



## Telecom Decision CRTC 2004-19

Ottawa, 22 March 2004

### **Call-Net's request for an order requiring incumbent local exchange carriers to file a tariff for four-hour mean time to repair on local loops**

Reference: 8622-C25-14/02

*The Commission **denies** Call-Net Enterprises Inc.'s application requesting that the incumbent local exchange carriers (ILECs) file a tariff that would provide the competitive local exchange carriers (CLECs) an option to obtain four-hour mean time to repair (MTTR) service on a leased local loop. In specific circumstances where spare loops similar in nature to the defective loop(s) exist, the Commission directs the ILECs to offer the CLECs an option of seven-hour MTTR on leased loops from the start of the co-ordinated testing between the ILEC and the CLEC technicians.*

1. On 23 January 2002, Call-Net Enterprises Inc., on behalf of itself and its affiliated companies, including Sprint Canada Inc. and GT Group Telecom Services Corp., now known as LondonConnect Inc. (collectively, the Entrants), filed an application pursuant to Part VII of the *CRTC Telecommunications Rules of Procedure*. The Entrants requested that the Commission direct the incumbent local exchange carriers (ILECs) to file a tariff that would allow competitive local exchange carriers (CLECs) an option to obtain four-hour mean time to repair (MTTR)<sup>1</sup> service on a leased local loop.
2. The Commission received comments in support of the application from AT&T Canada Corp. on behalf of itself and AT&T Canada Telecom Services Company (now known as Allstream Corp.) on 22 February 2002. Comments were also received from Aliant Telecom Inc., Bell Canada, MTS Communications Inc. (MTS) and Saskatchewan Telecommunications (collectively, the Companies) and TELUS Communications Inc. (TCI) on 25 February 2002.
3. The Commission received reply comments to the application from the Entrants on 7 March 2002. On 9 April 2002, the Companies filed a supplementary response alleging that the Entrants' comments of 7 March 2002 contained a number of new arguments, assertions and material as well as new additional requests for relief for which they had not previously had an opportunity to address. The Entrants filed a supplementary reply on 19 April 2002.
4. The Entrants' application and the subsequent comments received by the parties to this process raised six specific issues:
  - discriminatory treatment in the provisioning of local loops for T1<sup>2</sup> service;

<sup>1</sup> Mean time to repair (MTTR): The total corrective maintenance time divided by the total number of corrective maintenance actions during a given period of time.

<sup>2</sup> T1: a digital transmission system operating at 1.544 Mbps typically used to carry a DS-1 signal format.

- discriminatory repair times to retail business primary exchange customers;
- preferential treatment of ILEC affiliates;
- ILECs' discriminatory use of trouble-ticket prioritization;
- appropriate representations by ILECs of MTTR to customers; and
- pricing of a four-hour MTTR option for leased loops.

## **Background**

5. In *Local competition*, Telecom Decision CRTC 97-8, 1 May 1997 (Decision 97-8), the Commission mandated the unbundling of certain ILECs' service and facility components that CLECs required, but would not generally be able to provide themselves. The Commission also mandated that certain facilities, functions or services which did not meet the definition of an essential facility<sup>3</sup>, but for which the competitive supply was very limited (near-essential facilities), also be unbundled and priced on the basis of rating principles established for essential facilities. The Commission found in Decision 97-8 that all local loops should be unbundled and priced based on the rating principles for essential facilities. As a result, CLECs were able to lease unbundled local loops (local loops) from the ILECs to access end-customers instead of installing their own facilities. In *Local competition: Sunset clause for near-essential facilities*, Order CRTC 2001-184, 1 March 2001, the Commission noted, among other things, that the near-essential local loops remained critical inputs required by entrants and it extended indefinitely the ability of CLECs to lease local loops from the ILECs.
6. In addition to being able to lease local loops from the ILECs, it was recognized in *CRTC creates new quality of service indicators for telephone companies*, Decision CRTC 2001-217, 9 April 2001 (Decision 2001-217) that CLECs also require that the provisioning, maintenance and repair of the leased local loops be performed by the ILEC in a timely and efficient manner. In Decision 2001-217 the Commission established the framework to measure the quality of service provided by the ILECs to the CLECs with respect to provisioning local loops, among other items. Since 2001, the quality of service standards have been refined and modified to continue to promote competitive equity among all local exchange carriers (LECs).

## **Issue 1: Discriminatory treatment in the provisioning of local loops for T1 service**

### **Background**

7. Currently, a CLEC can lease a local loop from an ILEC to provide a T1 service which connects from the CLEC co-located equipment to an end-customer. If the leased local loop fails, then it must be repaired by the ILEC. The CLEC is responsible to pre-test a failed circuit prior to notifying the ILEC of the suspected loop failure. The CLEC is capable of testing all components of the circuit supported by the loop if the CLEC installs the appropriate test

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<sup>3</sup> To be considered essential, a facility must meet all three of the following criteria: (a) it is monopoly controlled; (b) a CLEC requires it as an input to provide services; and (c) a CLEC cannot duplicate it economically or technically.

facilities at its central office. With the appropriate test facilities, the CLEC would be able to sectionalize the loop into its discrete components such as switching, connecting link, leased loop and terminal equipment. This sectionalization would allow the CLEC to localize trouble so that appropriate repairs could be directed to the problem section, making the repair more efficient and timely. The current performance measurement was set out in Decision 2001-217 as Quality of Service Indicator 2.7 - *Competitor out-of-service trouble reports cleared within 24 hours*, which established the standard that a minimum of 80% of troubles are to be cleared within 24 hours of being reported.

### **Entrants' position**

8. The Entrants submitted that leased loops used by a CLEC to provide T1 service currently receive a 24-hour MTTR. However, when an ILEC provides T1 service to an end-customer, using the same loop type, the ILEC provides a four-hour MTTR. The Entrants stated that the difference in repair times was most striking in the context of a leased loop that was capable of providing digital subscriber line (DSL) service. The ILECs offer T1 service to retail customers with a four-hour MTTR using two local loops combined with a high bit rate digital subscriber line (HDSL) shelf. The only way for CLECs to obtain this same service level was by leasing a Type C<sup>4</sup> loop obtained from the ILECs at the full retail rate.
9. The Entrants submitted that, to be price competitive with the ILECs, they must lease an unbundled loop from the ILEC and turn it into a T1 equivalent service using co-located DSL equipment. By provisioning the service using their own equipment with a leased local loop, the Entrants are able to offer the service at a price that is competitive with the ILECs' price.
10. The Entrants submitted, however, that the ILECs' retail service offering comes with a four-hour MTTR, whereas a CLEC offering the same service using the same components as the ILEC, can only offer a 24-hour MTTR, because the ILECs provide a 24-hour MTTR commitment on the leased local loop to the CLECs.
11. The Entrants alleged that a 24-hour MTTR for T1 service was simply unacceptable for most customers as they use it for Internet access or data network connectivity between offices or to communicate with their clients. The net effect was that the customer has no alternative but to take the T1 service from the ILEC.

### **Companies' position**

12. The Companies denied offering a four-hour MTTR commitment for T1 services that are provided over two-wire copper Type A<sup>5</sup> and B<sup>6</sup> loops. The Companies also submitted that Bell Canada does offer a four-hour MTTR for certain end-to-end data services that are provisioned by means of a four-wire copper Type C loop.

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<sup>4</sup> For a definition of a Type C Unbundled Local Loop see the Installation, Testing and Maintenance Guidelines (ITMG) for Unbundled Loops para. 4.1.1.3.

<sup>5</sup> For a definition of an Unbundled Type A Loop see ITMG for Unbundled Loops para. 4.1.1.1.

<sup>6</sup> For a definition of an Unbundled Type B Loop see ITMG for Unbundled Loops para. 4.1.1.2.

13. The Companies submitted that although it was true that under certain conditions copper loops may be used to provide T1 bandwidth, there are significant limitations imposed by this alternative. The Companies stated that:

Bell Canada does not provision T1 services using two unbundled Type A5 loops, however, in some cases a T1 provisioned using HDSL over two copper pairs, is feasible provided certain technical specifications are met that are dependent on distance and gauges. A T1 capable loop with less than 32 DB at 196 Khz and a maximum reach of 2.0-2.5 km depending on gauges may or may not match Type A5 loop specifications. T1 with a reach greater than 2.0-2.5 km require the use of repeaters and must have less than 96 DB at 196 Khz. Loop lengths in these ranges are not comparable with Type A5 loops.

14. The Companies further stated that even in those cases where local loops could be used to provide T1 bandwidth, it was not possible for them to provide a MTTR interval of four hours for local loops for three principal reasons.
15. The Companies first stated that a major factor in meeting any service repair objective was prompt trouble identification. The Companies indicated that when they provide digital network access (DNA) service for T1 service, troubles originating from the underlying facilities are identified by the terminating equipment used as part of the DNA service. In the case of a local loop leased by a CLEC from a company to provide T1 service, the company's network management systems cannot monitor the terminating equipment installed by the CLEC or the CLEC's customer. Also the company has no access to any of the monitoring systems or surveillance tools deployed by the CLEC.
16. The Companies noted, in addition, that they have no control over the remaining sections of the CLEC's or its end-customers' network, nor control over the transmission quality and characteristics of the terminal equipment provisioned by the CLEC to its customer. The Companies asserted that without unrestricted access to all the facilities installed by the CLEC and/or its customer, and the ability to monitor and control such facilities, they cannot control the time required to identify the trouble.
17. Secondly, the Companies stated that remote trouble sectionalization, i.e., testing the circuit section by section to locate the fault, was critical in achieving quick repair intervals. In order to reduce the repair times for local loops it would be necessary for each CLEC to perform preliminary testing and screening of trouble reports. Based on the Companies' experience, effective sectionalization is not occurring on a consistent basis as CLEC monitoring practices and the quality of testing and screening vary widely. Consequently, the Companies stated it was not possible to provide repair interval commitments of less than 24 hours for local loops.
18. Third, the Companies submitted that where an MTTR of less than 24 hours is provided, as in the case of T1 service, the ability to meet the shorter MTTR was predicated on the provision of active electronics at each end of the circuit by the ILECs. It was this terminating equipment that permitted prompt trouble identification and enabled the ILECs to provide a MTTR of four hours or less.

19. The Companies submitted that, even with control over the terminating equipment, a MTTR of four hours would be unachievable if the average repair times were based solely on failures of the underlying copper loop. The Companies indicated that it was far easier and quicker to fix an electronic failure within four hours than a failed copper loop, as the electronic equipment can be diagnosed and fixed remotely. Since MTTR was, by definition, an average which included troubles with the electronic components and the local loops, a lower average repair time was possible due to the higher failure rates of the electronic components combined with their ease of repair as compared with the local loop.

#### **TCI's position**

20. TCI stated that it does not offer a four-hour MTTR commitment for any of its services delivered over copper loops. TCI further indicated that technically it was not feasible to meet a four-hour MTTR commitment when a technician had to be dispatched. TCI noted that while it does not guarantee a MTTR of less than 24 hours for its T1 service, it has historically been able to deliver an average repair interval of four hours due to the enhanced testing and network alarm tools that it deploys.
21. TCI also noted that the service repair interval it provided on T1 service was a function of where the trouble resided. In all cases it was dependent on the testing facilities which are designed to sectionalize the end-to-end service and which enables more specific identification of a failure. TCI indicated that the relatively short MTTR that it had been able to deliver on its end-to-end T1 service was due to the fact that the majority of service failures occurred with the electronic components, which could usually be repaired remotely.

#### **Commission analysis and determination**

22. The Commission notes that the Entrants requested an order to require the ILECs to file a tariff for Type A and B local loops with an option of a four-hour MTTR. The Commission notes that the reasons given by the Companies and TCI for not offering a MTTR interval of four hours for local loops have not been challenged by the Entrants. The Commission also notes that Bell Canada and TCI do not offer their customers a four-hour MTTR for services provided over two-wire copper loops.
23. The Commission notes that both ILECs and CLECs can provide T1 service over copper local loops, using multiplexing technologies, subject to the limitations imposed by loop length and quality. The Commission also notes that the quality of service, as it relates to repair times for T1 service, is dependent on the degree of control that a company exercises over the components used to deliver the service.
24. When T1 service is provided by an ILEC, the Commission notes that control and testing capability remains with the ILEC. However, when T1 service is provided by a CLEC using an ILEC local loop as the subtending facility, the control and the testing capability is shared between the CLEC and the ILEC as the electronic equipment installed on the loop is not monitored by the ILEC. The Commission notes that where T1 service is provided by the ILEC over ILEC loops but with the equipment provided by the end-customer, a four-hour MTTR is not offered to the end-customer.

25. The Commission notes that the CLEC can have access to all the components of a service for testing purposes.
26. The Commission recognizes that in the testing of a T1 service, when the local loop is leased from an ILEC and a CLEC or the end-customer provides the electronic components, sectionalizing the circuit is necessary. The equipment capable of such sectionalization is expensive and may not be extensively deployed throughout the CLEC network. However, in the absence of such equipment, sectionalization is possible but only with the co-operation of the ILEC, the CLEC and/or the end-customer. As the ILEC does not have full control over all the circuit components and cannot complete the remote testing, the CLEC technician must interface with the ILEC technician at either the CLEC co-location enclosure and/or the enclosure and the end-customer's premises. Furthermore, the Commission notes that in order to fully test a failed loop to localize a trouble spot, the CLEC must know the physical characteristics of the leased loop. The Commission notes that a "loop make-up" can be obtained from the provisioning ILEC at a tariffed rate.
27. The Commission is of the view that five to six hours could be needed just to complete the CLEC/ILEC co-ordinated testing. This timeframe is dependent on the travel time needed by the CLEC technician to gain access to the co-location enclosure and, in some cases, to the end-customer's premise as well.
28. The Commission is also of the view that once the fault has been localized, at least one additional hour of work may be required to transfer T1 service to a new loop if a loop reassignment is possible. If a loop reassignment is not possible due to a lack of facilities, the repair interval could stretch to 24 or 48 hours depending on whether the plant is buried, aerial, or underground.
29. The Commission notes that when an ILEC has to dispatch a field technician to complete the testing of a copper loop or fibre facility, or to repair a trouble, or to request a new facility to resolve a fault, the four-hour MTTR requested by the Entrants would be in jeopardy.
30. The Commission is of the view that the four-hour MTTR provided by ILECs for T1 service can only be achieved because of the end-to-end control that the ILEC exercises over the local loop and electronic equipment together with the ability to remotely detect and repair failures of the electronic equipment. Furthermore, the Commission is of the view that where T1 service is provided by the CLEC using a combination of a leased local loop and CLEC-supplied equipment, a four-hour MTTR would be desirable but not realistic.
31. Consequently, the Commission finds that the ILECs are not unjustly discriminating in the manner that they repair local loops leased by the CLECs for T1 service and, accordingly, the ILECs are not in contravention of subsection 27(2) of the *Telecommunications Act* (the Act). Therefore, the Commission **denies** the Entrants' application to order the ILECs to file a tariff for four-hour MTTR on unbundled local loops.
32. The Commission is also of the view that under specific circumstances where spare loops similar in nature to the existing loops are available and a CLEC technician can be dispatched for co-ordinated testing with the ILEC technician, a facility cut-over can be completed within

six to seven hours from the start of the co-ordinated testing. The trouble ticket issued in this case will be specially identified and the service charges based on unusual expenses (material and labour) for each loop cut-over would be applied.

33. The Commission directs the ILECs to offer the CLECs an option of a seven-hour MTTR from the start of the co-ordinated testing between the ILEC and the CLEC technicians on leased loops where spare loops similar in nature to the defective loop(s) exist. The Commission is of the view that this option should be made available by all ILECs to all CLECs wherever the CLEC offers service. The service charge for such an option will be based on the tariffs for unusual expenses, (material and labour) to complete the transfer of the loop(s). ILECs in which territory a CLEC operates currently and which do not have a tariff for unusual expenses (material and labour) to provide for an expedited unbundled loop cutover are to file a proposed tariff within 45 days of this decision. For those ILECs in which territory no CLEC operates currently, the filing of such tariff is required no later than the commencement date of the CLEC operation in the ILEC territory. Note that the proposed tariff should either specify the specific labour rate that would apply or provide a reference to the tariff rate that would apply.

## **Issue 2: Discriminatory repair times to retail business primary exchange customers**

### **Entrants' position**

34. The Entrants submitted that in the proceeding initiated by *Price cap review and related issues*, Public Notice CRTC 2001-37, 13 March 2001 (PN 2001-37 proceeding), Bell Canada indicated that it provided specific business customers with a contracted MTTR obligation as part of the retail contract. The Entrants concluded that Bell Canada indicated, in the same proceeding, that its average service repair time for a customer with a contractual MTTR obligation was three hours. The Entrants submitted that this was clearly in contrast with the 24-hour MTTR provided to CLECs and stated that this difference was discriminatory and in contravention of subsection 27(2) of the Act.

### **Companies' position**

35. The Companies claimed that they do not provide, either to their end-customers or their affiliates, Business Primary Exchange Service (BPES) with a MTTR of less than 24 hours. Where a shorter MTTR was provided, as in the case of services such as T1, the ILECs' ability to offer the shorter MTTR was predicated on provisioning of the active electronics at each end of the circuit.
36. The Companies submitted that, with respect to contracted service repair obligations, they do not offer any timeframe commitments shorter than 24 hours for the Companies' underlying copper loops of an end-to-end service.
37. Further, with respect to T1 service, Bell Canada's standard Digital Services Agreement stated that:

Bell does not guarantee error-free or uninterrupted operation of the Services. In the event of service interruptions lasting twenty-four (24) hours or longer from Bell's receipt of notification from the Customer, Bell, upon the Customer's written request, will provide to the Customer

a credit or refund of Charges proportionate to the length of the interruption commencing from Bell's receipt of the Customer's notification. Such credit or refund will be the Customer's sole and exclusive remedy relating to non-performance of the Services.

### **TCI's position**

38. TCI submitted that it has contractually agreed to a four-hour repair objective with some large customers who subscribe to certain end-to-end data products. Many of these cases required the deployment of special equipment, where the cost of that equipment was borne by the customer. As TCI indicated in the PN 2001-37 proceeding, the contractual arrangements that provide a four-hour MTTR do not involve services that are provided over copper loops. TCI also noted that a four-hour MTTR commitment was available to the Entrants under the DNA tariff in the same manner as offered to TCI's larger customers.

### **Commission analysis and determination**

39. The Commission notes that both the Companies and TCI denied providing a four-hour MTTR for BPES provisioned over copper loops.
40. The Commission is of the view that when a repair interval of less than 24 hours is provided by an ILEC to a large business customer, the end-to-end service is under the full control of the ILEC, thus allowing for quicker testing and the remote repair of certain faults. In addition, through a managed service offering, where dedicated technicians work on-site to handle the full range of customer's needs, ILECs can offer a shorter MTTR for some services.
41. The Commission notes that a less than 24-hour MTTR solely on a copper loop, leased on a stand-alone basis, is not provided by any ILEC to any customer.
42. Accordingly, the Commission finds that the ILECs are not unjustly discriminating with respect to the repair times offered to their retail BPES customers versus the repair times offered to the CLECs and therefore, the ILECs are not in contravention of subsection 27(2) of the Act.

### **Issue 3: Preferential treatment of ILEC affiliates**

#### **Background**

43. Bell Nexxia Inc. (Bell Nexxia) acquired facilities, such as DNA, from Bell Canada in order to offer certain services to its customers. In the context of this issue, the Bell Canada/Bell Nexxia business relationship was addressed in two ways:
- Item 1 – the allegation that Bell Canada was providing an undue preference to its affiliate Bell Nexxia with regard to MTTR on local loops; and
  - Item 2 – the allegation that Bell Canada was providing an undue preference to its affiliate Bell Nexxia with regard to MTTR for its high-speed access service wholesale asymmetric digital subscriber line (ADSL).



### **Entrants' position – Item 1**

44. The Entrants submitted that Bell Nexxia offers its end-customers a four-hour MTTR, "on a business case basis," for services based on loops it leased from Bell Canada. The Entrants alleged that they are not able to obtain the same MTTR commitment as Bell Nexxia, unless the Entrants pay Bell Canada the full retail rate for T1 service. Accordingly, the Entrants submitted that Bell Canada was providing an undue preference to its affiliate Bell Nexxia.

### **Companies' position – Item 1**

45. The Companies submitted that the premise underlying the Entrants' contention that Bell Canada provided an undue preference to its affiliate Bell Nexxia was flawed. The Companies noted that Bell Nexxia does not lease local loops from Bell Canada but provided services to its customers using Bell Canada's DNA service. Consequently, the contention by the Entrants that MTTR commitments made by Bell Nexxia to its end-customers could be used to infer preferential treatment with regard to Bell Canada's capability to provide a four-hour MTTR commitment for local loops was simply wrong.

### **Commission analysis and determination**

46. The Commission notes that:
- a) Bell Nexxia did not lease unbundled loops from Bell Canada as it was not co-located in its central offices; and
  - b) Bell Canada has not provided four-hour MTTR on copper loops as mentioned above.
47. Accordingly, the Commission finds that Bell Canada did not confer an undue preference to Bell Nexxia with regard to MTTR on local loops.
48. The Commission also notes that, in a letter dated 10 February 2003, Bell Canada stated that, effective 1 April 2003, Bell Nexxia will be amalgamated with Bell Canada and would cease to exist as an affiliate of Bell Canada.

### **Entrants' position – Item 2**

49. In their reply comments, the Entrants submitted that, while a four-hour MTTR may not be guaranteed for some services as asserted by the ILECs, there were services that rode over local loops where Bell Nexxia offered a four-hour MTTR to the end-customer.
50. The Entrants stated that a Bell Nexxia document, obtained from Bell Canada's website, indicated that Bell Nexxia's wholesale ADSL service was "Provisioned over the same copper pair that delivers telephone service (POTS)." The site also offered an option to purchase this service with a four-hour or less MTTR.

51. The Entrants noted that once the document was made public, it was immediately removed from the website. The Entrants further submitted that Bell Canada offered and continues to offer the four-hour MTTR service, but unintentionally disclosed this service by inadvertently posting the document on its website. Therefore, the Entrants believed Bell Canada's only error was in publicly posting the document and not the contents of the document.

#### **Companies' position – Item 2**

52. The Companies stated that a call to Bell Canada's Carrier Services Group would have enabled the Entrants to realize that while the reference that they relied upon was posted on the website for a few days in October 2000 as the result of an oversight, it was also removed from the website almost immediately.
53. The Companies indicated that once Bell Nexxia became aware of the oversight, a service bulletin was issued advising its sales staff that the company "could not support" the four-hour MTTR. Furthermore, Bell Nexxia staff were instructed to review any contracts negotiated during the brief period when the incorrect information was posted on the website and to remove the incorrect repair interval from those contracts. The Companies submitted that the Entrants' information was wrong and out of date.

#### **Commission analysis and determination**

54. The Commission finds that there is no evidence that a wholesale ADSL service with a four-hour or less MTTR was ever provided by Bell Nexxia or that Bell Canada ever provided such a service to Bell Nexxia.
55. Accordingly, the Commission finds that Bell Canada did not confer an undue preference to Bell Nexxia with regard to MTTR for its high-speed access service wholesale ADSL.
56. As noted above, Bell Nexxia no longer exists as an affiliate of Bell Canada.

#### **Issue 4: ILECs' discriminatory use of trouble-ticket prioritization**

##### **Background**

57. When a fault occurs on a local loop or when a service provided over a local loop fails, a CLEC is required to notify the ILEC from whom the local loop is leased. Initially, a CLEC will perform certain tests and diagnostics in an attempt to determine the precise location of the fault. If the CLEC lacks the capability to perform end-to-end testing, it is obliged to enlist the assistance of the ILEC to pinpoint the source of the fault. The CLEC's query to the ILEC results in a trouble ticket being created for the fault which is then referred to the ILEC test and repair centre for resolution.

##### **Entrants' position**

58. The Entrants submitted that the four-hour MTTR currently provided to some customers by an ILEC was facilitated by the trouble-ticket prioritization process. The Entrants alleged that the trouble-ticket process was designed and operated by the ILECs so as to ensure that the ILECs

can meet their own quality of service requirements. The Entrants believed that while the ILECs prioritize the trouble-ticket process, this prioritization was not extended to the CLECs, who are then unable to offer a similar level of service to their own customers.

59. The Entrants submitted that the current process for handling trouble tickets for local loops was unacceptable. The only option available to CLECs for reporting a local loop trouble was to call the retail repair service 6-1-1 number in the same way as a residential subscriber. The Entrants' trouble tickets, with the fault already isolated to the loop, were mixed in with the multitude of retail trouble tickets being reported to the 6-1-1 repair service centre. The Entrants stated that by providing their own fault identification function, the Entrants were saving the ILEC significant time by pinpointing the problem, thus eliminating the need for the initial fault isolation.
60. The Entrants submitted that when the ILEC combined their trouble tickets with the regular retail customer, then by default a higher quality of service was made available to the ILECs end-customers. The Entrants alleged that the prioritization process was discriminatory and inhibited competition. It is the Entrants' view that the small number of CLEC loop trouble tickets could be treated separately and therefore within the same timeframe afforded to the ILECs' own trouble tickets.
61. The Entrants contrasted the trouble-ticket system for leased local loops with that used for DNA service, indicating that in TCI's territory, DNA circuit information is stored in TCI's Single Solution Trouble Reporting System database, which the Entrants can access to open trouble-tickets. In other ILEC territories, the Entrants can choose to call the service centre designated to handle DNA circuits which was distinct from the retail 6-1-1 repair service centre. The Entrants indicated that in the PN 2001-37 proceeding, according to both Bell Canada and TCI, the MTTR delivered by these service centres was four hours or less. The Entrants submitted that processes, such as access to ILECs' logging and information databases, already existed that could improve the MTTR on local loops.

#### **Companies' position**

62. The Companies submitted that the claim of trouble-ticket prioritization by the Entrants was false and that Bell Canada does not "prioritize" local loop trouble tickets so as to disadvantage the CLECs. The Companies also submitted that the Entrants' statement that "the only option available to CLECs for reporting a local loop trouble ticket is to call the retail repair service 6-1-1 number, in the same way a residential subscriber would", was also false.
63. The Companies noted that in Bell Canada's serving territory, Type A and B loop customers reach Bell Canada via a 1-877 toll-free number. The Companies indicated that these lines were staffed seven days per week, 24 hours a day, and the retail repair service 6-1-1 number is not used for those customers reporting local loop troubles.
64. The Companies noted that, according to Bell Canada, one reason that the retail repair service 6-1-1 number was not used to report CLEC's local loop troubles was that if a CLEC technician were to dial 6-1-1 from a CLEC end-customer location, the call would most likely be routed to the CLEC's own repair department. To simplify the CLEC technician's task, Bell Canada established the toll-free access numbers.

65. The Companies submitted that CLEC local loop trouble calls were treated in a similar manner to trouble calls received from Bell Canada's business customers. When a CLEC contacts Bell Canada to report a trouble, Bell Canada has no way of determining the physical location of the loop, the characteristics of the loop or the services provided over the loop. The Companies noted that Bell Canada had no knowledge of the equipment installed on the loop by the end-customer or the CLEC as this information must be obtained from the CLEC and submitted that this situation was similar to loop-based services provided to the Companies' retail customers.
66. The Companies indicated that for many of Bell Canada's data network customers, the situation was different since Bell Canada had complete knowledge of their data network configuration. By comparison, the CLECs do not disclose to Bell Canada the configuration of their customers' network or details regarding the equipment installed on the facilities.
67. The Companies also submitted that the Entrants were wrong in asserting that the CLECs were "providing their own fault identification function," thereby "saving the ILEC significant time by pinpointing where the problem lies" and "eliminating the need for initial fault isolation".
68. The Companies indicated that they have been tracking the effectiveness of competitor "fault identification" procedures for a number of months. In many instances, trouble-ticket data collected by Bell Canada and MTS, and filed in confidence, showed there was either no trouble found with the leased local loop or the trouble proved to be with the CLECs' equipment, their network or the equipment of their end-customers.
69. The Companies stated that it was their experience that CLECs were not meeting their responsibility to adequately diagnose faults despite the fact that the CLECs were obligated to do so under the ITMG for unbundled loops established by the CRTC Interconnection Steering Committee. The Companies also noted that the CLECs had access to the terminating equipment in their switching centres or points of presence as well as to the equipment at the end-customer's premises and should be able to accurately sectionalize service problems.
70. The Companies further stated that, based on Bell Canada's experience, a substantial proportion of calls would have resulted in the ILECs unnecessarily dispatching field technicians due to the inaccuracy of the Entrants' fault identification information.

#### **TCI's position**

71. TCI indicated that all loop troubles, regardless of the customer involved, were subject to exactly the same repair processes and procedures that governed TCI's 24-hour MTTR objective. TCI stated that it and all other ILECs were required not just to abide by the minimum 24-hour MTTR objective but also to ensure that CLECs receive service restoration on a comparable basis to other customers in every outage situation. This requirement to ensure equitable treatment of CLECs in service outage situations was governed by the monitoring and reporting process established by the Commission in *Altering terms of service for competitors that are customers*, Order CRTC 2000-397, 12 May 2000 (Order 2000-397).

72. TCI concluded that the Entrants' allegation of undue preference on the part of TCI in restoring service on local loops, whether in the case of T1 service or local residential service, was not supported by any evidence in the Entrants' application or by any information contained in the service outage report generated in compliance with Order 2000-397.

#### **Commission analysis and determination**

73. The Commission notes the Entrants' allegation that CLECs must call the retail repair service 6-1-1 number to report troubles for leased local loops and that all CLECs have access to a toll-free number for that purpose instead of the 6-1-1 retail repair service centre procedure.
74. The Commission further notes that fault identification by CLECs prior to a trouble ticket being issued or requested to the leasing ILEC has been controversial. Statistical data submitted in confidence by Bell Canada and MTS showed frequent examples of trouble tickets with no trouble found with the leased local loop or the trouble proved to be with the CLECs' equipment, their network or their end-customers' equipment.
75. The Commission is of the view that Entrants are being provided with access to repair centres in a manner that expedites the processing of trouble tickets and that priority is not given to certain ILEC customers. In addition, the Commission is not convinced of the Entrants' claim that their identification and isolating of faults provides the ILEC with sufficient additional information to warrant a shorter MTTR.
76. Accordingly, the Commission rejects the allegation by the Entrants that a four-hour MTTR currently provided to some ILECs' customers is made possible through a discriminatory prioritization of the ILECs' customers' trouble tickets. In addition, the Commission rejects the claim by the CLECs that they are saving the ILECs a significant amount of time in fault identification on leased loops to the point that the MTTR for those loops should be reduced.

#### **Issue 5: Appropriate representations by ILECs of MTTR to customers**

##### **Background**

77. As part of a marketing or sales initiative to attract customers, or to promote a certain service, a LEC may include certain representations regarding the MTTR for the services that the LEC is encouraging customers to purchase.

##### **Entrants' position**

78. In their final reply, the Entrants requested that the Commission prohibit the ILECs from making any representations or promotions to end-customers that a MTTR of less than 24 hours was available until such time as the ILECs were able to offer a similar MTTR service to CLECs.
79. The Entrants argued that obtaining direct evidence from customers with regard to receiving a shorter MTTR guarantee was virtually impossible and they could only rely on their marketplace observations where potential customers are lost to the ILEC due to shorter MTTR commitments.

The Entrants submitted that since the Companies have vehemently denied offering four-hour MTTR on services using local loops, the ILECs should have no objection to the Commission prohibiting the ILECs from offering their end-customers a MTTR of less than 24 hours for these services.

#### **Companies' position**

80. The Companies argued that the request to prohibit offering services with less than a 24-hour MTTR was an amendment to the original application and an attempt to prevent the Companies from developing new service offerings simply because the Entrants are unwilling to develop the same service for their customers. In the Companies' opinion, the effect of such a request would be to reduce innovation in the marketplace and slow down the pace of service development.

#### **Commission analysis and determination**

81. The Commission notes that the Entrants have not provided any evidence that the Companies have misrepresented the use of a MTTR of less than 24 hours on services using local loops. The Commission is of the view that if the Companies are able to develop such an option where the underlying facility is a local loop, and they make it available to both their end-customers and their competitors on a wholesale basis, the ILECs should not be prevented from advertising it.
82. The Commission finds that there is no evidence, based on the record of this proceeding, to indicate that the ILECs are misrepresenting a less than 24-hour MTTR on certain services, in order to induce customers to the ILECs. Accordingly, the Commission rejects the request by the Entrants to prohibit the promotion of a MTTR of less than 24-hours on services using local loops as an underlying facility.
83. The Commission, however, finds that if such an option is developed by the ILECs it is to be made available to any competitor that requests it on a wholesale basis.

#### **Issue 6: Pricing of a four-hour MTTR option for leased loops**

##### **Entrants' position**

84. The Entrants submitted that the leased local loop was an essential element of T1 service, which the Commission determined to be a near-essential facility. The Entrants consequently argued that it was equally important that the repair service for those facilities be viewed in a similar fashion. In terms of applicable costing principles, the Entrants asserted that the ILECs

should be mandated to provide four-hour MTTR on local loops at Category I<sup>7</sup> facilities' prices. The Entrants submitted that this repair service must be viewed by the Commission as an essential service because:

- a) it is monopoly controlled;
- b) the CLEC absolutely requires this repair service; and
- c) CLECs cannot duplicate this service either economically or technically.

85. In their supplementary reply, the Entrants reiterated that the local loop was entirely within the control of the ILEC and consequently, when an ILEC knows it has a customer trouble isolated to the local loop, it can control the timeline of the process by either placing the loop trouble into an expedited or regular process.

#### **Companies' position**

86. The Companies submitted that the Entrants' contention that the requested four-hour MTTR service meets the criteria for the essential or near essential service was flawed and, therefore, should be disregarded.

#### **TCI's position**

87. TCI submitted that the Entrants' attempt to ascribe essential or near-essential status to local loops used to provide T1 service was entirely without merit.

88. TCI noted that when the Commission defined essential facilities in Decision 97-8, it did so within the specific context of inputs required by "entrants", i.e., new service providers entering the market for basic exchange services, or simply CLECs acting in their capacity as CLECs.

89. TCI also noted that the Entrants' application concerned "local loops that competitors wish to use to provide T1 service," rather than "local loops that Entrants use to provide basic exchange service". TCI stated that the market for T1 service was highly competitive and continued to be so with the emergence of new sources of supply such as high-speed cable bandwidth and fixed and point-to-point wireless systems. TCI submitted that CLECs could also provision an end-to-end T1 service using just their own loops and facilities.

90. TCI pointed to the Commission's September 2001 report to the Governor-in-Council, *Status of Competition in Canadian Telecommunications Markets, Deployment/Accessibility of Advanced Telecommunications Infrastructure and Services* where in Figure 4.14, Competitor local lines by type of facility, it was shown that competitors, at the end of 2000, provided service to 33% of their customers using their own facilities while service using local loops leased from the ILECs represented only 18% of their customers.

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<sup>7</sup> For a definition of Category I facilities see *Regulatory framework for second price cap period*, Telecom Decision CRTC 2002-34, 30 May 2002, para. 167.

91. TCI also noted that the Commission, in *Final rates for unbundled local network components*, Telecom Decision CRTC 98-22, 30 November 1998, made the following determination with respect to Type C loops:

The Commission notes that in Decision 97-8, the Commission did not designate Type C loops as essential or required them to be priced in accordance with the essential services pricing principles. The Commission therefore finds it unnecessary to require the ILECs to file Type C loop rates in accordance with these pricing principles.

92. TCI was of the view that it was clearly not credible to suggest that local loops were essential or near essential when used to provide T1 service.
93. TCI concluded that even if it were determined to be technically feasible to provide a four-hour MTTR service option for local loops used to provide T1 services, there was no basis to mandate that such an option should be made available on the basis of near-essential pricing principles. TCI noted that the issue of expanding the list of essential or near-essential services, and thereby permitting competitors to have access to ILEC facilities and services at cost-based prices, was canvassed extensively in the written and oral portions of the PN 2001-37 proceeding.

#### **Commission analysis and determination**

94. The Commission notes that in *Regulatory framework for second price cap period*, Telecom Decision CRTC 2002-34, 30 May 2002, the Commission assigned Competitor-DNA service to Category I competitor services and stated that it should be priced based on essential facilities pricing principles.
95. Competitor-DNA service is available to CLECs with a monthly average of four-hour MTTR and constitutes an alternate method of providing T1 service, which should be attractive from a pricing perspective as it is available as a Category I facility. The Entrants could then use this service when their customers require a four-hour MTTR for their T1 service.
96. The Commission finds that discussions around the pricing principles of the four-hour MTTR option are moot as a reasonable alternative is available by using Competitor-DNA which offers both the four-hour MTTR and Category I pricing.

Secretary General

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