



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

Telecommunications Commission

Our Ref: TC203/01/44/09

Date: July 2, 2009

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

Dear Dr. Schaaf,

Re: Tariff Filing – Ethernet 10MBps and Ethernet 100MBps Half and Full Services

The Applicant has, by application dated 29th January 2009, submitted for the consideration of the Telecommunications Commission (Commission) a tariff application relating to a reduction in the tariff for the above noted services.

The Commission draws the Applicant'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.

The Applicant has been advised that Commission practice has changed and that all tariff filings (including price reductions) must be fully supported by cost data. The Applicant has provided certain information relevant to its costs, but the information provided has been inadequate for the purposes of assisting the Commission in determining whether the charges are just and reasonable.

The Commission recognises that the Applicant has found it difficult to parse the required information from its records. The Applicant is working directly with the Commission's advisors on this matter in an endeavour to produce adequate data. However, it has become clear that the delivery of the required information has been a difficult and time consuming process for the Applicant. The failure of the Applicant to provide the required information has placed the Commission in a position where it has not been able to properly consider the application.

The Commission has determined that an adequate response to cost data is still some months away while the Applicant and the Commission's advisor's continue their discussions. The Applicant has, by correspondence dated as late as 30th June 2009,

made representations to the Commission on the competitive effect that the delay is having on its business. The Commission accepts that the Applicant is making a *bona fide* best efforts attempt at delivering the required information to the Commission. In the circumstances, the Commission is minded, at this time, that the Applicant should not be prejudiced by further delay in the delivery of the required information.

Decision:

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 service:-

a. Rates:

The approved rates are as follows:

BTC Data Services	Monthly Rate				Installation Charge
	Monthly	1 Year Term	2 Year Term	3 Year Term	
Ethernet 10 Mbps (Full)	\$150	\$425	\$400	\$575	\$1,000
Ethernet 10 Mbps (Full)	\$900	\$450	\$900	\$750	\$2,000
Fast Ethernet 100Mbps (Full)	\$2,400	\$2,500	\$2,450	\$2,300	\$1,000
Fast Ethernet 100Mbps (Full)	\$5,400	\$5,000	\$4,800	\$4,600	\$2,000

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 a manner as possible the required cost information to the Commission.
- 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 can not 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

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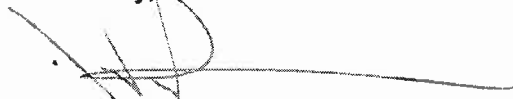
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data in order to reflect the cost of doing business in Bermuda; OR

- 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
2. The Applicant has applied for and been approved for (on an interim basis), *inter alia*, rates that are calculated on the basis of one, 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.

This directive shall take effect for the services from 2nd July 2009 and shall expire on the 4th January 2010, subject to any renewal or extension of the term on application to the Commission.

Sincerely,



Ronald Simmons JP, CA
Chairman Telecommunications Commission



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

Telecommunication Commission

Date: 8 January, 2010

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

Dear Dr. Schaaf,

Re: Ethernet Tariff Filing - Request for extension of interim decision

We refer to your letter to the Telecommunications Commission dated 27 November 09 requesting an extension referred to in our decision of 2nd July, 09 on the above mentioned Tariff filing.

Please be advised that the Commission has approved your request and is willing to extend the date referred to in our decision to 5th July, 2010.

Sincerely,

A handwritten signature in blue ink, appearing to be 'R. Simmons', with a long horizontal flourish extending to the right.

Ronald Simmons JP, CA
Chairman Telecommunications Commission