



Telecom Decision CRTC 2014-278

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Tuckersmith Communications Co-operative Ltd. – Application for forbearance from the regulation of business local exchange services

*The Commission **approves** Tuckersmith Communications Co-operative Ltd.’s request for forbearance from the regulation of business local exchange services in the exchange of Bayfield, Ontario.*

Introduction

1. The Commission received an application from Tuckersmith Communications Co-operative Ltd. (Tuckersmith), dated 10 March 2014, in which the company requested forbearance from the regulation of business local exchange services¹ in the exchange of Bayfield, Ontario.
2. The Commission received submissions and/or data regarding Tuckersmith’s application from Bragg Communications Inc., operating as Eastlink (Eastlink). The public record of this proceeding, which closed on 22 April 2014, is available on the Commission’s website at www.crtc.gc.ca or by using the file number provided above.

Commission’s analysis and determinations

3. The Commission has assessed Tuckersmith’s application by examining the four criteria set out below. These criteria are based on the local forbearance test originally set out in Telecom Decision 2006-15 and applied to the small incumbent local exchange carriers, with modifications, in Telecom Regulatory Policy 2009-379.

a) Product market

4. The Commission notes that Tuckersmith is seeking forbearance from the regulation of five tariffed business local exchange services. The Commission received no comments with respect to Tuckersmith’s proposed list of services.
5. The Commission also notes that the five services fall within the definition of local exchange services set out in Telecom Public Notice 2005-2. The Commission

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.

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

b) Competitor presence test

6. The Commission notes that information provided by parties demonstrates that there is, in addition to Tuckersmith, one independent, facilities-based, fixed-line telecommunications service provider² that offers local exchange services in the exchange of Bayfield and that is capable of serving at least 75 percent of the number of business local exchange service lines that Tuckersmith is capable of serving.
7. Accordingly, the Commission determines that the exchange of Bayfield meets the competitor presence test.

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

8. The Commission notes Tuckersmith's attestation that it received no Q of S complaints from competitors in the six months prior to the date of this application for forbearance.³ The Commission received no comments with respect to Tuckersmith's competitor Q of S results for that period.
9. Accordingly, the Commission determines that Tuckersmith's competitor Q of S is at a sufficient level to warrant forbearance from the regulation of business local exchange services in the exchange of Bayfield.

d) Communications plan

10. The Commission has reviewed Tuckersmith's proposed communications plan and is satisfied that it meets the information requirements set out in Telecom Decision 2006-15. The Commission **approves** the proposed communications plan and **directs** Tuckersmith to provide the resulting communications materials to its customers, in both official languages where appropriate.

Conclusion

11. The Commission determines that Tuckersmith's application regarding the exchange of Bayfield, Ontario, meets all the local forbearance criteria set out in Telecom Decision 2006-15 and modified by Telecom Regulatory Policy 2009-379 for small ILECs.
12. 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 Tuckersmith of the business local exchange services listed in the Appendix and future services that fall within the definition of local

² This competitor is Eastlink.

³ In Telecom Regulatory Policy 2009-379, the Commission stated that, if applicable, a small ILEC could submit an attestation that it had received no complaints from competitors in the six months prior to the date of the forbearance application, or since the implementation of local competition if less than six months had passed.

exchange services set out in Telecom Public Notice 2005-2 as they pertain to business customers only, in this exchange, would be consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.

13. 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 this exchange sufficient to protect the interests of users of these services.
14. 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 Tuckersmith of these business local exchange services in this exchange would be unlikely to impair unduly the continuance of a competitive market for these services.
15. In light of the above, the Commission **approves** Tuckersmith'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 exchange of Bayfield, Ontario, 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** Tuckersmith to file revised tariff pages with the Commission within 30 days of the date of this decision.
16. The Commission reminds Tuckersmith that, pursuant to its direction set out in Telecom Regulatory Policy 2011-46, the company will be required to become a participating service provider of the Commissioner for Complaints for Telecommunications Services Inc. (CCTS) should the CCTS inform Tuckersmith that it has received a complaint about the company that falls within the CCTS's mandate.

Secretary General

Related documents

- *Review of the Commissioner for Complaints for Telecommunications Services*, Telecom Regulatory Policy CRTC 2011-46, 26 January 2011
- *Framework for forbearance from regulation of retail local exchange services in the serving territories of the small incumbent local exchange carriers*, Telecom Regulatory Policy CRTC 2009-379, 23 June 2009
- *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
- *Forbearance from regulation of local exchange services*, Telecom Public Notice CRTC 2005-2, 28 April 2005

Appendix

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

Section	Item	List of services
100	4.03	Primary Exchange Service
100	6	Seasonal Service Option Business
170	2	Business Service Definition
490	7.03	Custom Calling Features Business
490	8.04	CMS Business Rates