

Public Utilities Commission of Anguilla

Telecom Decision PUC 2005-102

The Valley, Anguilla – 22 November 2005

In the matter of prices to be included in interconnection agreements between Cable and Wireless (West Indies) Limited (C&W) and the following operators: Caribbean Cable Communications (CCC); Weblinks Limited (Weblinks); and Wireless Ventures Anguilla Limited (WVA Ltd.).

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I Background

Scope of Proceeding

1. Cable & Wireless (West Indies) Limited (C&W) is a licensed telecommunications network operator in Anguilla. C&W is the incumbent operator and received a new license on 14 December 2004.
2. Caribbean Cable Communications (CCC) is a licensed fixed line public telecommunications provider and received their license on 14 December 2004. Weblinks is a new mobile operator and received their license on 10 September 2004. Wireless Ventures (Anguilla) Limited (WVA Ltd.) is a new mobile operator and their license was granted by the PUC on 5 November 2004.
3. C&W filed for approval a proposed interconnection agreement between C&W and WVA Ltd. with the Commission on 19 May 2005. The Commission considered the agreement against the criteria set out in the governing legislation and determined that it could not approve the agreement. The Commission's reasons for rejecting the proposed agreement are set out in Telecom Decision 2005-101 dated 12 October 2005.

The Proceeding

4. In the matter of interconnection agreements between C&W and the above-mentioned licensed telecommunications operators in Anguilla, Telecom Decision PUC 2005-101 dated 12 October 2005 set out certain directions on procedure pursuant to s17(2)(h) of **the Act**; s4(2)(d) and s10(1) and (3) of the **IAF Regulations 2004**, and s31 of the **Telecommunications Administrative Procedures Regulations**.

Notice and Responses

5. In particular, paragraph 197 provided the following directions for the setting of prices to be included in an interconnection agreement with the respective parties:

“Parties to the proposed interconnection agreements, C&W, Weblinks, WVA Ltd. and CCC have until 27 October 2005 (15 days from the date of this decision -12 October 2005) to comment on the recommended prices for fixed termination, mobile termination and transit services included in this decision. Within 15 days from the closing date for submissions, on or before 11 November 2005, the

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Commission will issue a final decision setting the prices to be included in an interconnection agreement.”

6. The Commission in a letter dated 27 October 2005 received a request from WVA Ltd. for an extension to the date for submitting comments from 27 October to 2 November 2005. The request for an extension was granted and the parties to the proceeding informed by way of letter from the Commission dated 27 October 2005.
7. Initial comments on the interconnection prices proposed by the Commission in Telecom Decision PUC 2005-101 were received from C&W and WVA Ltd. by way of letters dated 2 November 2005. These comments were circulated to the other interested parties by way of Commission letter dated 4 November 2005. Reply comments were invited to be filed on or before 14 November 2005.
8. Reply comments were received from C&W, CCC and Weblinks by way of letters filed with the Commission dated 14 November 2005.

II Commission Analysis and Findings

Prices for fixed termination, mobile termination and transit services

9. In Decision 2005-101, pursuant to Section 20 of **the Act** and Section 1.3.3 of C&W's license the Commission recommended the following prices for interconnection:
- a. Part 1 of Tariff Schedule - **Joining Services** costs are to be based on standard unit costs for each element with each party compensating the other party for 50% of their cost. An early termination charge is to be included as part of the Joining Service pricing.
 - b. Part 2. Termination Services – **PSTN Terminating Service**: A composite price not to exceed **5.4 EC cents** per minute. The parties may elect to adopt peak and off peak pricing structures with the maximum peak price not to exceed 5.4 EC cents.
 - c. Part 2. Termination Services – **Mobile Terminating Service**: A composite price not to exceed **40 EC cents** per minute.
 - d. Part 2. Termination Services – Mobile Terminating Service – **Transit portion**: A composite price per minute not **2.2 EC cents** per minute.
 - e. Part 2. Termination Services - **Incoming International to PSTN Service** - A composite price not to exceed **5.4 EC cents** per minute. The parties may elect to adopt peak and off peak pricing structures with the maximum peak price not to exceed 5.4 EC cents.
 - f. Part 2. Termination Services - **Incoming International to Mobile Terminating Service**: A composite price not to exceed **36.9 EC cents** per minute.
 - g. Part 2. Termination Services - Incoming International to Mobile Terminating Service – **Transit portion**: A composite price per minute not **2.2 EC cents** per minute.
 - h. Part 3. Special Access Services – Provision of access to 999 and 911 emergency services. A composite price not to exceed **3.5 EC cents** per minute.
 - i. Part 4. PSTN Transit Services – **PSTN Transit service** – A composite price not to exceed **2.2 EC cents** per minute.
10. C&W's response of 2 November 2005 confirmed their acceptance of the proposed prices as the "maximum prices" to be applied by all fixed and mobile operators for their call termination and transit services.

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11. In order to clarify the point raised by C&W in their submission of 2 November, paragraph 4, on the matter of reciprocity, the Commission in recommending the prices intended that they be applied on a reciprocal and uniform basis by all operators to an interconnection agreement.
12. WVA Ltd. in their submission of 2 November 2005 urged the Commission to reconsider the recommended mobile termination price of 40 EC cents per minute as well as the fixed termination price of 5.4 EC cents per minute. WVA Ltd. proposed that the mobile price should be 55 EC cents as set out in the proposed agreement of 19 May 2005 and not 40 EC cents per minute as recommended by the Commission. WVA Ltd. agreed with the recommended transit prices of 2.2 EC cents per minute.
13. In support of their submission for a higher mobile termination price and a lower fixed termination price, WVA Ltd. referenced prices in the United Kingdom. The source cited by WVA Ltd. for the prices in the United Kingdom was 'Ovum, September 5th 2005'. The average of these reference prices in the United Kingdom for mobile termination was 30.51 EC cents per minute. Whereas the fixed termination price cited in their submission for 'BT' was 0.891 EC cents per minute. In addition, WVA Ltd also submitted evidence in Annex 1 on a confidential basis on their costs for mobile termination.
14. In addition, WVA Ltd. made reference to the impact of economies of scale on mobile termination costs and also the use of the ratio between fixed and mobile termination prices.
15. In reply comments submitted on 14 November 2005, C&W also makes reference to mobile termination prices in the UK. Both WVA Ltd. and C&W made reference to the same mobile operators for their reference prices, however, the C&W average termination price for mobile in the UK was 28.21 EC cents compared to WVA Ltd.'s average of 30.51 EC cents. C&W noted that some of the differences between the two sets of UK reference prices could be due to the 'exchange rates' applied.
16. C&W also noted in their reply comments that mobile termination prices in the UK are not 'cost-oriented' as claimed by WVA Ltd in their letter of 2 November 2005. The Commission notes that the description of UK mobile rates submitted by WVA Ltd. was 'cost based interconnection rates' as opposed to the reference in the C&W reply comments which cited WVA Ltd.'s reference as being to 'cost-oriented' prices. In either case the point raised by C&W was that the prices in the UK were being reduced towards 'cost-oriented levels' but had not reached that point as yet.
17. In their reply comments C&W addressed the matter of 'economies of scale' and the level of mobile termination prices. C&W's submission makes reference to the fact that the proposed mobile termination price of 40 EC cents is some 42% higher than

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the average UK mobile termination price based on C&W's research and some 31% above the average mobile price employed in the WVA Ltd example. In conclusion C&W submits:

*'that the Commission has already been quite generous in its treatment of the lack of economies of scale in Anguilla, and should not allow the maximum MTR to exceed ECS 0.40.'*¹

18. On the matter of the application of a 'benchmark' ratio for fixed to mobile prices as referred to in WVA Ltd.'s submission, C&W submitted that evidence from their research suggested that the ratio should be no more than 1:6 instead of 1:33 as submitted by WVA Ltd. C&W cites the source of their reference as a report by Mr. David Rogerson of Ovum Limited.²
19. In terms of the use of a fixed to mobile benchmark ratio, C&W submits that the application of the Ovum recommendation on the recommended fixed price would result in a mobile termination price of EC\$ 0.324 compared to the Commission's recommended price of EC \$ 0.40 and the price proposed by WVA Ltd. of EC\$ 0.55.
20. C&W, in the concluding comments of their submission of 14 November 2005, submit that 'the Commission should not make any changes to the "maximum rates" recommended in the Decision'.
21. Caribbean Cable Communications' (CCC) dated 14 November 2005 supports the recommended prices set out in Decision 2005-101. CCC's major concern was that C&W would offer their own customers lower mobile termination rates than those provided for in an interconnection agreement. They submit that the price recommended by the Commission alleviates this concern at this time.
22. Weblinks' submission of 14 November provides comments in three parts. In Part 1, Mobile termination, Weblinks submits that the termination price should be set at 26.8 EC cents per minute or less. They submit that the 26.8 cents is the price proposed in the October 2004 RIO offered to Weblinks by C&W. As a matter of record, the Commission notes that the mobile termination price proposed in the October 2004 RIO was 26.9 EC cents. The October 2004 RIO was not accepted by Weblinks for a number of reasons and subsequently led to a petition being filed by with the Commission by Weblinks. (see also Decision 2004-101, 15 December 2004).
23. Weblinks disagrees with the notion submitted by WVA ltd. that operators should attempt to recover their costs by increasing mobile termination prices. They also submit that each operator should decide how to recover its cost of providing service.

¹ C&W submission to the Commission dated 14 November 2005, page 3.

² C&W submission to the Commission dated 14 November 2005, page 3, footnote 2.

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24. Regarding the use of benchmark ratios as submitted by WVA Ltd., Weblinks submits that the arguments for the use of the UK ratio are unclear and that they doubt such a ratio is applicable to Anguilla.
25. On the matter of the arguments by WVA Ltd. as to the notion that UK mobile termination prices are 'cost-based'. Weblinks submits that the UK rates are 'not necessarily cost-based' and that the political and economic factors applied in setting UK rates and the historical development of networks do not apply to Anguilla.
26. In the case of fixed versus mobile network costs, Weblinks submits that mobile network costs in Anguilla may be substantially less than fixed network costs and as a result both fixed and mobile termination prices should be similar. In support of their submission Weblinks cites an example of a one-year investment in a fixed network being worth over US\$5 million. Whereas the total investment in a mobile network for Anguilla would not significantly exceed US\$5 million.
27. Weblinks submits that the 40 cents EC mobile termination rate is too high and is not justified or supported by the relevant costing analyses.
28. Part 2 of Weblinks' submission relates to fixed termination prices. While Weblinks believes the price should be lower than the 5.4 EC cents recommended by the Commission, they accept the recommendation in order to expedite the interconnection process.
29. Part 3 of the Weblinks' submission refers to transit prices. Weblinks agrees with the Commission, C&W, CCC and WVA Ltd.'s position that the inclusion of an access component in the transit price is inappropriate.
30. In summary, two parties, C&W and CCC, agree with the prices recommended by the Commission. The other two parties take opposing positions with respect to mobile termination prices. WVA Ltd. supports a higher mobile termination price of 55 EC cents whereas Weblinks proposes a lower price of 26.8 EC cents per minute.
31. With respect to the setting of the mobile termination rate, the Commission must consider not only cost evidence but also the existing retail prices of the incumbent, C&W, as noted in Decision 2005-101 at paragraph 183 that reads as follows:

'Considering C&W's current retail rates for mobile calling as well as the recommended rates in the October 2004 and the May 2005 RIO's, the Commission recommends a maximum mobile termination charge of 40 EC cents per minute. A rate that is approximately at the mid-point between C&W's October 2004 RIO rate of 26.9 EC cents and the rate of 55 EC cents in the April 2005 RIO. The recommended rate also falls within the range of C&W's costing results cited at page 12 of the May 2005 Cost Submission.'

32. In the current proceeding, there have been a wide range of costing results presented to the Commission. Some based on costing models and others based on experience and

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opinions. In the case of the cost to terminate mobile calls, there is a broad range of prices from less than 26.9 EC cents per minute to at least 55 EC cents per minute. In setting such prices, the Commission also needs to consider their broad mandate as noted in paragraphs 112 and 113 of Decision 2005-101 that read as follows:

*'112. In the general case, **the Act** requires the Commission to ensure there is 'fair competition as stated in s3 (d): 'Functions of the Commission*

3. Subject to the provisions of this Act, the Commission shall—

(d) be responsible, where required, for the economic regulation of licensees and authorisation holders and for ensuring fair competition among licensees and all other operators of telecommunications networks or providers of telecommunications services;' (Emphasis added)

*113. In the specific case of interconnection, the **IAF Regulations 2004** require the Commission to consider the promotion of 'sustainable competition' as set forth in s4 (1) (b):*

'Functions of the Commission

4. (1) The Commission shall, consistent with the Act and these Regulations, encourage and, where appropriate, ensure, the adequacy of interconnection between public telecommunications networks and public telecommunications services in such a way as to –

(a) promote efficiency;

(b) promote sustainable competition ;(Emphasis added)'

33. Therefore the criteria of 'ensuring fair competition' and also 'promoting sustainable competition' need to be taken into account by the Commission in setting interconnection prices. Setting too low a price for mobile termination may not promote sustainable competition or in fact ensure fair competition. Setting too high a price may unduly undermine the full benefits of market liberalization.
34. The Commission having considered the submissions of the respective companies and the range of views and empirical evidence presented in both initial submissions and in reply finds that the prices recommended in Decision 2005-101 are just and reasonable and in the public interest.
35. The Commission hereby approves the prices for mobile and fixed termination and for transit services in interconnection agreements to be as set out in paragraph 9 of this decision.

III Directions on Procedure

36. The following directions on procedure are issued pursuant to s17(2)(h) of **the Act**, s4 (2)(d) of the **IAF Regulations 2004**, and s31(b) of the **Telecommunications Administrative Procedures Regulations**.
37. The Commission will review the prices for interconnection within two years from the date of this decision to determine whether the prices should be adjusted having regard to the experience of the operators in terms of operating costs, volume of minutes originating and terminating on their respective networks, and the overall development of the market in terms of customer base and usage. In undertaking such a review the Commission will require all operators to provide data on costs and minutes as well as changes in customer base and trends in usage.
37. The Commission will review the prices for interconnection within two years from the date of this decision to determine whether the prices should be adjusted having regard to the experience of the operators in terms of operating costs, volume of minutes



Executive Chairman, Public Utilities Commission