



## Telecom Decision CRTC 2008-72

Ottawa, 11 August 2008

### Regulatory policy

#### Review of the regulatory requirement for CLEC-municipality agreements for the provision of 9-1-1 service

Reference: 8663-C12-200803115

*In this Decision, the Commission maintains the option for a competitive local exchange carrier (CLEC) to enter into a contractual arrangement with a municipality using the 9-1-1 CLEC-municipality agreement or have an approved CLEC 9-1-1 emergency response service tariff prior to offering local exchange service in the municipality. However, CLECs are required to modify their tariffs to a) include a clause obligating the CLEC to provide to the municipality its 24-hour contact information and administration contact information in writing in advance of offering local exchange service, and b) exclude the municipality's conditions of service.*

### Introduction

1. In Telecom Decision 2007-51, the Commission issued an action plan indicating its intention to review existing regulatory measures in light of the Governor in Council's *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006 (the Policy Direction). As part of the action plan, the Commission identified the regulatory requirement for a competitive local exchange carrier (CLEC) to sign an agreement with a municipality<sup>1</sup> (CLEC-municipality agreement) for the provision of 9-1-1 service as a matter to be reviewed.
2. In Telecom Public Notice 2008-3, the Commission initiated a proceeding in which it invited parties to comment on, among other things,<sup>2</sup> the continued appropriateness of the regulatory requirement relating to CLEC-municipality agreements for the provision of 9-1-1 service.
3. The Commission received comments from the City of Calgary (Calgary); Bell Aliant Regional Communications, Limited Partnership, Bell Canada, Saskatchewan Telecommunications, and Télébec, Limited Partnership (collectively, the Companies); the Canadian Cable Systems Alliance Inc.; MTS Allstream Inc. (MTS Allstream); Rogers Communications Inc. (RCI); Shaw Communications Inc. (Shaw); TELUS Communications Company (TCC); and the Toronto Police Service (TPS).
4. The public record of this proceeding, which closed on 14 April 2008, is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."

<sup>1</sup> In some areas, the 9-1-1 services provided by municipalities are administered by regional or provincial authorities.

<sup>2</sup> In Telecom Public Notice 2008-3, parties were also invited to comment on the regulatory requirements relating to the basic international telecommunications services licensing regime and sharing groups.

## **Background**

5. In Telecom Decision 97-8, the Commission established a framework for local exchange service competition in which it set out the entry obligations for CLECs which included, among other things, the requirement to provide access to 9-1-1 service to its customers.
6. To meet this requirement, there was a need to define the rights, obligations, and responsibilities of each of the CLECs, the municipalities, and the incumbent local exchange carriers (ILECs).
7. In Telecom Order 97-1959, the Commission approved a standard-form interconnection agreement between the ILEC and the CLEC for the provision of 9-1-1 service (9-1-1 ILEC-CLEC interconnection agreement) that set out the roles and responsibilities of each party.
8. The 9-1-1 ILEC-CLEC interconnection agreement stipulates, among other things, that the CLEC shall provide written confirmation to the ILEC that the CLEC has either entered into contractual arrangements with the municipality (i.e. a 9-1-1 CLEC-municipality agreement) or is subject to the terms and conditions of a CLEC 9-1-1 emergency response service tariff approved by the Commission for the purpose of defining the rights and the obligations of the CLEC and of the municipality.
9. Subsequently, the Commission approved standard-form 9-1-1 CLEC-municipality agreements which set out the roles and responsibilities of each party.
10. Since the development of these standard-form agreements, CLECs have exercised the option to either execute a 9-1-1 CLEC-municipality agreement or file a tariff for Commission approval.

## **Policy Direction test**

11. In order to determine whether the option of an executed 9-1-1 CLEC-municipality agreement or an approved tariff for the provision of 9-1-1 service continues to be appropriate, the Commission will consider the following:
  - What is the purpose of the regulatory measure and what are the telecommunications policy objectives that are relevant to this purpose?
  - Can market forces be relied on to achieve the telecommunications policy objectives?
12. If the Commission determines that market forces cannot be relied on to achieve the telecommunications policy objectives, it will then address the following, as required:
  - Is the regulatory measure efficient and proportionate to its purpose?

- Does it interfere with the operation of competitive market forces to the minimum extent necessary to meet the policy objectives?
- Is the regulatory measure implemented, to the greatest extent possible, in a symmetrical and competitively neutral manner?

**What is the purpose of the regulatory measure and what are the telecommunications policy objectives that are relevant to this purpose?**

13. Parties submitted that the overriding purpose of a standard-form 9-1-1 CLEC-municipality agreement was to (a) ensure that the same terms and conditions governing 9-1-1 service were consistently applied by all CLECs and municipalities in any given region across the country; and (b) ensure that a documented relationship was established between the CLEC and the municipality providing emergency response services that clearly identified the respective roles and responsibilities of the parties.
14. The Commission agrees with the view that the purpose of a standard-form 9-1-1 CLEC-municipality agreement is to set out the terms and conditions under which a CLEC customer receives 9-1-1 service in a given municipality.
15. However, the Commission notes that, as set out in the standard-form 9-1-1 CLEC-ILEC interconnection agreement, CLECs have the option of either entering into a contractual arrangement with the municipality or filing a tariff for Commission approval. This regulatory measure was established as a means to ensure the provision of reliable 9-1-1 service to CLEC customers.
16. The Commission agrees with the parties' submissions that the telecommunications policy objectives relevant to this purpose are paragraphs 7(a), (b), (c), (h), and (i)<sup>3</sup> of the *Telecommunications Act*.

**Can market forces be relied on to achieve the telecommunications policy objectives?**

17. Although it was argued that CLECs, without providing 9-1-1 access service, would not be able to attract subscribers, most parties submitted that market forces alone could not be relied on to achieve the telecommunications policy objectives stated above.
18. The Commission considers that reliable 9-1-1 service requires coordination among all parties involved and a clear understanding of their roles and responsibilities.

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<sup>3</sup> These objectives are:

7(a) to facilitate the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions;

7(b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada;

7(c) to enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications;

7(h) to respond to the economic and social requirements of users of telecommunications services; and

7(i) to contribute to the protection of the privacy of persons.

19. The Commission agrees that market forces alone are not sufficient to ensure that CLECs will implement all terms and conditions necessary to provide reliable 9-1-1 service.
20. The Commission concludes that market forces cannot be relied on to achieve the telecommunications policy objectives. Accordingly, it is necessary to assess the regulatory measure in light of the other criteria specified in the Policy Direction.

**Is the regulatory measure efficient and proportionate to its purpose? Does it interfere with the operation of competitive market forces to the minimum extent necessary to meet the policy objectives? Is it implemented, to the greatest extent possible, in a symmetrical and competitively neutral manner?**

21. Calgary, the Companies, TCC, and TPS submitted that the CLECs should be required to execute 9-1-1 agreements with municipalities. Some of the parties argued that the use of standard-form 9-1-1 CLEC-municipality agreements did not require lengthy case-by-case negotiations and therefore was efficient to its purpose. However, MTS Allstream argued that municipalities or local governments that operate public safety answering points (PSAPs) prefer to deal with a single supplier of 9-1-1 service and negotiating an agreement could act as a barrier to entry in many instances. Similar arguments were presented by RCI and Shaw.
22. The Commission notes that CLECs have entered into agreements with municipalities. The Commission considers that in situations where CLECs have difficulties in negotiating agreements with municipalities, the option of an approved tariff would address the issue and not delay the CLEC's entry into the market. The Commission also considers that these two options ensure the provision of reliable 9-1-1 service to CLEC customers equivalent to that provided to ILEC customers.
23. The Commission notes that a 9-1-1 CLEC-municipality agreement provides the CLEC's 24-hour contact information and administration contact information. However, this information is not provided when a CLEC uses a tariff to meet the 9-1-1 service obligation. The Commission agrees with the submission that CLEC tariffs should be modified to incorporate wording indicating that the CLEC will provide, in writing, its 24-hour contact information and administration contact information to the municipality prior to offering local exchange services.
24. Certain parties questioned the Commission's statutory authority to impose obligations on municipalities. The Commission agrees that it does not have the jurisdiction to impose obligations on municipalities through tariffs in relation to the 9-1-1 service they provide to CLECs. The Commission therefore considers that the tariff should not include the municipality's conditions of service.
25. The Commission concludes, subject to the modifications to CLEC tariffs indicated above, that the measure is efficient and proportionate to its purpose, does not interfere with the operation of market forces, and is implemented, to the greatest extent possible, in a symmetrical and competitively neutral manner.

## Conclusion

26. The Commission concludes that it is appropriate to continue to allow a CLEC the option to either execute a 9-1-1 CLEC-municipality agreement or file a tariff for Commission approval. The CLEC tariff must include a clause obligating the CLEC to notify the municipality in writing, in advance of offering local exchange service, of its 24-hour contact information and administration contact information. The CLEC tariff is to exclude the municipality's conditions of service.
27. The Commission directs all CLECs to modify their tariffs to reflect the above determinations and to issue revised tariff pages within 30 days of the date of this Decision.

Secretary General

## Related documents

- *Review of the regulatory requirements pertaining to the BITS licensing regime, sharing groups, and CLEC/Municipality agreements for the provision of 9-1-1 service in light of Telecom Decision 2007-51*, Telecom Public Notice CRTC 2008-3, 3 March 2008
- *Action plan for the review of Commission regulatory measures in light of Order in Council P.C. 2006-1534*, Telecom Decision CRTC 2007-51, 11 July 2007
- Telecom Order CRTC 97-1959, 30 December 1997
- *Local competition*, Telecom Decision CRTC 97-8, 1 May 1997

*This document is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>*