



## Telecom Decision CRTC 2010-706

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Ottawa, 23 September 2010

### **TELUS Communications Company – Application for forbearance from the regulation of residential local exchange services**

File number: 8640-T69-200909343

*In this decision, the Commission approves TCC's request for forbearance from the regulation of residential local exchange services in the exchanges of Pont-Rouge, Quebec, as of 26 November 2010, and Saint-Marc-des-Carrières, Quebec, as of 1 October 2010.*

#### **Introduction**

1. The Commission received an application by TELUS Communications Company (TCC), dated 18 June 2009, in which the company requested forbearance from the regulation of residential local exchange services<sup>1</sup> in the exchanges of Pont-Rouge and Saint-Marc-des-Carrières, Quebec.
2. The Commission received submissions and/or data regarding TCC's application from Bell Canada, DERYtelecom inc. (DERYtelecom), MTS Allstream Inc. (MTS Allstream), and Rogers Communications Inc. (RCI). The application was completed on 23 July 2010 with the receipt of revised competitor quality of service (Q of S) results from TCC. The Commission received no further submissions from the parties. The public record of this proceeding is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings" or by using the file number provided above.

#### **Commission's analysis and determinations**

3. The Commission has assessed TCC's application based on the local forbearance test set out in Telecom Decision 2006-15 by examining the four criteria set out below.

##### **a) Product market**

4. The Commission received no comments with respect to TCC's proposed list of residential local exchange services.

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<sup>1</sup> In this decision, "residential local exchange services" refers to local exchange services used by residential customers to access the public switched telephone network and any associated service charges, features, and ancillary services.

5. The Commission notes that TCC is seeking forbearance from the regulation of 11 tariffed residential local exchange services. The Commission also notes that in Telecom Decision 2007-64, it found all of these services to be eligible for forbearance. The Commission notes that, after filing its application, TCC modified the item number of one of these services, Basic Service – Residence, in its General Tariff. The list of the 11 approved services, which is set out in the Appendix to this decision, reflects this change.

**b) Competitor presence test**

6. The Commission notes that for the exchanges of Pont-Rouge and Saint-Marc-des-Carières, information provided by parties confirms that there are, in addition to TCC, at least two independent facilities-based telecommunications service providers, including providers of mobile wireless services.<sup>2</sup> Each of these service providers offers local exchange services in the market and is capable of serving at least 75 percent of the number of residential local exchange service lines that TCC is capable of serving, and at least one, in addition to TCC, is a facilities-based, fixed-line telecommunications service provider.
7. Accordingly, the Commission determines that the exchanges of Pont-Rouge and Saint-Marc-des-Carières meet the competitor presence test.

**c) Competitor Q of S results**

8. The Commission notes that in November 2008, within the file associated with another TCC forbearance application,<sup>3</sup> MTS Allstream and Shaw Cablesystems Ltd. indicated that the competitor Q of S results submitted by TCC did not reflect the actual level of service delivered by TCC during the period in question. The Commission also notes that at that time it was unable to conclude whether the competitor Q of S results that TCC had submitted for indicator 1.19 met the Q of S standards set out in Appendix B of Telecom Decision 2006-15, as defined in Telecom Decision 2005-20, with respect to the services TCC provided to competitors in its territory.
9. Accordingly, the Commission initiated a proceeding and informed interested parties that it would not dispose of existing and future forbearance applications that rely on Q of S indicator 1.19 performance results until it had made a determination on the issue of meeting Q of S standards. Following that proceeding, in Telecom Decision 2009-514, the Commission determined that it would not take any further action to dispose of pending forbearance applications until the applicants had submitted revised results or an explanation, to the Commission's satisfaction, as to why revised results were not required.

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<sup>2</sup> These competitors are Bell Canada, DERYtelecom, and RCI.

<sup>3</sup> File number 8640-T66-200814881 concerning an application for forbearance from the regulation of residential local exchange services in various exchanges in Alberta and British Columbia

10. The Commission notes that TCC submitted revised competitor Q of S results, dated 23 July 2010, for the period of December 2009 to May 2010. The Commission has reviewed these results and finds that TCC has demonstrated that during this six-month period it
  - i) met, on average, the Q of S standards for each indicator set out in Appendix B of Telecom Decision 2006-15, as defined in Telecom Decision 2005-20, with respect to the services provided to competitors in its territory; and
  - ii) did not consistently provide any of those competitors with services that were below those Q of S standards.
11. Accordingly, the Commission determines that TCC meets the competitor Q of S criterion for this period.

#### **d) Communications plan**

12. The Commission notes that in lieu of filing a communications plan, TCC submitted that its plan specific to the exchanges in the present application would conform to the Commission's requirements as set out in Telecom Decision 2007-64.
13. The Commission **approves**, for the purpose of the current application, the use of the communications plan that TCC submitted in the proceeding leading to Telecom Decision 2007-64, subject to TCC's compliance with the revisions outlined in that decision. The Commission directs TCC to provide the resulting communications materials to its customers, in both official languages where appropriate.

#### **18-month grace period**

14. The Commission notes that DERYtelecom, the facilities-based, fixed-line telecommunications service provider capable of serving at least 75 percent of the number of residential local exchange service lines that TCC is capable of serving in the exchanges of Pont-Rouge and Saint-Marc-des-Carières, submitted that it should be allowed to benefit from the grace period granted to providers with fewer than 20,000 local exchange service customers across Canada. This grace period, as described in Telecom Decision 2006-15, grants these providers at least 18 months between the date on which they start providing local exchange services in a market and the date on which forbearance takes effect.
15. The Commission considers that DERYtelecom meets the criterion for the grace period and notes that the company started offering residential local exchange services in the exchanges of Pont-Rouge, on 26 May 2009, and Saint-Marc-des-Carières, on 1 April 2009.
16. Accordingly, the Commission determines that it will forbear from regulating residential local exchange services in the exchange of Pont-Rouge starting on 26 November 2010 and in the exchange of Saint-Marc-des-Carières starting on 1 October 2010.

## Conclusion

17. The Commission determines that TCC's application regarding the exchanges of Pont-Rouge and Saint-Marc-des-Carières, Quebec meets all the local forbearance criteria set out in Telecom Decision 2006-15.
18. Pursuant to subsection 34(1) of the *Telecommunications Act* (the Act), the Commission finds as a question of fact that to refrain from exercising its powers and performing its duties, to the extent specified in Telecom Decision 2006-15, in relation to the provision by TCC of the residential local exchange services listed in the Appendix and future services that fall within the definition of local exchange services set out in Telecom Public Notice 2005-2 as they pertain to residential customers only, in these exchanges, would be consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.
19. Pursuant to subsection 34(2) of the Act, the Commission finds as a question of fact that these residential local exchange services are subject to a level of competition in these exchanges sufficient to protect the interests of users of these services.
20. Pursuant to subsection 34(3) of the Act, the Commission finds as a question of fact that to refrain from exercising its powers and performing its duties, to the extent specified in Telecom Decision 2006-15, in relation to the provision by TCC of these residential local exchange services in these exchanges would be unlikely to impair unduly the continuance of a competitive market for these services.
21. In light of the above, the Commission **approves** TCC's application for forbearance from the regulation of the local exchange services listed in the Appendix and future services that fall within the definition of local exchange services set out in Telecom Public Notice 2005-2, as they pertain to residential customers only, in the exchanges of Pont-Rouge and Saint-Marc-des-Carières, Quebec, subject to the powers and duties that the Commission has retained as set out in Telecom Decision 2006-15. This determination takes effect as of 26 November 2010 for the exchange of Pont-Rouge, and as of 1 October 2010 for the exchange of Saint-Marc-des-Carières. The Commission directs TCC to file revised tariff pages with the Commission by 26 November 2010 for the exchange of Pont-Rouge and 1 October 2010 for the exchange of Saint-Marc-des-Carières.

Secretary General

## Related documents

- *MTS Allstream Inc. – Application concerning provisioning of competitor digital network services in accordance with competitor quality of service standards*, Telecom Decision CRTC 2009-514, 21 August 2009
- *TELUS Communications Company – Applications for forbearance from the regulation of residential local exchange services*, Telecom Decision CRTC 2007-64, 3 August 2007

- *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
- *Forbearance from regulation of local exchange services*, Telecom Public Notice CRTC 2005-2, 28 April 2005
- *Finalization of quality of service rate rebate plan for competitors*, Telecom Decision CRTC 2005-20, 31 March 2005

## Appendix

### *Local exchange services eligible for forbearance from regulation in this decision (for residential customers only)*

<b>Tariff</b>	<b>Item</b>	<b>List of services</b>
25080	2.03.01a	Basic Service – Residence
25080	2.02.03	Residence Service
25080	2.05	Directories and Listings
25080	2.12	Telephone Number Reservation Service
25080	2.16.03	Toll Restriction Service
25080	2.19	Voice Messaging Services
25080	2.20	TELUS – SmartTouch Services
25080	2.22.01a(1)	Call Display Blocking – Per Call
25080	2.22.01a(2)	Call Display Blocking – Per Line
25080	2.22.01a(3)	Call Display Blocking – Call Dialed by an Operator
25080	3.02.07e	Call Blocking Service