



Telecom Decision CRTC 2007-86

Ottawa, 13 September 2007

Bell Aliant – Application for forbearance from the regulation of business local exchange services

Reference: 8640-B54-200706468 and 8640-C12-200706351

In this Decision, the Commission approves Bell Aliant Regional Communications, Limited Partnership's (Bell Aliant) request for forbearance from the regulation of business local exchange services in 16 exchanges in Ontario and Quebec once it determines that Bell Aliant has met the competitor quality of service criterion for the Ontario and Quebec portion of its serving territory. The Commission denies Bell Aliant's request for forbearance in 52 exchanges.

Introduction

1. The Commission received an application by Bell Aliant Regional Communications, Limited Partnership (Bell Aliant), dated 25 April 2007, in which the company requested forbearance from the regulation of business local exchange services¹ in 68 exchanges in Ontario and Quebec. A list of these exchanges is set out in Appendix 1 to this Decision.
2. In a letter dated 7 May 2007, the Commission directed incumbent local exchange carriers (ILECs), competitive local exchange carriers, and wireless service providers to provide additional information regarding current local forbearance applications.
3. The Commission received submissions and/or data regarding Bell Aliant's application and/or local forbearance applications in general from Access Communications Co-operative Limited; Amtelecom Cable Limited Partnership; Bell Aliant; Bell Canada; Bell Mobility Inc.; Bragg Communications Inc., carrying on business as EastLink (EastLink); Bruce Telecom; Canadian Cable Systems Alliance Inc.; Cogeco Cable Inc.; Execulink Telecom Inc.; Globility Communications Corporation; Mountain Cablevision Ltd.; MTS Allstream Inc. (MTS Allstream); Primus Telecommunications Canada Inc.; the Public Interest Advocacy Centre, on behalf of the Consumers' Association of Canada and the National Anti-Poverty Organization; Quebecor Media Inc., on behalf of Videotron Ltd. (Videotron); Rogers Communications Inc.; Saskatchewan Telecommunications; Shaw Communications Inc.; 9164-3122 Québec inc., doing business as Sogetel Numérique; Téléphone Drummond inc.; TELUS Communications Company; Wightman Telecom Ltd. (Wightman); and WTC Communications (WTC).
4. The record of this proceeding closed with Bell Aliant's reply comments, dated 10 August 2007.

¹ In this Decision, "business local exchange services" refers to local exchange services used by business customers to access the public switched telephone network, and any associated service charges, features, and ancillary services.

5. The Commission has assessed Bell Aliant's application based on the local forbearance test set out in Telecom Decision 2006-15, as amended by the Governor in Council's *Order Varying Telecom Decision CRTC 2006-15*, P.C. 2007-532, 4 April 2007 (modified Telecom Decision 2006-15), by examining the following:
 - a) Product market
 - b) Competitor presence test
 - c) Competitor quality of service (Q of S) results
 - d) Communications plan
6. The Commission notes that it has already addressed an additional issue raised by Bell Aliant in its application, namely limitation of liability provisions, in Telecom Decision 2007-59.

Commission's analysis and determinations

a) Product market

7. Bell Aliant requested forbearance from the regulation of the business local exchange services set out in Appendix 2 to this Decision. The company also requested forbearance from the regulation of various Centrex services, which are set out in Appendix 3 to this Decision.
8. MTS Allstream and EastLink raised objections to the inclusion of Centrex services in the relevant product market.
9. The Commission notes that it issued Telecom Public Notice 2007-14 to address the issue of Centrex services in relation to applications for forbearance from the regulation of business local exchange services. Accordingly, the Commission will not consider Bell Aliant's application regarding the above-noted Centrex services in this Decision.
10. With respect to the list of services set out in Appendix 2, the Commission notes that all but the following were included in the list of services set out in Telecom Decision 2005-35: Remote Electronic Metering Access and Business IP Voice Standard. The Commission considers that the above-noted services fall within the definition of local exchange services as set out in Telecom Public Notice 2005-2.
11. Accordingly, the Commission considers that the list of services proposed by Bell Aliant for forbearance as set out in Appendix 2 is appropriate.

b) Competitor presence test

12. The Commission notes that Bell Aliant requested forbearance from the regulation of business local exchange services in 68 exchanges in Ontario and Quebec.
13. The Commission also notes that information provided by parties indicates that there is no facilities-based fixed-line telecommunications service provider, other than Bell Aliant, offering business services in the exchanges of Anse-St-Jean, Asbestos, Bracebridge,

Bridgenorth, Bright's Grove, Brockville, Cornwall, Corunna, Fort Frances, Lac-Mégantic, Lakefield, Little Current, North Bay, Plessisville, Roberval, Sault Ste. Marie, St-Alexandre, St-Alphonse-de-Rodriguez, St-Éleuthère, St-Félix-de-Valois, St-Pacôme, St-Pascal, St-Philippe-de-Néri, Sudbury, Tadoussac, Victoriaville, and Wallaceburg. Accordingly, the Commission determines that these 27 exchanges do not meet the competitor presence test.

14. The Commission notes Bell Aliant's submission that competitors were capable of serving at least 75 percent of the number of business local exchange service lines that Bell Aliant is capable of serving in the remaining 41 exchanges. The Commission also notes that competitors provided information regarding their presence in each exchange they served.
15. The Commission notes Bell Aliant's submission that in the case of cable companies that offered both residential and business local exchange services using their cable network, such as Videotron, it would be reasonable to consider the market coverage of their cable networks to be the same in both markets. The Commission further notes Bell Aliant's proposal that, accordingly, the residential market coverage be used as an estimate of the business market coverage. In this regard, the Commission notes that residential and business serving areas may not be in the same locations; for example, business parks do not typically include households. Therefore, the Commission considers that it is inappropriate to use residential coverage as a proxy for business coverage.
16. The Commission notes that for some exchanges, Videotron has reported the number of buildings connected to its fibre network. The Commission also notes that Videotron could not convert this information into the number of business local exchange lines it could serve, but submitted that the fibre network would have a negligible impact on its capability to offer business local exchange services. In these circumstances, the Commission analyzed the available evidence to estimate Videotron's fibre network capability in providing business local exchange services. The Commission notes that its analysis, even with positive assumptions from the applicant's perspective, did not provide sufficient evidence for the Commission to determine that the competitor presence test has been met in those exchanges where Videotron reported fibre network capability in addition to its cable facilities to provide business local exchange services.
17. Certain competitors noted that they lease unbundled loops from Bell Canada and commented that in the case of end-user locations served off remotes, they were unable to serve any end-user locations in the absence of the deployment of Central Office Terminal technology by Bell Canada or the availability of an end-to-end copper loop. In these circumstances, the Commission notes that it adjusted the competitor serving capability accordingly.
18. The Commission notes that information provided by parties confirms that there is, in addition to Bell Aliant, at least one other independent facilities-based, fixed-line telecommunications service provider that offers local exchange services in the market and is capable of serving at least 75 percent of the business local exchange service lines that Bell Aliant is capable of serving in the following exchanges: Alma, Chatham, Chicoutimi, Hanover, Harriston, Inverary, Jonquière, Listowel, Mount Forest, Owen Sound, Palmerston, Rivière-du-Loup, Sarnia, Southampton, Thetford Mines, and Walkerton. Accordingly, the Commission determines that these 16 exchanges, listed in Appendix 4, meet the competitor presence test.

19. The Commission determines that the remaining 25 exchanges do not meet the competitor presence test as the other fixed-line telecommunications service providers are not capable of serving at least 75 percent of the number of business local exchange service lines that Bell Aliant is capable of serving.

c) Competitor Q of S results

20. The Commission notes that it determined in Telecom Decision 2007-67 that Bell Aliant's competitor Q of S results do not meet the competitor Q of S criterion insofar as they relate to the Ontario and Quebec portion of its serving territory. The Commission also notes that Bell Aliant filed updated evidence dated 31 July 2007 to demonstrate that it had met the competitor Q of S criterion for the Ontario and Quebec portion of its serving territory. The Commission expects to issue a determination shortly as to whether Bell Aliant's competitor Q of S results for the Ontario and Quebec portion of its serving territory have met the requirement set out in modified Telecom Decision 2006-15.

d) Communications plan

21. The Commission notes that it approved Bell Aliant's proposed communications plan, with revisions, in Telecom Decision 2007-70 as amended by Telecom Decision 2007-70-1. In accordance with its determination in those Decisions, the Commission directs Bell Aliant to provide revised communications materials to its customers in both official languages, where appropriate.

Conclusion

22. The Commission determines that for the 16 exchanges listed in Appendix 4, Bell Aliant's application meets all the local forbearance criteria set out in modified Telecom Decision 2006-15, except for the competitor Q of S criterion.
23. Accordingly, the Commission determines that it will forbear from regulating Bell Aliant's business local exchange services listed in Appendix 2 and future services that fall within the definition of local exchange services set out in Telecom Public Notice 2005-2, as they pertain to business customers only, in 16 exchanges in Ontario and Quebec, subject to the powers and duties that the Commission has retained as set out in modified Telecom Decision 2006-15, once it determines that Bell Aliant has met the competitor Q of S criterion for the Ontario and Quebec portion of its serving territory.
24. The Commission notes, however, that modified Telecom Decision 2006-15 states that if, prior to granting forbearance, the Commission were informed that an ILEC's application was based on competition in the relevant market from an independent fixed-line telecommunications service provider that, including all of its affiliates, had fewer than 20,000 local exchange service customers in Canada, the forbearance would not become effective until at least 18 months after the day on which the service provider began providing local exchange services in that market.

25. The Commission notes that Bell Aliant named Bruce Telecom, Wightman, and WTC as competitors in nine exchanges for which Bell Aliant requested forbearance in this application. Based on the Commission's information, these telecommunications service providers have fewer than 20,000 local exchange customers.
26. Further, the Commission notes that except for the Inverary and Southampton exchanges, for which information is not yet available, information indicates that the above-noted competitors have acquired business customers in those exchanges.
27. The Commission considers that, in the circumstances of this case and absent any other information on the record of this proceeding from the competitors with fewer than 20,000 local exchange customers, forbearance will become effective 18 months after the day on which the competitor began providing local exchange services in that market, once the Commission determines that Bell Aliant has met the competitor Q of S criterion for the Ontario and Quebec portion of its serving territory.
28. Regarding the Owen Sound exchange, which has two competitors with fewer than 20,000 local exchange customers, the Commission considers that forbearance will become effective 18 months after 12 December 2006, which is the latest in-service date of the competitors.
29. Regarding the Hanover, Harriston, and Walkerton exchanges, the Commission notes that the 18-month period has expired. Accordingly, the Commission will forbear from regulating Bell Aliant's local exchange services listed in Appendix 2 in those exchanges once it determines that Bell Aliant has met the required competitor Q of S criterion for the Ontario and Quebec portion of its serving territory.
30. In light of the above, the Commission determines that for the following exchanges, the effective date of forbearance will be the latest of either the date set out below or the date on which the Commission determines that Bell Aliant has met the competitor Q of S criterion for the Ontario and Quebec portion of its serving territory:

| Exchange | Competitor | End of 18-month period |
|-----------------|--------------------------|-------------------------------|
| Hanover | Wightman | 8 June 2007 |
| Harriston | Wightman | 8 June 2007 |
| Inverary | WTC | 1 July 2008 |
| Listowel | Wightman | 3 October 2007 |
| Mount Forest | Wightman | 3 October 2007 |
| Owen Sound | Bruce Telecom / Wightman | 12 June 2008 |
| Palmerston | Wightman | 3 October 2007 |
| Southampton | Bruce Telecom | 15 June 2008 |
| Walkerton | Wightman | 8 June 2007 |

31. The Commission determines that Bell Aliant's application does not meet all the local forbearance criteria set out in modified Telecom Decision 2006-15 for the remaining 52 exchanges. Accordingly, the Commission **denies** Bell Aliant's application for forbearance in these 52 exchanges.

Secretary General

Related documents

- *Examination of the relevant market for Centrex and Enhanced Exchange Wide Dial services for the purposes of forbearance from the regulation of local exchange services*, Telecom Public Notice CRTC 2007-14, 17 August 2007
- *Bell Aliant – Applications for forbearance from the regulation of business local exchange services*, Telecom Decision CRTC 2007-70, 10 August 2007, as amended by Telecom Decision CRTC 2007-70-1, 22 August 2007
- *Bell Aliant – Applications for forbearance from the regulation of residential local exchange services*, Telecom Decision CRTC 2007-67, 9 August 2007
- *Bell Aliant – Applications for forbearance from the regulation of residential local exchange services*, Telecom Decision CRTC 2007-59, 25 July 2007, as amended by Telecom Decision CRTC 2007-59-1, 3 August 2007
- *Forbearance from the regulation of retail local exchange services*, Telecom Decision CRTC 2006-15, 6 April 2006, as amended by the Governor in Council's *Order Varying Telecom Decision CRTC 2006-15*, P.C. 2007-532, 4 April 2007
- *List of services within the scope of the proceeding on forbearance from the regulation of local exchange services*, Telecom Decision CRTC 2005-35, 15 June 2005, as amended by Telecom Decision CRTC 2005-35-1, 14 July 2005
- *Forbearance from regulation of local exchange services*, Telecom Public Notice CRTC 2005-2, 28 April 2005

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Bell Aliant requested forbearance from the regulation of its business local exchange services in the following 68 exchanges:

Alma
Anse-St-Jean
Asbestos
Baie-St-Paul
Bracebridge
Bridgenorth
Bright's Grove
Brockville
Chatham
Chicoutimi
Clermont
Cornwall
Corunna
Deschaillons
Dolbeau
Fort Frances
Fortierville
Hanover
Harriston
Howick
Inverary
Jonquière
La Baie
La Doré
La Malbaie
La Pocatière
Lac-Mégantic
Lakefield
Laterrière
Little Current
Listowel
Maniwaki
Mount Forest

North Bay
Owen Sound
Palmerston
Parkhill
Plessisville
Rawdon
Rivière-du-Loup
Roberval
Sarnia
Sault Ste. Marie
Southampton
St-Alexandre
St-Alphonse-de-Rodriguez
St-Ambroise-de-Chicoutimi
St-Blaise
St-Clet
St-Éleuthère
Ste-Martine
Ste-Monique-de-Nicolet
Ste-Sophie-de-Lévrard
St-Félicien
St-Félix-de-Valois
St-Fulgence
St-Honoré
St-Pacôme
St-Pascal
St-Philippe-de-Néri
St-Pierre-les-Becquets
St-Prime
Sudbury
Tadoussac
Thetford Mines
Victoriaville
Walkerton
Wallaceburg

**Local exchange services eligible for forbearance from regulation in this Decision
(for business customers only):**

| Tariff | Item | List of services |
|---------------|-------------|---|
| 21560 | 29 | Telephone Set Loss Charge |
| 21560 | 50 | Remote Electronic Metering Access |
| 21560 | 70 | Rate Schedules for Primary Exchange (Local) Service |
| 21560 | 72 | Reference of Calls |
| 21560 | 73 | Telephone Number Services |
| 21560 | 82 | Toll Restriction |
| 21560 | 86 | Call Display Blocking |
| 21560 | 220 | Extra Listings |
| 21560 | 430 | Private Branch Exchange Service |
| 21560 | 500 | Direct Inward Dialing |
| 21560 | 1030 | Short-Term Service |
| 21560 | 1060 | Service on Stationary Boats, Ships, Trailers and Trains |
| 21560 | 1130 | Suspension of Service |
| 21560 | 2025 | Integrated Voice Messaging Service (IVMS) |
| 21560 | 2030 | Universal Messaging |
| 21560 | 2150 | Push-Button Dialing (Touch-Tone) |
| 21560 | 2165 | Calling Features |
| 21560 | 2180 | PrimeLine Executive |
| 21560 | 2185 | Single Number Reach |
| 21560 | 2200 | Call Blocking Service |
| 21560 | 2205 | Suppressed Ringing Service |
| 21560 | 2210 | SimplyOne Service |
| 21560 | 2300 | Telephone Station Equipment |
| 21560 | 4699 | Internet Call Display Service |
| 21560 | 5201 | Megalink Service |
| 21560 | 5210 | Microlink Services |
| 21560 | 5300 | Digital Exchange Access |
| 21560 | 6000 | Intelligent Routing |
| 21560 | 7026 | Business IP Voice Standard |
| 7400 | 515 | 900 Service |

Bell Aliant requested forbearance for the following Centrex services:

| Tariff | Item | List of services |
|---------------|-------------|--|
| 21560 | 670 | Centrex III Service (General) |
| 21560 | 675 | Centrex III Rates and Charges |
| 21560 | 677 | Electronic Transfer Capability for Centrex |
| 21560 | 678 | Station Message Detail Recording File Distribution Service |
| 21560 | 7010 | Managed Internet Protocol Telephony Service |
| 7515 | 350 | Enhanced Exchange-Wide Dial (EEWD) Service |

The following is a list of the 16 exchanges that meet the competitor presence test:

Alma

Chatham

Chicoutimi

Hanover

Harriston

Inverary

Jonquière

Listowel

Mount Forest

Owen Sound

Palmerston

Rivière-du-Loup

Sarnia

Southampton

Thetford Mines

Walkerton