



Telecom Decision CRTC 2012-252

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Ottawa, 27 April 2012

Bell Canada – Application to exclude competition-related quality of service indicator 2.7 results from the rate rebate plan for competitors for November 2011

File number: 8660-B2-201200105

Introduction

1. The Commission received an application by Bell Canada, dated 9 January 2012, requesting the exclusion of the competitor quality of service (Q of S) results related to indicator 2.7 – Competitor Out-of-Service Trouble Reports Cleared within 24 Hours (indicator 2.7) from its rate rebate plan for competitors for MTS Allstream Inc.,¹ now Allstream Inc. (Allstream) for November 2011.
2. Bell Canada submitted that on 17 November 2011, a third-party contractor carrying out excavation and drilling operations for the City of Brampton on Wilkinson Road in Brampton, Ontario drilled through a six-way duct run housing major fibre and copper cables, despite facility locate sheets for Wilkinson Road being provided to the contractor. Bell Canada claimed that the duct run, the cables, and an air pipe were split apart and damaged beyond repair, thus requiring it to undertake a major service restoration project. Bell Canada claimed that this event was beyond its control. Bell Canada also indicated that the local loop services for Allstream were disrupted and repair times were negatively impacted.
3. Bell Canada noted that its actual November 2011 competitor Q of S performance results for indicator 2.7 were below the set standard for service to Allstream. However, Bell Canada provided evidence that if the trouble reports related to the above-noted adverse event were excluded, its November 2011 results for indicator 2.7 for Allstream would have been within the accepted standard considering its achievements for the past 12 months relative to that indicator for Allstream.
4. The Commission received no comments regarding this application. The public record of this proceeding, which closed on 9 February 2012, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.

¹ As of early 2012, MTS Allstream Inc. became known as two separate entities, namely MTS Inc. and Allstream Inc.

Commission's analysis and determinations

5. 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.
6. 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 event in question was beyond the reasonable control of Bell Canada, and thus triggers the *force majeure* clause.
7. The Commission also considers that Bell Canada has provided sufficient evidence to demonstrate that the duct run, fibre and copper cable, and air pipe damages caused the below-standard results for indicator 2.7 for Allstream in November 2011.
8. In Telecom Decision 2007-14, the Commission concluded that if an ILEC has met or exceeded the standard for a particular competitor Q of S indicator 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 the ILEC would likely have met its competitor Q of S obligations without the adverse event.
9. After reviewing the evidence and verifying that Bell Canada met or exceeded the standard for competitor Q of S indicator 2.7 for at least six out of twelve months prior to the 17 November 2011 incident for almost all of its competitors that received the service measured with the indicator, in particular for Allstream, the Commission considers it reasonable to conclude that Bell Canada would have met its competitor Q of S obligations without the adverse event.
10. In light of the above, the Commission **approves** Bell Canada's request to exclude below-standard results for competitor Q of S indicator 2.7 for November 2011 in the calculation of the amounts due to 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