



Telecom Decision CRTC 2012-651

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Ottawa, 28 November 2012

MTS Inc. – Application for forbearance from the regulation of residential local exchange services

File number: 8640-M59-201209130

In this decision, the Commission approves MTS's request for forbearance from the regulation of residential local exchange services in the exchanges of Elie, Virden, and Carberry, Manitoba. The Commission approves MTS's proposed communication plan, subject to MTS making changes to include all of the information required by Telecom Decision 2006-15.

Introduction

1. The Commission received an application from MTS Inc. (MTS), dated 30 July 2012, in which the company requested forbearance from the regulation of residential local exchange services¹ in the exchanges of Elie, Virden, and Carberry, Manitoba.
2. The Commission received submissions and/or data regarding MTS's application from Les.Net (1996) Inc. (Les.Net), Rogers Communications Partnership (RCP), Shaw Communications Inc. (Shaw), TELUS Communications Company (TCC), and Westman Communications Group (Westman). The public record of this proceeding, which closed on 21 September 2012, is available on the Commission's website at 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 MTS'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 notes that MTS is seeking forbearance from the regulation of 13 tariffed residential local exchange services. The Commission also notes that in Telecom Decision 2005-35, it found all of these services to be eligible for forbearance.
5. The Commission received no comments with respect to MTS's proposed list of residential local exchange services.

¹ 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.

6. The Commission therefore determines that the 13 services listed in the Appendix to this decision are eligible for forbearance.

b) Competitor presence test

7. The Commission notes that information provided by parties confirms that there are, in addition to MTS, at least two independent, facilities-based telecommunications service providers operating in each of the exchanges of Elie, Virden, and Carberry, including a provider of mobile wireless services.² 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 MTS is capable of serving, and at least one, in addition to MTS, is a facilities-based, fixed-line telecommunications service provider.
8. Accordingly, the Commission determines that the exchanges of Elie, Virden, and Carberry meet the competitor presence test.

c) Competitor quality of service (Q of S) results

9. The Commission notes that MTS submitted competitor Q of S results for the period of December 2011 to May 2012. The Commission considers that these results demonstrate that MTS met, on average, the competitor Q of S standards for each indicator set out in Telecom Decision 2006-15, with respect to the services provided to competitors in its territory.
10. With regard to whether MTS consistently provided any of those competitors with services that were below those Q of S standards, the Commission considers that, overall, the results demonstrate that MTS met the Q of S standards for all but one of the individual competitors.
11. The Commission also notes that Les.Net has disputed the results that MTS reported for Q of S indicator 2.10 for Les.Net. In its reply, MTS stated that it was working diligently with Les.Net to resolve the issue and submitted a document describing the complaint and the actions it took to quickly repair connectivity with Les.Net.
12. The Commission notes that there were few data points for some competitors during the six-month period in question, including Les.Net. The Commission also notes that in Telecom Decision 2007-58, it considered that when there are only a few data points during a six-month period, there is insufficient data to make a finding that a company consistently provided below-standard Q of S to the competitor. The Commission considers that this principle applies in the case of the competitors mentioned above.

² These competitors are Shaw and TCC in the exchange of Elie, Westman in the exchanges of Virden and Carberry, and RCP in all exchanges. Shaw and Westman are facilities-based, fixed-line telecommunications service providers, while RCP and TCC are wireless service providers.

13. The Commission therefore finds that MTS has demonstrated that during the six-month period from December 2011 to May 2012, 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.
14. Accordingly, the Commission determines that MTS meets the competitor Q of S criterion for this period.

d) Communications plan

15. The Commission has reviewed MTS's proposed communications plan and considers that, while reasonable, certain elements are missing. Telecom Decision 2006-15 specifies the elements that should be contained in the plan.
16. The Commission notes that according to the draft plan, the only information that will be provided directly to all customers is a short draft bill message of fewer than three lines. The Commission also notes that in Telecom Decision 2011-352, it approved MTS's proposed communications plan as submitted, noting that it was satisfied that the plan met the information requirements set out in Telecom Decision 2006-15. The Commission considers that MTS should provide all of its residential customers in the affected exchanges with the information required by Telecom Decision 2006-15 and that this information should be modelled on the communications plan approved in Telecom Decision 2011-352.
17. The Commission **approves** the proposed communications plan, subject to the changes noted above, and directs MTS to provide the resulting communications materials to its customers, in both official languages where appropriate.

Conclusion

18. The Commission determines that MTS's application regarding the exchanges of Elie, Virden, and Carberry, Manitoba, meets all the local forbearance criteria set out in Telecom Decision 2006-15.
19. 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 MTS 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.

20. 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.
21. 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 MTS of these residential local exchange services in these exchanges would be unlikely to impair unduly the continuance of a competitive market for these services.
22. In light of the above, the Commission **approves** MTS'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 Elie, Virden, and Carberry, Manitoba, subject to the powers and duties that the Commission has retained as set out in Telecom Decision 2006-15.

Effective date

23. In Telecom Decision 2006-15, the Commission granted certain small service providers – that is, those with fewer than 20,000 local exchange service customers across Canada – a grace period of 18 months between the date they begin providing local exchange services in a market and the date on which forbearance takes effect. The Commission notes that Westman, 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 MTS is capable of serving in the exchanges of Virden and Carberry, has fewer than 20,000 local exchange service customers across Canada and therefore meets the grace period criterion.
24. The Commission notes that Westman started offering residential local exchange services in the Carberry exchange on 8 June 2009 and in the Virden exchange on 14 September 2011. The Commission considers that while forbearance could take effect immediately in the Carberry exchange, it could not take effect in the Virden exchange before 14 March 2013.
25. Accordingly, the Commission determines that forbearance will be effective as of the date of this decision for the exchanges of Elie and Carberry, and as of 14 March 2013 for the Virden exchange. The Commission directs MTS to file revised tariff pages with the Commission within 30 days of the date of this decision for the exchanges of Elie and Carberry, and by 14 March 2013 for the Virden exchange.

Subsidy in high-cost exchanges

26. In Telecom Regulatory Policy 2011-291, the Commission determined that the large incumbent local exchange carriers would no longer receive subsidies for residential network access services (NAS) in high-cost exchanges for which the Commission has granted forbearance from regulation. Therefore, in accordance with the directions in Appendix B to Telecom Regulatory Policy 2011-291, MTS is to stop reporting to the

Central Fund Administrator any high-cost residential NAS associated with the exchanges of Elie and Carberry, effective the date of this decision, and as of 14 March 2013 for the Virden exchange.

Secretary General

Related documents

- *MTS Allstream Inc. – Application for forbearance from the regulation of residential local exchange services*, Telecom Decision CRTC 2011-352, 27 May 2011
- *Obligation to serve and other matters*, Telecom Regulatory Policy CRTC 2011-291, 3 May 2011, as amended by Telecom Regulatory Policy CRTC 2011-291-1, 12 May 2011
- *Forbearance from the regulation of residential local exchange services in Fort McMurray, Alberta*, Telecom Decision CRTC 2007-58, 25 July 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
- *List of services within the scope of the proceeding on forbearance from the regulation of local exchange services*, Telecom Decision CRTC 2005-35, 15 June 2005, as amended by Telecom Decision CRTC 2005-35-1, 14 July 2005
- *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)

Tariff	Item	List of services
24001	475	Rate Schedule for Primary Exchange Service
24001	480	Community Calling Service
24001	490	Urban Unlimited Service
24001	720	Premium Exchange Service (Residential)
24001	800	Suspension of Service
24001	1000	Joint User Service (Residential)
24001	1600	Directory Listings
24001	2126	Label Service
24001	2135	Custom Telephone Number Service
24001	2136	Rotary Service (Residential)
24001	2142	Calling Features
24001	2145	900 Call Denial/Blocking Service*
24001	2450	Remote Call Forwarding

* MTS noted that Tariff 7400, item 515.3, which was included in Telecom Decision 2005-35, has been replaced by Tariff 24001, item 2145 – 900 Call Denial/Blocking Service.