



Telecom Decision CRTC 2007-114

Ottawa, 23 November 2007

TELUS Communications Company – Application for forbearance from the regulation of residential local exchange services

Reference: 8640-T66-200711532

In this Decision, the Commission approves TELUS Communications Company's request for forbearance from the regulation of residential local exchange services in 12 exchanges in Alberta and 23 exchanges in British Columbia.

Introduction

1. The Commission received an application by TELUS Communications Company (TCC), dated 15 August 2007 and amended on 21 August 2007, in which the company requested forbearance from the regulation of residential local exchange services¹ in 35 exchanges. These exchanges are located in Alberta and British Columbia and include exchanges in the priority census metropolitan areas (CMAs) of Calgary, Edmonton, and Vancouver. A list of the 35 exchanges is set out in Appendix 1 to this Decision.
2. The Commission received submissions and/or data regarding TCC's application from Bell Mobility Inc. (Bell Mobility); MTS Allstream Inc. (MTS Allstream); Rogers Communications Inc. (RCI), and Shaw Telecom Inc. (Shaw). The record of this proceeding closed with Shaw's response to a Commission interrogatory, dated 26 September 2007. The public record of this proceeding is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
3. The Commission has assessed TCC's application based on the local forbearance test set out in Telecom Decision 2006-15, as amended by the Governor in Council's *Order Varying Telecom Decision CRTC 2006-15*, P.C. 2007-532, 4 April 2007 (modified Telecom Decision 2006-15), by examining the following:
 - a) Product market
 - b) Competitor presence test
 - c) Competitor quality of service (Q of S) results
 - d) Communications plan

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

Commission's analysis and determinations

a) Product market

4. The Commission received no comments with respect to TCC's proposed list of residential local exchanges services.
5. The Commission notes that TCC is seeking forbearance from the regulation of the residential local exchange services set out in Appendix 2 to this Decision. The Commission notes that all of those services were included in the list of services set out in Telecom Decision 2005-35, except for 900 Blocking. The Commission considers that 900 Blocking falls within the definition of local exchange services set out in Telecom Public Notice 2005-2 and is therefore eligible for forbearance.
6. Accordingly, the Commission considers that the list of services proposed by TCC for forbearance is appropriate.

b) Competitor presence test

7. The Commission notes that TCC requested forbearance from the regulation of residential local exchanges in 35 exchanges in Alberta and British Columbia. These exchanges are listed in Appendix 1.
8. The Commission notes Shaw's statement that as of the date of TCC's application, it was not providing local services in the exchanges of Nanaimo, Wellington, Duncan, Cloverdale, and Westbank. The Commission, however, notes that Shaw confirmed during the course of this proceeding that it started offering services in these exchanges.
9. The Commission notes that in this proceeding, Shaw compared the number of homes passed to the number of TCC's working telephone numbers to establish whether it was capable of serving at least 75 percent of the number of residential local exchange service lines that TCC is capable of serving in the 35 exchanges. The Commission considers it is appropriate to use the number of homes passed as a proxy for the number of residential local exchange service lines that Shaw is capable of serving where the number of such lines is not available, but considers that it would be more appropriate to compare this number to the total number of homes the incumbent is capable of serving in an exchange in order to establish the percentage of the competitor's capability.
10. The Commission considers that information provided by parties confirms that there are, in addition to TCC, at least two independent facilities-based telecommunications service providers, including providers of mobile wireless services.² Each of these service providers offers local exchange services in the market and is capable of serving at least 75 percent of the number of residential local exchange lines that TCC is capable of serving, and at least one, in addition to TCC, is a facilities-based, fixed-line telecommunications service provider.
11. Accordingly, the Commission determines that the 35 exchanges listed in Appendix 1 meet the competitor presence test.

² These competitors include Bell Mobility, RCI, and Shaw.

c) Competitor Q of S results

12. The Commission notes that TCC submitted competitor Q of S results for the period of December 2006 to May 2007. The Commission also notes that MTS Allstream submitted that this period extended beyond the eight-month time limit established by modified Telecom Decision 2006-15 for filing competitor Q of S results. MTS Allstream was of the view that because TCC had filed its amended application on 21 August 2007, the company could not include competitor Q of S results dated before 21 December 2006. MTS Allstream noted that TCC had filed results that began three weeks earlier, on 1 December 2006.
13. The Commission notes that modified Telecom Decision 2006-15 states that the six-month period for competitor Q of S results cannot begin earlier than eight months before the date of the local forbearance application.
14. Given that TCC's application was filed on 15 August 2007 and amended on 21 August 2007, the Commission notes that a literal reading of modified Telecom Decision 2006-15 would indicate that the six-month period for the competitor Q of S results could not have begun before 15 or 21 December 2006. However, the Commission also notes that under the current regime, the ILECs are required to compile and report competitor Q of S results on a calendar month basis, which means that results cannot be broken down on a weekly or daily basis.
15. Accordingly, the Commission interprets the eight-month limit imposed in modified Telecom Decision 2006-15 to mean that the six-month period is not to begin earlier than eight reporting months before the date of application, which in the case of TCC includes the whole month of December.
16. In light of the above, the Commission considers that the competitor Q of S results filed by TCC for the period of December 2006 to May 2007 are valid for this application. The Commission notes that, as determined in Telecom Decision 2007-64, TCC's competitor Q of S results for the period of December 2006 to May 2007 meet the competitor Q of S criterion for local forbearance.

d) Communications plan

17. The Commission notes that in lieu of filing a communications plan, TCC submitted that the communications plan specific to the exchanges in Alberta and British Columbia will accord with the Commission's determinations in Telecom Decision 2007-64.
18. The Commission directs TCC to provide the communications materials, in accordance with the Commission's determination in Telecom Decision 2007-64, to its customers in both official languages, where appropriate.

Conclusion

19. The Commission determines that TCC's application meets all the local forbearance criteria set out in modified Telecom Decision 2006-15 for the exchanges listed in Appendix 1.

20. Pursuant to subsection 34(1) of the *Telecommunications Act* (the Act), the Commission finds as a question of fact that a determination to forbear, to the extent specified in modified Telecom Decision 2006-15, from the regulation of residential local exchange services listed in Appendix 2 and future services that fall within the definition of local exchange services set out in Telecom Public Notice 2005-2 as they pertain to residential customers only, in the exchanges listed in Appendix 1, would be consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.
21. Pursuant to subsection 34(2) of the Act, the Commission finds as a question of fact that these residential local exchange services are subject to a level of competition in these exchanges sufficient to protect the interests of users of these services.
22. Pursuant to subsection 34(3) of the Act, the Commission finds as a question of fact that to forbear, to the extent specified in modified Telecom Decision 2006-15, from regulating these residential local exchange services in these exchanges would be unlikely to impair unduly the continuance of a competitive market for these services.
23. In light of the above, the Commission **approves** TCC's application for forbearance from the regulation of the local exchange services listed in Appendix 2 and future services that fall within the definition of local exchange services set out in Telecom Public Notice 2005-2, as they pertain to the exchanges listed in Appendix 1 and to residential customers only, subject to the powers and duties that the Commission has retained as set out in modified Telecom Decision 2006-15. This determination takes effect as of the date of this Decision. The Commission directs TCC to file for Commission approval revised tariff pages within 30 days.

Secretary General

Related documents

- *TELUS Communications Company – Applications for forbearance from the regulation of residential local exchange services*, Telecom Decision CRTC 2007-64, 3 August 2007
- *Forbearance from the regulation of retail local exchange services*, Telecom Decision CRTC 2006-15, 6 April 2006, as amended by the Governor in Council's *Order Varying Telecom Decision CRTC 2006-15*, 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

This document is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>

TCC requested forbearance from the regulation of its residential local exchange services in the following 35 exchanges:

Alberta

Calgary CMA

Airdrie

Cochrane

High River

Okotoks

Edmonton CMA

Fort Saskatchewan

Sherwood Park

Spruce Grove

St. Albert

Exchanges outside of the priority CMAs

Lethbridge

Medicine Hat

Red Deer

Strathmore

British Columbia

Vancouver CMA

Cloverdale

Port Coquitlam

Port Moody

Exchanges outside of the priority CMAs

Abbotsford

Canmore

Chilliwack

Duncan

Kelowna

Lakeview Heights

Nanaimo

North Kamloops

Okanagan Falls

Exchanges outside of the priority CMAs (cont'd)

Okanagan Mission

Penticton

Rutland

Saanich

Sooke

South Kamloops

Summerland

Vernon

Wellington

Westbank

White Rock

List of services within the scope of the proceeding on forbearance from the regulation of local exchange services per Telecom Decision 2005-35

Alberta

Tariff	Item	List of services
18001	230	Voice Messaging Options Service
18001	235	Calling Features
18001	240	Extended Area Service
18001	305	Denial Service
18001	310	Toll Restriction Services
18001	380	Temporary Disconnect
18001	425	Exchange Service
21461	202	Individual Line Service
21461	209	Local Calling Area (LCA) Expansion
21461	300	Call Management Services
21461	307	Special Number Search
21461	311	Dual Line Call Manager
21461	314	Remote Call Forwarding
21461	316	900 Blocking

British Columbia

1005	25	Exchange Classification and Rates – General
1005	26	Business and Residence Services
1005	27	Base Rate Areas
1005	32	Exchange Rates
1005	122	Foreign Central Office Service – Voice
1005	157	Suspension of Service
1005	161	Call Guardian
1005	165	Call Intercept – Residence Numbers
1005	168-C	Voice Messaging Options Services
1005	405	Internet Call Director
1005	465-B	ISDN-BRI Home Service
21461	202	Individual Line Service
21461	209	Local Calling Area (LCA) Expansion
21461	300	Call Management Services – residential only
21461	307	Special Number Search
21461	311	Dual Line Call Manager
21461	314	Remote Call Forwarding
21461	316	900 Blocking