



## Telecom Regulatory Policy CRTC 2010-27

Route reference: Telecom Regulatory Policy 2009-424

Ottawa, 20 January 2010

### **Application to review and vary part of Telecom Regulatory Policy 2009-424 regarding deposit and disconnection policies for local exchange carriers**

File number: 8662-B60-200911281

*In this decision, the Commission denies an application by the Cable Carriers to review and vary aspects of Telecom Regulatory Policy 2009-424 associated with deposit and disconnection policies.*

### **Introduction**

1. The Commission received an application by Bragg Communications Inc., Cogeco Cable Inc., Rogers Communications Inc., Shaw Communications Inc., and Quebecor Media Inc. on behalf of its affiliate Videotron Ltd. (collectively, the Cable Carriers), dated 11 August 2009, requesting that the Commission review and vary certain of the determinations (the determinations) set out in Telecom Regulatory Policy 2009-424. Specifically, the Cable Carriers requested that the Commission review and rescind the determination to request that the Commissioner for Complaints for Telecommunications Services Inc. (CCTS) develop an industry code for disconnections and deposits for all local exchange carriers (LECs) as well as the determination that the Commission would be predisposed to extend mandated deposit and disconnection policies to all LECs.
2. The Commission received comments from FIDO Solutions Inc.; TELUS Communications Company; and the Public Interest Advocacy Centre; and, collectively, from Bell Aliant Regional Communications, Limited Partnership, Bell Canada, Saskatchewan Telecommunications, and Télébec, Limited Partnership. These parties are referred to as “responding parties” in this decision.
3. The public record of this proceeding, which closed on 21 September 2009, is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under “Public Proceedings” or by using the file number provided above.

### **Background**

4. In the proceeding leading to Telecom Regulatory Policy 2009-424, the Commission reviewed various customer account management regulatory measures, including the terms and conditions for company-initiated suspension or termination of service (disconnection) and for the use of deposits, in light of *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006 (the Policy Direction). The prevailing deposit and disconnection policies, which are included in the terms of service that apply to the tariffed services of the incumbent LECs (ILECs),

set out when an ILEC may or may not disconnect a customer's service and what procedures must be followed (the disconnection policy), and when an ILEC may require a customer to provide a deposit and on what terms (the deposit policy).

5. In Telecom Regulatory Policy 2009-424, the Commission found that market forces alone are insufficient in forborne markets to achieve the purposes of the deposit and disconnection policies.
6. The Commission therefore requested the CCTS to develop and file with the Commission, within 180 days of the date of Telecom Regulatory Policy 2009-424, an industry code of conduct for deposits and disconnections for all LECs, including competitive LECs (CLECs), operating in forborne markets. The Commission stated that the code should contain certain minimum provisions specified in Telecom Regulatory Policy 2009-424. The Commission stated further that if the CCTS was not able to develop an industry code, the Commission would be predisposed to impose streamlined deposit and disconnection policies on the ILECs in forborne markets and to extend this requirement to all LECs in forborne markets, as a condition of service, pursuant to section 24 of the *Telecommunications Act*.

### **Application**

7. The Cable Carriers submitted that the effect of the Commission's determinations was to assert Commission regulation over CLEC deposit and disconnection policies, which had been previously forborne. In support of their application the Cable Carriers submitted that
  - CLECs received no notice that their deposit and disconnection policies would be regulated as a result of the proceeding;
  - the Commission's determinations were inconsistent with the Policy Direction and the Commission exceeded its jurisdiction and erred in law, given the absence of supporting evidence that market forces are insufficient to ensure that these policies are reasonable; and
  - the Commission overturned its previous determination in Telecom Decision 97-8 to forbear from regulating CLEC deposit and disconnection requirements.
8. The responding parties generally supported some or all of the Cable Carriers' arguments.

### **Commission's analysis and determinations**

9. The Commission notes that the Cable Carriers' arguments in support of their application are based on the view that the Commission asserted regulation over CLEC deposit and disconnection policies. The Commission considers, however, that a request to the CCTS does not impose a legal obligation on CLECs regarding deposit and disconnection policies.
10. The Commission also considers that its statement that it would be predisposed to impose a section 24 condition on all LECs does not mean that a Commission decision has been taken. A proceeding would take place prior to the Commission determining whether to impose a section 24 condition. Accordingly, the Commission concludes that its statement by definition does not constitute a Commission decision.

11. In light of the foregoing, the Commission finds that it did not assert regulation over CLEC deposit and disconnection policies. The Commission therefore **denies** the application.

### **Development of an industry code**

12. The Commission notes that, in a letter dated 14 September 2009, the CCTS stated that it would be appropriate for the Commission to deal with the Cable Carriers' application prior to any substantive consideration by the CCTS Board of the request to develop an industry code. Accordingly, the Commission requests the CCTS to develop and file with the Commission, **within 180 days of the date of this decision**, an industry code for disconnections and deposits consistent with the terms set forth in Telecom Regulatory Policy 2009-424.

Secretary General

### **Related documents**

- *Revised regulatory requirements for management of customer accounts*, Telecom Regulatory Policy CRTC 2009-424, 17 July 2009
- *Local competition*, Telecom Decision CRTC 97-8, 1 May 1997

*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>*