



## Telecom Decision CRTC 2004-31

Ottawa, 11 May 2004

### Terms of Service – Disconnection for partial payment of charges

Reference: 8638-C12-46/01

*In this decision, the Commission determines that, in accordance with the incumbent local exchange carriers' (ILECs) approved Terms of Service, the ILECs are not permitted to suspend or terminate (disconnect), or threaten to disconnect, a customer's tariffed services if that customer has made partial payments sufficient to cover that customer's outstanding arrears for tariffed services, whether or not there remain outstanding arrears for non-tariffed services.*

#### Background

1. In *Commission modifies reporting requirements for affordability*, Order CRTC 2000-393, 10 May 2000, the Commission created a Bill Management Tools (BMT)<sup>1</sup> Committee. The BMT Committee's mandate was to examine avenues and approaches that could be used to promote BMTs and to facilitate access to telephone service. The BMT Committee, comprised of consumer groups and incumbent local exchange carrier (ILEC) representatives, met on several occasions, the first meeting being held on 2 April 2001.

#### Disconnection issue brought before the BMT Committee

2. One of the issues brought before the BMT Committee by the Public Interest Advocacy Centre (PIAC), on behalf of itself, Action Réseau Consommateur (ARC) and the National Anti-Poverty Organization (NAPO), was the practice of some ILECs of suspending or terminating (disconnecting), or threatening to disconnect, a customer's local service when the customer made partial payments towards his or her outstanding charges, leaving outstanding amounts on his or her account. PIAC/ARC/NAPO requested that the BMT Committee examine this practice at the BMT Committee's meeting of 9 April 2002. PIAC/ARC/NAPO expressed the view that the Terms of Service of the ILECs should not allow them to disconnect, or threaten to disconnect, a customer's local service when sufficient amounts have been paid to cover the charges related to local service.
3. This disconnection issue was addressed by parties in attendance at the BMT Committee meeting held on 9 April 2002. By letter dated 12 April 2002, PIAC/ARC requested that the ILECs participating in the BMT Committee respond to a number of questions on this issue. The following parties provided their responses to these questions in early May 2002: Aliant Telecom Inc. (Aliant Telecom), Bell Canada, MTS Communications Inc. (MTS), Northern Telephone Limited Partnership<sup>2</sup> (NorthernTel), Northwestel Inc. (Northwestel),

<sup>1</sup> BMTs are means by which a residential telephone subscriber can exercise control over his or her bill. These tools are meant to help consumers who have difficulty paying for telephone service. BMTs include, but are not limited to, outbound long distance call blocking, inbound collect call blocking and installment payment plans.

<sup>2</sup> At the time the dispute was filed, NorthernTel's name was Northern Telephone Limited Partnership. The Commission approved the company's application to change its name to NorthernTel Limited Partnership in *NorthernTel Limited Partnership – Corporate name change*, Telecom Order CRTC 2003-73, 13 February 2003.

the Ontario Telephone Association (now known as the Ontario Telecommunications Association), Saskatchewan Telecommunications (SaskTel), Société en commandite Télébec (Télébec), and TELUS Communications Inc. (TCI) (collectively, the respondents).

4. The responses indicated that the current practice of the respondents is to apply customer payments to the oldest outstanding charges first until sufficient amounts have been paid to cover all outstanding charges. These chronological allocations are applied to the charges for both tariffed and non-tariffed services, with no distinction made between the types of service. MTS was the only ILEC to clearly state, in its response to the questions posed by PIAC/ARC, that it was not permitted to disconnect customers' local service, if outstanding charges for non-tariffed services are not paid.
5. On 13 May 2002, PIAC/ARC circulated a table summarizing the above-referenced responses, as well as a statement of the issue raised by the information provided. In response to a suggestion made by Bell Canada on 5 June 2002, on behalf of itself, Aliant Telecom, MTS, SaskTel, NorthernTel, Northwestel and Télébec, PIAC/ARC/NAPO circulated two proposed resolutions of the issue to interested parties on 7 June 2002.
6. This issue was addressed again at a BMT Committee meeting held on 17 June 2002. Noting that the parties at that meeting had failed to reach a consensus on the issue, PIAC/NAPO filed a dispute with the BMT Committee on 26 June 2002. The dispute set out the same issue and alternative proposals as those identified in the 13 May and 7 June 2002 correspondence referenced above.

### **Process**

7. Subsequent to 26 June 2002, various parties filed submissions with the BMT Committee as to whether the issue raised by PIAC/NAPO in its dispute should be dealt with by the Commission at that time or at some later date after the then-pending proceeding on a Consumers Bill of Rights (CBOR)<sup>3</sup> had been completed. By letter dated 18 July 2002, TCI submitted that it would be more appropriate and efficient to address the disputed issue within the context of the CBOR proceeding or as part of a possible proceeding on the ILECs' Terms of Service following the CBOR proceeding. Aliant Telecom, Bell Canada, MTS, NorthernTel, Northwestel, SaskTel and Télébec made the same submission in a letter dated 28 July 2002. In its letter dated 1 August 2002, PIAC/NAPO argued that the issue should be considered without delay, as there was no guarantee that it would be included in the CBOR or subsequent proceedings.
8. By Commission staff letter dated 27 August 2002, the BMT Committee participants were advised that this dispute would be dealt with by the Commission prior to the CBOR proceeding, and that all materials submitted to date on the issue would form part of the record. The letters from TCI and PIAC/NAPO dated 18 July and 1 August 2002, respectively, also included submissions regarding the matter in dispute. Parties were requested to provide their comments on the dispute issue raised by PIAC/NAPO. On 11 September 2002, Aliant Telecom, Bell Canada, MTS, NorthernTel, Northwestel, SaskTel, Télébec and TCI (collectively, the Companies) filed their comments in a combined submission. PIAC/NAPO filed its reply comments on 23 September 2002.

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<sup>3</sup> See paragraph 799 of *Regulatory framework for second price cap period*, Telecom Decision CRTC 2002-34, 30 May 2002 (Decision 2002-34).

## Regulatory framework

9. In *Disconnection of Telephone Service for Unpaid Debts of Others*, Telecom Decision CRTC 77-14, 24 November 1977 (Decision 77-14), the Commission expressed its view on the seriousness of disconnection of basic telecommunications service. In Decision 77-14, the Commission stated:

Disconnection of basic telephone services is an extremely serious action, the adverse effects of which, from an individual subscriber's standpoint, can in many cases far exceed any possible pecuniary return to the company. In the Commission's view, where the telephone involved is the only service furnished to the subscriber, disconnection should never occur except in clear cases of a breach of the regulations<sup>4</sup>, and only upon notice to the subscriber of the tariff provisions relied upon with an opportunity given to the subscriber to make representations to the company and, if necessary, to the Commission.

10. In Telecom Letter Decision CRTC 88-4, 7 July 1988 (Letter Decision 88-4) regarding Bell Canada's collection practices for the collection of 976 charges, the Commission clarified when tariffed services may be denied for non-payment of non-tariffed services and the proper allocation method for partial payments. The Commission stated:

The Commission reiterates that non-payment of non-tariffed charges cannot result in denial of service. Accordingly, it would be unacceptable for the company or any party acting on behalf of the company to suggest that disconnection of service would result from non-payment of 976 non-tariffed charges. As customers may not differentiate between the payment of tariffed and non-tariffed charges, the Commission directs that, any partial payments are to be applied first to tariffed charges.

11. The Terms of Service, which form part of the ILECs' Commission-approved tariffs, set out the basic obligations of ILECs and customers. The Terms of Service specify, for example, when services can or cannot be disconnected.
12. The wording of the ILECs' Terms of Service is not identical as it relates to the issue of permitted and prohibited disconnection. However, with regard to this issue, the ILECs' Terms of Service are in all material respects the same as those of either Bell Canada or TCI.

### **Bell Canada's Terms of Service**

13. The scope of application of Bell Canada's Terms of Service is defined as follows:
  - 1.1 Except as otherwise specified these Terms of Service apply with regard to services for which the Canadian Radio-television and Telecommunications Commission has approved a Tariff.

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<sup>4</sup> The reference to regulations in Decision 77-14 is a reference to the General Regulations, which were the predecessor to the Terms of Service of the federally-regulated telephone companies.

14. Article 22.1 sets out the circumstances in which Bell Canada is permitted to suspend or terminate service(s) for overdue accounts.

22.1 Bell Canada may suspend or terminate a customer's service only where the customer:

- (a) fails to pay an account of the customer that is past due, provided it exceeds fifty dollars or has been past due for more than two months; ...

15. Article 22.2 specifies the circumstances in which Bell Canada is not permitted to suspend or terminate service.

22.2 Bell Canada may not suspend or terminate service in the following circumstances:

- (a) failure to pay non-tariffed charges; ...

#### **TCI's Terms of Service**

16. The corresponding provisions of TCI's Terms of Service are as follows:

101.3 These General Terms of Service define the basic rights and responsibilities of TCI and TCI's customers with respect to all services, facilities and equipment contained in the TCI Tariff.

115.2 TCI may suspend or terminate a customer's service only if the customer:

- (a) fails to pay a past due account for which the customer is responsible if it exceeds \$50 or has been past due for more than two months, ...

115.4 TCI may not suspend or terminate a customer's service:

- (a) because the customer fails to pay charges that are not authorized by the CRTC, ...

#### **Position of PIAC/NAPO**

17. According to PIAC/NAPO, the ILECs should not be permitted to disconnect or threaten to disconnect the local service of customers who have paid enough to cover the charges related to local service. PIAC/NAPO indicated that there was disagreement among the Companies as to how their Terms of Service should be interpreted and that they and the consumer groups disagreed on the rules that should be applied to the situation. PIAC/NAPO were of the view that, with the possible exception of TCI and SaskTel, the ILECs' Terms of Service do not permit them to disconnect a customer's local service where the customer has paid enough to cover local charges.

18. PIAC/NAPO argued that the Terms of Service of the ILECs only applied to tariffed services, in that "service", "account", and "payment", as used in the Terms of Service, referred exclusively to tariffed services, unless specifically noted otherwise. PIAC/NAPO also noted that the

Commission, in Letter Decision 88-4, had indicated that under its Terms of Service, Bell Canada cannot deny access to tariffed services on the basis of the non-payment of charges for non-tariffed services.

19. PIAC/NAPO submitted that it was inappropriate for ILECs to disconnect, or even threaten to disconnect, basic local service where the customer was making payments that (a) cover his or her basic local bill, or (b) were in keeping with a "reasonable deferred payment agreement". According to PIAC/NAPO, Article 22.2 of Bell Canada's Terms of Service supported this position.
20. PIAC/NAPO acknowledged the differences in wording between the Bell Canada Terms of Service and the TCI Terms of Service, stating that it was not clear whether or not TCI and SaskTel, the Terms of Service of which are equivalent to those of TCI with regard to this issue, were permitted to disconnect the local service of a customer who has paid enough to cover charges for local service.
21. PIAC/NAPO proposed that, unless otherwise directed by the customer, partial payments on accounts should be applied to outstanding local service charges first, regardless of the relative age of a customer's outstanding bills, since the chronological allocation of such partial payments could result in outstanding amounts for local service, even if sufficient payment had been made to cover the total amounts for local service. Any remaining amount of payment should then be applied to any other outstanding charges, beginning with the oldest outstanding charges first. PIAC/NAPO further submitted that the disconnection of basic local telephone service should only occur if a customer had failed to pay outstanding charges for basic local telephone service, and only after attempts had been made to negotiate a reasonable deferred payment agreement regarding any outstanding local charges.
22. As an alternative to its proposal, PIAC/NAPO suggested that the ILECs could continue to apply partial payments as they wish, but that there be no disconnection of basic local service as long as the partial payment covers local charges, or is in keeping with a reasonable deferred payment agreement regarding outstanding charges for local service. Moreover, the ILECs should not threaten to disconnect a customer's basic local service as long as customer payments cover basic local charges. The ILECs should threaten toll disconnection for failure to pay toll charges, and optional service disconnection for failure to pay optional service charges.
23. PIAC/NAPO noted that, under both alternatives, failure to pay outstanding charges for toll services should result in toll blocking, and failure to pay optional local service charges should result in disconnection of those services, before basic local service is disconnected for non-payment.

### **Position of other parties**

#### **TCI**

24. In its submission of 18 July 2002, TCI noted that Item 115.4 (a) of its Terms of Service prohibits it from suspending or terminating a customer's service because the customer fails to pay charges that are "not authorized" by the Commission. TCI submitted that the term "authorized" related to both tariffed and forborne services. Accordingly, TCI was of the view that it was allowed to suspend or terminate services for a customer's failure to pay any charges

for tariffed or forborne services. TCI further submitted that its Terms of Service do not contain any express or implicit direction on which types of service or services take priority in the allocation of partial payments for outstanding charges.

25. TCI argued that the PIAC/NAPO proposal would require changes to TCI's Terms of Service to make specific reference to tariffed services (not "authorized") and to limit references to "service", "account", and "payment" to mean tariffed services only. TCI also argued that the PIAC/NAPO proposal would require significant changes to the company's billing systems and other manual processes in order to track partial payments on past due accounts. TCI noted that the Commission had found, in an 11 April 2000 letter<sup>5</sup>, that the costs of these changes would likely outweigh the benefits to customers facing disconnection for making partial payments.
26. TCI stated that it considered it to be in its best interest to make every effort to keep a customer on the network as long as the customer continued to make payments towards an outstanding account. TCI indicated that it had received no customer complaints regarding its application of partial payments to customer accounts, and was of the view that PIAC/NAPO had provided no evidence to the BMT Committee that customers were concerned with the company's practice in this regard.

### **The Companies**

27. In their 11 September 2002 submission, the Companies agreed with PIAC/NAPO that local service should not be disconnected if a customer has paid for his or her local service. However, the Companies disagreed with the position of PIAC/NAPO that as long as a customer has made partial payments equal to the amount of charges for local service, such service should not be disconnected. The Companies argued that there was no compelling policy, regulatory or business rationale for allocating payments on a service-specific basis as proposed by PIAC/NAPO. Noting that customers receive a single bill for all the services they use and make a single payment for all the services they receive, the Companies were of the view that a customer has not paid for his or her local service until they have paid their total bill in full.
28. The Companies noted that the practice of applying partial payments to outstanding total bill charges, with the oldest outstanding charges retired first, had been in place for years. The Companies submitted that this approach to applying partial payments was a standing practice across a wide range of industries. The Companies submitted that this approach was fair to both the subscribers and the Companies. In particular, the Companies submitted that this practice benefited customers by minimizing the extent to which interest charges accrue on outstanding amounts. The Companies also noted that their process for allocating payments had been reviewed by Commission staff and was found to be reasonable<sup>6</sup>.

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<sup>5</sup> The letter to TCI dated 11 April 2000 was, in fact, from Commission staff. It dealt, in part, with the company's policy with respect to customers who have made partial payment on their outstanding accounts. The same letter was also sent to a number of other telephone companies on 11 April 2000. In those letters, Commission staff stated that the telephone companies' application of partial payments did not appear to be unreasonable given the additional cost that would be incurred to either modify the telephone companies' billing systems or to manually track tariffed and non-tariffed charges on past due accounts.

<sup>6</sup> In the Commission staff letters dated 11 April 2000.

29. The Companies submitted that, in a competitive environment, it was very important that they be able to disconnect a customer's local service for non-payment of undisputed arrears, absent a mutually agreed upon deferred payment plan. The Companies argued that this was particularly true given their status as long distance carriers of last resort (COLR). In support of their position, the Companies noted, as an example, the situation where one of their customers would have switched to an alternative provider of long distance service (APLDS), and that customer was subsequently disconnected by the APLDS for non-payment. The Companies noted that such a customer would return to the Companies' toll network and be in a position to accrue further bad debt without the respective company's knowledge. Allowing customers to allocate partial payments to local service would, in the Companies' view, effectively "allow recalcitrant debtors to game the system" at the expense of the ILECs, APLDS and, ultimately, more fiscally-responsible customers.
30. The Companies noted that their respective Terms of Service clearly indicated that customers are responsible for the payment of all charges for calls originated from, and accepted at, their telephone numbers. The Companies further noted that customers would not have their local service disconnected if outstanding charges were legitimately in dispute or a customer had entered into, and was honouring, a reasonable deferred payment plan. However, the Companies stated that they may use toll blocking or other methods to limit further accrual of arrears.

#### **PIAC/NAPO reply comments**

31. In contrast to the Companies' position, PIAC/NAPO was of the view that customers have paid for their local service when they have paid the local service portion of their local/toll bill. PIAC/NAPO argued that local and toll services are two distinct services that are sold separately and can be obtained from different service providers. Further, toll service can be disconnected without affecting local service. Accordingly, PIAC/NAPO was of the view that there was no compelling reason for disconnecting local service when customers have paid the local service portion of their bill in full.
32. PIAC/NAPO disagreed with the position taken by the Companies that their policy of disconnecting customers from basic local service for the non-payment of toll charges was entirely consistent with the provisions of their respective Terms of Service. PIAC/NAPO also noted that in at least two previous decisions, Letter Decision 88-4 and *Joint Marketing and Bundling*, Telecom Decision CRTC 98-4, 24 March 1998, the Commission had ordered the Stentor companies to apply partial payments first to tariffed charges. Further, PIAC/NAPO noted that the 11 April 2000 Commission staff letter was not a Commission decision, and thus did not reflect Commission decisions ordering the ILECs to apply payments first to tariffed charges in other contexts<sup>7</sup>.
33. Further, PIAC/NAPO noted that it does not dispute that customers are responsible for paying for all calls originated from their telephones. PIAC/NAPO also did not dispute the Companies' position that they should be able to use the ultimate threat of disconnection where customers fail to pay their bills in a timely manner. However, PIAC/NAPO reiterated that disconnection of service should be directly related to the type of service for which there are outstanding

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<sup>7</sup> PIAC/NAPO letter to the BMT Committee dated 1 August 2002.

charges. In the view of PIAC/NAPO, local disconnection should not even be contemplated where a customer has paid enough to cover his or her local bill. PIAC/NAPO submitted that only toll service should be disconnected for non-payment of toll arrears.

34. PIAC/NAPO noted the Companies' concern about customers who had been disconnected by APLDS for non-payment accruing additional bad debt upon being reconnected to the ILEC. PIAC/NAPO was of the view that, to the extent this is a problem in need of a solution, it is separate from the issue being addressed in this process.
35. PIAC/NAPO questioned the benefit to customers of applying partial payments in chronological order to minimize interest expenses, suggesting that such a benefit was of relatively little value to customers compared to the value of remaining on the network if such a practice could result in the disconnection of basic local service.
36. PIAC/NAPO suggested that the lack of recorded customer complaints concerning the practices of some ILECs was not surprising. PIAC/NAPO submitted that customers may not realize that their local service can remain operational even if their toll and/or optional local services are disconnected. PIAC/NAPO indicated that it had raised this issue as a preventative measure to prevent vertically-integrated companies from abusing their market dominance to the detriment of consumers in the provision of an essential service<sup>8</sup>.

## **Commission analysis and determination**

### **Process**

37. The Commission notes the Companies' argument that PIAC's/NAPO's dispute would be more properly considered in the CBOR proceeding or a possible proceeding on the ILECs' Terms of Service following the CBOR decision. The Companies proposed that if the dispute was not resolved in those proceedings, then the dispute could proceed. The Commission notes that PIAC/NAPO opposed such a delay in the Commission's consideration of the dispute.
38. The Commission notes that, in Decision 2002-34, it found that it would be useful to develop a CBOR. The Commission considered that a CBOR should be a comprehensive and concise statement of consumer rights, and announced its intention to initiate a proceeding in which the Commission would consider detailed submissions on CBOR content and related issues. In Decision 2002-34, the Commission also considered that it was appropriate to await the completion of the then-pending CBOR proceeding before deciding on the need for a review of the ILECs' Terms of Service.
39. The Commission notes that the CBOR proceeding, as initiated by *Consumer bill of rights*, Telecom Public Notice CRTC 2003-6, 13 June 2003<sup>9</sup>, is restricted to creating a document that will be a plain language statement of existing consumer rights as well as considering both methods to communicate the CBOR and what, if any, amendment process would be appropriate. The Commission also notes that no proceeding on the ILECs' Terms of Service has been initiated. The Commission is of the view that whether or not a Terms of Service proceeding is

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<sup>8</sup> See footnote 7.

<sup>9</sup> Also see *Consumer bill of rights*, Telecom Public Notice CRTC 2003-6-1, 14 July 2003.



held is irrelevant to the issue of whether the ILECs are correctly interpreting and applying their existing Terms of Service. The Commission considers that it would not be appropriate to delay a ruling in this regard while awaiting the possibility of future proceedings. Therefore, the Commission determines that it is appropriate to deal with this dispute at this time.

#### *Issues defined*

40. PIAC/NAPO referred to the dispute issue in terms of the disconnection of a customer's local service for failure to pay outstanding charges for other tariffed and non-tariffed services. However, the Commission is of the view that the issue is not limited to the disconnection of basic local exchange service where there outstanding charges remain for other tariffed or non-tariffed services.
41. The Commission considers there to be two issues involved: first, whether or not the ILECs are in violation of their approved Terms of Service when they disconnect the tariffed services of customers for failure to pay charges for non-tariffed services; secondly, whether or not the ILECs are permitted to disconnect the tariffed services of customers who have made partial payment sufficient to cover outstanding charges for tariffed services and whose payments have been allocated by the ILECs in a way that results in outstanding charges for tariffed services.

#### *Interpretation of Terms of Service*

42. The Commission notes the following points raised by PIAC/NAPO in this dispute:
  - the existing Terms of Service that relate to the disputed issues are being interpreted differently by the ILECs;
  - there is a difference in the wording of the Terms of Service of TCI and SaskTel on the one hand, and those of Bell Canada and other ILECs on the other hand; and
  - the same rule regarding disconnection of local service for non-payment of non-tariffed service charges should apply to all ILECs equally.
43. The Commission notes that Article 22.1 of Bell Canada's Terms of Service uses permissive language, allowing Bell Canada to suspend or terminate service without requiring it to do so. In contrast, the wording of Article 22.2 contains an absolute prohibition on disconnecting service. For example, under Article 22.2 (a), Bell Canada may not disconnect service if a customer has not paid non-tariffed (e.g., toll) charges.
44. The practice of most of the respondents of disconnecting local service even when customers have paid enough of their arrears to cover the tariffed portions of their bills can only be justified if Article 22.1 and its equivalents in other ILECs' Terms of Service takes precedence over Article 22.2 and its equivalents. The Commission is of the view that the permissive language in Article 22.1 and the mandatory language of Article 22.2 prevent any conflict in the interpretation of Article 22. It is Article 22.2 and its equivalents, with the prohibition of disconnection under certain circumstances, which takes precedence over Article 22.1 and its equivalents.

45. In Decision 77-14 the Commission set out its views on the seriousness of disconnection of customers' local telephone service, noting that local service disconnection should only occur if there was a clear breach of the predecessor provisions to the Terms of Service. The Commission notes that with the subsequent development and use of emergency 9-1-1 access, telephone networks have become an even more important component of public safety. The Commission considers that the views it set out in Decision 77-14 remain relevant to this day.
40. In light of the above, the Commission considers that Bell Canada and other ILECs using Terms of Service that, with regard to this issue, are in all material respects the same as those of Bell Canada, are not permitted to disconnect tariffed services for failure to pay charges for non-tariffed services.
41. The Commission notes the argument made by TCI that it is permitted, under its Terms of Service, to disconnect local exchange service for non-payment of charges "authorized" by the Commission. TCI argued that "authorized" charges include those for forbore as well as tariffed services. TCI further argued that there is nothing in its Terms of Service that indicated that one type of service takes priority over other types of service with respect to the application of partial payments.
42. Item 115.4 of TCI's Terms of Service prohibits disconnection for failure to pay charges that are not authorized by the CRTC. The Commission notes that when it has forbore from regulating services provided by ILECs such as TCI, it has, pursuant to section 34 of the *Telecommunications Act*, removed the requirement that rates for the forbore services be approved by the Commission and be included in the ILECs' tariffs. This means that the Commission does not authorize the rates for services that are forbore.
43. The Commission therefore finds that the term "charges that are not authorized by the CRTC" as used in the TCI Terms of Service means "non-tariffed charges", and that TCI and other ILECs using Terms of Service that, with regard to this issue, are in all material respects the same as those of TCI, are not permitted to disconnect tariffed services for failure to pay charges for non-tariffed services.
44. In summary, the Commission considers that ILECs are only permitted to disconnect tariffed services for non-payment when a customer fails to pay outstanding arrears for tariffed services. In addition, disconnection for non-payment can only occur when none of the prohibitions to disconnection under Article 22.2 of the Bell Canada Terms of Service or Item 115.4 of the TCI Terms of Service or their equivalent apply. ILECs must also comply with the other requirements in their Terms of Service regarding disconnection including those in Articles 22.3, 22.4 and 22.5 of the Bell Canada Terms of Service, Items 115.5, 115.6 and 115.7 of the TCI Terms of Service, or their equivalent.
45. Since ILECs are not permitted to disconnect a customer's tariffed services for non-payment when the customer has paid enough to cover the charges for tariffed services, or when any of the other prohibitions against disconnection apply, they are also prohibited from threatening to disconnect tariffed services in such circumstances.

### *Accrual of bad debt and COLR*

46. The Commission notes the issue raised by the Companies that customers with outstanding arrears with other toll service providers could accrue further bad debts with the ILECs without the Companies' awareness of these customers' past payment history.
47. The Commission also notes the Companies' argument that it is more important than ever that they be able to disconnect customers' local service for non-payment of undisputed arrears, given their status as a COLR for toll services.
48. The Commission considers that the Companies' arguments with regard to the ability of customers to accrue bad debts and the Companies' status as COLR for toll services are not relevant to the proper interpretation and application of the Terms of Service.

### *Chronological allocation of partial payments*

49. The Commission notes the Companies' submission that they have long used a chronological allocation of partial payments for the retirement of customers' outstanding arrears, with the oldest outstanding charges being retired first, and with no regard to the type of service to which the payments are assigned. Further, the Commission notes that the Companies found support for this practice in the Commission staff letters dated 11 April 2000.
50. The Commission is of the view that such a practice could result in tariffed services being disconnected when customers have made sufficient payment to cover outstanding charges for such services. The Commission considers that administrative decisions made by the ILECs concerning the allocation of customers' payments cannot be used to circumvent the wording of the Terms of Service.
51. The Commission notes that the alternative proposed by PIAC/NAPO would permit the ILECs to continue to decide how partial payments are allocated while ensuring that a customer's local service is not disconnected when partial payments are sufficient to cover outstanding arrears for local service. The Commission considers that this proposal has merit. However the Terms of Service apply to all tariffed services rather than to local service only. The Commission is therefore of the view that a customer's tariffed services are not to be disconnected for non-payment when partial payments are sufficient to cover outstanding arrears for tariffed services.
52. In light of the above, the Commission considers that there is no need to order a change in the ILECs' practices with regard to the application of partial payments so long as they are acting in accordance with all applicable regulatory rules.

### **Conclusion**

53. The Commission determines that the ILECs are in violation of their approved Terms of Service when they disconnect the tariffed services of customers for failure to pay charges for non-tariffed services. The Commission further determines that the ILECs, under their Terms of Service, are not permitted to disconnect or threaten to disconnect, for non-payment, any of a customer's tariffed services when that customer has made partial payments sufficient to cover outstanding arrears for tariffed services. This is the case whether or not there are outstanding

arrears for non-tariffed services. Further, the ILECs are not permitted to disconnect tariffed services or threaten to do so where any of the other prohibitions in the Terms of Service apply (e.g., the customer is willing to enter into and honour a reasonable deferred payment agreement). Finally, before the ILECs are permitted to disconnect a customer's tariffed services or to threaten such action, they must adhere to the requirements set out in their Terms of Service for the disconnection of service.

Secretary General

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