



Telecom Decision CRTC 2007-78

Ottawa, 31 August 2007

Implementation of local competition in TBayTel's serving territory – ExaTEL Inc. and Shaw Communications Inc.

Reference: 8663-T8-200617277 and 8663-T8-200706848

In this Decision, the Commission approves, with some modifications, TBayTel's implementation plan for local competition with ExaTEL Inc. and Shaw Communications Inc. The Commission approves TBayTel's local competition and local number portability start-up costs in the amount of \$3.3 million in non-recurring costs and \$977,000 per year in recurring costs and determines that these costs qualify for exogenous factor treatment.

Introduction

1. In Telecom Decision 2006-14, the Commission directed, among other things, each small incumbent local exchange carrier (SILEC) to file an implementation plan for local competition with the Commission within 30 days following a formal signed expression of interest from a local exchange carrier (LEC) or other carrier requesting to use competitor services within the SILEC's serving territory.
2. Following formal signed expressions of interest from ExaTEL Inc. (ExaTEL) and Shaw Communications Inc. (Shaw), TBayTel filed applications in which it proposed an implementation plan for local competition in its serving territory and a plan for the recovery of local competition and local number portability (LNP) implementation costs for these two competitors.
3. In its applications, TBayTel identified the services and network components that it planned to make available to competitive local exchange carriers (CLECs). TBayTel estimated that it would incur \$3.3 million in non-recurring costs and an average of approximately \$977,000 per year in recurring costs to implement local competition and LNP in its serving territory. TBayTel proposed that the Commission allow it to recover these costs from the National Contribution Fund (NCF). Alternatively, TBayTel proposed that these costs be recovered from CLECs requesting the service, over a period of three years, with the same process also carried forward to accommodate the entry of new competitors. TBayTel indicated that, under this approach, these costs would be apportioned to the various competitors based on their percentage of the total number of access lines served during the previous year.

4. The Commission received submissions, comments and/or responses to interrogatories¹ from Bell Aliant Regional Communications, Limited Partnership and Bell Canada (collectively, Bell Canada et al.); Shaw; TBayTel; and TELUS Communications Company (TCC). The record of this proceeding closed on 12 June 2007 with TBayTel's revised response to a Commission interrogatory.

The Policy Direction

5. The Governor in Council's *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006 (the Policy Direction) applies to the disposition of TBayTel's applications. In the Commission's view, the directives of the Policy Direction that are pertinent to the applications are as follows:
 - 1(a)...the Commission should (i) rely on market forces to the maximum extent feasible as the means of achieving the telecommunications policy objectives; and (ii) when relying on regulation, use measures that are efficient and proportionate to their purpose and that interfere with the operation of competitive market forces to the minimum extent necessary to meet the policy objectives.
 - 1(b) the Commission, when relying on regulation, should use measures that satisfy the following criteria, namely, those that (i) specify the telecommunications policy objective that is advanced by those measures and demonstrate their compliance with this Order; (ii) if they are of an economic nature, neither deter economically efficient competitive entry into the market nor promote economically inefficient entry; ... (iv) if they relate to network interconnection arrangements or regimes for access to networks, buildings, in-building wiring or support structures, ensure the technological and competitive neutrality of those arrangements or regimes, to the greatest extent possible, to enable competition from new technologies and not to artificially favour either Canadian carriers or resellers.
6. With reference to subparagraph 1(a)(i) of the Policy Direction, the Commission considers that in territories such as TBayTel's, where facilities-based local competition has yet to be implemented, market forces cannot be relied upon to ensure the achievement of the telecommunications policy objectives outlined below.
7. The Commission is of the view that its determinations regarding the implementation of local competition in TBayTel's territory will advance the following policy objectives in section 7 of the *Telecommunications Act* (the Act):

¹ By Commission letter dated 16 February 2007, TBayTel was asked to provide responses to a number of Commission interrogatories. Interested parties were given the opportunity to provide comments on the company's responses, and TBayTel was allowed to file reply comments. In that same letter, the Commission noted that the Governor in Council had recently issued *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006 (the Policy Direction). Noting that the Policy Direction applied to TBayTel's application, the Commission reminded parties to this proceeding that they might want to address the Policy Direction at the same time as they filed their comments.

7(b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada;

7(f) to foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective; and

7(h) to respond to the economic and social requirements of users of telecommunications services.

Issues

8. The Commission considers that the parties' submissions in this proceeding raise the following issues:

- I. Services and network components for competitors
- II. Local competition and LNP costs
- III. Cost recovery mechanism

I. Services and network components for competitors

9. In Telecom Decision 2006-14, the Commission determined that a SILEC would be required to make available tariffs for competitor services in response to a request for those services from a LEC or other carrier. The Commission further considered that a SILEC's implementation plan to make those tariffs available for competitors should be guided by the following principles:
- the interconnection framework that exists in the large incumbent local exchange carriers' (ILECs) territories should apply in the SILECs' territories;
 - when a SILEC receives a request from a LEC to make available unbundled network elements, such as local loops, those competitor services should be implemented in a manner similar to that of the large ILECs; and
 - a SILEC, if requested, should make co-location space available to another competitor or a digital subscriber line (DSL) service provider, where space is available, under similar terms and conditions as those established for co-location services for the large ILECs.

10. In Telecom Decision 2006-14, the SILECs' services were grouped into four separate baskets,² each with its own pricing constraints. Competitor services were assigned to the fourth price cap basket and the price for a service in that basket was allowed to increase up to any rate approved by the Commission for the same service offered by another ILEC. The Commission also determined that a SILEC tariff application which proposed rate increases over and above an approved ILEC rate had to be accompanied by an economic (Phase II) study.
11. The Commission considers that TBayTel's applications give rise to the following five sub-issues with respect to services and network components for competitors:
 - a) Tariff filings
 - b) Third-party type agreements
 - c) Local Interconnection Region(s) (LIR(s))
 - d) Quality of service indicators
 - e) Other non-cost related issues

a) Tariff filings

12. TBayTel indicated that it would develop the necessary tariffs to meet competitors' service requirements for local competition to comply with Telecom Decision 2006-14. TBayTel noted that this development would take place with reliance on the terms, conditions, and rates as approved by the Commission for similar services for other companies with any divergences from industry norms identified. TBayTel noted that this approach would apply both to existing tariffs requiring review as well as new tariffs, and anticipated that it would be able to file all necessary tariffs within 90 days from the date that the implementation plan was approved by the Commission.
13. Bell Canada et al. submitted that they did not agree with the 90 days proposed by TBayTel as all of the network components and services TBayTel was required to make available to competitors had been available from the large ILECs for many years. They submitted that, at most, TBayTel should be required to file tariffs for competitor services, including Competitor Digital Network services, within 45 days from the date that TBayTel's implementation plan was approved by the Commission, and for co-location tariffs, within 30 days from the date that such a request was received from a competitor.

Commission's analysis and determinations

14. The Commission considers that TBayTel's commitment to rely on approved terms, conditions, and rates for other companies and to identify any divergences from industry norms identified is generally consistent with the Commission's determinations in Telecom Decision 2006-14. The Commission, however, reminds TBayTel that any proposed rate for a competitor service that is above an approved ILEC rate must be accompanied by an economic study.

² See paragraphs 39 to 42 of Telecom Decision 2006-14 for a description of the four price cap baskets for the SILECs' local exchange services.

15. The Commission notes that TBayTel may adopt the terms and conditions of service, as well as the rates, for competitor services approved for other ILECs, without having to provide an economic study demonstrating that the proposed rates meet the imputation test. Furthermore, TBayTel has been aware of ExaTEL's and Shaw's requirements for a number of months and, other than the timing, there have been no disagreements on the record as to the tariffs required. The Commission therefore considers that it is not necessary to provide TBayTel with a lengthy delay to file these tariff applications. Accordingly, the Commission directs TBayTel to file all the required tariffs within 30 days of the date of this Decision.

b) Third-party type agreements

16. TBayTel submitted that as it offered Bell Canada's Relay Service to its customers in partnership with Bell Canada, the CLECs would have to make the necessary arrangements with Bell Canada or with another service provider to access this service.
17. Shaw indicated that as certain services, such as Bell Canada Relay Service and common channel signalling 7 (CCS7), would have to be purchased from third parties, TBayTel should assist CLECs in obtaining these services, and, where necessary, assist CLECs in their negotiations with such parties.

Commission's analysis and determinations

18. The Commission notes that obtaining services from third-party service providers will require agreements between the CLECs and the third-party service providers. Therefore, CLECs such as ExaTEL and Shaw may need to negotiate with the third-party service providers such as Bell Canada. At the same time, the Commission notes that third-party service providers within the company's territory would be known to TBayTel. The Commission considers that TBayTel's assistance to CLECs in obtaining these services would accelerate the implementation of local competition in TBayTel's territory. Accordingly, TBayTel is directed to provide information and assistance in the negotiation process, as required, in order that the implementation of local competition occurs as quickly as possible.

c) Local Interconnection Region(s)

19. TBayTel indicated that it had yet to complete its review of Telecom Decisions 2004-46 and 2006-35, to determine the impact of these Decisions on the company. TBayTel elaborated that the completion of its review of these Decisions was necessary prior to the company being in a position to agree or disagree with the Commission that an LIR would provide more efficiency and lower the costs of interconnection, or that the termination of traffic that was both interchanged and terminated within the LIR would be subject to the bill-and-keep mechanism and, where appropriate, mutual compensation. The company noted, however, that it did agree that extended area service (EAS) transport and termination, toll originating, 9-1-1, and Bell Canada's Relay Service traffic would remain on separate trunks.
20. TBayTel submitted that, if deemed appropriate, it would create an LIR in the Vickers exchange, with the appropriate filing made upon approval of its implementation plan for local competition in TBayTel's territory.

21. Shaw indicated that TBayTel's implementation plan did not confirm whether the Vickers exchange was the sole exchange in its territory and whether interconnection at that exchange would enable a CLEC to serve all communities and residents presently served by TBayTel.
22. Bell Canada et al. submitted that the Commission did not exempt TBayTel from the applicability of the framework set out in Telecom Decisions 2004-46 and 2006-35 regarding LIRs and requested that TBayTel follow the Commission's directives in these Decisions.

Commission's analysis and determinations

23. The Commission notes that it set out the rules applicable to the large ILECs for defining LIRs in Telecom Decisions 2004-46 and 2006-35. In Telecom Decision 2004-46, the Commission did not require the SILECs to implement LIRs as local competition had not yet been permitted in the territories of the SILECs. However, in Telecom Decision 2006-14, the Commission permitted local competition in the SILECs' territories and indicated that the interconnection framework that existed in the large ILECs' territories should also apply to the SILECs' territories. Accordingly, TBayTel is to comply with the above-noted Decisions and is directed to indicate to the Commission the designation of the LIR(s) in its serving territory within 30 days of the issuance of this Decision.

d) Quality of service indicators

24. TBayTel was of the view that a complaint-based system would provide the Commission with enough assurance that all competitors would be treated fairly by the company. In this regard, the company submitted that this type of system was better suited to the size of TBayTel's operations than a system based on monthly indicators and standards, and a rate rebate plan for competitors.

Commission's analysis and determinations

25. The Commission notes that, as a follow-up to Telecom Decision 2006-14, it initiated a show-cause proceeding to determine whether the competitor quality of service regime set out for the large ILECs in Telecom Decision 2005-20 should apply to the SILECs. The Commission has yet to issue its decision in that proceeding. Accordingly, the Commission considers that TBayTel's proposal to use a complaint-based system is appropriate, as an interim measure, until the Commission issues its decision with respect to that issue in the above-noted show-cause proceeding.

e) Other non-cost related issues

Commission's analysis and determinations

26. The Commission notes that the guiding principle set out in Telecom Decision 2006-14 is that the interconnection framework that is in place in the large ILECs' territories should apply in the SILECs' territories. Accordingly, in implementing all aspects of local competition in its serving territory, including but not limited to technical and network interconnection, the Commission directs TBayTel to abide by the industry consensus items outlined in the various

CRTC Interconnection Steering Committee (CISC) documents related to interconnection, as well as the existing rules outlined in the various public notices, decisions, orders, and letters issued by the Commission pertaining to local competition.

27. Commission staff will be available to assist the parties in resolving any technical and other issues that may arise in implementing local competition in the SILECs' territories as soon as possible. The Commission encourages the parties to seek Commission staff's assistance in resolving these issues.

II. Local competition and LNP costs

28. In paragraph 160 of Telecom Decision 2006-14, the Commission indicated that the implementation plan for local competition should include, among other things, the start-up costs including LNP.

Positions of parties

29. TBayTel provided estimates of the start-up and ongoing costs it would incur to meet the requests of both ExaTEL and Shaw for the implementation of local competition in its territory. In support of its application, the company provided an economic study.
30. TBayTel indicated that its start-up costs would be associated with the following components: LNP software, core and network security, updating of information systems and procedures, network and business operations, and other costs. The company provided detailed costing information in support of each of these components. Over the five-year study period, TBayTel estimated that it would spend \$3.3 million in non-recurring costs, and an average of approximately \$977,000 per year in recurring costs to implement local competition and LNP in its serving territory.
31. Shaw submitted that it was concerned with the large amount that TBayTel had apportioned to LNP implementation non-recurring and recurring costs, which TBayTel indicated would be a direct result of CLEC entry into TBayTel's market. Shaw was of the view that TBayTel's LNP implementation costs were not wholly attributable to CLEC entry as LNP software had already been installed in TBayTel's switches as a result of the Commission's directive to implement wireless LNP. Shaw maintained that TBayTel had notified the Commission and the industry that LNP would be enabled in TBayTel's wireline serving area on 1 February 2007, well in advance of the date that TBayTel estimated local competition would be introduced in its serving territory.
32. In response to a Commission interrogatory, TBayTel confirmed that no wireless-to-wireless LNP costs or wireline-to-wireless LNP implementation costs were included in the LNP costs shown in its cost recovery plan.

Commission's analysis and determinations

33. The Commission has carefully reviewed TBayTel's estimated local competition and LNP start-up and ongoing costs. The Commission is satisfied that they do not include any costs attributable to wireless LNP as Shaw had surmised. The Commission further considers that

these cost estimates are acceptable in that they reflect the costs TBayTel estimated it would incur for the implementation of local competition in its serving territory. Accordingly, the Commission **approves** TBayTel's estimates of \$3.3 million in non-recurring costs and \$977,000 in annual recurring costs for the implementation of local competition and LNP. The Commission further considers that TBayTel should be allowed to recover its non-recurring costs over a period of five years.

III. Cost recovery mechanism

34. In Telecom Decision 2006-14, the Commission directed each SILEC to include in its implementation plan for local competition a proposal as to how the SILEC would recover the costs to implement local competition, including LNP if appropriate.

Positions of parties

35. TBayTel submitted that the Commission, in Telecom Decision 2006-14, had recognized the differences between the large ILECs and the SILECs in the deployment of local competition in their respective territories.
36. TBayTel submitted that the pressure to keep its rates low and the absence of a deferral account to draw from in order to offset the costs associated with providing potential competitors with local access network interconnection greatly limited the options it had available for cost recovery.
37. TBayTel indicated that its preference would be for the SILECs to be able to recover their start-up and ongoing costs for the implementation of local competition in their territories through a mechanism that would draw from the NCF. TBayTel noted that its proposal was similar to NorthernTel, Limited Partnership's (NorthernTel) initial proposal for the recovery of its start-up and ongoing costs for the implementation of local competition in its serving territory, which was also being considered by the Commission.
38. As an alternative, TBayTel proposed that it be able to recover its start-up and ongoing costs for the implementation of local competition in its territory from those CLECs that would directly benefit from it. TBayTel suggested that this could be implemented through a one-time charge for each network access service (NAS) moving to that CLEC. The company indicated that recovery could be over three years with the same process also carried forward to accommodate the entry of new competitors. TBayTel added that, under this proposal, the non-recurring and recurring costs would be apportioned to the various competitors based on their percentage of the total number of access lines served the previous year.
39. Bell Canada et al. submitted that TBayTel's proposal to recover its start-up costs from the NCF could not be supported by any valid reason. Bell Canada stated that, under that proposal, end-customers all across Canada would ultimately end up paying for TBayTel's costs in bringing local competition to TBayTel's serving territory. Bell Canada et al. submitted that TBayTel's alternate proposal would place the CLECs at a competitive disadvantage relative to TBayTel, since CLECs would have to pay for their own local competition implementation costs, as well TBayTel's costs. Bell Canada et al. were of the view that TBayTel and its end-customers would benefit from the implementation of local competition.

40. Bell Canada et al. argued that neither of TBayTel's proposals was consistent with the Commission's findings in Telecom Order 97-591, where it determined that each carrier would be responsible for the recovery of its own costs associated with the implementation of LNP. Bell Canada et al. also argued that TBayTel's proposal was not consistent with Telecom Order 99-239, where the Commission considered that to recover ILEC costs through higher rates for competitor services would be contrary to the Commission's previous rulings.
41. Bell Canada et al. indicated that TBayTel's proposal to recover its costs from its competitors would become impractical to implement as competitors would not necessarily enter the marketplace at the same time. Bell Canada et al. submitted that the implementation of this proposal would either result in an inequitable imposition of costs on some CLECs, or would require the establishment of an unmanageable, burdensome, and extremely costly process for the recovery of TBayTel's costs.
42. Bell Canada et al. noted that, in Telecom Order 99-239, the Commission had considered it appropriate to permit the large ILECs to recover their start-up costs through the use of an exogenous factor. Bell Canada et al. suggested that a similar approach would be appropriate for TBayTel.
43. TCC submitted that, in both Telecom Order 99-239 and Telecom Decision 2007-11, the Commission agreed that local competition and LNP start-up costs should be recovered through an exogenous adjustment. TCC noted that even though in the latter case the Commission permitted recovery from TCC's deferral account, this did not diminish the long-standing policy that the ILEC subscribers in the territory in question ought to fund such costs, as they were the ultimate beneficiaries of such market-opening activities. TCC indicated that its subscribers, as well as the company, would be negatively affected if TBayTel's proposal to recover its start-up costs from the NCF was approved by the Commission.
44. TCC argued that the Commission had been consistent in its view that local competition and LNP start-up and ongoing costs ought to be recovered by way of an exogenous adjustment, and that TBayTel had not put forward an argument that would justify a departure from this established policy.
45. Shaw supported TBayTel's proposal to use funds from the NCF to recover the costs of implementing local competition within the company's serving territory. Shaw opposed requiring the CLECs to pay for entry on the basis that it would be inconsistent with Order 2001-761, serve to deter competition, and allow TBayTel's monopoly to persist.

Commission's analysis and determinations

46. The Commission notes that the issue to be addressed in this section is whether TBayTel should be allowed to recover its start-up costs, in whole or in part, from the NCF or its competitors, as proposed by TBayTel, or whether the Commission's established principle that the carrier should be responsible for the recovery of its own start-up costs, by way of an exogenous factor, is appropriate in the case of TBayTel.

47. The Commission notes that in Telecom Order 97-591 it established the principle that each carrier would be responsible for the recovery of its own costs associated with the implementation of LNP. The Commission determined that competitors should not pay for the recovery of the LNP implementation costs of the incumbent telephone company. In Telecom Decision 97-8, the Commission established the same principle with regard to the costs of the large ILECs associated with the implementation of local competition. In subsequent decisions on the same issue, the Commission has consistently reached the same conclusions.³
48. The Commission notes TBayTel's proposal that, notwithstanding past Commission determinations, it be permitted to recover its start-up costs from the NCF or from its competitors. In support of its position, TBayTel argued that its competitors would benefit from local competition and that its available options for cost recovery were limited because of the pressure to keep rates low and the absence of a deferral account to draw from.
49. With respect to TBayTel's proposal that its costs be recovered from the NCF, the Commission notes that in Telecom Decision 2005-76, the NCF was established to subsidize basic local service in high-cost serving areas (HCSAs), and not to subsidize the implementation of competition.⁴
50. Furthermore, the Commission is of the view that requiring competitors to recover not only their own start-up costs but also to subsidize those of TBayTel would deter economically efficient competitive entry into TBayTel's serving territory. With particular reference to subparagraph 1(b)(iv) of the Policy Direction, the Commission considers that requiring the competitors to subsidize TBayTel's start-up costs would not be competitively neutral.
51. Accordingly, the Commission finds that recovery of TBayTel's start-up costs from the NCF or from its competitors would not be appropriate.
52. The Commission notes that in Telecom Order 99-239, the Commission considered it appropriate to permit the large ILECs to recover their local competition and LNP start-up and ongoing costs through the use of an exogenous factor. The Commission also adopted this approach in Telecom Decisions 2005-76 and 2007-11 when making its determinations regarding the recovery of local competition and LNP start-up and ongoing costs incurred by Télébec, Limited Partnership and by TCC in its serving territory in Quebec.
53. With respect to TBayTel's submission that it needs to keep its rates low, the Commission notes that an exogenous adjustment would give the company the flexibility to recover its costs for implementing local competition and LNP. The Commission further considers that, even if TBayTel opted for fully recovering these costs from its subscribers, the rate increases would not be excessive and would leave TBayTel's rates lower than those of most of the other SILECs and of the large ILECs in HCSAs.

³ For example, in Telecom Decisions 2005-76 and 2007-11, the Commission found that certain large ILECs' start-up and ongoing costs for implementing local competition and LNP qualified for exogenous treatment and that these costs could be recovered from draw-downs from their deferral accounts.

⁴ For this reason, the Commission, in Telecom Decision 2005-76, denied Société en commandite Télébec's (now known as Télébec, Limited Partnership) proposal to recover from the NCF local competition costs allocated to residential subscribers in HCSAs.

54. The Commission recognizes that unlike most of the large ILECs, TBayTel does not have a deferral account. The Commission considers, however, that TBayTel could recover its costs for implementing local competition and LNP by way of an exogenous adjustment.
55. In Telecom Decision 2006-14, the Commission determined that it would continue to use the methodology established in Decision 2001-756 to determine whether an event was exogenous. In Decision 2001-756, the Commission determined that an exogenous factor adjustment would be considered for events that satisfied the following criteria:
- a) they were legislative, judicial, or administrative actions that were beyond the control of the company;
 - b) they were addressed specifically to the telecommunications industry; and
 - c) they had a material impact as measured against the total company.
56. The Commission considers that its directives to the SILECs in Telecom Decision 2006-14 regarding the establishment of local competition and LNP clearly meet the first two criteria for exogenous events since they were administrative actions beyond the control of the company and were specifically addressed to the telecommunications industry. The Commission further considers that the third criterion is also met in that the impact of these directives on TBayTel, estimated at \$3.3 million in non-recurring costs and an average of \$977,000 per year in recurring costs, will have a material impact in relation to the total company. These directives therefore meet the three criteria for an exogenous event.
57. With reference to subparagraph 1(a)(ii) of the Policy Direction, the Commission considers that the approval of an implementation plan that allows TBayTel to recover its start-up and ongoing costs from its customers through an exogenous adjustment to its rates would not result in excessive rate increases or rates and, accordingly, would interfere with the operation of market forces to the minimum extent necessary to meet the policy objectives of the Act outlined above.
58. The Commission also considers that approving an implementation plan for local competition that permits TBayTel to recover its start-up and ongoing costs from its customers would not promote economically inefficient competitive entry into TBayTel's serving territory, as the potential rate increases and resulting rates, as noted above, would not be excessive.
59. In light of the above, the Commission determines that an exogenous factor would be an appropriate mechanism to allow TBayTel to recover its costs for implementing local competition and LNP. By ensuring that each telecommunications service provider is responsible for recovering its own costs, the Commission considers that it is not artificially favouring Canadian carriers or resellers.
60. The Commission further determines that TBayTel's costs for implementing local competition and LNP are not to be allocated only to single-line local residential and single-line local business customers. The Commission notes that subscribers to other residential and business services, including those in the fourth price cap basket such as Centrex service, would also benefit from the introduction of local competition. Accordingly, the Commission determines

that when allocating these costs to residential and business services, a portion is to be allocated to other residential and business services, in the First, Second, and Fourth Price Cap baskets. However, the Commission determines that an exogenous adjustment is not to be applied to services in the Third Price Cap basket, which contains services that address social obligation issues. Further, the Commission determines that, similar to the methodology approved in Telecom Order 99-239, these costs should be allocated on the basis of NAS, where business NAS are weighted by a factor of 1.5.

61. Should TBayTel file an application proposing rate increases to recover some or all of its start-up and ongoing costs for the implementation of local competition and LNP, the company would have to demonstrate compliance with the determinations above at that time.

Compliance with the Policy Direction

62. In light of the above, the Commission considers that its approval of TBayTel's implementation plan for local competition and LNP with Shaw and ExaTEL, as modified above, is consistent with the Policy Direction.

Conclusions

63. In this Decision,
 1. The Commission **approves** TBayTel's implementation plan in regard to the services and network components related to competitors, with the following modifications:
 - a) TBayTel is to file all the required tariffs by **1 October 2007**.
 - b) TBayTel is to provide information and assistance to the CLECs in the negotiation process, as required, in order to allow the implementation of local competition as quickly as possible.
 - c) With respect to LIR(s), TBayTel is to comply with Telecom Decisions 2004-46 and 2006-35 and is directed to indicate to the Commission the designation of the LIR(s) in its serving territory by **1 October 2007**.
 - d) With respect to quality of service, TBayTel's proposal to use a complaint-based system is appropriate, as an interim measure.
 - e) In implementing all aspects of local competition in its serving territory, including but not limited to technical and network interconnection, TBayTel is to abide by the industry consensus items outlined in the various CISC documents related to interconnection, as well as the existing rules as outlined in the various public notices, decisions, orders, and letters issued by the Commission pertaining to local competition.

2. The Commission **approves** the following for TBayTel:
 - an exogenous factor of \$818,000 per year⁵ for the recovery of non-recurring costs over a period of five years; and
 - an exogenous factor of \$977,000 for the recovery of recurring costs each year.
3. The Commission finds that TBayTel is responsible for its own costs and notes that TBayTel may file a proposal for an exogenous factor adjustment and a tariff application with a view to recovering those costs. When allocating these costs to residential and business services, TBayTel is directed to abide by the Commission's determinations set out in paragraph 60 above.

Secretary General

Related documents

- *Follow-up to Decision 2002-43 – TELUS Communications Company's request to recover the start-up costs for local competition and local number portability within its incumbent serving territory in Quebec*, Telecom Decision CRTC 2007-11, 19 February 2007
- *Follow-up to Trunking arrangements for the interchange of traffic and the point of interconnection between local exchange carriers*, *Telecom Decision CRTC 2004-46*, Telecom Decision CRTC 2006-35, 29 May 2006
- *Revised regulatory framework for the small incumbent local exchange carriers*, Telecom Decision CRTC 2006-14, 29 March 2006
- *Follow-up to Decision 2002-43 – Société en commandite Télébec's request to recover the start-up costs for local competition and local number portability*, Telecom Decision CRTC 2005-76, 22 December 2005
- *Finalization of quality of service rate rebate plan for competitors*, Telecom Decision CRTC 2005-20, 31 March 2005
- *Trunking arrangements for the interchange of traffic and the point of interconnection between local exchange carriers*, Telecom Decision CRTC 2004-46, 14 July 2004
- *Regulatory framework for the small incumbent telephone companies*, Decision CRTC 2001-756, 14 December 2001

⁵ This amount represents TBayTel's non-recurring costs of \$3.3 million annualized over a period of five years.

- *Commission approves terms and conditions for local exchange and local payphone competition in the territories of TELUS Communications (Québec) Inc. and Télébec ltée*, Order CRTC 2001-761, 3 October 2001
- *Local competition start-up costs proceeding, Telecom Public Notice CRTC 98-10*, Telecom Order CRTC 99-239, 12 March 1999
- *Local competition*, Telecom Decision CRTC 97-8, 1 May 1997
- *Responsibility for Carrier Specific Costs for the Provision of Local Number Portability*, Telecom Order CRTC 97-591, 1 May 1997

Secretary General

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>