



## Telecom Decision CRTC 2004-9

Ottawa, 19 February 2004

### **Amtelecom Inc.'s request to review and vary Decision 2001-756 and Order 2002-230**

Reference: 8662-A2-01/02

*In this decision, the Commission **approves** an application by Amtelecom Inc. (Amtelecom) to vary Regulatory framework for the small incumbent telephone companies, Decision CRTC 2001-756, 14 December 2001. Specifically, the Commission varies the pricing constraints that led to Telecom Order CRTC 2002-230, 7 June 2002, in which the Commission denied Amtelecom's rate increase for residential primary exchange service for individual line subscribers.*

#### **Background**

1. In *Telephone service to high-cost serving areas*, Decision CRTC 99-16, 19 October 1999 (Decision 99-16), the Commission established a national basic service objective (BSO) for all telephone companies in Canada and determined that this level of service should be available to the vast majority of Canadians in all regions of the country. All incumbent local exchange carriers (ILECs) who could not demonstrate that the BSO was being and would continue to be achieved in their territory were directed to file multi-year service improvement plans (SIPs) for Commission approval.
2. In *Amtelecom Inc. – Service improvement plan*, Order CRTC 2000-1097, 4 December 2000 (Order 2000-1097), the Commission approved the SIP filed by Amtelecom Inc. (Amtelecom). The Commission directed the company to fund its SIP by increasing its monthly individual line residential and business primary exchange service (PES) rates by \$5.25, with the exception of those rates in the Manitoulin exchange. To alleviate the service rate differences within Amtelecom's territory, the Commission directed the company not to increase its individual line residential rate of \$26.75 in the Manitoulin exchange. In accordance with this determination, Amtelecom raised its residential PES rate for individual line service, in exchanges other than Manitoulin, from \$19.85 to \$25.10.
3. In *Regulatory framework for the small incumbent telephone companies*, Decision CRTC 2001-756, 14 December 2001 (Decision 2001-756), the Commission established a national weighted-average revenue rate of \$22.75 per residential network access service per month to be used in calculating the subsidy requirement for small ILECs. To compensate the small ILECs for the subsequent reduction in subsidy requirements, the Commission also determined that small ILECs with residential PES rates between \$18.75 and \$22.74 per month could raise those rates to \$22.75, effective 1 January 2002.

4. On 24 December 2001, Amtelecom issued a revised tariff page indicating that its monthly residential PES rate for individual line service, in exchanges other than Manitoulin, would be \$28.00, effective 1 January 2002. Amtelecom was advised, by a Commission staff letter dated 14 January 2002, that this rate was not in compliance with Decision 2001-756, as the rate at the time that Decision 2001-756 was issued was already above \$22.75. In response, on 29 January 2002, Amtelecom sought a formal ruling on the Commission's interpretation of Decision 2001-756.
5. In Telecom Order CRTC 2002-230, 7 June 2002 (Order 2002-230), the Commission rejected Amtelecom's interpretation of Decision 2001-756 that would have allowed the company to increase its residential PES rate for individual line service by \$2.90, to \$28.00. The Commission directed Amtelecom to rebate all excess monies collected from subscribers and to issue a revised tariff page to reflect the rates approved by the Commission in Order 2000-1097.
6. Amtelecom complied with the directives set out in Order 2002-230.

### **The application**

7. The Commission received an application by Amtelecom, dated 30 August 2002, filed pursuant to section 62 of the *Telecommunications Act*, to review and vary [Order 2002-230](#), and portions of [Decision 2001-756](#). Specifically, Amtelecom requested that the Commission approve the \$28.00 residential PES rate for individual line service that the Commission had denied in Order 2002-230. Amtelecom further requested an adjustment for the 2002 inflation factor and the exogenous factor approved in *Residential and business primary exchange services*, Telecom Order CRTC 2002-336, 15 August 2002.
8. Amtelecom submitted that the Commission erred both in principle and in law in rendering Decision 2001-756 and Order 2002-230. The company argued that both decisions were unfair, had punitive impacts and caused serious financial prejudice to the company's ongoing operations and to its ability to realize its SIP. Amtelecom argued that, if not varied, Order 2002-230 and Decision 2001-756 would set inconsistent and incorrect precedents for other small ILECs with SIPs.
9. In Amtelecom's view, the Commission rendered incorrect and incongruous determinations in Decision 2001-756 and Order 2002-230 contradicting the language and intent of Order 2000-1097. Amtelecom noted that in Order 2000-1097, the Commission took careful steps and used clear and unequivocal language to hold separate and apart the company's SIP and contribution needs by insulating the company's contribution revenues and revenue requirement from its SIP financing through the use of a special reserve account.
10. Amtelecom stated that had the Commission not directed the company to undertake its SIP and raise local rates by \$5.25 to fund the SIP, Amtelecom's residential PES rate for individual line service, in exchanges other than Manitoulin, would have been \$19.85. The company argued that, in the absence of a SIP, Decision 2001-756 would have allowed the company to raise this rate by \$2.90 in order to reach the monthly residential PES rate of \$22.75. Amtelecom noted that other small ILECs without SIPs had increased their residential rates to offset the reduction in their respective subsidy requirements. Amtelecom argued that without a local rate increase to

offset the reduction in subsidy, the company could not fully satisfy its SIP obligations and remain financially whole.

### **Other parties' comments**

11. The Commission received comments from the Ontario Telecommunications Association and the Canadian Alliance of Publicly-Owned Telecommunications Systems, dated 30 August 2002 and 12 September 2002, respectively, stating that they fully supported Amtelecom's application.

### **Commission analysis and determination**

12. In Order 2000-1097, the Commission found that Amtelecom's Carrier Access Tariff needed to be insulated from the effects of the year-to-year fluctuations between the revenues generated by the SIP-related rate increase and Amtelecom's annual SIP revenue requirement. To that effect, the Commission directed Amtelecom to set up a special reserve account to track SIP-related revenues, expenses and investments, and to accumulate any SIP-related shortfalls and surpluses.
13. In Decision 2001-756, the Commission directed the small ILECs with SIPs to maintain their special reserve accounts until 2005 to allow the Commission to monitor whether the revenues generated by the small ILECs' SIP-related rate increases were in line with the realized SIP expenses.
14. As noted above in Decision 2001-756, the Commission allowed the small ILECs with residential PES rates below \$22.75 to raise them to \$22.75 to compensate for the reduction in their subsidies that would occur when the rate of \$22.75 is used to calculate their subsidy requirements. The Commission acknowledges that in considering the extent to which the small ILECs should be compensated for the reduction in their subsidies, it based its decision on rates that included the SIP-related rate increases.
15. The Commission acknowledges that, in assessing Amtelecom's subsidy requirement in Decision 2001-756, the Commission effectively merged, when it should have segregated, the company's SIP-related revenues and its revenues from regular operations. Accordingly, the Commission concludes that, consistent with the *Guidelines for review and vary applications*, Telecom Public Notice CRTC 98-6, 20 March 1998, there is substantial doubt as to the correctness of Decision 2001-756.
16. In light of the above, the Commission finds it appropriate to vary Decision 2001-756 so as to permit Amtelecom to recover the difference between \$22.75 and \$19.85; the latter represents the residential PES individual line service rate (in exchanges other than Manitouslin), less the SIP-related rate increase, at the time that Decision 2001-756 was issued.
17. The Commission notes, however, that on 20 November 2003, in a report entitled "Interim Service Improvement Plan (SIP) for Amtelecom", the company acknowledged that it was behind schedule in implementing its SIP. In the circumstances, the Commission finds it appropriate to approve Amtelecom's application on a prospective basis only.

18. The Commission is concerned that Amtelecom found it appropriate to delay its SIP pending the approval of this application. The Commission finds that Amtelecom should accelerate its SIP expenditures and complete the SIP, which should have been completed in 2004, by year-end 2005.
19. The Commission notes that in Order 2000-1097, it directed Amtelecom not to raise rates in the Manitoulin exchange to fund the SIP, as the rates applicable in the Manitoulin exchange were significantly higher than the rates applicable in the company's other exchanges. Currently, residential PES rates for individual line service are \$27.77 in the Manitoulin exchange and \$26.06 in the rest of Amtelecom's serving territory<sup>1</sup>. The Commission considers it appropriate that Amtelecom establish a uniform rate for all exchanges in its territory at this time.
20. Accordingly, the Commission directs Amtelecom to:
  - a) file, for the Commission's approval, uniform rate that will apply to all residential individual line service subscribers, including those in the Manitoulin exchange. This rate should be set to achieve revenues equivalent to those that would have been achieved if the company had increased the rate for this service by \$2.90 in all exchanges except Manitoulin;
  - b) notify its subscribers of the rate increase on their bill or via a billing insert, to be received by subscribers no later than 30 days before the effective date of the rate increase;
  - c) accelerate its SIP expenditures and complete the SIP by year-end 2005; and
  - d) continue to maintain a special reserve account, allowing the Commission to monitor whether the revenues generated by the SIP-related rate increase are in line with the realized expenses and, if directed by the Commission, to adjust the SIP-related rate increase.
21. The Commission notes that there are other small ILECs similarly affected, namely, Compagnie de téléphone Nantes inc., North Frontenac Telephone Corporation Ltd., NorthernTel Limited Partnership and O.N.Telcom. Consistent with its findings for Amtelecom, the Commission finds it appropriate to allow these small ILECs to propose, on a prospective basis, increases to residential PES rates to recover the difference between \$22.75 and the residential PES rates when Decision 2001-756 was issued, less SIP-related rate increases.

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>*

---

<sup>1</sup> The current rate for residential individual line service of \$26.06 is equal to the rate of \$25.10, approved in Order CRTC 2001-126, 9 February 2001, plus the subsequent adjustments for inflation and exogenous factors, approved in Telecom Order CRTC 2002-336, 15 August 2002 and Telecom Order CRTC 2003-261, 30 June 2003. The residential rate for individual line service of \$27.77 in the Manitoulin exchange reflects the rate of \$26.75, plus subsequent adjustments for inflation and exogenous factors.