



GOVERNMENT OF BERMUDA
Ministry of Energy, Telecommunications and E-Commerce

Telecommunications Commission

Our Ref: TC203/01/36/08
Date: July 29, 2009

BY MAIL & EMAIL

Bermuda Cablevision Ltd.
19 Laffan Street
Hamilton, HM09
Attn: Allan H. Smith
Assistant General Manager

Bermuda Cablevision tariff filing for two new data services “6x4 meg” and “8x4 meg” date 14th November 2008.

BACKGROUND:

Under cover of a letter dated 14th November, 2008, Bermuda Cablevision Ltd. (“BCV”) submitted a new tariff filing with the Telecommunications Commission (“Commission”) for two new high speed data services referred to in its application as the “6x4 meg” service and the “8x4 meg” service.

The tariff filing requested the Commission to approve pricing for the new 6x4 meg service at \$ 45.00 per month and for the new 8x4 meg service at \$ 55.00 per month.

BCV published the required notice for this tariff filing in the Royal Gazette and the Commission, after waiting the required 21 days, received no public objections to the filing.

The Commission considered the tariff filing during its meeting on 17th December, 2008 and decided to make further enquiry into the requested tariff. The Commission then deferred the item pending the receipt of cost data from BCV to support the filing. In a letter dated 22 December, 2008, the Commission wrote to BCV requesting a cost analysis to support this tariff filing.

On 3rd July, 2009, the Commission received, in support of a different tariff filing, spreadsheet detailing revenue and related costs from BCV for all its products and services.

In a letter from BCV to the Commission dated 7th July, 2009, BCV indicated that it has now met the request for costs from the Commission and requested that the Commission now approve the tariff filing for the two high speed services.

During the meeting of the Commission held on 15th July, 2009, the Commission reviewed the tariff filing and, as required by the Telecommunication Act 1986 also considered:-

- (i) the cost to the Carrier of the service in question;
- (ii) the desirability and need to subsidize other non-profitable services offered by the Carrier in the public interest;
- (iii) the needs of the Carrier for adequate working capital and to establish reasonable reserves;
- (iv) international accounting standards where applicable and modifications thereto;
- (v) technological advances;
- (vi) market conditions in Bermuda and overseas including the likely impact of a new service on other Carriers;
- (vii) regulatory changes where applicable;
- (viii) the need to afford investors a reasonable rate of return on their investment;
- (ix) the question whether in the light of the foregoing, any proposed tariff is just and reasonable and any rates and charges contained therein are applied equally to all persons in substantially similar circumstances and conditions;
- (x) the question whether the Carrier, in respect of the application of rates and charges, the provision of services and the use of its facilities -
 - (a) gives any preference or advantage to any person or to any particular description of telecommunication;
 - (b) subjects any person or any particular description of telecommunication to any disadvantage; and
- (xi) the public interest.

The Commission examined the BCV spreadsheet and specifically reviewed the Internet Revenue and costs provided by BCV for 2008 and for the period ending May 2009. The Commission also examined BCV's financial results for 2008 and examined its management reports for the period ending May 2009.

The Commission reviewed BCV's tariff filing request in a letter dated 14 November, 2008 to upgrade their 2x2 meg data service to 4x4 meg at no additional cost to its subscribers (i.e. price to remain at \$ 35.00 per month) which was approved in a letter to BCV on 26th November, 2008.

The Commission reviewed the possible effect to the local market of BCV's proposed rates and reviewed the possible effect to the local market of either higher or lower rates than those proposed.

The Commission reviewed any other tariff filing(s) before it for a similar service.

FINDINGS:

The burden of proof to show that, on the balance of probabilities, any new service, the rates or charges in respect thereof or any variation in the rates or charges of an existing service are just and reasonable is upon the Specified Carrier seeking to introduce the new service or the variation, as the case may be (Telecommunications Act 1986, sec. 24 (3)).

The Commission finds that BCV has not met the requirement of Section 24(3) and has, in fact, provided no specific cost data to support the prices of \$ 45.00 per month for the 6x4 meg service and \$ 55.00 per month for the 8x4 meg service.

The Commission did not have any information before it to determine the incremental cost(s) of these two new services.

The Commission accepts that BCV has subscribers interested in these new higher data speeds and it is in the public interest for higher internet speed options to be available to BCV customers.

The Commission further determines that a further delay to wait for additional submissions by BCV regarding the related incremental costs, are outweighed by the public interest.

DIRECTION:

The Commission hereby directs that:

1. Bermuda Cablevision Ltd. provide a new "6x4 meg service" at \$ 35.00 per month; and
2. the 6x4 Meg service be operational by 31 August, 2009 and that a suitable notice of this new data speed shall be posted in a prominent position on Bermuda Cablevision Ltd.'s web site home page for a period not less than 30 days; and further directs that
3. Bermuda Cablevision Ltd.'s tariff filing for a new 8x4 Meg service has not been approved and directs that this service may not be launched.

The Commission indicates that any amended filing for these same data services within the next 6 months are unlikely to be successful with the Commission and urges Bermuda Cablevision Ltd., if and when it decides to file for new tariffs, to provide the supporting incremental cost and cost data to support its tariff filing.

Sincerely,



A. Stewart Minors, CA, MBA