



## Telecom Decision CRTC 2010-68

Ottawa, 10 February 2010

### **Télébec, Limited Partnership - Application for forbearance from the regulation of business local exchange services**

File number: 8640-T78-200916166

*In this decision, the Commission approves Télébec's request for forbearance from the regulation of business local exchange services in the exchange of Château-Richer, Quebec. The Commission denies Télébec's request for forbearance in the exchanges of Contrecoeur and Norbertville, Quebec.*

### **Introduction**

1. The Commission received an application by Télébec, Limited Partnership (Télébec), dated 27 November 2009, in which the company requested forbearance from the regulation of business local exchange services<sup>1</sup> in the exchanges of Château-Richer, Contrecoeur, and Norbertville, Quebec.
2. The Commission received submissions and/or data regarding Télébec's application from Quebecor Media Inc., on behalf of its affiliate Videotron Ltd. The public record of this proceeding, which closed on 17 December 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.

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

3. The Commission 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). Specifically, it considered the following four elements:
  - a) **Product market**
4. The Commission received no comments with respect to Télébec's proposed list of business local exchange services.
5. The Commission notes that Télébec sought forbearance for 31 tariffed business local exchange services. In addition, it notes that 30 of these services were included in the list of services established in Telecom Decision 2005-35.

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<sup>1</sup> 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.

6. The Commission considers that the Service Charges service is not eligible for deregulation in accordance with the criteria set out in modified Telecom Decision 2006-15, because it is a generic service and generic services were excluded from the scope of the proceeding pertaining to forbearance from regulation of local exchange services. The list of 30 approved services is set out in the Appendix to this decision.

**b) Competitor presence test**

7. The Commission notes that, for the Château-Richer exchange, the information provided by the parties confirms that there is, in addition to Télébec, one independent, facilities-based, fixed-line telecommunications service provider.<sup>2</sup> This service provider provides local exchange services in the target market and is capable of serving at least 75 percent of the number of business local exchange service lines that Télébec is capable of serving.
8. Accordingly, the Commission determines that the exchange of Château-Richer meets the competitor presence test.
9. The Commission notes that Télébec estimated Videotron's serving capability in the Contrecoeur and Norbertville exchanges based on the results of a visual inspection that indicated that Videotron's facilities "passed by" commercial buildings. As the Commission determined in Telecom Decision 2008-84, facilities "passing by" a building do not, alone, demonstrate a competitor's capability to provide a service.
10. The Commission also notes that, for the Norbertville exchange, Télébec requested that the competitor's serving capacity be estimated by multiplying by three the number of clients that the competitor is presently serving, in accordance with Telecom Decision 2007-70. However, the Commission notes that this methodology is only used in cases where the competitor cannot provide an estimate of the total business lines it is capable of serving. Therefore, this methodology cannot be used to confirm whether the competitor can serve at least 75 percent of the local business lines that the incumbent is capable of serving.
11. The Commission further notes that Videotron is the only other independent facilities-based, fixed-line telecommunication service provider present in the Contrecoeur and Norbertville exchanges. Videotron submitted in confidence an estimate of the number of business lines that it is capable of serving in these two exchanges. The Commission determines that Videotron is not capable of serving at least 75 percent of the business local exchange services lines that Télébec is capable of serving in these exchanges.
12. Accordingly, the Commission determines that the exchanges of Contrecoeur and Norbertville do not meet the competitor presence test.

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

13. The Commission notes that Télébec submitted competitor Q of S results for the period of June to November 2009.

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<sup>2</sup> This provider is Videotron.

14. The Commission has reviewed Télébec's submitted 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 standards 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.
15. Accordingly, the Commission determines that Télébec's competitor Q of S results meet the competitor Q of S criterion.

**d) Communications plan**

16. The Commission has reviewed Télébec's 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 Télébec to provide the resulting communications materials to its customers in both official languages, where appropriate.

**Conclusion**

17. The Commission finds that Télébec's application meets all the local forbearance criteria, set out in modified Telecom Decision 2006-15, for the exchange of Château-Richer.
18. 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 exercising its powers and performing its duties in relation to Télébec's business local exchange services listed in the Appendix and future services that fall within the definition of local exchanges 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.
19. 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.
20. Pursuant to subsection 34(3) of the Act, the Commission finds as a question of fact that to forbear, to the extent specified in modified Telecom Decision 2006-15, from exercising its powers and performing its duties in relation to the business local exchange services in this exchange would be unlikely to impair unduly the continuance of a competitive market for these services.
21. In light of the above, the Commission **approves** Télébec'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 Château-Richer, 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 with the Commission Télébec's revised tariff pages within 30 days of the date of this decision.

22. The Commission finds that Télébec's application does not meet all the local forbearance criteria set out in modified Telecom Decision 2006-15 for the exchanges of Contrecoeur and Norbertville. Accordingly, the Commission **denies** Télébec's application for forbearance in these two exchanges.

Secretary General

### **Related documents**

- *Télébec, Limited Partnership – Application for forbearance from the regulation of business local exchange services*, Telecom Decision CRTC 2008-84, 8 September 2008
- *Bell Aliant – Applications for forbearance from the regulation of business local exchange services*, Telecom Decision CRTC 2007-70, 10 August 2007
- *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
- *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
- *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>*

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

<b>Tariff</b>	<b>Item</b>	<b>List of services</b>
25140	1.4	RAFA Plan – Expanded Local Calling Area for the "Lac-à-Foin" region
25140	1.7	Telephone Set Loss Charge (Residence)
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	2.1.7.5	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	2.1.7.6	Télébec's Centrex Access Lines
25140	2.1.8	Basic Services Provided Outside the Company's Serving Area
25140	2.1.11	Telephone Service for Senior Citizens' Club
25140	2.5	Telephones available only for two-party line or multi-party access service
25140	2.6	Direct Inward Dialling
25140	2.8	Télébec Centrex Service
25140	2.10	Temporary Business Service
25140	2.15	Service to Immobilized Ships, Trailers and Trains
25140	2.23.2	Telephone Number Reservation and Activation – Rates and Fees
25140	2.27.6	Monthly Rates for Extra Listings
25140	2.27.7	Omission of Directory Listings (Business)
25140	3.1	Intra-Exchange Distance Charges
25140	3.3.17	Toll Restriction Service
25140	3.3.18	Smart Touch Services
25140	3.3.19	Call Display Blocking – Per Call
25140	3.3.20	Integrated Vocal Messaging Service
25140	5.2.6.5	Call Blocking Service – 900 Service
25140	8.4	Internet Call Display
25140	8.7.3	Integrated Services Digital Network (ISDN) 2B+D Télébec – Rates and Fees
25140	8.8	Integrated Services Digital Network (ISDN) 23B+D Télébec – Basic Option
25140	8.9	Integrated Services Digital Network (ISDN) 23B+D Télébec – Premium Option
25140	8.11	Boreal Service
25140	8.13	Digital Exchange Service