



## Telecom Decision CRTC 2024-52

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Reference: Part 1 application posted on 22 February 2024

Ottawa, 12 March 2024

*Public record: 8662-B2-202400646*

### **Bell Canada – Application to review and vary Telecom Notice of Consultation 2024-25**

#### **Summary**

Bell Canada filed an application requesting that the Commission review and rescind or vary Telecom Notice of Consultation 2024-25. In this consultation, the Commission is seeking to address challenges associated with the attachment of wireless equipment, such as small cells, onto poles across Canada. Small cells are low-powered radio access points that are critical to the expansion of fifth-generation (5G) networks.

The Commission considers it important to provide, without delay, greater regulatory certainty with respect to the rules for the deployment of wireless networks. With clear and predictable rules in place, investment risk decreases and competitors are better placed to expand their wireless networks. Such investments will help to accelerate the deployment of 5G-capable networks and Canadians will benefit from having wireless companies compete to offer innovative and high-quality services at more affordable prices.

In this Decision, the Commission **dismisses** Bell Canada's application in order to avoid needlessly delaying the analysis of the issues under consideration in Telecom Notice of Consultation 2024-25.

#### **Background**

1. In *Call for comments – Attachment of wireless facilities on support structures owned or controlled by incumbent local exchange carriers*, Telecom Notice of Consultation CRTC 2024-25, 5 February 2024 (Telecom Notice of Consultation 2024-25), the Commission initiated a proceeding to address a number of issues related to the deployment of wireless facilities, such as small cells, on support structures owned or controlled by incumbent local exchange carriers (ILECs).
2. One of the issues being considered in Telecom Notice of Consultation 2024-25 is whether the Commission has jurisdiction over the deployment of wireless facilities on these support structures. The Commission expressed the preliminary view that it has concurrent jurisdiction with Innovation, Science and Economic Development Canada (ISED).

## **Application**

3. On 22 February 2024, the Commission received an application from Bell Canada requesting that the Commission review and rescind or vary certain elements of Telecom Notice of Consultation 2024-25. Bell Canada requested a review of the Commission's preliminary view that the deployment of wireless facilities on ILEC-owned or -controlled support structures is within the Commission's jurisdiction.
4. Specifically, Bell Canada requested that the Commission either:
  - refer the issue of its jurisdiction to the Federal Court of Appeal; or
  - defer consideration of the other issues raised in Telecom Notice of Consultation 2024-25 until the Commission determines whether it has jurisdiction over these matters.
5. Bell Canada submitted that, by expressing a preliminary view about concurrent jurisdiction with ISED over wireless facilities, the Commission has created a presumption in favour of such a finding and therefore places a corresponding burden on parties seeking to oppose this view.

## **Commission's analysis**

6. The Commission often provides preliminary views in its decisions as a transparent way to seek feedback on specific issues. The Commission considers that providing a preliminary view does not prejudice a determination, nor does it prevent a party from submitting any information it wishes in response to such a view.
7. As it relates specifically to the Commission's preliminary view on its jurisdiction at paragraph 27 of Telecom Notice of Consultation 2024-25, the Commission considers that it has provided sufficient information for interested persons to comment on the matter.
8. The Commission considers that Bell Canada's request would needlessly delay the resolution of the issues raised in Telecom Notice of Consultation 2024-25. The Commission notes that most of the parties who are likely to comment on Bell Canada's application are also likely to participate in the proceeding initiated by Telecom Notice of Consultation 2024-25. Accordingly, the Commission considers that proceeding to be the most appropriate, comprehensive, and efficient way for the Commission to provide greater regulatory certainty to parties seeking to attach wireless facilities on ILEC-owned or -controlled support structures.
9. The Commission has broad authority over its processes, which includes the authority to dismiss an application without the need to hear from other parties. The dismissal of an application is only granted in exceptional circumstances where, for example, an application is frivolous, vexatious or trivial, gives rise to an abuse of process, or where there is no genuine issue for consideration by the Commission. In the present case, the Commission considers that there is no genuine issue for consideration in

Bell Canada's application because the question of the Commission's jurisdiction over the deployment of wireless facilities is being considered as part of Telecom Notice of Consultation 2024-25.

10. The Commission notes that it received procedural requests from: Bragg Communications Incorporated, carrying on business as Eastlink; the Public Interest Advocacy Centre; Quebecor Media Inc.; and Rogers Communications Canada Inc. opposing Bell Canada's application. These procedural requests were not considered as part of this decision.

## **Conclusion**

11. In light of all of the above, the Commission **dismisses** Bell Canada's application to review and rescind or vary Telecom Notice of Consultation 2024-25.

Secretary General