



Telecom Decision CRTC 2010-587

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Ottawa, 17 August 2010

TELUS Communications Company – Application to review and vary Telecom Decisions 2009-85 and 2010-11 regarding telecommunications services provided by Bell Canada to PWGSC

File number: 8662-T66-201006107

Introduction

1. The Commission received an application by TELUS Communications Company (TCC), dated 12 April 2010, requesting that it review and vary Telecom Decisions 2009-85 and 2010-11.¹
2. Specifically, TCC submitted that the Commission had failed to consider the impact of its decisions on competition, specifically in relation to transitions to new suppliers in complex telecommunications markets where agreement cannot be reached with the incumbent.
3. The Commission received comments from Bell Canada and MTS Allstream Inc. (MTS Allstream). The public record of this proceeding, which closed on 7 June 2010, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.

Positions of parties

4. Bell Canada submitted that TCC's application should be summarily dismissed on the basis that it raised arguments that could have been raised by TCC in its application to review and vary Telecom Decision 2009-85 (i.e. the proceeding leading to Telecom Decision 2010-11), but were not.
5. TCC maintained that it was not clear until it had reviewed Telecom Decision 2010-11 that the Commission had failed to take into account a basic principle – i.e., the impact of the Commission's decision on competition in providing telecommunications services to enterprise customers. In its reply, TCC submitted that it was entitled to rely on its right under section 62 of the *Telecommunications Act* to request that the Commission correct the error.
6. MTS Allstream supported TCC's position.

¹ Telecom Decisions 2009-85 and 2010-11 dealt with the continuation of the delivery of certain services provided by Bell Canada to Public Works and Government Services Canada (PWGSC).

Commission's analysis and determinations

7. The Commission considers that, for reasons of fairness and to avoid multiple proceedings, it is incumbent upon a party making a review and vary application to raise all of the grounds in support of their application that are, or should be, apparent to the applicant at the time the application is made.
8. The Commission notes TCC's argument that it could not have raised the alleged failure of the Commission to take into account the impact on competition in its first review and vary application because the failure was not apparent until the Commission issued Telecom Decision 2010-11.
9. The Commission is not persuaded, however, by this assertion. In this application, TCC relies primarily on the absence of any express analysis by the Commission of competitive concerns in Telecom Decision 2009-85 and the process the Commission adopted in that proceeding, which TCC maintains precluded the impact on competition from being considered. The Commission considers that these two points should have been apparent to TCC after the issuance of Telecom Decision 2009-85 and therefore TCC should have raised these issues in its first review and vary application.
10. In light of the above, the Commission **denies** TCC's request to review and vary Telecom Decisions 2009-85 and 2010-11.

Secretary General

Related documents

- *TELUS Communications Company – Application to review and vary portions of Telecom Decision 2009-85 regarding telecommunications services provided by Bell Canada to PWGSC*, Telecom Decision CRTC 2010-11, 14 January 2010
- *Public Works and Government Services Canada – Application for a Commission determination regarding telecommunications services provided by Bell Canada*, Telecom Decision CRTC 2009-85, 20 February 2009