Telecom Decision CRTC 2011-581

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Ottawa, 9 September 2011

TELUS Communications Company – Application to exclude competition-related quality of service indicator 2.10 results from the rate rebate plan for competitors for April 2011

File number: 8660-T66-201109611

Introduction

1. The Commission received an application by TELUS Communications Company (TCC), dated 17 June 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 Services and Type C Loops (indicator 2.10) from its rate rebate plan for competitors for a number of competitors[1] for April 2011.

2. TCC submitted that during the month of April 2011, the following adverse events occurred that affected telecommunication services to its and competitors' end-customers in the areas surrounding the events: a gas station fire in Lac La Hache, British Columbia that burned through a company cable on 17 April 2011; seven fibre and copper cable thefts in various areas[2] in British Columbia and Alberta throughout the month; and a cable cut[3] on 6 April 2011 in the community of Coaldale, Alberta.

3. TCC submitted that

   - hazardous heavy smoke and access restrictions in the case of the gas station fire contributed to delays in completing the required repairs;
   - the cable thefts generated 31 trouble reports that took time to repair depending on cable size, length, and location; and
   - the cable cut required 10 hours to repair.

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1 TCC did not specify the names of the competitors affected, with the exception of mentioning Bell Canada as an example. Attachment 2 to the application provides April 2011 indicator 2.10 results for competitors Bell Canada, MTS Allstream Inc., Shaw Communications Inc., Rogers Communications Inc. listed as Rogers Telecom, Navigata Inc., AT&T Global Services Communications Ltd., British Telecom Canada Inc. listed as British Telecom, Worldcom Canada Ltd. listed as Worldcom (MCI), Primus Telecommunications Canada Inc., Qwest, and OneConnect Canada, a company not reported in the first quarter 2011 Q of S results filed by TCC.

2 The cities or municipalities where the cable thefts occurred are Surrey, Richmond, and Whalley in British Columbia, and Calgary in Alberta.

3 The cable cut occurred while push pipe work was taking place underneath a roadway.

4. TCC submitted a table showing its indicator 2.10 results, on an aggregated basis, for the period from April 2010 to April 2011. Only the December 2010 result did not meet the four-hour standard for that indicator prior to the April 2011 events.

5. TCC noted that the trouble report tickets resulting from the various events were not the only troubles reported for the competitors in April 2011. It also noted, however, that if the trouble reports related to the above-noted adverse events were excluded, its April 2011 results for indicator 2.10 for all the competitors served would have been within the accepted standard.

6. The Commission received no comments regarding this application. The public record of this proceeding, which closed on 20 July 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

7. 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.

8. 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 gas station fire, the cable thefts, and the cable cut in question qualify as events that were beyond the reasonable control of TCC and thus trigger the *force majeure* clause.

9. The Commission also considers that TCC has provided sufficient evidence to demonstrate that these three adverse events caused the below-standard results for indicator 2.10 for a number of competitors served in April 2011.

10. 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.

11. The Commission has reviewed TCC's evidence and verified that TCC exceeded the standard for competitor Q of S indicator 2.10 for all its competitors, including the companies listed in Attachment 2 of TCC's application (see footnote 1), either for the three consecutive months or for at least six out of the twelve months prior to the April 2011 events. The Commission therefore considers it reasonable to conclude that TCC would have met its competitor Q of S obligations without the adverse events described in its application.

12. In light of the above, the Commission **approves** TCC's request to exclude its below-standard results for competitor Q of S indicator 2.10 for April 2011 in the calculation of the amounts due to the competitors affected by these adverse events 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