



## Telecom Decision CRTC 2004-40

Ottawa, 17 June 2004

### Application filed by Société en commandite Télébec to create an expanded local calling area for James Bay region Cree communities

Reference: 8661-T78-200316960

*In this decision, the Commission **denies** the proposal by Société en commandite Télébec (Télébec) to use the National Contribution Fund to financially compensate it for the creation of an expanded local calling area (LCA) for Cree communities in the James Bay region. While recognizing the merits of the proposal, the Commission considers that it would be inappropriate for operating costs incurred following the creation of the proposed expanded LCA to be recovered in the same way as are operating costs for service improvement plans in high-cost serving areas.*

*The Commission suggests that Télébec submit a more detailed cost analysis to the Grand Council of the Crees (GCC) in order to receive its approval. The analysis should take into consideration a targeted rate increase for subscribers of the expanded LCA or any alternative source of financial compensation. Following GCC approval, Télébec could again apply to the Commission for the creation of an expanded LCA.*

1. The Commission received an application by Société en commandite Télébec (Télébec), dated 7 November 2003, seeking approval for an expanded local calling area (LCA) for Cree communities in the James Bay region and for project operating costs to be offset by the National Contribution Fund. To recover the amount of foregone toll revenues, Télébec proposed increases for local residential and business subscribers of \$9.05 per month for a three-year period.

#### Process

2. The Commission received comments from the Grand Council of the Crees (GCC) on 5 and 16 December 2003 and from Xit télécom on 7 December 2003.
3. Télébec filed additional information on 16 December 2003 and a reply to comments on 17 December 2003.

#### Background

4. In *Telephone service to high-cost serving areas*, Telecom Decision CRTC 99-16, 19 October 1999 (Decision 99-16), the Commission set the following basic service objectives for local exchange carriers across Canada:
  - individual line local service with touch-tone dialling, provided by a digital switch with capability to connect via the public switched telephone network to the Internet without incurring long distance charges;

- enhanced calling features, including access to emergency services, Voice Message Relay service, and privacy protection features;
  - access to operator and directory assistance services;
  - access to the long distance network; and
  - a copy of a current local telephone directory.
5. In *Changes to the contribution regime*, Decision CRTC 2000-745, 30 November 2000 (Decision 2000-745), the Commission replaced the per-minute contribution mechanism with a national subsidy mechanism to partially subsidize basic local residential service in high-cost serving areas (HCSAs).
  6. In *Framework for the expansion of local calling areas*, Telecom Decision CRTC 2002-56, 12 September 2002 (Decision 2002-56), the Commission established that the following criteria should be considered in the process to create an expanded LCA: (i) community of interest criterion; (ii) compensation for increased operating costs; (iii) compensation for foregone toll revenues; (iv) subscriber plebiscites; and (v) compensation for subscriber plebiscites.
  7. Further, the Commission noted that there are both increased operating costs and savings associated with the creation of an expanded LCA. The Commission also indicated that the net incremental increase in operating expenses in previous applications have generally not been significant. The Commission indicated, however, that when an application to create an expanded LCA would result in a material increase in net incremental operating costs, the Commission would consider the increase as an exogenous adjustment in accordance with the regulatory framework established in *Implementation of price regulation for Télébec and TELUS Québec*, Telecom Decision CRTC 2002-43, 31 July 2002 (Decision 2002-43).
  8. According to *Follow-up proceeding to Telecom Decision CRTC 2002-56 – Foregone toll revenue compensation for expanded local calling areas*, Telecom Decision CRTC 2003-27, 7 May 2003 (Decision 2003-27), the Commission stated that the rate increase to recover foregone toll revenues would be in effect for a period of three years following the creation of an expanded LCA.

### **The application**

9. Télébec indicated that the proposed expanded LCA would include nine exchanges serving Cree communities in the James Bay region, eight of which are in Télébec's territory and one, Kuujjuarapik, is in Bell Canada's territory. Télébec noted that these exchanges are located in an HCSA and extend over an area of more than 150,000 km<sup>2</sup>. Télébec also indicated that Bell Canada would submit a separate application identifying impacts associated with the Kuujjuarapik exchange.
10. Télébec noted that to provide an expanded LCA, it would need to increase the carrying capability of its distribution network and modify its switches. According to Télébec, it would have to add distribution capacity equivalent to 131 DS-0 circuits. Télébec submitted that for five villages in

the communities involved, which do not have basic dial-in Internet access, the creation of the proposed expanded LCA would provide subscribers with toll-free dial-in access to Internet service providers. Télébec noted that this would involve the addition of 48 DS-0 circuits.

11. Télébec submitted that it estimated an additional investment of \$4.3 million would be needed for its access network. Télébec also submitted that net incremental operating expenses would be \$1.6 million<sup>1</sup> per year. Télébec further indicated that this work would take place over a twelve-month period.
12. Télébec indicated that if the operating expenses were recovered through an exogenous factor, as set out in Decision 2002-56, the result could translate to a substantial increase of \$0.83 per month for each residential or business network access service (NAS) subscriber in its entire territory.
13. Télébec proposed that, as an exception to Decision 2002-56, the costs associated with the creation of the proposed expanded LCA be recovered in the same way as costs for service improvement plans (SIP) in HCSAs, and that they be added to the total subsidy requirement (TSR), as is the case for SIP funding costs. Télébec submitted that if this proposed expanded LCA had existed when Télébec provided its Phase II costs, it would have increased the cost of local service in band G (remote area rate band). Télébec submitted that the costs associated with providing basic services, including the proposed expanded LCA, would have been included in the TSR calculation.
14. Télébec noted that in Decision 2002-56, the Commission concluded that incumbent local exchange carriers (ILECs) and their competitors should be compensated for foregone toll revenues. Télébec indicated that as of 1 August 2003, no competitor offered long-distance services in the exchanges covered by its application.
15. Télébec submitted that total foregone toll revenues would be \$500,000 per year. Télébec proposed that foregone toll revenues be offset by an increase of \$9.05 per month per affected NAS for a period of three years following the creation of the proposed expanded LCA.
16. Télébec submitted that, under Decision 2002-56, subscriber plebiscites are required for all increases over \$1.00 to residential rates following the creation of an expanded LCA. Télébec indicated that, if the Commission approved this application, the value of the surcharge would exceed \$1.00 per month, thereby requiring a consultation of affected subscribers. Télébec also submitted that the consultation would be in the form of a plebiscite and cost \$17,000.

## **Position of parties**

### **Xit télécom**

17. Xit télécom requested that the Commission deny Télébec's proposal to include in the calculation of its TSR the net incremental operating costs associated with the expanded LCA for Cree communities in the James Bay region, as it was inconsistent with the provisions of Decision 2002-56.

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<sup>1</sup> The Commission notes that this information is excerpted from a Télébec submission dated 7 November 2003 and not from the analysis of the current value of annual costs (Appendix 3 of same submission).

18. Xit télécom indicated that it was currently bidding against Télébec in Télébec's territory for several projects relating to the construction of an optical fibre backbone. Xit télécom submitted that until the Commission handed down its decision on Public Notice 2001-69<sup>2</sup> regarding the implementation of local competition in Télébec's territory, it would be inappropriate for the Commission to consent to the use of the National Contribution Fund to enable Télébec to better prepare itself for the advent of competition.
19. Xit télécom submitted that using the National Contribution Fund to upgrade Télébec's long distance network should not be permitted until Télébec has completed an in-depth analysis of the potential savings if it were to become a partner in the construction of an optical fibre network linking the Cree communities of James Bay to the "Villages branchés" project of the James Bay and Abitibi school board. Xit télécom also submitted that the costs it provided in its intervention could serve as the basis for this analysis compared with the costs associated with upgrading Télébec's microwave equipment.
20. Xit télécom submitted that it would not be in the public interest for the Commission to allow Télébec to include net incremental operating costs associated with the creation of an expanded LCA for the Cree communities of James Bay in the calculation of its TSR. Xit télécom submitted that it would be necessary for the Commission to review Decision 2002-56 for such a request to be permitted based on the current regulatory framework, and that Télébec has not filed for a review of Decision 2002-56.
21. Xit télécom submitted that it would be unfair to other users in Télébec's territory, particularly those on the south shore of Trois-Rivières, who would not have the opportunity to use the National Contribution Fund to upgrade the interexchange infrastructure in their territories.

#### **The Grand Council of the Crees**

22. The GCC indicated that the Commission should consider any upgrade of Télébec's DMS-10 switching equipment as a regular operating expense and not as a cost related to this application. The GCC submitted that this upgrade would be required in the course of the carrier's normal operations.
23. In its reply to Xit télécom's comments, the GCC indicated that the bid referred to by Xit télécom was not considered for broadband network work in the Cree communities. The GCC also indicated that the bid did not apply directly to Télébec's application, as it was limited to the deployment of the broadband network and the Internet. The GCC submitted that Xit télécom showed no signs of hardship following Télébec's application.
24. The GCC submitted that the Cree communities waited a long time for toll-free communication between these communities and that they want the same privileges offered elsewhere by Bell Canada.

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<sup>2</sup> *Implementation of competition in the local exchange and local payphone markets in the territories of Télébec and TELUS (Québec)*, Public Notice CRTC 2001-69, 14 June 2001.

### **Télébec's reply**

25. Télébec submitted that the proposal to add costs related to investments for the DMS-10 switches, as an exogenous adjustment, is consistent with the Commission's directives in Decision 2002-56. Télébec also submitted that these investments are directly related to the creation of the proposed expanded LCA for the Cree communities.
26. Télébec indicated that accessing the National Contribution Fund was not discriminatory to other users in its territory in that it eliminates reliance on the exogenous adjustment, thereby reducing the level of rates these users would otherwise have to bear.

### **Commission analysis and determination**

27. In Decision 2002-56, the Commission deemed that local, municipal and regional governments were in a good position to assess the community of interest within their communities. Accordingly, the Commission will accept requests from the appropriate local, municipal or regional governments as evidence of the community of interest in establishing a particular expanded LCA. According to the proceeding launched by Decision 2002-56, a local, municipal or regional government must pass a motion to create an expanded LCA and present it to the ILEC. The GCC presented its application to Télébec for the creation of an expanded LCA grouping all James Bay Cree communities. The Commission noted that the GCC is a regional government and thus meets the community of interest criterion in accordance with Decision 2002-56.
28. With respect to compensation for foregone toll revenues, the Commission notes that based on Decision 2003-27, foregone toll revenues associated with the creation of an expanded LCA may be recovered over a three-year period from the subscribers of the expanded LCA. Télébec indicated that this loss amounts to approximately \$500,000 annually, thereby representing a recovery of \$9.05/NAS per month over three years. The Commission is of the opinion that the method of calculation used by Télébec is in line with the requirements of Decision 2003-27.
29. The Commission recognizes the merits of creating an expanded LCA to group communities of interest, such as the Cree communities, and to thus facilitate local economic development. The proposed expanded LCA, as the GCC argues, would also facilitate communication and access to community services. The Commission supports the proposal to create an expanded LCA for the Cree communities of James Bay.
30. With respect to compensation for the increase in operating costs, Télébec proposed that operating expenses of the proposed expanded LCA, pegged at \$1.6 million, be recovered in the same way as SIPs are in HCSAs, in accordance with Decision 2002-43.
31. However, the Commission notes that, pursuant to Decision 2000-745, the National Contribution Fund should be used to subsidize subscribers in remote areas to provide them with basic service or improve basic service in accordance with the basic service objectives set out in Decision 99-16. The Commission is of the opinion that the proposed expanded LCA does not fall under the basic service objectives. Accordingly, the Commission does not agree with Télébec's proposal of using the National Contribution Fund to recover operating costs for this project.

32. The Commission considers Télébec's application to be in accordance with the process established in Decision 2002-56 for the creation of an expanded LCA, with the exception of its request for compensation for operating costs.
33. The Commission notes that other sources of funding could be used to recover operating costs for this project. The Commission invites the GCC and Télébec to act in partnership in seeking alternative sources of financing. One possible source of funding for the project could be a rate increase. The Commission is of the opinion that such an increase should target subscribers in the expanded LCA in question so as not to discriminate against other subscribers in Télébec's territory. Prior to implementing such a rate increase, Télébec would be required to hold a subscriber plebiscite, as set out in Decision 2002-56. However, the Commission suggests that Télébec reassess the project costs prior to holding a plebiscite for affected subscribers.
34. More specifically, while recognizing the merits of the proposal, the Commission suggests that Télébec submit a more detailed cost analysis to the GCC for its approval. The Commission is also of the opinion that Télébec, in partnership with the GCC, should restate the project by considering a targeted rate increase or alternative forms of funding. Then, Télébec should present this analysis to the Commission. Following Commission approval of the costs of the project, Télébec could proceed with a plebiscite for potential subscribers of the proposed expanded LCA. As stated in Decision 2002-56, regional governments should bear the costs of subscriber plebiscites.
35. Télébec also indicated that Bell Canada would be filing a separate application regarding the proposal to create an expanded LCA in its territory. The Commission notes that it has not received an application from Bell Canada in this regard.
36. In light of the above, the Commission:
  - a) **denies** Télébec's proposal to use the National Contribution Fund to financially compensate it for the creation of an expanded LCA for the Cree communities of James Bay; and
  - b) suggests to Télébec that it submit a more detailed cost analysis to the GCC for approval. The analysis should take into consideration a targeted rate increase for subscribers of the proposed expanded LCA for the Cree communities of James Bay or any alternative source of financial compensation other than the National Contribution Fund. Following GCC approval, Télébec could resubmit its application to the Commission.

Secretary General

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