



Telecom Decision CRTC 2008-94

Ottawa, 29 September 2008

Saskatchewan Telecommunications – Application for forbearance from the regulation of business local exchange services

Reference: 8640-S22-200810384

In this Decision, the Commission approves SaskTel's request for forbearance from the regulation of business local exchange services in the exchange of Saskatoon, Saskatchewan.

Introduction

1. The Commission received an application by Saskatchewan Telecommunications (SaskTel), dated 30 July 2008, in which the company requested forbearance from the regulation of business local exchange services¹ in the exchange of Saskatoon, Saskatchewan.
2. The Commission received submissions and/or data regarding SaskTel's application from MTS Allstream Inc. (MTS Allstream) and Shaw Cablesystems Ltd. (Shaw). The public record of this proceeding, which closed on 25 August 2008, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Commission's analysis and determinations

3. The Commission has assessed SaskTel'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 four criteria set out below.

a) Product market

4. The Commission received no comments with respect to SaskTel's proposed list of business local exchange services.
5. The Commission notes that SaskTel is seeking forbearance for 28 tariffed business local exchange services. The Commission also notes that 25 of these services were included in the list of services set out in Telecom Decision 2005-35.
6. The Commission finds that Feature Package, one of the additional services, falls within the definition of local exchange services as set out in Telecom Public Notice 2005-2. The Commission notes that Megalink Promotion, another of the services, is a promotion for a service that was included in the list of services appropriate for forbearance in Telecom Decision 2005-35. Finally, Centrex IP Service is a Centrex service that, in Telecom

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.

Decision 2008-10, as confirmed in Telecom Decision 2008-57, the Commission found to be in the same relevant product market as business local exchange services, therefore allowing it to be forborne from regulation.

7. Accordingly, the Commission considers the list of services proposed by SaskTel for forbearance to be appropriate. The list of approved services is set out in the Appendix to this Decision.

b) Competitor presence test

8. MTS Allstream submitted that SaskTel has not demonstrated that there is an independent facilities-based, fixed-line telecommunications service provider that is capable of serving 75 percent of the local exchange services in the exchange of Saskatoon. However, Shaw confirmed that it provides business local exchange services capable of addressing at least 75 percent of the business local exchange lines within the Saskatoon exchange.
9. The Commission notes, therefore, that for the exchange of Saskatoon, information provided by parties confirms that there is, in addition to SaskTel, at least one other independent facilities-based telecommunications service provider – Shaw – that offers local exchange services in the market and is capable of serving at least 75 percent of the number of business local exchange service lines that SaskTel is capable of serving.
10. Accordingly, the Commission determines that the exchange of Saskatoon meets the competitor presence test.

c) Competitor quality of service (Q of S) results

11. The Commission notes that SaskTel submitted competitor Q of S results for the period of January to June 2008.
12. The Commission has reviewed SaskTel's competitor Q of S results and finds that the company has demonstrated that during this six-month period it
 - i) met, on average, the Q of S standard for each indicator set out in Appendix B of modified Telecom Decision 2006-15, as defined in Telecom 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.
13. Accordingly, the Commission determines that SaskTel meets the competitor Q of S criterion for this period.

d) Communications plan

14. The Commission has reviewed SaskTel's draft communications plan and is satisfied that it meets the information requirements set out in modified Telecom Decision 2006-15. The Commission **approves** the proposed communications plan and directs SaskTel to provide the resulting communications materials to its customers in both official languages, where appropriate.

Other matters

15. SaskTel noted that in previous forbearance decisions, the Commission had included a "limitation of liability" provision to address the transitional period from full regulation to regulatory forbearance. SaskTel requested that the Commission include a limitation of liability clause in its decision and, as an example, proposed the following words:

Any provision limiting liability in existing contracts or other arrangements with customers will continue to remain in force for the greater of (i) 90 days after the effective date of this Forbearance Order, and (ii) until the end of the term of such contracts or other arrangements, in accordance with the terms of such contracts or other arrangements.

16. The Commission notes that in modified Telecom Decision 2006-15, paragraph 313, it stated:

...that any provision limiting liability in any existing contracts or arrangements, as of the date of the Commission decision granting forbearance in a relevant market, will remain in force until its expiry. Such existing contracts or arrangements will be deemed to terminate on the date or in the manner provided therein, notwithstanding any contractual provisions governing extensions.

17. The Commission considers that SaskTel's concerns have been addressed by this statement and that no further ruling regarding limitation of liability provisions is required in this Decision.

Conclusion

18. The Commission determines that SaskTel's application regarding the exchange of Saskatoon, Saskatchewan, meets all the local forbearance criteria set out in modified Telecom Decision 2006-15.
19. 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 modified Telecom Decision 2006-15, in relation to the provision by SaskTel of business local exchange services listed in the Appendix 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 this exchange, would be consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.

20. 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.
21. 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 specified in modified Telecom Decision 2006-15, in relation to the provision by SaskTel of these business local exchange services would be unlikely to impair unduly the continuance of a competitive market for these services in this exchange.
22. In light of the above, the Commission **approves** SaskTel's application for forbearance from the regulation of the local exchange services listed in the Appendix 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 exchange of Saskatoon, Saskatchewan, 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 SaskTel to file revised tariff pages within 30 days of the date of this Decision for Commission approval.

Secretary General

Related documents

- *MTS Allstream Inc.'s request to review and vary two decisions related to Centrex services*, Telecom Decision CRTC 2008-57, 19 June 2008
- *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
- *Forbearance from regulation of local exchange services*, Telecom Public Notice CRTC 2005-2, 28 April 2005
- *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

- *Finalization of quality of service rate rebate plan for competitors,*
Telecom Decision CRTC 2005-20, 31 March 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>

Appendix

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

Tariff	Item	List of services
21411	100.25	Joint User Service
21411	100.30	Extended Area Service (Discontinued)
21411	105.1	Excess Mileage Charges
21411	110.02	Seasonal Service
21411	110.06	Extended Network Access Service
21411	110.10	Network Access Service (Discontinued)
21411	110.12	Network Access Service
21411	110.14	Temporary Telephone Service
21411	110.30	Multi-Line Access Service
21411	110.32	Direct-In-Dial Service
21411	110.34	Microlink Service
21411	110.38	Megalink Service
21411	110.40	Digital Exchange Access Service
21411	110.52	310-XXXX Access
21411	150.05	Rotary Hunting Service
21411	150.15	SmartTouch Subscription Service
21411	160.10	Telephone Directory Service – Non-Listed and Non-Published Numbers
21411	160.25	Intercept Service
21411	200.05	Remote Message Register
21411	200.15	Centrex Services I
21411	200.20	Centrex Services II
21412	550.06	Combined Voice Mail
21412	550.08	SaskTel Voice Mail Service
21412	550.10	TalkMail
21412	580.02	Internet Call Waiting
21411	300.05	Feature Package
21411	420.03	Megalink Promotion
21412	500.28	Centrex IP Service