



Telecom Decision CRTC 2013-311

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Ottawa, 27 June 2013

Provision of local telephone services by Cablovision Warwick inc. in Téléphone Milot inc.'s territory

File number: 8622-M4-201214147

In this decision, the Commission finds that Cablovision Warwick inc. has violated regulatory obligations related to the provision of local telephone services, and gives the company 90 days to comply with its obligations.

Introduction

1. The Commission received an application from Téléphone Milot inc. (Milot), dated 5 November 2012, in which the company submitted that Cablovision Warwick inc. (Cablovision Warwick) was offering local telephone services in Milot's serving territory, in violation of applicable Commission regulations.
2. Milot indicated that Cablovision Warwick was providing local telephone services in the exchanges of Kingsey Falls and Warwick, Quebec, using telephone numbers assigned to a neighbouring exchange.¹ Milot requested that the Commission direct Cablovision Warwick to
 - immediately cease offering local telephone services in the exchanges of Kingsey Falls and Warwick;
 - disconnect all its local telephone service subscribers so that they can be immediately connected to Milot's network, and pay Milot connection fees as per the rates set out in Milot's general tariff, all within 15 days of the date of this decision;
 - fulfill the conditions imposed on competitive local exchange carriers (CLECs) in Telecom Decisions 97-8, 2005-28, and 2006-14 before offering local telephone services to the public; and
 - remove from its website an advertisement regarding the small incumbent local exchange carriers (ILECs), within 15 days of the date of this decision.

¹ This exchange is Victoriaville, which is located in Bell Aliant Regional Communications, Limited Partnership's serving territory.

3. The Commission received submissions regarding Milot's application from Cablovision Warwick. The public record of this proceeding, which closed on 27 February 2013, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.

Positions of parties

4. Milot submitted that Cablovision Warwick was violating the rules set out by the Commission in Telecom Decision 2006-14 regarding the implementation of local competition in the small ILECs' territories by not providing Milot with a formal expression of interest.² Milot also submitted that Cablovision Warwick had not complied with all the obligations related to the provision of local telephone services imposed on CLECs³ and could therefore not offer local telephone services to the public.
5. Cablovision Warwick submitted that it was offering neither a local telephone service that allows number portability⁴ nor a formal cable telephone service. However, the company indicated that it had connected some subscribers to a voice over Internet Protocol service using telephone numbers from foreign exchanges to activate its network in order to test it. Cablovision Warwick also submitted that its telephone service subscribers had contacted it directly to receive its services, that more than 80 percent of them were newcomers to the territory, and that they were not subscribed to Milot's services. Cablovision Warwick therefore requested that the Commission deny Milot's application.

Commission's analysis and determinations

6. The Commission notes that the telephone service provided by Cablovision Warwick enables subscribers to place and receive calls to or from the public switched telephone network without incurring long distance charges. The Commission also notes that Cablovision Warwick's telephone service subscribers are situated in a local calling area that includes the exchange where they are located. The Commission therefore considers that the telephone service offered by Cablovision Warwick is a local telephone service, even if it is provided using a telephone number that does not come from the original exchange.

² Pursuant to Telecom Decision 2006-14, when a competitor wishes to provide local telephone services in a small ILEC's territory, it must send the small ILEC a formal expression of interest. In the 30 days following receipt of the competitor's request, the small ILEC must file a local competition implementation plan for Commission approval.

³ These obligations include, among others, filing certain tariffs and agreements for Commission approval.

⁴ Local number portability enables subscribers to keep their telephone numbers when changing service providers. In the case of a transfer from one wireline service to another, the telephone number can only be transferred within the exchange. Since Cablovision Warwick's telephone service is offered using a telephone number that does not come from the subscriber's exchange, subscribers could not keep their telephone numbers if they decided to transfer to another wireline service.

7. Pursuant to Telecom Decision 2005-28, cable carriers must comply with the CLEC obligations in the locations where they provide local telephone services. The Commission considers that even if Cablovision Warwick had connected subscribers to its network only for testing purposes, the company is not exempt from complying with its regulatory obligations before offering local telephone services to the public. The Commission therefore finds that Cablovision Warwick did not comply with its regulatory obligations related to the provision of local telephone services in the exchanges of Kingsey Falls and Warwick.
8. The Commission notes, however, that directing Cablovision Warwick to disconnect all its local telephone service subscribers in order to connect them to Milot's network would have a significant impact on these subscribers. The Commission also notes that some subscribers who would be affected by such a disconnection may not necessarily choose to subscribe to Milot's services but rather to a service offered by another telecommunications service provider that is able to offer services in Milot's territory. The Commission therefore considers that Milot's proposal set out in paragraph 2 above is not an appropriate corrective measure.
9. The Commission further notes that Cablovision Warwick has taken steps to fulfill its regulatory obligations since Milot filed its application. For example, the company sent a formal expression of interest to Milot⁵ and filed its CLEC tariff with the Commission. The Commission considers it appropriate to take measures to ensure that Cablovision Warwick fulfills its regulatory obligations regarding the provision of local telephone services as soon as possible.
10. In light of the above, the Commission directs Cablovision Warwick to fulfill the regulatory obligations regarding the provision of local telephone services in the exchanges of Kingsey Falls and Warwick, Quebec, within **90 days** of the date of this decision, in default of which the company must transfer its local telephone service subscribers to another provider that is able to offer services in these exchanges, according to the subscriber's choice. The transfer of subscribers must be completed within **15 days** of the end of the above-mentioned period (i.e. within **105 days** of the date of this decision). The Commission reminds Cablovision Warwick that, as per the Commission's requirements regarding the provision of local telephone services, the company is prohibited from connecting new subscribers to its local telephone service until it has fulfilled its regulatory obligations.
11. Regarding Milot's request for the Commission to direct Cablovision Warwick to remove an advertisement regarding the small ILECs from its website, the Commission notes that Milot did not indicate on what basis the Commission could issue such a direction and is not satisfied that the request is appropriate in the circumstances. Accordingly, the Commission **rejects** this request from Milot.

⁵ Milot indicated that the implementation of local competition for Cablovision Warwick did not require the filing of a local competition implementation plan, since Cablovision Warwick would interconnect with Milot using the facilities of Videotron G.P., which is already interconnected with Milot in the exchanges of Kingsey Falls and Warwick.

Compliance with the Policy Direction

12. The Commission considers that its determinations in this decision will ensure that Cablovision Warwick complies with its regulatory obligations within a reasonable time frame without significantly affecting subscribers to its local telephone service. The Commission also considers that its determinations will enable consumers in the exchanges of Kingsey Falls and Warwick to benefit from competition in the local services market. The Commission therefore considers that its determinations in this decision will advance the policy objectives set out in paragraphs 7(b), (f), and (h) of the *Telecommunications Act*.⁶
13. In light of the above, the Commission considers that its determinations are consistent with the Policy Direction⁷ requirements that the Commission should (i) rely on market forces to the maximum extent feasible as the means of achieving the policy objectives, and (ii) when relying on regulation, use measures that are efficient and proportionate to their purpose and that interfere with the operation of competitive market forces to the minimum extent necessary to meet the policy objectives.

Secretary General

Related documents

- *Revised regulatory framework for the small incumbent local exchange carriers*, Telecom Decision CRTC 2006-14, 29 March 2006
- *Regulatory framework for voice communication services using Internet Protocol*, Telecom Decision CRTC 2005-28, 12 May 2005, as amended by Telecom Decision CRTC 2005-28-1, 30 June 2005
- *Local competition*, Telecom Decision CRTC 97-8, 1 May 1997

⁶ The cited objectives are

7(b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada;

7(f) to foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective; and

7(h) to respond to the economic and social requirements of users of telecommunications services.

⁷ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006