



Telecom Decision CRTC 2012-80

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Ottawa, 8 February 2012

Bell Canada – Application for forbearance from the regulation of residential local exchange services

File number: 8640-B2-201113290

In this decision, the Commission approves Bell Canada’s request for forbearance from the regulation of residential local exchange services in 27 exchanges in Ontario and Quebec. The Commission denies Bell Canada’s request for forbearance from the regulation of residential local exchange services in another 28 exchanges in Ontario and Quebec.

Introduction

1. The Commission received an application by Bell Canada, dated 29 September 2011, in which the company requested forbearance from the regulation of residential local exchange services¹ in 55 exchanges in Ontario and Quebec. A list of these exchanges is set out in Appendix 1 to this decision.
2. The Commission received submissions and data regarding Bell Canada’s application from Bragg Communications Inc., operating as EastLink (EastLink); Cogeco Cable Inc. (Cogeco); La Coopérative de câblodistribution de l’arrière-pays (CCAP); Quebecor Media Inc., on behalf of its affiliate, Videotron Ltd. (Videotron); Rogers Communications Partnership (RCP); Shaw Communications Inc. (Shaw) on behalf of Shaw Telecom Inc. and Mountain Cablevision Limited (Mountain);² and TELUS Communications Company (TCC). The public record of this proceeding, which closed on 17 November 2011, 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 Bell Canada’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 Bell Canada’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.

² Broadcasting Decision 2009-663 approved a change of ownership and control of Mountain to a wholly owned subsidiary of Shaw.

5. The Commission notes that Bell Canada is seeking forbearance from the regulation of 18 tariffed residential local exchange services. The Commission also notes that in Telecom Decisions 2005-35 and 2007-65, it found all these services to be eligible for forbearance. Subsequently, in Telecom Regulatory Policy 2010-777, the Commission forbore conditionally from regulating two of these services, Integrated Voice Messaging Service (IVMS) and Universal Messaging. Pursuant to Telecom Regulatory Policy 2010-777, forbearance from the regulation of these services will take effect on the date that Bell Canada issues revised tariff pages for the services.
6. Accordingly, the Commission finds the list of services proposed by Bell Canada, excluding IVMS and Universal Messaging, to be appropriate. A list of the 16 remaining approved services is set out in Appendix 2 to this decision.

b) Competitor presence test

7. Bell Canada provided evidence that demonstrates WTC Communications (WTC) is capable of serving 73 percent of residential local exchange lines in the exchange of Napanee through the use of unbundled loops. However, it was unable to determine the percentage of lines that WTC is capable of serving through its own facilities in this exchange. Bell Canada noted that it is unlikely that WTC would construct its facilities such that they would overlap its ability to serve through unbundled loops and that WTC's own facilities need only reach an additional 90 residential lines in Napanee (i.e. 2 percent of Napanee's residential network access services [NAS]) to be capable of serving at least 75 percent of the residential local exchange lines in this exchange). As such, Bell Canada argued that it is likely that the competitor presence test has been met in Napanee.
8. WTC provided no information or evidence to either confirm or contest Bell Canada's evidence.³ Bell Canada noted that by letter dated 7 June 2007,⁴ Commission staff noted that where there is no information or evidence provided to either confirm or contest the applicant incumbent local exchange carriers (ILECs) evidence submitted in their respective local forbearance applications, the Commission would be required to rely on the information filed on the record of this proceeding by the applicant ILECs.
9. The Commission considers that it would be unreasonable to deny forbearance for this exchange on the basis that the competitor did not file evidence of its presence. As such, the Commission finds that Bell Canada's assumption is reasonable and deems that WTC is capable of serving at least 75 percent of the residential local exchange lines in the exchange of Napanee.
10. The Commission notes that information provided by parties confirms that there are, in addition to Bell Canada, at least two independent, facilities-based telecommunications service providers operating in 27 of the 55 exchanges in

³ Bell Canada's application indicates that WTC was served with the application.

⁴ The 7 June 2007 letter set out the process for applications for local forbearance.

question, including providers of mobile wireless services.⁵ 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 Bell Canada is capable of serving, and at least one, in addition to Bell Canada, is a facilities-based, fixed-line telecommunications service provider.

11. Accordingly, the Commission determines that the 27 exchanges listed in Appendix 3 meet the competitor presence test.
12. The Commission determines that the 28 remaining exchanges do not meet the competitor presence test as the other facilities-based fixed-line telecommunications service providers are not capable of serving at least 75 percent of the residential local exchange service lines services that Bell Canada is capable of serving.

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

13. The Commission notes that Bell Canada submitted competitor Q of S results for the period of February 2011 to July 2011. The Commission has reviewed Bell Canada's competitor Q of S results and finds that it did not meet the Q of S standards for certain competitors. However, in each case, there were few data points for the six-month period. The Commission notes that in Telecom Decision 2007-58, it considered that where there are only a few data points during a six-month period, there is insufficient data to make a finding that a company has consistently provided below-standard Q of S.
14. The Commission notes that, except in the cases discussed above, Bell Canada 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.
15. Accordingly, the Commission determines that Bell Canada meets the competitor Q of S criterion for this period.

d) Communications plan

16. The Commission has reviewed Bell Canada's proposed communications plan and is satisfied that it meets the information requirements set out in Telecom Decision 2006-15.

⁵ These competitors are TCC in all exchanges, and EastLink, Cogeco, CCAP, Mountain, RCP, Videotron, and WTC in certain exchanges.

17. The Commission **approves** the proposed communications plan and directs Bell Canada to provide the resulting communications materials to its customers, in both official languages where appropriate.

Conclusion

18. The Commission determines that Bell Canada's application regarding the 27 exchanges in Ontario and Quebec that are listed in Appendix 3 meets all of 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 Bell Canada of the residential local exchange services listed in Appendix 2 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 Bell Canada 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** Bell Canada's application for forbearance from the regulation of the local exchange services listed in Appendix 2 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 27 exchanges listed in Appendix 3, 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 the date of this decision. The Commission directs Bell Canada to file revised tariff pages with the Commission within 30 days of the date of this decision.
23. In Telecom Regulatory Policy 2011-291, the Commission determined that the large ILECs would no longer receive subsidies for residential 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, Bell Canada is to stop reporting to the Central Fund Administrator any high-cost residential NAS associated with the 27 exchanges listed in Appendix 3, effective the date of this decision.

Secretary General

Related documents

- *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 retail voice mail services provided by the incumbent local exchange carriers*, Telecom Regulatory Policy CRTC 2010-777, 20 October 2010
- *Change of effective control*, Broadcasting Decision CRTC 2009-663, 22 October 2009
- *Bell Canada - Applications for forbearance from the regulation of residential local exchange services*, Telecom Decision CRTC 2007-65, 3 August 2007
- *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 1

Exchanges for which Bell Canada requested forbearance from the regulation of its residential local exchange services

Ontario

Amherstburg
Bath
Binbrook
Brighton
Cayuga
Deseronto
Dunnville
Fingal
Freelton
Gananoque
Hagersville
Kingsville
La Salle
Leamington
Lindsay
Mount Hope
Napanee
Odessa
Omeme
Pelham
Picton
Port Robinson
Princeton
Ridgeway
Rockwood
Shakespeare
Shedden
Vineland

Quebec

Ayer's Cliff
Bromptonville
Brownsburg
Chelsea
Coaticook
Dunham
Hudson
Joliette
Lachute
Mirabel-Ste-Scholastique
Montebello
Morin Heights
North Hatley
Notre-Dame-des-Laurentides
Richmond
Rigaud
Shawbridge
St-André Est
Ste-Brigitte-de-Laval
St-Calixte-de-Kilkenny
St-Denis
St-Jean-Île-d'Orléans
Stoke
Stoneham
St-Polycarpe
St-Tite-des-Caps
Waterloo

Appendix 2

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

Tariff	Item	List of services
6716	29	Telephone Set Loss Charge
6716	70	Rate Schedules for Primary Exchange (Local) Service
6716	72	Reference of Calls
6716	73	Telephone Number Services
6716	82	Toll Restriction
6716	86	Call Display Blocking
6716	220	Extra Listings – Omission of a Primary Exchange Listing
6716	1060	Service on Stationary Boats, Ships, Trailers and Trains
6716	1130	Suspension of Service
6716	2150	Push-Button Dialling (Touch-Tone)
6716	2165	Calling Features
6716	2185	Single Number Reach
6716	2200	Call Blocking Service
6716	2300	Telephone Station Equipment
6716	4699	Internet Call Display Service
6716	7031	Bell Digital Voice

Appendix 3

Exchanges that meet all the local forbearance criteria set out in Telecom Decision 2006-15

Ontario

Binbrook
Cayuga
Dunnville
Fingal
Hagersville
La Salle
Lindsay
Mount Hope
Napanee
Picton
Princeton
Shakespeare
Shedden

Quebec

Bromptonville
Coaticook
Hudson
Joliette
Lachute
Mirabel-Ste-Scholastique
Montebello
Notre-Dame-des-Laurentides
Ste-Brigitte-de-Laval
St-Denis
St-Jean-Île-d'Orléans
Stoneham
St-Polycarpe
St-Tite-des-Caps