



## Telecom Decision CRTC 2019-34

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Ottawa, 7 February 2019

*Public record: 8640-M59-201805631*

### **Bell MTS – Application for forbearance from the regulation of business local exchange services**

*The Commission **approves, in part,** Bell MTS’s application for forbearance from the regulation of business local exchange services in 24 exchanges in Manitoba. The Commission forbears in respect of the 24 business local exchange services listed in Appendix 2 to this decision.*

#### **Introduction**

1. The Commission received an application from Bell MTS,<sup>1</sup> dated 31 July 2018, in which the company requested forbearance from the regulation of business local exchange services<sup>2</sup> in 24 exchanges in Manitoba. A list of these exchanges is set out in Appendix 1 to this decision.
2. The company provided evidence to support its forbearance request, based on the Commission’s requirements set out in Telecom Decision 2006-15.
3. The Commission received submissions regarding Bell MTS’s application from Shaw Telecom G.P. (Shaw) and Westman Communications Group (Westman), dated 28 August 2018 and 7 September 2018, respectively.
4. The Commission received a revised application from Bell MTS, dated 14 September 2018, which included a number of minor corrections. The company also provided a response, dated 12 November 2018, to a request for information to clarify competitor quality of service (Q of S) results. The Commission did not receive any interventions with respect to these supplementary filings.

#### **Commission’s analysis and determinations**

5. The Commission has assessed Bell MTS’s application based on the local forbearance test set out in Telecom Decision 2006-15 by examining the four criteria set out below.

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<sup>1</sup> In March 2017, BCE Inc. completed its acquisition of MTS Inc., which is now operating as Bell MTS, a division of Bell Canada.

<sup>2</sup> In this decision, “business local exchange services” refers to local exchange services used by business customers to access the public switched telephone network (PSTN) and any associated service charges, features, and ancillary services.

## **Product market**

6. Bell MTS is seeking forbearance from the regulation of 27 tariffed business local exchange services. The Commission received no comments with respect to the company's proposed list of services.
7. Based on its review of the company's revised application, together with its determinations in previous decisions, the Commission finds that its local forbearance framework set out in Telecom Decision 2006-15 applies to most of the services that are the subject of Bell MTS's application.<sup>3</sup> The exceptions and considerations are provided below.

### **Item 490 – Urban Unlimited Services<sup>4</sup>**

8. In Telecom Decision 2005-35, the Commission found this item eligible for forbearance under the description name Urban Unlimited (Winnipeg and Brandon). Further, this item was listed as eligible for forbearance in Telecom Decisions 2011-351 and 2012-650 under the description name Urban Unlimited Services, for the exchanges of Winnipeg and Brandon, respectively. As a result, the service is already forborne in the applicable exchanges, and these exchanges are not included in the current application. Therefore, this service is not eligible to be considered for forbearance in this decision.

### **Item 510 – Service Charges**

9. In Telecom Decision 2005-35, the Commission noted that generic services, including service charges, apply not only to local exchange services but to other telecommunications services. Consequently, the Commission considered them to be outside the scope of the proceeding on forbearance from the regulation of local exchange services. The Commission noted that (i) the tariffs for these types of services apply only to tariffed services, and (ii) if the Commission forbore from regulating a particular local exchange service, the relevant generic service tariffs would no longer apply to that forborne service. Therefore, the service charges identified by Bell MTS are not eligible for forbearance in this decision.

### **Item 715 – Private Line - Voice<sup>5</sup>**

10. This service was not listed in Telecom Decision 2005-35 as being eligible for forbearance from the regulation of local exchange services. The Commission notes

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<sup>3</sup> For example, see Telecom Decisions 2005-35 and 2008-10.

<sup>4</sup> Urban Unlimited Service provides calling from Brandon and Winnipeg to their adjacent exchanges. The service provides for the placement of calls for a monthly rate in lieu of message toll charges.

<sup>5</sup> As set out in the company's General Tariff, Private Line – Voice is a service that provides a dedicated voice-grade channel for analogue transmission between two or more business customer service points in exchanges within Manitoba. Private Line – Voice service is for voice applications only; data applications must use Analogue Private Line service.

that this service is not a local exchange service, but rather provides point-to-point services<sup>6</sup> and, therefore, it is not eligible for forbearance in this decision.

**Item 1988 – Hosted [Internet Protocol] IP Telephone Service<sup>7</sup>**

11. In Tariff Notice 755 (TN 755),<sup>8</sup> MTS Inc. (MTS) proposed (i) to revise its General Tariff to add Hosted IP Telephone Service, and (ii) that the service be considered as within the scope of the definition of local exchange services set out in Telecom Decision 2005-35, such that the service could be eligible for forbearance under the Commission’s framework for local exchange services. In Telecom Order 2014-277, the Commission approved TN 755 on a final basis, effectively approving MTS’s proposal with respect to the service’s eligibility for forbearance. There is no indication on the record of the present proceeding that this determination is no longer valid. As a result, the Commission considers that it would be appropriate to consider this service for forbearance under its framework for local exchange services in the context of the present application.

**Item 2264 – [Session Initiation Protocol] SIP Trunking (Regional) Service**

12. This item was not listed as eligible for forbearance in Telecom Decision 2005-35. MTS proposed the introduction of SIP Trunking Service in Tariff Notice 767 (TN 767) in early September 2015.<sup>9</sup> The company requested that the service be considered as within the scope of the definition of local exchange services set out in Telecom Decision 2005-35. In Telecom Order 2015-459, the Commission approved TN 767 on a final basis, effectively approving MTS’s proposal with respect to the service’s eligibility for forbearance. There is no indication on the record of the present proceeding that this determination is no longer valid. As a result, the Commission considers that it would be appropriate to consider this service for forbearance under its framework for local exchange services in the context of the present application.

**Conclusion**

13. Based on the above, the Commission determines that the 24 tariffed business local exchange services listed in Appendix 2 to this decision are eligible for forbearance.

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<sup>6</sup> Telecom Decision 2005-35 stated that the scope of the proceeding on forbearance from the regulation of local exchange services does not include public telephone services; customer-specific arrangements (CSAs); and bundles that do not include local exchange services, point-to-point services, operator services, mobile and exchange radio services, and competitor services.

<sup>7</sup> Bell MTS described the service as a business voice communication service based on hosted IP and as the next generation of MTS’s Centrex Service.

<sup>8</sup> TN 755 was dated 7 April 2014.

<sup>9</sup> In its TN 767 application, the company submitted that SIP Trunking Service provides customers with (i) PSTN connectivity, and (ii) features that allow for the transfer of all local, long distance, and private voice traffic across a customer’s data network to the PSTN. It also submitted that the service was intended to replace a time-division multiplexing primary rate interface (TDM PRI) with an IP connection. While the original name of tariff item 2264 was SIP Trunking Service, it was modified to SIP Trunking (Regional) Service as a result of the Commission’s approval of Bell MTS Tariff Notice 802 in 2018.

### **Competitor presence test**

14. Information provided by parties confirms that there is, in addition to Bell MTS, at least one other independent facilities-based, fixed-line telecommunications service provider (TSP)<sup>10</sup> that offers business local exchange services in each of the 24 exchanges for which Bell MTS is seeking forbearance. Each of these service providers is capable of serving at least 75% of the number of business local exchange service lines that Bell MTS is capable of serving.
15. Accordingly, the Commission determines that the 24 exchanges listed in Appendix 1 to this decision meet the competitor presence test.

### **Competitor Q of S results**

16. In its initial application, Bell MTS submitted competitor Q of S results for the six-month period ending on 31 May 2018. However, those results appeared to be missing information about the Q of S Bell MTS provided to some of its competitors during that period, based on a comparison with the company's fourth quarter 2017 results. As a result, Bell MTS was asked to address this apparent discrepancy.
17. In response to the request for information referenced in paragraph 4 of this decision, Bell MTS submitted that it had stopped producing a separate competitor Q of S report in January 2018 because its data had been integrated with the Q of S report submitted by Bell Canada to the Commission. It noted that this integrated report consolidates the results for Bell Canada's entire operating territory. It explained that certain customers do not appear in the submitted report because in some cases their data had been merged with that of their affiliates, while in other cases customers had no ordering, provisioning, or repair activity on their existing services during the reporting period.
18. Bell MTS attested that, as a result of this, the "Forbearance Indicators" report provided at the time of the company's original forbearance application included all required data for all Bell Canada customers throughout its operating territory.
19. As noted above, the Commission did not receive any comments regarding Bell MTS's response to the request for information.
20. Based on the uncontested information submitted by Bell MTS with respect to competitor Q of S on the record of this proceeding, the Commission considers that Bell MTS has sufficiently demonstrated that during the 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

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<sup>10</sup> These competitors are Westman in all but 2 of the 24 exchanges, and Shaw in the remaining 2 exchanges of Elie and Southport.

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.

21. Accordingly, the Commission determines that Bell MTS meets the competitor Q of S criteria for this period.

### **Communications plan**

22. The Commission has reviewed Bell MTS'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 (i) change the mailing address for the Canadian Radio-television and Telecommunications Commission to "Ottawa, Ontario K1A 0N2," and (ii) update the contact information for the Commission for Complaints for Telecom-television Services Inc. (CCTS)<sup>11</sup> and the Office of the Privacy Commissioner of Canada.

23. The Commission **approves** the proposed communications plan with the revisions outlined above, and **directs** Bell MTS to provide the resulting communications material to its customers, in both official languages where appropriate.

### **Conclusion**

24. The Commission determines that Bell MTS's application regarding the 24 exchanges in Manitoba, as listed in Appendix 1 to this decision, meets all the local forbearance criteria set out in Telecom Decision 2006-15.

25. 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 MTS in these exchanges, of the 24 business local exchange services listed in Appendix 2 to this decision, 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.

26. 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.

27. 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

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<sup>11</sup> Effective 1 September 2017, the Commissioner for Complaints for Telecommunications Services Inc.'s name was changed to the Commission for Complaints for Telecom-television Services Inc.

specified in Telecom Decision 2006-15, in relation to the provision by Bell MTS of these business local exchange services in these exchanges would be unlikely to impair unduly the continuance of a competitive market for these services.

28. In light of the above, the Commission **approves, in part**, Bell MTS's application for forbearance from the regulation of business local exchange services. The Commission forbears in respect of the 24 business local exchange services listed in Appendix 2 to this decision 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 24 exchanges listed in Appendix 1, 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. Bell MTS is to issue revised tariff pages<sup>12</sup> with the Commission **within 30 days** of the date of this decision.

Secretary General

### Related documents

- *MTS Inc. – Final approval of a tariff application*, Telecom Order CRTC 2015-459, 8 October 2015
- *Various companies – Final approval of tariff applications*, Telecom Order CRTC 2014-277, 27 May 2014
- *MTS Inc. – Application for forbearance from the regulation of business local exchange services*, Telecom Decision CRTC 2012-650, 28 November 2012
- *MTS Allstream Inc. – Application for forbearance from the regulation of business local exchange services*, Telecom Decision CRTC 2011-351, 27 May 2011
- *The relevant product market for Centrex and Enhanced Exchange Wide Dial services for the purposes of forbearance from regulation*, Telecom Decision CRTC 2008-10, 31 January 2008
- *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

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<sup>12</sup> Revised tariff pages can be submitted to the Commission without a description page or a request for approval; a tariff application is not required.

## **Appendix 1 to Telecom Decision CRTC 2019-34**

### **Exchanges for which Bell MTS requested forbearance from the regulation of its business local exchange services**

Binscarth

Birtle

Boissevain

Dauphin

Deloraine

Elie

Erickson

Glenboro

Hamiota

Killarney

Melita

Minitonas

Minnedosa

Neepawa

Rivers

Roblin

Rosburn

Russell

Shoal Lake

Souris

Southport

Strathclair

Swan River

Viriden

## Appendix 2 to Telecom Decision CRTC 2019-34

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

Tariff	Item	Description
24001	475	Rate Schedule for Primary Exchange Service
24001	480	Community Calling Service
24001	720	Premium Exchange Service
24001	800	Suspension of Service
24001	1000	Joint User Service
24001	1600	Directory Listings
24001	1980	Centrex
24001	1981	Electronic Transfer Capability for Centrex
24001	1982	Centrex 2
24001	1985	National Centrex Service
24001	1988	Hosted IP Telephone Service
24001	1990	Digital Exchange Access Service
24001	2000	Megalink Services (ISDN Primary Rate Access)
24001	2126	Label Service
24001	2135	Custom Telephone Number Service
24001	2136	Rotary Service
24001	2140	Direct Inward Dialing (DID)
24001	2142	Calling Features
24001	2145	900 Call Denial/Blocking Service
24001	2264	SIP Trunking (Regional) Service <sup>13</sup>
24001	2450	Remote Call Forwarding
24002	9275	Centrex Digital Data Service Premium
24003	12170	Centrex Miscellaneous
24003	12930	Stop Hunt Feature

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<sup>13</sup> See footnote 9.