



Telecom Decision CRTC 2008-84

Ottawa, 8 September 2008

Télébec, Limited Partnership – Application for forbearance from the regulation of business local exchange services

Reference: 8640-T78-200803181

In this Decision, the Commission denies Télébec's request for forbearance from the regulation of business local exchange services in the exchange of Arthabaska, Quebec.

Introduction

1. The Commission received an application by Télébec, Limited Partnership (Télébec), dated 28 February 2008, in which the company requested forbearance from the regulation of business local exchange services¹ in the exchange of Arthabaska, Quebec.
2. The Commission received submissions and/or data regarding Télébec's application from Quebecor Media Inc., on behalf of Videotron Ltd. (Videotron). The public record of this proceeding, which closed on 7 May 2008, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Commission's analysis and determinations

3. The Commission has assessed Télébec'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). In this case, the Commission will first consider the competitor presence test criterion of the local forbearance test.
4. The Commission notes that Videotron is the only other facilities-based, fixed-line telecommunications service provider present in the exchange of Arthabaska. Télébec estimated that Videotron is capable of serving at least 75 percent of the number of business local exchange service lines that Télébec is capable of serving in this exchange based on the results of a visual inspection that indicated that Videotron's facilities "passed by" a large number of business buildings.
5. The Commission notes that Videotron determined its capability to provide business local exchange services by identifying the number of businesses that its cable network could serve in the exchange of Arthabaska. This number was then multiplied by Videotron's business clients' average number of lines to obtain an estimate of its number of addressable

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.

network access service (NAS). Videotron then divided its estimated number of NAS by the number of NAS submitted by Télébec. Based on this methodology, Videotron submitted that it is not capable of serving 75 percent of the number of business local exchange service lines that Télébec is capable of serving in Arthabaska.

6. The Commission considers that facilities “passing by” a building do not, alone, demonstrate a competitor's capability to provide service unless it is supported by other evidence, such as market conditions, significant market share gain by the competitor(s), evidence of rigorous competition, presence of numerous competitors, and/or other relevant evidence. As a result, the Commission is not persuaded, based solely on the results of the methodology used by Télébec, that Videotron is capable of serving at least 75 percent of the number of business local exchange service lines that Télébec is capable of serving in the exchange of Arthabaska.
7. Accordingly, the Commission determines that the exchange of Arthabaska does not meet the competitor presence test since there is no other facilities-based, fixed-line telecommunications service provider capable of serving at least 75 percent of the number of business local exchange service lines that Télébec is capable of serving in that exchange.

Conclusion

8. In light of the above, the Commission notes that it need not address Télébec's submissions with respect to its product market, the competitor quality of service results, and the communications plan.
9. The Commission determines that Télébec's forbearance application for the exchange of Arthabaska does not meet all the local forbearance criteria set out in modified Telecom Decision 2006-15. Accordingly, the Commission **denies** Télébec's application for forbearance from the regulation of the business local exchange services in this exchange.

Secretary General

Related document

- *Forbearance from the regulation of retail local exchange services*, Telecom Decision CRTC 2006-15, 6 April 2006, as amended by Order in Council P.C. 2007-532, 4 April 2007

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