



Telecom Decision CRTC 2009-747

Ottawa, 2 December 2009

MTS Allstream Inc. – Application to exclude competition-related quality of service indicator 2.10 results from the rate rebate plan for competitors for July 2009

File number: 8660-M59-200912536

The Commission approves MTS Allstream's request to exclude, for rate rebate purposes, its results for competitor quality of service indicator 2.10 for July 2009 for Bell Canada.

Introduction

1. The Commission received an application by MTS Allstream Inc. (MTS Allstream), dated 10 September 2009, requesting the exclusion of the competitor quality of service (Q of S) results related to indicator 2.10 – Mean Time to Repair (MTTR) – CDN [competitor digital network] Services and Type C Loops (indicator 2.10) from its rate rebate plan for competitors for July 2009 for Bell Canada.
2. MTS Allstream submitted that on 28 June 2009, a fire had damaged its communication site in Notigi Lake, Manitoba, destroying several buildings – specifically, two equipment trailers that housed diesel generators as well as radio and microwave equipment. MTS Allstream indicated that the fire had damaged cables serving various customers and negatively affected CDN circuits leased to Bell Canada.
3. MTS Allstream noted that its actual July 2009 competitor Q of S performance results for service to Bell Canada were below the set standard for indicator 2.10. However, MTS Allstream provided evidence that if the trouble tickets related to the above-noted adverse event were excluded, its July 2009 results for indicator 2.10 for Bell Canada would have been within the accepted standard.
4. The Commission received no comments regarding this application. The public record of this proceeding is available on the Commission's website at www.crtc.gc.ca under “Public Proceedings” or by using the file number provided above.

Commission's analysis and determinations

5. In Telecom Decision 2005-20, the Commission created a mechanism for considering possible exclusions from competitor Q of S results where circumstances beyond the control of an incumbent local exchange carrier (ILEC) might have caused it to fail to meet a performance standard.

6. In Telecom Decision 2007-102, the Commission adopted a *force majeure* clause that provided that no rate rebates would apply in a month where failure to meet a competitor Q of S standard was caused in that month by events beyond the reasonable control of the ILEC. The Commission considers that based on the evidence filed, the fire in question qualifies as an incident that is beyond the reasonable control of MTS Allstream and thus triggers the *force majeure* clause.
7. The Commission has reviewed the evidence submitted by MTS Allstream to demonstrate that the fire caused the below-standard results for indicator 2.10 for Bell Canada in July 2009. After reviewing this evidence and further verifying that MTS Allstream exceeded the standards for competitor Q of S indicator 2.10 for Bell Canada for the three consecutive months prior to the 28 June 2009 incident, the Commission considers it reasonable to conclude that MTS Allstream would have met its competitor Q of S obligations without the adverse event.
8. In light of the above, the Commission **approves** MTS Allstream's request to exclude below-standard results for competitor Q of S indicator 2.10 for July 2009 in the calculation of the amounts due to Bell Canada under the rate rebate plan for competitors.

Secretary General

Related documents

- *Retail quality of service rate adjustment plan and competitor quality of service rate rebate plan – Adverse events*, Telecom Decision CRTC 2007-102, 31 October 2007
- *TELUS Communications Company – Application to exclude certain competition-related quality of service results from the rate rebate plan for competitors for July 2005*, Telecom Decision CRTC 2007-14, 28 February 2007
- *Finalization of quality of service rate rebate plan for competitors*, Telecom Decision CRTC 2005-20, 31 March 2005

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