



## Telecom Decision CRTC 2011-186

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Ottawa, 14 March 2011

### **Bell Aliant Regional Communications, Limited Partnership – Application to exclude competition-related quality of service indicator 2.10 results from the rate rebate plan for competitors for November 2010**

File number: 8660-B54-201100255

#### **Introduction**

1. The Commission received an application by Bell Aliant Regional Communications, Limited Partnership (Bell Aliant), dated 11 January 2011, requesting the exclusion of the competitor quality of service (Q of S) results related to indicator 2.10 – Mean Time to Repair (MTTR) – CDN [competitor digital network] Services and Type C Loops (indicator 2.10) from its rate rebate plan for competitors for MTS Allstream Inc. (MTS Allstream) for November 2010.
2. Bell Aliant submitted that on 12 November 2010, a fire occurred at a residential property along Route 776, the main highway in Grand Manan, New Brunswick, which is an exchange in the rural part of the province. Bell Aliant also submitted that emergency response organizations in Grand Manan cut electrical power and other utilities in the surrounding area to gain unimpeded access to the property in order to get the fire under control as quickly as possible. Bell Aliant further submitted that as a result, its nearby overhead telecommunications cables carrying various customer services, including CDN service for MTS Allstream, were damaged.
3. Bell Aliant indicated that on 13 November 2010, after the fire had been completely extinguished and the site was declared secure, it dispatched a work crew to the site to re-construct the overhead cables on the pole line, repair the cable connections, and restore service. CDN service was restored to MTS Allstream and its customers on the afternoon of 13 November 2010.
4. Bell Aliant noted that its actual November 2010 competitor Q of S performance results for service to MTS Allstream were below the set standard for indicator 2.10. However, Bell Aliant provided evidence that if the trouble reports related to the above-noted adverse event were excluded, its November 2010 results for indicator 2.10 for MTS Allstream would have been within the accepted standard.
5. The Commission received no comments regarding this application. The public record of this proceeding, which closed on 11 February 2011, 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

6. In Telecom Decision 2005-20, the Commission created a mechanism for considering possible exclusions from competitor Q of S results when circumstances beyond the control of an incumbent local exchange carrier (ILEC) might have caused it to fail to meet a performance standard.
7. In Telecom Decision 2007-102, the Commission adopted a *force majeure* clause that provided that no rate rebates would apply in a month where failure to meet a competitor Q of S standard was caused in that month by events beyond the reasonable control of the ILEC. The Commission considers that, based on the evidence filed, the fire damage incident in question qualifies as an incident that was beyond the reasonable control of Bell Aliant and thus triggers the *force majeure* clause.
8. The Commission also considers that Bell Aliant has provided sufficient evidence to demonstrate that the fire damages caused the below-standard results for indicator 2.10 for MTS Allstream in November 2010.
9. In Telecom Decision 2007-14, the Commission concluded that if a competitor Q of S indicator has been met for three consecutive months, or for at least six out of twelve months, immediately prior to an adverse event, it is reasonable to conclude that an ILEC would likely have met its competitor Q of S obligations without the adverse event.
10. The Commission has verified that, for the three consecutive months prior to the November 2010 incident, Bell Aliant exceeded the standard for competitor Q of S indicator 2.10 for almost all its competitors, including MTS Allstream. The Commission therefore considers it reasonable to conclude that Bell Aliant would have met its competitor Q of S obligations without the adverse event.
11. In light of the above, the Commission **approves** Bell Aliant's request to exclude below-standard results for competitor Q of S indicator 2.10 for November 2010 in the calculation of the amounts due to MTS Allstream under the rate rebate plan for competitors.

Secretary General

## Related documents

- *Retail quality of service rate adjustment plan and competitor quality of service rate rebate plan – Adverse events*, Telecom Decision CRTC 2007-102, 31 October 2007
- *TELUS Communications Company – Application to exclude certain competition-related quality of service results from the rate rebate plan for competitors for July 2005*, Telecom Decision CRTC 2007-14, 28 February 2007
- *Finalization of quality of service rate rebate plan for competitors*, Telecom Decision CRTC 2005-20, 31 March 2005