



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

Telecommunications Commission

Date: 8 January, 2010

Jeanne M. Schaaf, Ph.D.
Vice President, Regulatory Affairs
Bermuda Telephone Company Ltd.
30 Victoria Street
Hamilton, HM 12

Re: The Bermuda Telephone Company Ltd. Tariff Filing for Business Ethernet with Quality of Service dated 3rd August 2009.

BACKGROUND:

The Bermuda Telephone Company Ltd. ("BTC") submitted a tariff filing dated 3rd August, 2009 to the Telecommunications Commission ("Commission") requesting the Commission to approve pricing for BTC's Business Ethernet with Quality of Service ("QoS").

BTC 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.

BTC supplied further information to the Commission on 9th September, 2009 to assist the Commission to fully understand the product offering.

The Commission reviewed BTC's Ethernet Service tariff filing of 29th January, 2009 and the Commission's interim decision of 2nd July, 2009 relating to that Ethernet Service filing and subsequent extension of that decision to 5th July, 2010.

The Commission noted the Applicant's recent request to extend the term of the interim approval for the Ethernet filing granted in its decision of 2nd July, 2009.

As the Commission reviewed the filing, as required by the Telecommunication Act 1986 it also considered:-

(i) the cost to the Carrier of the service in question;



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- (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

FINDINGS/REASONING

The Commission draws BTC's attention to the provisions of section 24(3) relating to the burden of proof in respect of rates and charges being just and reasonable and the Commission commentary in its decision of 2nd July relating to the Ethernet Services tariff filing.

The Commission accepts that it is the Applicant's position that this is a Value Added Service and that the proposed tariff does not directly relate to the cost to the Applicant of providing the service and allows for increased profit from sunk costs.

However, due to this tariff filing being sufficiently dependent and related to the BTC's Ethernet Tariff Filing of 29th January, 2009 and the Commission's decision of 2 July, 2009 allowing an interim approval of that tariff filing, pending certain further data from the Applicant, the Commission desires to see the QoS filing remaining dependent on the original Ethernet filing.

The Commission accepts that it is in the public interest for this type of service to be offered to the business community.



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DIRECTION:

1. In accord with Section 24(1)(h) of the Act, the Commission sets the following terms and conditions for the rates and charges of the Ethernet with Quality of Service tariff filing:-
 - a. Rates:
The approved rates are as follows:

TABLE 1
BTC Proposed Business Ethernet Rates with Quality of Service (QoS)

BTC Data Services	Monthly Rate		Installation Charge
	2 Year Term	3 Year Term	
QoS (Real Time Data)			
Ethernet 10 Mbps (Half)	\$650	\$625	\$1,350
Ethernet 10 Mbps (Full)	\$1,300	\$1,250	\$2,700
Fast Ethernet 100Mbps(Half)	\$3,500	\$3,300	\$1,350
Fast Ethernet 100Mbps (Full)	\$7,000	\$6,600	\$2,700
Gigabit Ethernet (Half)	\$7,000	\$6,500	\$2,100
Gigabit Ethernet (Full)	\$14,000	\$13,000	\$4,200
QoS (Priority Data)			
Ethernet 10 Mbps (Half)	\$625	\$600	\$1,350
Ethernet 10 Mbps (Full)	\$1,250	\$1,200	\$2,700
Fast Ethernet 100Mbps(Half)	\$3,450	\$3,250	\$1,350
Fast Ethernet 100Mbps (Full)	\$6,900	\$6,500	\$2,700
Gigabit Ethernet (Half)	\$6,900	\$6,400	\$2,100
Gigabit Ethernet (Full)	\$13,800	\$12,800	\$4,200
QoS (Business Data)			
Ethernet 10 Mbps (Half)	\$600	\$575	\$1,350
Ethernet 10 Mbps (Full)	\$1,200	\$1,150	\$2,700
Fast Ethernet 100Mbps(Half)	\$3,400	\$3,200	\$1,350
Fast Ethernet 100Mbps (Full)	\$6,800	\$6,400	\$2,700
Gigabit Ethernet (Half)	\$6,800	\$6,300	\$2,100
Gigabit Ethernet (Full)	\$13,600	\$12,600	\$4,200

- b. Conditions:
 - i. This direction is an INTERIM decision of the Commission and is valid for the term set out under paragraph 2 Below;
 - ii. The term of this interim decision may be extended on application to the Commission prior to the expiry of the term. The Commission will take into account all matters which it is required to do so by law and without affecting the generality of the foregoing the continuing *bona fide* best efforts of the Applicant to provide in as expeditious manner as possible the required cost



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information referred to in the Commission's letter of 2nd July, 2009 to the Applicant.

- iii. The cost data referred to in 1(b)(ii) above may be provided in the following ways:
 - A. Provide BTC service specific cost data where it is available or can be developed with a reasonable level of effort; OR
 - B. If BTC service specific cost data cannot be developed with a reasonable level of effort, BTC shall provide service specific cost estimates from one or more other jurisdictions, Wholesale pricing data is often available where the product must be provided pursuant to an interconnection order of the National Regulatory Authority. For example, the FCC or OFCOM may have made a determination as to the wholesale cost of providing the service. BTC will also have to address what additional net retail costs are relevant for determining the cost of providing the retail service. That is, the cost of the retail service = wholesale cost from another jurisdiction + incremental retail costs – avoided wholesale costs. BTC should include in its filing the URL for the source data along with a discussion concerning any necessary and appropriate adjustments that must be made to the cost data in order to reflect the cost of doing business in Bermuda; OR
 - C. If service specific data is not available, as outlined in items 1(b)(iii)A and 1(b)(iii)B, BTC must provide category-cost-of-service data. This data is less useful than service specific data because it will not indicate the costs associated with the services subject to tariff review. Nevertheless, the data will provide an indication of the profitability of the family of products to which the service belongs. In addition to the category cost-of-service data, benchmark rate information should accompany the submission. The pricing information will provide a means for judging the reasonableness of the rates where service specific cost data is not available. The scheduled carrier should include in its filing the URL for the source data and include a discussion of what adjustments are appropriate to the pricing data in order to reflect the cost of doing business in Bermuda



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iv. The Applicant has applied for and been approved for (on an interim basis), inter alia, rates that are calculated on the basis of, two or three year terms. The Applicant should take careful note that this interim direction does not give any approval for or guarantee of any rate beyond six months unless this interim direction is extended. While the applicant may sell the services on the basis of anticipating a one, two or three year term there is no guarantee that this interim direction will remain in effect for any period beyond six months or any extension thereof.

2. This directive shall take immediate effect and shall expire on the 5th July 2010, subject to any renewal or extension of the term on application to the Commission.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Ronald Simmons', written over a horizontal line.

Ronald Simmons JP, CA
Chairman Telecommunications Commission