



Telecom Decision CRTC 2007-96

Ottawa, 3 October 2007

Télébec, Limited Partnership – Application for forbearance from the regulation of business local exchange services

Reference: 8640-T78-200708266 and 8640-C12-200706351

In this Decision, the Commission approves Télébec, Limited Partnership's (Télébec) request for forbearance from the regulation of business local exchange services in one exchange in Quebec. The Commission denies Télébec's request for forbearance in five exchanges in Quebec.

Introduction

1. The Commission received an application by Télébec, Limited Partnership (Télébec), dated 25 May 2007, in which the company requested forbearance from the regulation of business local exchange services¹ in six exchanges in Quebec.
2. The Commission received submissions and/or data regarding Télébec's application and/or local forbearance applications in general from Access Communications Co-operative Limited; Amtelecom Cable Limited Partnership; Bell Aliant Regional Communications, Limited Partnership; Bell Canada; Bell Mobility Inc.; Bragg Communications Inc., carrying on business as EastLink; Bruce Telecom; Canadian Cable Systems Alliance Inc.; Cogeco Cable Inc.; Execulink Telecom Inc.; Globility Communications Corporation; Maskatel inc. (Maskatel); Mountain Cablevision Ltd.; MTS Allstream Inc. (MTS Allstream); Primus Telecommunications Canada Inc.; the Public Interest Advocacy Centre on behalf of the Consumers' Association of Canada and the National Anti-Poverty Organization; Quebecor Media Inc. on behalf of Videotron Ltd. (Videotron); Rogers Communications Inc.; Saskatchewan Telecommunications; Shaw Communications Inc.; 9164-3122 Québec inc., doing business as Sogetel Numérique; Télébec; Téléphone Drummond inc.; TELUS Communications Company; Wightman Telecom Ltd; and WTC Communications.
3. The record of this proceeding closed with comments from Télébec, dated 10 August 2007.
4. The Commission has assessed Télébec'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

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.

- c) Competitor quality of service (Q of S) results
 - d) Communications plan
5. The Commission notes that it has already addressed an additional issue raised by Télébec in its applications, namely limitation of liability provisions, in Telecom Decision 2007-91.

Commission's analysis and determinations

a) Product market

6. Télébec requested forbearance from the regulation of 31 tariffed business local exchange services.
7. MTS Allstream raised objections to the inclusion of Centrex services in the relevant product market.
8. The Commission notes that while all the services for which Télébec sought forbearance were included in the list of services set out in Telecom Decision 2005-35, two of them are Centrex services. In this regard, the Commission notes that it issued Telecom Public Notice 2007-14 to address the issue of Centrex services in relation to applications for forbearance from the regulation of business local exchange services. Accordingly, the Commission will not consider Télébec's application regarding the two Centrex services listed in Appendix 2 to this Decision.
9. In addition, the Commission notes that one service, namely RAFA Plan – Expanded Local Calling Area for the "Lac-à-Foin" region (General Tariff item 1.4), is offered in a single exchange that is not covered by this application. Accordingly, that service is excluded from the relevant product market considered in this Decision.
10. Accordingly, the list of approved services is set out in Appendix 1 to this Decision.

b) Competitor presence test

11. The Commission notes that Maskatel submitted that it was not capable of serving at least 75 percent of the number of business local exchange service lines that Télébec is capable of serving in the Saint-Thomas-d'Aquin exchange. The Commission notes, however, that Maskatel did not provide information on its network's capability to serve business local exchange customers in that exchange.
12. The Commission considers that it would be unreasonable to deny forbearance for this exchange strictly on the basis that the competitor did not provide the required information relative to its presence in the exchange. In the Commission's experience, a competitor does not win every customer it is capable of serving. The Commission considers that it is reasonable to infer that a competitor is capable of serving a much larger percentage of the market than it currently serves. In the Commission's view, a competitor can be reasonably expected to be capable of serving at least three times the number of customers that it currently serves. In this case, the Commission notes that Maskatel has a significant share of the business local exchange service market in the Saint-Thomas-d'Aquin exchange.

13. The Commission considers that, based on the evidence filed in this proceeding, it is reasonable to conclude that Maskatel is capable of serving at least 75 percent of the number of business local exchange service lines that Télébec is capable of serving in the Saint-Thomas-d'Aquin exchange. Accordingly, the Commission determines that this exchange meets the competitor presence test.
14. The Commission notes that Videotron submitted, with supporting evidence, that it was not capable of serving at least 75 percent of the number of business local exchange service lines that Télébec is capable of serving in the exchanges of Château-Richer, Contrecoeur, Mont-Laurier, Saint-Ours, and Sainte-Victoire.
15. The Commission also notes that Télébec did not concur with Videotron's submission. Télébec submitted that businesses are mostly located in the core of the municipalities and, hence, of the exchanges where the population and cable networks are concentrated. In Télébec's view, Videotron could likely serve most business customers in these exchanges.
16. The Commission notes that cable networks' serving areas are not necessarily in areas where the businesses are located; for example, cable networks do not typically serve business parks. Therefore, the Commission considers that it is inappropriate to assume that a cable company can serve most business customers in an exchange.
17. Accordingly, the Commission determines that the Château-Richer, Contrecoeur, Mont-Laurier, Saint-Ours, and Sainte-Victoire exchanges do not meet the competitor presence test as there is no other fixed-line telecommunications service provider capable of serving at least 75 percent of the number of business local exchange service lines that Télébec is capable of serving in those exchanges.

c) Competitor Q of S results

18. In Telecom Decision 2007-91, the Commission determined that Télébec's competitor Q of S results met the competitor Q of S criterion.

d) Communications plan

19. The Commission notes that modified Telecom Decision 2006-15 states that an incumbent local exchange carrier's (ILEC) communications plan should describe how the ILEC intends to explain local forbearance to customers in the relevant market, provide information concerning the ongoing availability of stand-alone primary exchange service in the market, and provide contact information for customers who have questions or concerns.
20. The Commission has reviewed Télébec's draft communications plan and is satisfied that it generally meets the information requirements set out in modified Telecom Decision 2006-15. However, the Commission considers that the company should make the following changes to the plan (*italics represent revisions to be made*):

- i) Revise the third item of the section Objectives as follows:

Advise customers that as of (date), the price and most terms for local telephone services in their area are no longer regulated by the CRTC, but rather by Télébec's unregulated terms of service which set out the basic rights, obligations and limitations of the Company and its customers.

- ii) Provide mailing addresses for each organization listed in the communications plan.
- iii) Add the following information to the contact list, after Télébec's contact information and before the Commission's contact information:

Commissioner for Complaints for Telecommunications Services (CCTS)

Website

www.ccts-cprst.ca

Email

General inquiries: info@ccts-cprst.ca

Complaints: complaints@ccts-cprst.ca

Telephone

Toll-free: 1-888-221-1687

Ottawa area: 613-244-9585

Toll-free fax: 1-877-782-2924

Postal address

P.O. Box 81088, Ottawa, ON K1P 1B1

Conclusion

21. The Commission determines that for the Saint-Thomas-d'Aquin exchange, Télébec's application meets all the local forbearance criteria set out in modified Telecom Decision 2006-15.
22. 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 business local exchange services listed in Appendix 1 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 Saint-Thomas-d'Aquin exchange, would be consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.
23. 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.

24. Pursuant to subsection 34(3) of 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 regulating these business local exchange services in this exchange would be unlikely to impair unduly the continuance of a competitive market for these services.
25. In light of the above, the Commission **approves** Télébec's application for forbearance from the regulation of the local exchange services listed in Appendix 1 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 Saint-Thomas-d'Aquin exchange, 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 Télébec to file for Commission approval revised tariff pages within 30 days.
26. The Commission determines that Télébec's application does not meet all the local forbearance criteria set out in modified Telecom Decision 2006-15 for the remaining five exchanges. Accordingly, the Commission **denies** Télébec's application for forbearance in the Château-Richer, Contrecoeur, Mont-Laurier, Saint-Ours, and Sainte-Victoire exchanges.

Secretary General

Related documents

- *Télébec, Limited Partnership – Application for forbearance from the regulation of residential local exchange services*, Telecom Decision CRTC 2007-91, 27 September 2007
- *Examination of the relevant market for Centrex and Enhanced Exchange Wide Dial services for the purpose of forbearance from regulation of local exchange services*, Telecom Public Notice CRTC 2007-14, 17 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>

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

Tariff	Item	List of services
25140	2.15	Service to Immobilized Ships, Trailers and Trains
25140	2.5	Telephones available only for two-party line or multi-party access service
25140	3.1	Intra-Exchange Distance Charges
25140	8.4	Internet Call Display
25140	2.1.7.1	Basic Service and Regional Service – Monthly rates for basic services and other fees
25140	2.1.7.4	Basic Service and Regional Service – Rate Adjustment for Multi-Party Access Line Customers
25140	2.1.8	Basic services provided outside the Company's serving area
25140	2.23.2	Telephone Number Reservation Service
25140	2.27.6	Extra Listings
25140	2.3.4	Individual Line and Two-Party Access Line Provided Outside the Base Rate Area – Distance Charges
25140	3.3.17	Toll Restriction Service
25140	3.3.18	Smart Touch Services
25140	3.3.19	Call Display Blocking – Per Line
25140	3.3.19	Call Display Blocking – Per Call
25140	5.2.6.5	Call Blocking Service – 900 Service
25140	8.7.3	Integrated Services Digital Network (ISDN) 2B + D Télébec
25140	2.10	Temporary Business Service
25140	2.6	Direct Inward Dialing
25140	8.11	Boreal Service
25140	8.13	Digital Exchange Service
25140	8.8	ISDN 23B + D Télébec – Basic Option
25140	8.9	ISDN 23B + D Télébec – Premium Option
25140	2.1.11	Telephone Service for Senior Citizens' Club
25140	2.1.7.5	Specialized Business Service – Key Systems Access Line
25140	2.1.7.5	Specialized Business Service – PBX Access Line
25140	2.1.7.5	Specialized Business Service – Touch-Tone Dialing
25140	2.27.7	Omission of Directory Listings (Business)
25140	3.3.20	Integrated Vocal Messaging Service

Télébec requested forbearance for the following Centrex services:

Tariff	Item	List of services
25140	2.8	Télébec Centrex Service
25140	2.1.7.6	Télébec's Centrex Access Lines