



Telecom Decision CRTC 2013-214

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Ottawa, 3 May 2013

Bell Aliant Regional Communications, Limited Partnership – Application for forbearance from the regulation of business local exchange services

File number: 8640-B54-201215007

In this decision, the Commission approves Bell Aliant's request for forbearance from the regulation of business local exchange services in the exchanges of Bishop's Falls, Botwood, Gander, and Grand Falls, Newfoundland and Labrador.

Introduction

1. The Commission received an application from Bell Aliant Regional Communications, Limited Partnership (Bell Aliant), dated 29 November 2012, in which the company requested forbearance from the regulation of business local exchange services¹ in the exchanges of Bishop's Falls, Botwood, Gander, and Grand Falls, Newfoundland and Labrador.
2. The Commission received submissions and/or data regarding Bell Aliant's application from Rogers Communications Partnership. The public record of this proceeding, which closed on 28 January 2013, 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 Aliant'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 Bell Aliant is seeking forbearance from the regulation of 28 tariffed business local exchange services. The Commission received no comments with respect to Bell Aliant's proposed list of business local exchange services.

¹ In this decision, "business local exchange services" refers to local exchange services used by business customers to access the public switched telephone network and any associated service charges, features, and ancillary services.

5. The Commission notes that it has determined in previous decisions that its local forbearance framework set out in Telecom Decision 2006-15 applies to all of the services that are the subject of Bell Aliant's application.²
6. However, the Commission notes that neither item 205.6, Hotel Service – NS & PEI Only, nor item 360, Duplicate Service – Prince Edward Island Only, applies in the province of Newfoundland and Labrador. Consequently, the Commission notes that these tariff items cannot be found eligible for forbearance in this decision.
7. Accordingly, the Commission determines that the 26 services listed in the Appendix to this decision are eligible for forbearance.

b) Competitor presence test

8. The Commission notes that information provided by parties demonstrates that there is, in addition to Bell Aliant, an independent, facilities-based, fixed-line telecommunications service provider³ that offers local exchange services in each of the exchanges of Bishop's Falls, Botwood, Gander, and Grand Falls, and that is capable of serving at least 75 percent of the number of business local exchange service lines that Bell Aliant is capable of serving.
9. Accordingly, the Commission determines that the exchanges of Bishop's Falls, Botwood, Gander, and Grand Falls meet the competitor presence test.

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

10. The Commission notes that Bell Aliant submitted competitor Q of S results for the period of April to September 2012. The Commission considers that these results demonstrate that Bell Aliant 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.
11. With regard to whether Bell Aliant consistently provided any of those competitors with services that were below those Q of S standards, the Commission considers that the results demonstrate that Bell Aliant met the Q of S standards for all but one of the individual competitors.
12. However, the Commission notes that there were few data points for that competitor during the six-month period in question. The Commission 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 has consistently provided below-standard Q of S. The Commission considers that this principle applies in the case of the individual competitor referred to in paragraph 11.

² See Telecom Decisions 2005-35, 2007-70, and 2011-632.

³ This competitor is Rogers Communications Partnership.

13. The Commission therefore finds that Bell Aliant has demonstrated that during the six-month period from April to September 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 Bell Aliant meets the competitor Q of S criterion for this period.

d) Communications plan

15. The Commission has reviewed Bell Aliant's proposed communications plan and is satisfied that it meets the information requirements set out in Telecom Decision 2006-15. However, the Commission considers that the company should modify the contact information in its plan to (a) change the mailing address for the Canadian Radio-television and Telecommunications Commission to "Ottawa, Ontario K1A 0N2," and (b) update the contact information for the Commissioner for Complaints for Telecommunications Services, the Canadian Consumer Information Gateway, and the Office of the Privacy Commissioner of Canada.
16. The Commission **approves** the proposed communications plan with the changes noted above and directs Bell Aliant to provide the resulting communications materials to its customers, in both official languages where appropriate.

Conclusion

17. The Commission determines that Bell Aliant's application regarding the exchanges of Bishop's Falls, Botwood, Gander, and Grand Falls, Newfoundland and Labrador, meets all the local forbearance criteria set out in Telecom Decision 2006-15.
18. 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 Aliant of the business 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 business customers only, in these exchanges, would be consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.
19. Pursuant to subsection 34(2) of the Act, the Commission finds as a question of fact that these business local exchange services are subject to a level of competition in these exchanges sufficient to protect the interests of users of these services.

20. 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 Aliant of these business local exchange services in these exchanges would be unlikely to impair unduly the continuance of a competitive market for these services.
21. In light of the above, the Commission **approves** Bell Aliant'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 business customers only, in the exchanges of Bishop's Falls, Botwood, Gander, and Grand Falls, Newfoundland and Labrador, 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 Aliant to file revised tariff pages reflecting the above determinations with the Commission within 30 days of the date of this decision.

Secretary General

Related documents

- *Bell Aliant Regional Communications, Limited Partnership – Application for forbearance from the regulation of business local exchange services*, Telecom Decision CRTC 2011-632, 29 September 2011
- *Bell Aliant – Applications for forbearance from the regulation of business local exchange services*, Telecom Decision CRTC 2007-70, 10 August 2007, as amended by Telecom Decisions CRTC 2007-70-1, 22 August 2007; and 2007-70-2, 29 November 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

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

Tariff	Item	List of services
21491	125.3	Extra Listings
21491	125.4	Non-Listed, Non-Published Service
21491	125.5	Contract Period for Chargeable Extra Listings
21491	125.6	Directories and Listings – Rates and Charges
21491	205.2	Business Single-Line Access Service
21491	205.4	Business Multi-Line Access Service
21491	205.7	Charitable and Not for Profit Access Service
21491	215.2	National Centrex Service
21491	215.5	Centrex Call Centre Service
21491	215.6	Regional Large Business Centrex Service
21491	304	Enhanced Local Calling (Calling Features)
21491	308	Internet Call Manager
21491	312	900 Call Denial/Blocking Service
21491	316	Universal Messaging
21491	320	Electronic Transfer Capability for Centrex
21491	326	Music on Hold
21491	328	Direct-Inward-Dialing for Access Service (DID-AS)
21491	338	Answer Supervision
21491	358	Data Line Support Service
21491	362	Client Calling Code Service
21491	364	Centrex IP Service
21491	365	Local Remote Call Forwarding Service
21491	502	Digital Exchange Access
21491	504	Megalink Service
21491	506	Microlink Service
13001	190	Provincial Centrex Service