basic service objective to protect the interests of consumers.
46. Based on the record of this proceeding, the Commission notes that a substantial number of residential customers in small forborne exchanges do not have access to a competitive wireline service provider. Moreover, the Commission notes that many residential ILEC customers still rely on the availability of stand-alone PES at reasonable rates. The Commission therefore considers that an obligation for ILECs to provide stand-alone PES, subject to a price ceiling, should be retained in forborne exchanges (both HCSAs and non-HCSAs) in order to continue to safeguard the interests of these consumers.³³

³² The conditions associated with on-request distribution include appropriate safeguards and billing inserts (providing notification regarding distribution plans and the means to obtain a print copy), and inclusion of Commission-mandated information requirements (emergency numbers) in the Yellow Pages directory. See file numbers 8000-C12-201009118, 8665-T66-200806599, and 8000-B2-01/03.

³³ Certain parties submitted that an obligation to serve can only be lawfully imposed where there is a monopoly. Because there is no monopoly, these parties argued that the Commission does not have the legal authority to impose an obligation to serve in forborne exchanges. The Commission notes its disagreement with this argument. In the Commission's view, it is unduly narrow, is inconsistent with the broad statutory powers granted to the Commission, and fails to recognize the broad policy objectives to which the Commission must have regard.

47. With respect to the symmetrical application of this obligation, the Commission considers that it would not be appropriate to impose such an obligation on competitive local exchange carriers (CLECs) in forborne exchanges. In this regard, the Commission considers that imposing this obligation on competitors would be unduly duplicative and would not be a minimally intrusive means of achieving the policy objectives underlying the obligation to serve.
48. The Commission considers that, in forborne exchanges, the advanced state of mobile wireless competition has resulted in high-quality voice service at increasingly competitive prices. In this regard, the Commission finds that mobile wireless voice services are substitutes for wireline voice services in forborne exchanges.
49. In light of the above, the Commission eliminates the basic service objective in forborne exchanges (both HCSAs and non-HCSAs). Furthermore, in these exchanges, ILECs will continue to have an obligation to provide stand-alone PES, which includes unlimited local calling at a flat monthly rate and a choice of long distance service provider, subject to the price ceiling discussed below. In addition, ILECs will have the flexibility in forborne exchanges to meet this obligation using mobile wireless voice services.
50. With respect to setting the price ceiling for stand-alone PES, the Commission considers that it is no longer appropriate to set the ceiling in forborne exchanges at the rates in effect in those exchanges prior to forbearance, which in many instances no longer reflect rates that would likely prevail in a competitive marketplace. The Commission notes that ILECs' rates for stand-alone PES in forborne exchanges vary significantly within provinces and across the country, and that this variation appears to be an historical anomaly.
51. The Commission considers that there would be merit in allowing ILECs the flexibility to harmonize rates for basic residential PES. In this regard, the Commission considers that any change to the price ceiling for basic residential PES rates in forborne exchanges should not generally result in these rates being higher than the rates in regulated exchanges.
52. Accordingly, the Commission sets the price ceiling³⁴ for the monthly stand-alone residential PES rate at \$30 in forborne exchanges.³⁵ If an ILEC decides to increase a monthly stand-alone residential PES rate to reach the price ceiling, that increase will be subject to an annual price constraint equal to one third of the difference between the rate in effect as of the date of this decision and the price ceiling. This constraint will apply in any given year until the price ceiling has been reached. Any proposed rate increases are to be made effective no earlier than 1 June of each year. Further, effective 1 June 2014, the \$30 price ceiling will be increased annually, on 1 June of each year, by the rate of inflation.

³⁴ The price ceiling includes Touch-Tone service and other permanent monthly charges associated with unlimited local calling (i.e. mileage charges, Extended Area Service, and Community Calling Service).

³⁵ For stand-alone PES rates that already exceed the monthly rate of \$30, the price ceiling remains at the existing rate.

53. The price ceiling for stand-alone PES in forborne exchanges remains the only major price regulation the Commission will apply to those exchanges. The Commission notes that it is up to each ILEC whether to increase rates to the price ceiling and that increases are not mandatory.

II. The Commission's role with respect to the expansion of access to broadband services

54. Virtually all Canadians, regardless of whether they live in urban centres or in rural and remote areas, benefit from having access to Internet services using a variety of technologies, including wireless and satellite technologies.
55. As previously noted, the basic service objective includes dial-up access to low-speed Internet at local rates. While dial-up access was the norm when the basic service objective was created, broadband speeds have become the prevalent means of accessing the Internet. In Canada, the rollout of broadband Internet access has been successful through a combination of market forces, targeted funding, and public-private partnerships at all levels of government. However, service gaps remain in rural and remote areas for broadband Internet access.
56. Internationally, governments have taken a variety of approaches to address the broadband Internet access needs of citizens and businesses located in rural and remote areas, including direct funding, regulatory mandates, and reliance on market forces.³⁶ As noted above, federal, provincial/territorial, and municipal governments in Canada have been investing in broadband initiatives. These initiatives were designed to support access to anchor institutions (e.g. hospitals and schools), build fibre backbone capacity, and extend broadband service to Canadian households.³⁷
57. In May 2010, the federal government released its consultation paper on a digital economy strategy for Canada, which, among other things, sought comments on how to build a world-class digital infrastructure, including access to broadband Internet service in rural and remote areas. The discussion questions explored such topics as service characteristics and funding considerations associated with broadband Internet services. The consultation paper specifically referenced the Commission's current proceeding. The Commission would hope that the findings in this decision might assist the government in addressing issues related to broadband Internet access in rural and remote areas.

³⁶ For example, in 2010 the Federal Communications Commission (FCC) in the United States issued its broadband plan outlining its plans and goals for a nationwide broadband network, and Australia announced plans on how to address delivering broadband to rural Australians.

³⁷ One of the recent, major initiatives of the federal government was the implementation of the Broadband Canada program, which focused on delivering broadband to rural Canadians using public-private partnerships. Since the inception of this program, the government has announced funding for 98 different initiatives.

58. In this proceeding, the Commission sought input on its role with respect to broadband Internet access. Issues examined in this regard include the following:
- A. whether the Commission should establish a funding mechanism for broadband Internet access;
 - B. whether specific target speeds should be created for broadband Internet access; and
 - C. whether there should be a requirement to provide broadband Internet access as part of any basic service objective.

A. Funding mechanism for broadband Internet access

Positions of parties

59. Most parties were opposed to the establishment of any industry-funded mechanisms to assist in the rollout of broadband Internet access services to all parts of Canada, arguing that such funding creates market distortions.
60. Parties in support of the establishment of a funding mechanism, which included SaskTel, MTS Allstream, and consumer groups as represented by PIAC and l'Union des consommateurs, put forth various recommendations for the establishment and administration of such a mechanism. They argued that such funding is needed to allow the more remote regions of Canada to enjoy the benefits of broadband Internet access services. In its submission, MRC Papineau commented that there is a need for funding mechanisms that encourage public-private partnerships.

Commission's analysis and determinations

61. The Commission notes that the increase in availability of broadband Internet access services has largely been driven by consumer demand for such services and market forces acting to satisfy that demand. Further, as noted earlier, targeted government funding (federal, provincial/territorial, and municipal) has been used in certain geographic areas to increase availability of these services in underserved regions.³⁸
62. The Commission further notes that many of the technologies deployed to serve rural and remote areas can be upgraded, thus improving Internet access services over time. This is particularly true of wireless services and satellite services, which can use newer satellites to increase capacity and capabilities.
63. In the Commission's view, market forces and targeted government funding will continue to drive the rollout and improvement of broadband Internet access services in rural and remote areas. This approach will give service providers the greatest

³⁸ See footnote 37.

flexibility to choose technologies and prioritize rollout in a manner that best responds to consumer demand. The Commission will continue to monitor the availability of these services to all Canadians through analysis of data provided by Internet service providers.

64. In light of the foregoing, the Commission concludes that it would not be appropriate at this time to establish a funding mechanism to subsidize the deployment of broadband Internet access services. The Commission will review the matter of funding mechanisms should market gaps persist.

B. Specific target speeds for broadband Internet access

Positions of parties

65. Several parties indicated that it would be unrealistic to establish target speeds, given the range of technologies being used and the various stages of broadband deployment throughout the country. These parties argued that any target would not be meaningful because of the rapidly changing broadband Internet service environment.
66. Notwithstanding these views, parties expressed general agreement that a download speed of 1.5 megabits per second (Mbps) should be the minimum speed for such a target. Many parties, including PIAC, the governments of the Northwest Territories and Yukon, and MRC Papineau, suggested setting a target download speed of 3 to 5 Mbps in the near future.
67. With respect to upload speed, parties suggested minimum targets ranging from 300 kilobits per second (BC Broadband Association) to 1 Mbps (numerous parties, including PIAC).
68. Another aspect considered was the time frame in which any proposed target should be reached. Parties proposed target dates ranging from immediate implementation to as late as 2020. As part of its final submission, Barrett Xplore Inc. indicated that it was committed to offering download speed options of 1.5, 3, and 5 Mbps, to be provided by satellite, starting as early as 2011 on a national basis, and making these service packages available to all Canadians by the end of 2012.
69. In addition, comments received from the public as part of the online consultation, as well as submissions from consumer groups, reflected the view that broadband Internet connections should be adequate to cover any reasonable type of online service offered, ranging from simple text reading to intensive applications such as video conferencing, which requires real-time, two-way data communication.

Commission's analysis and determinations

70. The Commission notes that Canadians' interest in broadband Internet access services is evidenced by the fact that a wide range of parties, including consumer advocacy groups, filed submissions on this issue. In addition, the Commission's online consultation resulted in over 350 comments from individuals regarding their views on Internet usage.

71. The Commission notes that the ubiquity and speed of broadband Internet access at reasonable rates is becoming more important for Canadians in the achievement of a number of social, economic, and cultural objectives. Canadians will change their patterns of viewing and interacting with digital media as they increasingly consume and produce directly through the Internet. Their requirements for broadband speeds will grow, just as their requirements for the processing capacity of their computers have grown. What was an acceptable speed in one year will be regarded as slow a few years later. The Commission expects that Internet service providers will keep pace with these requirements. The Commission considers that the freedom to use communications media at reasonable rates will be a primary concern for all Canadians in the years ahead.
72. The Commission notes that many countries have established their own broadband Internet access targets with various characteristics and timelines.³⁹ The Commission recognizes the growing importance of broadband Internet access to Canadians. In the Commission's view, the establishment of a target speed for broadband Internet access available universally to all Canadians would be in the public interest.
73. The Commission considers that, to be meaningful, a target should give due consideration to the uses consumers should reasonably expect to make of the Internet. At the same time, the Commission considers that a target set too high might be unrealistic.
74. Based on the record of this proceeding, the Commission considers that Canadians should have access to a broadband Internet access service that allows several users in one household to use the World Wide Web (alpha-numeric text, images, and small video files), voice over Internet Protocol services, and other online services (such as email and banking) over a single connection at the same time. With this type of access, users will be able to actively participate in online discussions, take advantage of many government services, and carry out research, to name just a few possible applications.
75. The Commission also considers that a broadband Internet access service should allow a single user to stream higher-quality audio and video and to participate in video conferencing at reasonable quality using online services. This capability will enable users to engage in such activities as participating in distance learning and online consultations with professionals (basic e-health).
76. To accommodate such uses, the Commission considers that the appropriate target speeds for broadband Internet access service are a minimum of 5 Mbps download and 1 Mbps upload. The Commission notes that, while many Canadians in urban areas already have access to broadband Internet services at or above these target speeds, such speeds are not currently available to most Canadians in rural and remote areas.

³⁹ For example, the FCC has proposed that a target of 4 Mbps downstream and 1 Mbps upstream be available to all Americans by 2020.

77. The Commission further considers that the target speeds are to be the actual speeds delivered, not merely those advertised. That stated, the Commission recognizes that the broadband Internet access speeds actually experienced by users are affected by a wide range of factors, some of which are outside the control of the network provider.
78. The Commission expects that the target speeds set out above will be available to all Canadian homes, regardless of their geographic location, through a range of technologies. For example, new satellite technology will soon be available to increase the footprint and quality of satellite broadband Internet access offerings, and numerous wireless network providers are expanding the reach of their latest network technologies, which promise greater speeds to more Canadians at reasonable rates.
79. With respect to the date for achieving the target speeds, the Commission considers that, based on the record of this proceeding, the end of 2015 is appropriate. In establishing this date, the Commission has taken into account the current reach of existing networks, as well as plans for network expansion by several carriers and other submissions made by parties during the proceeding.
80. The Commission will continue to gather information from Internet service providers, expanding its data collection process as appropriate, in order to monitor progress towards reaching these target speeds, particularly in rural and remote areas. In recognition of the evolving nature of the Internet and consumer expectations, the Commission may revisit the targets established in this decision.

C. Broadband Internet access as part of any basic service objective

Positions of parties

81. Parties opposed to the inclusion of broadband Internet access in the basic service objective submitted that the Commission lacks the legal authority to order this inclusion and that such a measure would distort the market and adversely affect the current subsidy regime. These parties, which included most ILECs and other major Internet access providers, argued that the Commission should continue to rely on market forces.
82. Parties that supported the inclusion of broadband Internet access in the basic service objective submitted that the Commission has the legal authority to mandate such a measure and that it should do so, given the importance of Internet access to all Canadians, particularly those in rural areas. These parties included consumer groups, industry associations, and provincial governments, as well as SaskTel, MTS Allstream, and MRC Papineau.

Commission's analysis and determinations

83. As noted above, the Commission considers that the deployment of broadband Internet access services should continue to rely on market forces and targeted government funding, and that regulatory intervention by the Commission is not appropriate at this

time. The Commission intends to closely monitor developments in the industry by collecting timely detailed information from service providers on the availability and adoption of broadband Internet access services. This activity will allow the Commission, in future, to determine whether regulatory intervention may be needed.

84. Accordingly, the Commission will not require broadband Internet access to be provided as part of any basic service objective.

III. The subsidy regime

85. While the preceding determinations in this decision have quite general application throughout Canada, the considerations that follow regarding HCSAs and the small ILECs (which, in many cases, serve HCSAs) require particular and detailed attention. While approximately 17 percent of all residential NAS in Canada are in HCSAs, and less than 2 percent of all residential NAS are located in small ILEC serving territories, the attainment of the objectives of the Act requires that HCSAs and the small ILECs be effectively integrated into the overall telecommunications system.
86. In part, that integration is achieved through subsidization and, in the case of the small ILECs, quite particular regulatory provisions. The following determinations of this decision, from paragraphs 97 to 186 (inclusive), pertain largely to issues raised by parties regarding HCSAs and the small ILECs.
87. The subsidy regime, along with the associated contribution regime and the National Contribution Fund, was set out in Decision 2000-745 with a view to subsidizing the provision of basic residential local telephone service in rural and remote areas of Canada.⁴⁰ Subsidies are only provided for HCSAs and currently continue to be provided even if the HCSA has been forborne.
88. Essentially, a subsidy amount is now paid on a monthly basis to each local exchange carrier that serves residential NAS in each ILEC HCSA band⁴¹ where the cost of providing the service exceeds the subscriber revenue derived from the service. The formula for calculating the amount payable, if any, is a complex one.

⁴⁰ A summary of the current contribution regime can be found in Telecom Circular 2007-15.

⁴¹ An HCSA band represents a group of exchanges or wire centres with similar characteristics, such as number of lines, remoteness, and, in some cases, loop length. While the criteria applied to classify exchanges into bands are uniform across the country, band costs may vary by ILEC or by region within ILEC territories. For example, Band E costs for SaskTel and Télébec are different; TCC's band E costs for Alberta and British-Columbia are different. Large ILEC exchanges or wire centres in Bands E, F, and G, as defined in Decision 2001-238, and small ILEC exchanges or wire centres in Bands E, F1, F2, F3, F4, and G, as defined in Decision 2001-756, are designated as HCSAs.

89. The initial step is to capture the cost component for providing residential service by HCSA band for each ILEC. The cost component is an estimate of the expenses required to provide residential PES and is derived using the Phase II costing methodology.⁴²
90. Rather than estimate revised costs each year, the Commission adjusts the cost component for the large ILECs annually by two factors: inflation and productivity offset.⁴³ The inflation factor, based on data published by Statistics Canada, is used to estimate the change in input costs. The productivity offset factor, currently set at 3.2 percent, is the amount by which the increase in efficiencies is assumed to decrease the cost of service. The productivity offset factor is based on a marginal cost approach that examines the change in the ILEC's unit costs over time for residential PES. These factors are not applied to reduce the small ILECs' cost components,⁴⁴ which have not changed since 2002.
91. From the cost component thus computed, two amounts are deducted. The first one is the rate component, which is specific to each ILEC in each band and is derived from the revenue received from subscribers for residential PES.⁴⁵
92. The second deduction from the cost component is the implicit contribution amount, which reflects the margins generated by optional local services (e.g. call waiting, call display) used by residential subscribers. For both large and small ILECs, the implicit contribution amount has been fixed at \$5 per month.⁴⁶
93. For a given calendar year, the subsidy per residential NAS for each large ILEC HCSA band is defined as the cost component less the rate component less the implicit contribution amount.
94. For the small ILECs, while subsidy requirements are determined on similar principles (i.e. a cost component less a rate component less an implicit contribution amount), they are implemented differently, as noted above. In addition, the rate components used in the calculation of current subsidy amounts generally reflect the rates in effect for each small ILEC in 2005.⁴⁷

⁴² The Commission has used the Phase II costing methodology for decades to calculate the incremental forward-looking costs of various elements of the ILEC's network. In Decision 2001-238, this methodology was used to determine the costs of residential PES for the large ILECs in order to establish their respective cost components. In Decision 2001-756, a national weighted-average monthly residential PES proxy cost based on the HCSAs of the large ILECs was used to determine the cost components for the small ILECs.

⁴³ See Telecom Decision 2007-27.

⁴⁴ See Telecom Decision 2006-14.

⁴⁵ The rate component reflects the weighted average of all HCSA sub-band PES rates in the ILEC's serving territory, by band. For the large ILECs, the rate component is updated each year and reflects the average residential PES rates in effect over the calendar year in HCSAs, by band.

⁴⁶ See Decision 2000-745 for the large ILECs and Decision 2001-756 for the small ILECs.

⁴⁷ See Telecom Decision 2006-14.

95. Expressed as a simplified formula, the subsidy per residential NAS for any given band is the following:

$$\begin{aligned} & [\text{cost component} \times (1 + \text{inflation} - \text{productivity offset factor})] \\ & - \text{rate component} - \text{implicit contribution amount}^{48} \end{aligned}$$

96. In order to determine whether the subsidy regime should be modified, and if so, in what way, the Commission has identified the following issues to be addressed:
- A. the costs and/or HCSA definitions used in the calculation of subsidy amounts;
 - B. the productivity offset factor;
 - C. the residential rate component;
 - D. the implicit contribution amount;
 - E. the distribution of subsidies; and
 - F. the implementation of any modifications.

A. Costs and/or HCSA definitions used in the calculation of subsidy

97. As explained above, for the large ILECs, the initial cost components were established in 2001 and have been adjusted each year by the inflation factor minus the productivity offset factor. For the small ILECs, the cost components are based on the weighted average of the large ILECs' initial costs and have not been adjusted since they were established in 2001.

Positions of parties

98. Bell Canada and Bell Aliant et al. stated that the existing costs used to calculate the subsidy requirement are inaccurate. They argued that the substantial difference between large ILECs' costs in western Canada and those in eastern Canada is inexplicable, and that the erroneous costs result in an inequitable distribution of subsidies. They also stated that, for Bell Canada and Bell Aliant in their Ontario and Quebec serving territories, the costs approved in Decision 2001-238 are too low because they were developed using dated and inaccurate local loop information provided by Bell Canada.
99. Bell Canada and Bell Aliant et al. stated that a full cost review would involve a wide range of controversial, interrelated issues and would require two consecutive proceedings: one to resolve methodology issues and another to determine costs.

⁴⁸ As an illustration which is not particular or exact, if the cost component is \$50, the rate component is \$25, and inflation is 1.5 percent, then the monthly subsidy per NAS would be \$19.15 $[(\$50 \times (1 + 1.5\% - 3.2\%)) - \$25 - \$5]$.

They argued that such a review, which would be complex and could take several years to complete, would be inconsistent with the Policy Direction principle that regulation, where it is required, should be efficient, minimally intrusive, and proportionate to its purpose.

100. Bell Canada and Bell Aliant et al. proposed that, instead of undertaking a full cost review, the Commission eliminate subsidies in Bands E and F, and significantly reduce subsidies in Band G, through increases to residential PES rates and to the implicit contribution amount.
101. SaskTel and TCC argued that their current costs used to calculate subsidies are too low. They submitted that this is due in particular to the “doughnut effect,” where competitors offer service in the lower-cost portions of an HCSA and leave the higher-cost portions for the ILEC to serve. Accordingly, SaskTel and TCC recommended that costs used to calculate the subsidy should be reviewed.
102. MTS Allstream stated that if there is a possibility that current cost estimates are inaccurate, there should be an opportunity to update and review costs.
103. Bell Aliant et al., SaskTel, and TCC argued that if a full cost review is undertaken, it should include a review of HCSA band definitions.

Commission’s analysis and determinations

104. The Commission notes that parties identified a wide variety of issues that would have to be addressed in assessing the costs used in the subsidy calculation, and that there was no consensus among parties on how these issues should be resolved. The Commission further notes that most parties acknowledged that a full review of the costs associated with the subsidy regime would require significant resources and time. Accordingly, the Commission concludes that it does not have before it the bases for resolving these issues in this proceeding.
105. The Commission has, however, effected modifications to the subsidy regime which are intended to make that regime more effective.⁴⁹
106. It would appear that a full cost review at this time would not be efficient, minimally intrusive, or proportionate to its purpose. In light of the foregoing, the Commission concludes that, at this time, it would not be appropriate to initiate a general review of the costs used in the calculation of subsidies. The Commission notes that an ILEC may choose to file an application to update the costs used to calculate its subsidy amount.

⁴⁹ See paragraphs 107 to 125 and 132 to 143 of this decision.

B. The productivity offset factor

Positions of parties

107. Bell Aliant et al., SaskTel, and TCC argued that in the face of a declining number of large ILEC wireline subscribers and many other factors, it is not realistic to assume that large ILECs can still achieve productivity gains in HCSAs. SaskTel argued that there are very few additional productivity gains that can be achieved in the provision of voice services in HCSAs without resulting in a degradation of the service. These parties suggested eliminating the productivity offset factor from the calculation of the cost component.
108. Bell Canada submitted that, consistent with the principle that subsidies should be reduced, the productivity offset factor should be retained in calculating the cost component. Bell Canada also argued that no parties had put forward empirical evidence to demonstrate that the productivity offset factor in HCSAs should be set at zero.

Commission's analysis and determinations

109. The Commission notes that the current productivity offset factor was established in Telecom Decision 2007-27 and was based on pre-2005 data. The Commission considers that the large ILECs have realized significant productivity gains regarding the cost component of the subsidy calculation and that the productivity offset factor no longer reflects market conditions. For instance, there has been a significant increase in competition in the cores of HCSAs as cable companies use their existing networks to provide telephone service. The Commission considers that productivity gains would primarily be achieved in these core areas.
110. As an ILEC's number of NAS in the core areas of its serving territory declines due to competition, and given that the ILEC is obliged to provide service throughout HCSAs (including the non-core, higher-cost portions), the Commission considers that the ILEC is unlikely to achieve productivity gains in HCSAs in the future. Accordingly, the Commission considers that it is no longer appropriate to include a productivity offset factor in the calculation of the subsidy requirement.
111. In view of these considerations, the Commission concludes that, beginning with subsidy calculations for 2011 with an effective date of 1 June 2011, the productivity offset factor will no longer be applied in the calculation of the cost component used to calculate subsidy amounts.

C. The residential rate component

112. As explained above, the rate component reflects the weighted average of residential PES rates within each band. Under the price cap rules established for the large ILECs in Telecom Decision 2007-27, rates in HCSAs are permitted to increase each year at the rate of inflation. The rate components for the small ILECs used in the current subsidy amounts generally reflect the rates in effect at the time Telecom Decision 2006-14 was issued.

Positions of parties

113. Bell Canada, Bell Aliant et al., and TCC argued that residential PES rates have generally been kept at artificially low levels. Bell Canada stated that since 2002, residential PES rates have risen less than the rate of inflation. These parties generally argued that maintaining residential PES rates at current levels unnecessarily exacerbates subsidy requirements and discourages competitive entry, thus contravening the Policy Direction.
114. Bell Aliant et al. stated that monthly residential PES rates in HCSAs range from \$21.89 to \$37.83 and questioned why, as a matter of public policy, prices in some HCSAs are subsidized much more than others.
115. Bell Canada, Bell Aliant et al., TCC, and the large cable carriers submitted that residential PES rates in HCSAs should be allowed to increase to the highest affordable level, with a transition period of two to three years if necessary. These parties proposed various target residential PES rate levels, the lowest of which was the level of \$30 per month established in Telecom Decision 2007-27. They submitted that the Commission has approved a variety of residential PES rates that are above \$30 and that, accordingly, their proposed rate levels are just, reasonable, and affordable.
116. The Ontario Telecommunications Association (OTA) argued that a monthly rate of \$30 is affordable, but was opposed to increases above that level.
117. PIAC, SaskTel, and MTS Allstream submitted that the large and small ILECs should not be permitted to significantly increase residential PES rates. These parties generally argued that increases such as those proposed would make services less affordable for customers in the affected areas and may increase the risk of disconnection.
118. Bell Canada and Bell Aliant et al. added that the maximum allowable rate increase should be imputed for subsidy calculation purposes, regardless of whether a particular ILEC actually implements it.

Commission's analysis and determinations

119. The Commission notes that residential PES rates in regulated HCSAs vary considerably, with many currently in excess of \$30. The result is that some areas are subsidized much more than others, simply because of rate differentials. The Commission considers that the use of more uniform rate components to calculate subsidies would produce a more equitable and more efficient result.
120. The Commission also notes that Telecom Decision 2007-27 gives large ILECs the flexibility to increase residential PES rates in regulated HCSAs annually by the rate of inflation. For regulated HCSAs in which rates are below \$30, Telecom Decision 2007-27 requires the rate component to be calculated by imputing the maximum allowable residential PES rate increases in those regulated HCSAs, whether or not

the large ILEC chooses to increase rates. The Commission notes that the \$30 rate was established to foster only local rate increases that would not result in residential local rates going beyond just and reasonable levels.

121. The Commission notes that in Telecom Decision 2001-756, it recognized that many small ILECs' residential PES rates lagged behind those of the large ILECs. In order to ensure that contributors to the National Contribution Fund would not unduly subsidize some small ILECs, in that decision the Commission established a fixed-rate component, based on the national weighted-average residential PES rates of the large ILECs, for the purposes of calculating subsidy amounts for the small ILECs. The Commission notes that residential PES rates and subsidy amounts for the small ILECs have generally not changed since 2006.
122. In view of the above, the Commission determines that, effective 1 June 2011, in the regulated HCSAs of all large and small ILECs where subsidies have not yet been eliminated and monthly rates are below \$30, these rates can be increased, as discussed below, to the lesser of \$30 or the amount required to eliminate subsidy. The maximum allowable rate increases will be imputed for the calculation of the rate component, regardless of whether the ILEC actually increases its rates. The increases to the rate components will be phased in over a period of three years (the transition period), in equal annual increments.
123. In these circumstances, if an ILEC decides to increase a residential PES rate, that increase will be subject to an annual price constraint equal to one third of the difference between the rate in effect as of the date of this decision and the \$30 rate established in Telecom Decision 2007-27. This constraint will apply in any given year. However, if the amount required to eliminate subsidy in any given year is less than the annual price constraint, the annual increase is limited to the amount required to eliminate subsidy. Any proposed rate increases are to be made effective no earlier than 1 June of each year.
124. To avoid exacerbating the rate differentials in HCSAs during the transition period, the Commission determines that rates that are already at \$30 or more will not be permitted to increase further during that period. These rates will be permitted to increase annually by the rate of inflation, effective 1 June 2014. Consistent with Telecom Decision 2007-27, residential PES rates that are below \$30 in large ILEC HCSAs where the subsidy has been eliminated will be permitted to increase by the rate of inflation, effective 1 June of each year.
125. After the end of the three-year transition period (i.e. 1 June 2014), the rate components will be increased annually by the rate of inflation.

D. The implicit contribution amount

126. As explained above, an implicit contribution amount of \$5 per residential NAS per month is used in the calculation of subsidies in the territories of the large and small ILECs.

Positions of parties

127. Bell Canada argued that the implicit contribution amount should be increased because margins from optional local services have increased since the current \$5 amount was established. The company also argued that margins from long distance services and from network access charges⁵⁰ should be included, as access to long distance services is part of the basic service objective. Bell Canada suggested raising the implicit contribution amount to \$10 or even \$15 per NAS per month.
128. Most of the large ILECs did not support increasing the implicit contribution amount. Bell Aliant et al., SaskTel, and TCC argued that it would not be competitively equitable to include margins from long distance services and from network access charges in the implicit contribution amount calculations. TCC added that margins on optional features are expected to decline as a result of competition.
129. The small ILECs submitted that the implicit contribution amount should either decrease or remain at the current level. Notably, the OTA did not support increasing the implicit contribution amount because most of its members have not been able to achieve the current \$5 amount.

Commission's analysis and determinations

130. In the Commission's view, the implicit contribution amount should not include margins from long distance services and from network access charges, since these services are not part of residential local service.
131. Based on the record of this proceeding, the Commission considers that for HCSAs, the implicit contribution amount of \$5 per NAS per month remains appropriate for use in subsidy calculations and therefore concludes that it should remain at its current level for the large and small ILECs in HCSAs.

E. The distribution of subsidies

132. Subsidy amounts in HCSAs are distributed monthly from the National Contribution Fund to both large ILECs and CLECs on a per-residential-NAS basis. For the small ILECs, subsidy amounts are distributed as a fixed amount per month. Residential NAS in forborne and regulated HCSAs are eligible for subsidy.

Positions of parties

133. Most ILECs and cable carriers submitted that there is no need to maintain the obligation to serve in forborne exchanges and that, consequently, no subsidy should be available once an exchange is forborne from regulation. These parties also argued that, if the obligation to provide PES is maintained in a forborne exchange, the subsidy should also be maintained in that exchange.

⁵⁰ A network access charge is a subscription fee that is generally associated with the provision of long distance services.

134. The large ILECs generally submitted that the subsidy should be allocated to the carrier that has the obligation to serve and should not be transferable to a competitor, since this obligation imposes costs on them that competitors do not have to incur. The large cable carriers argued that, should the subsidy for PES be retained in competitive exchanges, it should be transferable to promote efficient and equitable competition.
135. SaskTel, PIAC, and the small ILECs submitted that the obligation to serve and the subsidy regime should be maintained for PES in forborne exchanges because a significant proportion of NAS in those exchanges may be uncontested.

Commission's analysis and determinations

Forborne exchanges

136. The Commission notes that its determination in paragraph 52 above allows ILECs considerable flexibility to recover the costs of providing telephone services in forborne exchanges. Consequently, the Commission considers that an ILEC's financial burden in offering stand-alone PES in such exchanges at a capped rate is small.
137. Since subsidies generally create market distortions, the Commission considers that it is not appropriate to make subsidies available for providing PES in forborne exchanges, where market forces are strongly established.
138. The Commission therefore concludes that subsidies for the provision of PES should not be available in ILECs' forborne exchanges, effective 1 June 2011.
139. However, the Commission notes that, under the competitor presence test, the threshold to obtain forbearance from the regulation of local exchange services in the small ILECs' territories can be lower than the threshold for the large ILECs. Consequently, the Commission considers that special considerations are required with respect to the elimination of subsidies for the provision of PES in the forborne exchanges of the small ILECs' territories. Further details regarding this matter are addressed in paragraphs 180 to 182 of Section IV of this decision.

Transferability of subsidies

140. Subsidies are currently available to CLECs (which are predominantly cable companies) that provide residential PES in HCSAs. However, CLECs generally do not offer residential phone services in the higher-cost locations within regulated HCSAs. Only ILECs in regulated exchanges have the obligation to provide these services. The Commission considers that subsidies should be available only to those carriers that have an obligation to serve all customers in a given HCSA and that meet the basic service objective.

141. Subsidies account for a small percentage of the total operating revenues of CLECs, and cable companies that are CLECs have not indicated that subsidies are an important consideration in their decisions to enter particular markets. Rather, the Commission considers that a cable company's decision to offer local voice telephony service is driven by a desire to maximize service offerings using its existing cable plant.
142. The Commission concludes that subsidies will not be available to CLECs, in either the large or small ILECs' territories, effective 1 June 2011.

F. Implementation of modifications

143. Details on the implementation of the changes to the subsidy regimes for the large and small ILECs, as outlined in this section, are provided in Appendix B.

IV. The regime with respect to local competition and WNP in the small ILECs' territories

144. As stated earlier, in Telecom Decision 2006-14, the Commission established the framework for local competition in the territories of the small ILECs.⁵¹ One of the key requirements of the local competition framework is the obligation to implement LNP. Since 2006, local competition has been implemented in the territories of three small ILECs: TBayTel; NorthernTel, Limited Partnership (NorthernTel); and People's Tel Limited Partnership (People's).
145. Another consideration is WNP. In Telecom Decision 2008-122, the Commission set out the framework for the implementation of WNP in the small ILECs' operating territories.
146. In Telecom Notice of Consultation 2010-43, the Commission expressed concern that the implementation of WNP and local competition, which includes LNP, under the current frameworks could affect the financial viability of certain small ILECs, thereby jeopardizing the accessibility of basic local service for certain subscribers. The Commission further considered that any changes to the local service subsidy regime could affect local competition in the small ILECs' territories.
147. In determining whether to modify the small ILECs' local competition and WNP regimes, the Commission considers that the following issues must be addressed:

⁵¹ The small ILEC framework for local competition differs from the framework of the large ILECs in that a small ILEC is only required to file proposed tariffs for competitor services if it receives a *bona fide* request from a competitor, and implementation plans are to be filed with the Commission only following a formal request to use competitor services within a small ILEC's territory. Small ILECs must file implementation plans which address, among other things, how local competition implementation costs are to be recovered.

- A. terms and conditions for local competition and WNP in small ILEC markets; and
- B. special considerations for the small ILECs.

A. Terms and conditions for local competition and WNP in small ILEC markets

Positions of parties

148. While most parties submitted that local competition should generally be permitted in the small ILECs' territories, they recognized that special circumstances may justify an exemption for some small ILECs that serve fewer than 2,500 NAS. Some parties expressed concerns about the likely financial impact of competition on these small ILECs, and ultimately the impact on customers.
149. To address those concerns, the OTA suggested that local competition not be allowed in the territories of small ILECs serving fewer than 2,500 NAS. L'Association des Compagnies de téléphone du Québec inc. (l'ACTQ) suggested establishing conditions prior to implementing local competition, such as the availability of broadband Internet access service throughout the small ILECs' territories or 100 percent coverage of the small ILECs' territories by at least one competitor.
150. Several other parties proposed that the implementation of local competition continue in the territories of small ILECs serving more than 2,500 NAS, with a more restrictive approach to competition in the territories of small ILECs serving fewer than 2,500 NAS.
151. Most parties further agreed that the requirement to implement LNP should be maintained where competition is introduced and that WNP should also continue to be implemented in small ILEC territories.
152. While parties agreed in principle that local competition should continue to be allowed in the territories of the small ILECs, they differed with respect to its implementation.

Commission's analysis and determinations

153. The Commission considers that the proposals put forward by l'ACTQ would delay the implementation of local competition for extended periods, if not prevent it outright.
154. The Commission also considers that parties' proposals regarding the implementation of competition for small ILECs serving fewer than 2,500 NAS could act as a disincentive to innovation and diversification. In the Commission's view, small ILECs might refrain from offering new services in order to avoid implementing competition in their territories, which would be to the detriment of customers. The Commission considers that the customers of all small ILECs should be given the opportunity to benefit from local competition.

155. The Commission notes that recently, several small ILECs have begun to offer broadcast distribution services in their incumbent serving territories. The Commission further notes that many small ILECs are also acting as competitors by offering services such as telephony and Internet outside their incumbent serving territories. In the Commission's view, it would be inconsistent with the principle of competitive neutrality not to allow the implementation of local competition in the territories of the small ILECs, as this would allow small ILECs to offer telecommunications services in any territory while preventing cable companies from offering telephony services in their own territories.
156. With respect to WNP, the Commission considers that no evidence was presented in the current proceeding to cause it to modify its findings in Telecom Decision 2008-122.
157. The Commission is aware of the financial impact that implementing WNP and local competition, including LNP, may have on small ILECs and has therefore examined, in the following section, whether small ILECs should be subject to special considerations with respect to the subsidy regime and cost recovery in order to attenuate that financial impact.
158. The Commission concludes that local competition, which includes LNP, and WNP should continue to be introduced in all the territories of the small ILECs based on the existing frameworks, subject to the modifications set out in this decision.

B. Considerations for small ILECs

Positions of parties

159. The small ILECs submitted that local competition implementation costs should be recovered from either the National Contribution Fund or the new competitor in a small ILEC's territory. They argued that no small ILEC should bear the costs of implementing local competition, since such costs would clearly have a disproportionate financial impact on the small ILECs.
160. The cable carriers argued that only the smallest and most financially vulnerable small ILECs should be able to recover their local competition implementation costs from the National Contribution Fund. They further argued that no small ILEC should be permitted to recover such costs from competitors, since competitors have to absorb their own costs when entering new exchanges.
161. The large ILECs opposed the recovery of the small ILECs' local competition implementation costs from the National Contribution Fund, arguing that the fund may be used to subsidize affordable local service, but not to subsidize the implementation of competition. The large ILECs suggested that either the small ILEC in question bear all the costs or the costs be shared between the small ILEC and the competitor.

162. Regarding local subsidies, various parties argued that the subsidy regime for the small ILECs should be similar to the regime for the large ILECs in order to reduce the amount of subsidy that the small ILECs are receiving. However, the small ILECs submitted that, in the face of competition, to be able to fulfill their obligation to serve throughout their exchanges, they must continue to receive the current level of subsidies, as their operating costs are mostly fixed and hence would likely not decline with a loss of subscribers.

Commission's analysis and determinations

163. The Commission notes that the small ILECs' concerns with the local competition framework arise because potential competitors are well-established, generally large telecommunications service providers with networks already in place in the small ILECs' territories. The Commission considers that competitors, especially cable companies, would mostly target customers who are generally located in the core of a small ILEC's territory, where the competitor's existing network is typically present. As a result, small ILECs would face competition for these customers while still being required to serve customers located in the rural sections, where costs are higher.

164. The Commission recognizes that recovery of the costs of implementing WNP and/or local competition, including one-time start-up costs and ongoing costs, combined with reduced revenues due to the loss of customers, might affect the small ILECs' ability to meet their service obligations, particularly to customers outside the core. Furthermore, the Commission considers that it would not be feasible for the small ILECs to recover these costs and/or lost revenues entirely through rate increases.

165. The Commission therefore concludes that the small ILECs should be subject to special considerations with respect to the implementation of WNP and/or local competition in their territories. These considerations, which are outlined below, are intended to mitigate the financial impact of implementing WNP and/or local competition on the small ILECs. As a result, the small ILECs should be able to continue to provide all customers in their territories with reasonable access to reliable wireline services.

Start-up costs

166. The Commission considers that not all small ILECs face the same challenges or have the same business opportunities. The Commission considers that WNP and/or local competition start-up costs represent a disproportionate burden on the very small ILECs given the small number of NAS they serve. In the Commission's view, special considerations regarding the recovery of these costs must be given to the smallest ILECs.

167. From this proceeding, the Commission concludes that a threshold of 3,000 NAS would be an appropriate point at which to determine whether a small ILEC should be subject to special considerations regarding the recovery of start-up costs for WNP and/or local competition, including LNP. The Commission notes that, in computing the number of NAS served, it will include the total residential and business NAS of all the small ILEC's affiliates and/or its parent company, where applicable.

168. With respect to the recovery of costs associated with the implementation of number portability (which includes LNP and WNP), the Commission has previously determined that each carrier was responsible for the recovery of its own costs. However, the Commission is mindful of the small ILECs' limited financial resources and relatively small economies of scale. Accordingly, the Commission determines that the number portability start-up costs of the small ILECs serving 3,000 or fewer total residential and business NAS, including the total residential and business NAS of all their affiliates and/or their parent company, will be reimbursed by the new entrant(s) over a period of three years. In each of those three years, one third of the start-up costs will be reimbursed equally by all CLECs or wireless service providers that made use of number portability in the small ILEC's exchange during that year.
169. With respect to any local competition implementation costs other than number portability costs, the Commission further determines that for the small ILECs serving 3,000 or fewer total residential and business NAS, including the total residential and business NAS of all their affiliates and/or their parent company, the local competition start-up costs, excluding the cost of number portability, will be reimbursed over a period of three years following the implementation of local competition. In each of those three years, one third of the costs will be reimbursed equally by all CLECs, other than wireless service providers, present in the small ILEC's exchange during that year.
170. The Commission determines that the small ILEC may recover all applicable costs, including financing costs, from the first CLEC or wireless service provider, as applicable, that enters the small ILEC's territory. This cost recovery is to be made through a maximum of three yearly payments, the first of which must be paid at the latest on the date that local competition or WNP, as applicable, is implemented. All subsequent CLECs or wireless service providers, as applicable, that enter the small ILEC's territory will pay their share of the costs to the first CLEC or wireless service provider, which will still be responsible for coordinating the payments to the small ILEC.
171. The Commission encourages the parties to work out mutually beneficial terms for cost recovery arrangements, consistent with the determinations in this decision. If parties cannot come to an agreement, they may bring the matter before the Commission for resolution.

Ongoing costs

172. The Commission notes its determination in paragraph 122 of this decision that, in the regulated HCSAs of all large and small ILECs where subsidies have not yet been eliminated and the monthly rates are below \$30, these rates can be increased to the lesser of \$30 or the amount required to eliminate subsidy.

173. To assist the small ILECs in recovering ongoing costs associated with WNP and/or local competition, and in order to mitigate the potential impact on customers' rates, the Commission considers that the small ILEC subsidy regime must also include special considerations.
174. Therefore, the small ILECs that incur ongoing WNP and/or local competition costs will be permitted to lower the PES rate component used in calculating their subsidy by an amount equal to the lesser of the following: the approved ongoing costs on a per-NAS, per-month basis, or \$2 per NAS per month.

Subsidy regime

175. The Commission notes that the small ILECs currently receive subsidy based upon fixed annual subsidy amounts paid on a monthly basis. Although subsidy amounts for the small ILECs will change in 2011, as outlined below, subsidies in 2011 will continue to be paid based on fixed annual amounts, and these amounts will be finalized during the small ILEC regulatory framework proceeding.⁵²
176. In the Commission's view, the potential financial impact of WNP and/or local competition on the small ILECs should be mitigated. In addition, the Commission considers that a transition period would be appropriate to allow the small ILECs to adjust to both the new subsidy regime set out above and the introduction of WNP and local competition, including LNP.
177. Accordingly, the Commission determines that during the first three years following the implementation of WNP or local competition, whichever comes first, the small ILECs will receive full subsidy, calculated pursuant to the new regime, for all the residential NAS they serve in their exchanges. During that period, the small ILECs will also receive 50 percent of the subsidy for each of the residential NAS they no longer serve in their territory (i.e. lost NAS). These subsidies will be calculated on a monthly basis.
178. Following that three-year period, the small ILECs will continue to receive subsidy in competitive regulated exchanges only for the number of residential NAS they serve in those exchanges. These subsidies will also be calculated on a monthly basis.
179. In order for small ILEC subsidies to be calculated and paid on a monthly basis, the subsidy payment process for the small ILECs will change to a per-NAS mechanism, similar to the process used for large ILECs, effective 1 January 2012.
180. The Commission has determined in this decision that subsidy will no longer be provided in forborne exchanges. The Commission notes, however, that the small ILECs' competitor presence threshold to obtain forbearance from the regulation of

⁵² As stated in Telecom Regulatory Policy 2009-788, the review of the small ILEC regulatory framework will be initiated following the publication of the current decision.

local exchange services can be much lower than the threshold for the large ILECs. Under the competitor presence threshold test, competitors must be capable of serving at least 75 percent of the NAS that the incumbent is capable of serving before forbearance is granted in the large ILEC exchanges. That threshold can be reduced to 50 percent for the small ILECs.⁵³

181. In the Commission's view, it would not be appropriate for the small ILECs to lose all subsidies once their exchanges are forborne, since up to 50 percent of their customers could be in uncontested areas. The small ILECs would still have an obligation to serve all customers located outside the competitive core, in the most costly areas of their exchanges. The Commission considers that it would be more appropriate to cease paying subsidy to the small ILECs only once the competitor presence in a forborne exchange has reached the same threshold as that in place for the large ILECs (i.e. 75 percent).
182. Accordingly, the subsidy in small ILEC forborne exchanges will stop once two independent facilities-based telecommunications service providers, at least one of which is a fixed-line service provider, are both capable of serving at least 75 percent of the number of residential local exchange service lines that the small ILEC is capable of serving in the forborne exchange.
183. The Commission notes that in 2009, TBayTel was granted residential local exchange service rate forbearance, based on a 75 percent competitor presence test.⁵⁴ Accordingly, the Commission finds that TBayTel will stop receiving subsidy, effective 1 June 2011.
184. In the case of NorthernTel, the company has been granted residential local exchange service rate forbearance, based on a 75 percent competitor presence test, in some of its exchanges.⁵⁵ Accordingly, the Commission finds that NorthernTel will stop receiving subsidy, effective 1 June 2011, for those exchanges.
185. In addition, based on the determinations in this decision, NorthernTel and People's will receive 50 percent of the subsidy for lost NAS, effective 1 June 2011. Implementation details will be established in the small ILEC regulatory framework proceeding.
186. The specifics regarding the implementation of the determinations in this section are set out in Appendix B of this decision.

⁵³ The threshold may be reduced in instances where the small ILEC can demonstrate that the competitor(s) will target the core of the exchange due to the lack of financial incentive or economic ability to offer services in the outskirts of the exchange and where, as a result, the 75 percent competitor presence threshold is unlikely to ever be achieved. Otherwise, the small ILEC's flexibility to respond to competition in the core of the exchange would be limited.

⁵⁴ See Telecom Decision 2009-597.

⁵⁵ See Telecom Decisions 2010-176, 2010-748, and 2011-153.

Consistency with the Policy Direction

187. The Policy Direction states that the Commission, in exercising its powers and performing its duties under the Act, shall implement the policy objectives set out in section 7 of the Act, in accordance with paragraphs 1(a), (b), and (c) of the Policy Direction.
188. Consistent with subparagraph 1(a)(i) of the Policy Direction, in all cases where the Commission has maintained regulatory requirements, whether in existing or modified form, it has done so because market forces alone cannot be relied upon to achieve the telecommunications policy objectives set out in section 7 of the Act.
189. Consistent with subparagraph 1(a)(ii) of the Policy Direction, the Commission considers that the regulatory measures approved in this decision are efficient and proportionate to their purpose, and minimally interfere with market forces. In this regard, the Commission notes its determinations in this decision with respect to reducing reliance on subsidies, eliminating the application of the basic service objective in forborne exchanges, and providing ILECs with the flexibility to achieve their obligation to serve by using the technology of their choice. The Commission further notes its determination that regulatory intervention is not appropriate at this time with respect to the matter of access to broadband and that market forces should continue to be relied upon. Similarly, the Commission considers that its determinations with respect to the matter of local competition in the small ILECs' territories comply with the requirements of subparagraph 1(a)(ii) of the Policy Direction.
190. The Commission considers that the policy objectives set out in paragraphs 7(a), (b), (c), (f), (g), and (h) of the Act are advanced by the regulatory measures established in this decision. In particular, the Commission considers that the determinations in this decision are consistent with the objective that Canadians in both urban and rural areas have access to reliable and affordable telecommunications services of high quality. Accordingly, the Commission has maintained an obligation on ILECs to provide service in regulated exchanges. For the same reasons, the Commission has retained the obligation for ILECs to provide stand-alone PES in forborne exchanges.
191. With respect to subparagraph 1(b)(iii) of the Policy Direction, which requires that regulatory measures that are not of an economic nature be implemented, to the greatest extent possible, in a symmetrical and competitively neutral manner, the Commission considers that it would not be appropriate to apply the obligation to serve requirements, and make subsidies available, to carriers other than the large and small ILECs, for the reasons set out in this decision.
192. The dissenting opinion of Commissioner Lamarre is attached.

Secretary General

Related documents

- *NorthernTel, Limited Partnership – Application for forbearance from the regulation of residential local exchange services*, Telecom Decision CRTC 2011-153, 4 March 2011
- *Final 2010 revenue-percent charge and related matters*, Telecom Decision CRTC 2010-789, 25 October 2010
- *NorthernTel, Limited Partnership – Application for forbearance from the regulation of residential local exchange services*, Telecom Decision CRTC 2010-748, 8 October 2010
- *Wholesale high-speed access services proceeding*, Telecom Regulatory Policy CRTC 2010-632, 30 August 2010
- *Northwestel Inc. – Application for an extension of the current price cap regulatory framework*, Telecom Decision CRTC 2010-274, 13 May 2010
- *NorthernTel, Limited Partnership – Application for forbearance from the regulation of residential local exchange services*, Telecom Decision CRTC 2010-176, 24 March 2010
- *Proceeding to review access to basic telecommunications services and other matters*, Telecom Notice of Consultation CRTC 2010-43, 28 January 2010, as amended by *Obligation to serve and other matters*, Telecom Notice of Consultation CRTC 2010-43-1, 5 March 2010; Telecom Notice of Consultation CRTC 2010-43-2, 30 March 2010; and Telecom Notice of Consultation CRTC 2010-43-3, 23 July 2010
- *Revised procedures for the operation of the National Contribution Fund, effective 1 January 2010*, Telecom Decision CRTC 2009-789, 17 December 2009
- *Regulatory framework for the small incumbent local exchange carriers*, Telecom Regulatory Policy CRTC 2009-788, 17 December 2009
- *TBayTel – Application for forbearance from regulation of residential local exchange services*, Telecom Decision CRTC 2009-597, 25 September 2009
- *Framework for forbearance from regulation of retail local exchange services in the serving territories of the small incumbent local exchange carriers*, Telecom Regulatory Policy CRTC 2009-379, 23 June 2009
- *Regulatory framework for the implementation of wireless number portability within the serving territories of the small incumbent local exchange carriers*, Telecom Decision CRTC 2008-122, 18 December 2008

- *The Canadian revenue-based contribution regime*, Telecom Circular CRTC 2007-15, 8 June 2007
- *Price cap framework for large incumbent local exchange carriers*, Telecom Decision CRTC 2007-27, 30 April 2007
- *Forbearance from the regulation of retail local exchange services*, Telecom Decision CRTC 2006-15, 6 April 2006, as amended by Order in Council P.C. 2007-532, 4 April 2007
- *Revised regulatory framework for the small incumbent local exchange carriers*, Telecom Decision CRTC 2006-14, 29 March 2006
- *Implementation of wireless number portability*, Telecom Decision CRTC 2005-72, 20 December 2005
- *Regulatory framework for the small incumbent telephone companies*, Decision CRTC 2001-756, 14 December 2001
- *Restructured bands, revised loop rates and related issues*, Decision CRTC 2001-238, 27 April 2001, as amended by Decision CRTC 2001-238-1, 28 May 2001; and Decision CRTC 2001-238-2, 7 August 2001
- *Changes to the contribution regime*, Decision CRTC 2000-745, 30 November 2000
- *Telephone service to high-cost serving areas*, Telecom Decision CRTC 99-16, 19 October 1999
- *Price Cap regulation and related issues*, Telecom Decision CRTC 97-9, 1 May 1997
- *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
- *Competition in the provision of public long distance voice telephone services and related resale and sharing issues*, Telecom Decision CRTC 92-12, 12 June 1992
- *Review of the general regulations of the federally regulated terrestrial telecommunications common carriers*, Telecom Decision CRTC 86-7, 26 March 1986

Small ILECs by province

British-Columbia

CityWest Telephone Corporation

Ontario

Amtelecom Limited Partnership
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
KMTS
Lansdowne Rural Telephone Co. Ltd.
Mornington Communications Co-operative Limited
Nexicom Telecommunications Inc.
Nexicom Telephones Inc.
North Frontenac Telephone Corporation Ltd.
NorthernTel, Limited Partnership
NRTC Communications
Ontera
People's Tel Limited Partnership
Quadro Communications Co-operative Inc.
Roxborough Telephone Company Limited
TBayTel
Tuckersmith Communications Co-operative Limited
Wightman Telecom Ltd.
WTC Communications

Quebec

CoopTel
La Cie de Téléphone de Courcelles Inc.
La Compagnie de Téléphone de Lambton Inc.
La Compagnie de Téléphone de St-Victor
La Compagnie de Téléphone Upton Inc.
Le Téléphone de St-Éphrem inc.
Sogetel inc.
Téléphone Guèvremont inc.
Téléphone Milot inc.

Implementation of determinations

1. The purpose of this Appendix is to provide directions to the CFA and to those carriers that receive subsidy, pursuant to the determinations in this decision.

Subsidy distribution

2. The CFA may be required to process subsidy payment adjustments when the 2011 subsidy amounts and rates are finalized.⁵⁶ In the event of a subsidy overpayment, the local exchange carrier will be required to repay that overpayment to the CFA.

CLECs

3. The CFA is to stop paying subsidy to all CLECs in the territories of the large and small ILECs, effective with the June 2011 data-month.⁵⁷ Subsidy will only be paid to the large and small ILECs operating within their respective incumbent HCSA territories, starting with the June 2011 data-month.
4. All CLECs that receive subsidy during 2011 must provide their NAS audit reports to the CFA auditor by **31 May 2012**.⁵⁸

Large ILECs

5. The large ILECs are to provide the CFA with revised May 2011 month-end NAS counts, excluding all forborne HCSA exchanges/wire centres, by **20 June 2011**. The large ILECs are to report only NAS counts in regulated HCSAs to the CFA, starting with the June 2011 data-month.
6. The large ILECs are directed to refile their 2011 subsidy calculations by **2 June 2011**, taking into account the determinations in this decision. The large ILECs are to include only NAS in regulated HCSAs in their annual subsidy calculations.
7. The large ILECs must provide their May 2011 month-end NAS counts, broken down into forborne and regulated HCSAs, as part of their NAS audit reports to the CFA auditor by **31 May 2012**.

⁵⁶ The 2011 subsidy amounts in the territories of the large and small ILECs were made interim in Telecom Decision 2010-789.

⁵⁷ Information is reported to, and processed by, the CFA by data-month. For example, information for the June 2011 data-month is to be filed with the CFA by 28 July 2011; the CFA has until 25 August 2011 to complete processing this information.

⁵⁸ The NAS audit requirements can be found in section 7 of the approved procedures for the operation of the National Contribution Fund (Telecom Decision 2009-789).

Small ILECs

8. The CFA is to stop paying TBayTel subsidy, effective with the June 2011 data-month.
9. The CFA is to pay NorthernTel monthly subsidy based on a revised interim annual amount fixed at \$3.375 million, effective with the June 2011 data-month.
10. The CFA is to modify its systems to allow it to pay the small ILECs subsidy on a per-residential-NAS basis, effective with the January 2012 data-month. The CFA is also to modify its systems to allow it to pay the small ILECs subsidy for lost NAS, as set out in this decision.
11. For the purposes of calculating the lost NAS subsidy, the CFA is to begin paying a small ILEC subsidy based on the date that a CLEC is permitted to begin offering service in that small ILEC's territory (in-service date) or the date that WNP is implemented in its territory.⁵⁹ In the case of lost NAS due to local competition implementation, the Commission will notify the CLEC and the CFA of the in-service date by letter. In the case of lost NAS due to WNP implementation, the Commission decision approving WNP in a small ILEC's territory will indicate the WNP implementation date.
12. The small ILECs are to report their residential NAS by wire centre to the CFA, for those exchanges that are eligible to receive subsidy pursuant to the determinations in this decision, effective with the December 2011 data-month. If a small ILEC exchange has more than one wire centre, the small ILEC is directed to notify the Commission and the CFA, by **2 June 2011**, of the mapping of its wire centres to each exchange.

Calculation of subsidy components for large ILECs

13. The large ILECs are to use a residential PES productivity offset factor of 1.3 percent⁶⁰ to determine the cost component of their 2011 subsidy calculations, and of 0 percent starting with their 2012 subsidy calculations.
14. The large ILECs are required, when submitting subsidy calculations, to first calculate the cost component and then calculate the imputed rate component. They are to include the annual adjustment to the cost component in their calculation of subsidy per residential NAS.

⁵⁹ For example, for a CLEC in-service date or a WNP implementation date of 16 May 2011, the CFA would use the April 2011 month-end NAS information to calculate the lost NAS subsidy for the period from May 2011 to April 2014.

⁶⁰ This amount was determined by prorating the current productivity offset factor of 3.2 percent and the revised factor of 0 percent, based on an effective date of 1 June 2011.

Dissenting opinion of Commissioner Suzanne Lamarre

1. I concur with the majority decision, except for one aspect of the proposed regulatory regime for small ILECs.
2. I believe that the obligation for competitors to reimburse small ILECs for local competition start-up costs should apply regardless of how many subscribers the small ILEC has. The distinction established by the majority, in paragraphs 166 to 171 of the decision, between small ILECs serving 3,000 or fewer NAS subscribers and those serving more than 3,000 is arbitrary and unjustified, in my opinion, because it is not based on relevant factors that could possibly distinguish the former from the latter.
3. The factors that justify imposing such an obligation on competitors are common to all small ILECs, regardless of their number of subscribers: they serve only HCSAs; they have an obligation to serve; they are located in rural areas; their serving territories are geographically large and, in some cases, are made up of non-contiguous areas; competitors will focus only on the most densely populated portions of their territories (the “doughnut hole effect”); and the potential competitors are not new entrants, but rather existing companies that are already well-established in the territories and are economically much stronger than the small ILECs.¹
4. I obviously agree that small ILECs serving 3,000 or fewer NAS subscribers should recover local competition start-up costs within their respective territories.
5. But the Commission’s creation of a false distinction between two classes of small ILECs to avoid extending the competitors’ obligation to include all small ILECs will lead to easily foreseeable problems.
6. First, it will discourage these small ILECs from expanding their territories and their client bases, and will therefore negatively affect the availability of all telecommunications services, including Internet services, offered in certain rural areas served by carriers that currently have 3,000 or fewer NAS subscribers.
7. This will then necessarily contribute to the creation of two categories of citizens, initially within the territories of small ILECs serving more than 3,000 NAS subscribers, and over time also within the territories of those serving 3,000 or fewer subscribers. The first category (located in more densely populated areas typically served by water and sewer systems)² will benefit from competition, and the second category (located in outlying areas) will finance competition for the first.

¹ From the evidence presented at the public hearing, it is clear and unsurprising that the most likely competitors for the serving territories of the small ILECs are broadcasting distribution undertakings (BDUs). By their own admission, however, these companies have no intention of extending their services beyond the territory covered by their existing infrastructure.

² The serving areas of BDUs were, for the most part, established at a time when BDUs held a monopoly and consequently had an obligation to provide service, within the limits of their licences, to homes in rural areas receiving water and sewer services (see Transcript of proceeding, Volume 6, 3 November 2010, paragraph 6864).

8. Clearly, by not allowing small ILECs serving more than 3,000 NAS subscribers to recover local competition start-up costs:
 - we are not facilitating “the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich and strengthen the social and economic fabric of Canada **and its regions**” (emphasis added), as required by paragraph 7(a) of the *Telecommunications Act* (the Act);
 - we are not rendering “reliable and affordable telecommunications services of high quality accessible to Canadians **in both urban and rural areas in all regions** of Canada” (emphasis added), as required by paragraph 7(b) of the Act; and
 - we are not stimulating “research and development in Canada in the field of telecommunications” nor encouraging “innovation in the provision of telecommunications services,” as required by paragraph 7(g) of the Act.
9. Moreover, it is not possible to justify this approach on the basis of the Policy Direction. For one thing, section 47 of the Act clearly indicates that the Policy Direction must be interpreted and implemented in such a way as to achieve the objectives of the Act. In addition, section 1 of the Policy Direction states that “the Commission should rely on market forces to the maximum extent feasible **as the means of achieving the telecommunications policy objectives**” (emphasis added). Increased reliance on market forces, a policy objective set out in paragraph 7(f) of the Act, thus cannot be achieved in isolation nor to the detriment of the other Canadian telecommunications policy objectives set out in section 7 of the Act.
10. Taking into consideration all the evidence presented, I cannot reconcile the majority position concerning local competition start-up costs in the territories of small ILECs serving more than 3,000 NAS subscribers with the Canadian telecommunications policy, as applied in accordance with the Policy Direction. For this reason, I would have chosen instead to require competitors to reimburse local competition start-up costs in the territories of all the small ILECs.