



## Telecom Decision CRTC 2012-337

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Ottawa, 20 June 2012

### **TELUS Communications Company – Application for forbearance from the regulation of residential local exchange services**

File number: 8640-T66-201203687

*In this decision, the Commission approves TCC's request for forbearance from the regulation of residential local exchange services in 30 exchanges in Alberta and British Columbia.*

#### **Introduction**

1. The Commission received an application by TELUS Communications Company (TCC), dated 23 March 2012, in which the company requested forbearance from the regulation of residential local exchange services<sup>1</sup> in 35 exchanges in Alberta and British Columbia. A list of these exchanges is set out in Appendix 1 to this decision. TCC subsequently proposed to withdraw its request for forbearance from the regulation of residential local exchange service in five exchanges.
2. The Commission received submissions and data regarding TCC's application from Bell Mobility Inc. (Bell Mobility); Bragg Communications Inc., operating as EastLink (EastLink); CityWest Cable and Telephone Company (CityWest); Distributel Communications Limited; Rogers Communications Partnership (RCP) and Fido Solutions Inc. (Fido); and Shaw Telecom G.P. (Shaw). The public record of this proceeding, which closed on 7 May 2012, 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.
3. The Commission considers that it must address the following issues in its determinations:
  - I. Should the Commission accept TCC's request to withdraw five exchanges from its application?
  - II. Should the Commission grant TCC's request for forbearance?

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<sup>1</sup> In this decision, "residential local exchange services" refers to local exchange services used by residential customers to access the public switched telephone network and any associated service charges, features, and ancillary services.

**I. Should the Commission accept TCC's request to withdraw five exchanges from its application?**

4. In its reply comments, dated 7 May 2012, TCC requested to withdraw its request for forbearance from the regulation of residential local exchange services in the British Columbia exchanges of 108 Mile House, Armstrong, Invermere, Oliver, and Oyama.

**Commission's analysis and determinations**

5. The Commission notes that, as set out in paragraph 242 of Telecom Decision 2006-15,<sup>2</sup> where an incumbent local exchange carrier (ILEC) can satisfy the local forbearance criteria, the requirements of section 34 of the *Telecommunications Act* (the Act) will have been met. The Commission further notes that pursuant to subsection 34(2) of the Act, where the Commission finds as a question of fact that a telecommunications service provided by a Canadian carrier is subject to competition sufficient to protect the interests of users, the Commission **shall** make a determination to refrain, to the extent that it considers appropriate, conditionally or unconditionally, from the exercise of any power or the performance of any duty under sections 24, 25, 27, 29, and 31 in relation to the service or class of services.
6. The Commission also notes that TCC did not, in its request to withdraw, provide any evidence to refute its original application, which indicated that the five exchanges in question met the local forbearance criteria. Accordingly, the Commission **denies** TCC's request to withdraw and will consider the five exchanges in question in its analysis of the forbearance criteria below.

**II. Should the Commission grant TCC's request for forbearance?**

**Commission's analysis and determinations**

7. The Commission has assessed TCC's application based on the local forbearance test set out in Telecom Decision 2006-15 by examining the four criteria set out below.

**a) Product market**

8. The Commission received no comments with respect to TCC's proposed list of residential local exchange services.
9. The Commission notes that TCC is seeking forbearance from the regulation of 23 tariffed residential local exchange services. The Commission also notes that in Telecom Decisions 2005-35, 2007-64, 2007-113, and 2008-55, it found all these services to be eligible for forbearance. The list of approved services is set out in Appendix 2 to this decision.

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<sup>2</sup> As amended by Order in Council P.C. 2007-532, 4 April 2007

***b) Competitor presence test***

10. The Commission notes that information provided by parties confirms that there are, in addition to TCC, at least two independent, facilities-based telecommunications service providers operating in 30<sup>3</sup> of the 35 exchanges in question, including providers of mobile wireless services.<sup>4</sup> Each of these service providers offers local exchange services in the market and is capable of serving at least 75 percent of the number of residential local exchange service lines that TCC is capable of serving, and at least one, in addition to TCC, is a facilities-based, fixed-line telecommunications service provider.
11. Accordingly, the Commission determines that the 30 exchanges listed in Appendix 3 meet the competitor presence test.
12. The Commission determines that the five remaining exchanges do not meet the competitor presence test because there is no other facilities-based, fixed-line telecommunications service provider present in those exchanges capable of serving at least 75 percent of the number of residential local exchange service lines that TCC is capable of serving.

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

13. The Commission notes that TCC submitted its competitor Q of S results for the period of August 2011 to January 2012. The Commission considers that these results demonstrate that TCC met the first part of the competitor Q of S criterion set out in Telecom Decision 2006-15. With regard to the second part of the criterion, the Commission considers that, overall, the results demonstrate that TCC has met the Q of S standards for each individual competitor. However, the Commission notes that there were few data points for some competitors during the six-month period. The Commission notes that, in Telecom Decision 2007-58, it considered that when there are only a few data points during a six-month period, there is insufficient data to make a finding that a company has consistently provided below-standard Q of S. The Commission considers that this principle applies in the case of the competitors mentioned above.
14. The Commission notes that TCC 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 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.

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<sup>3</sup> The 30 exchanges include the five exchanges that TCC had requested be withdrawn from its application.

<sup>4</sup> These competitors are Bell Mobility, RCP, and Fido in all exchanges, as well as CityWest, EastLink, and Shaw in certain exchanges.

15. Accordingly, the Commission determines that TCC meets the competitor Q of S criterion for this period.

**d) Communications plan**

16. The Commission notes that in lieu of filing a communications plan, TCC submitted that its plan specific to the exchanges listed in Appendix 1 would conform to the Commission's requirements as set out in Telecom Decisions 2007-64 and 2008-67.
17. The Commission **approves**, for the purpose of the current application, the use of the communications plan that TCC submitted in the proceedings leading to Telecom Decisions 2007-64 and 2008-67, subject to TCC's compliance with the revisions outlined in those decisions. As well, the Commission considers that the company should include the mailing address for the Canadian Radio-television and Telecommunications Commission in its communications material, which is "Ottawa, Ontario K1A 0N2." The Commission directs TCC to provide the resulting communications material to its customers, in both official languages where appropriate.

**Conclusion**

18. The Commission determines that TCC's application regarding the 30 exchanges in Alberta and British Columbia listed in Appendix 3 meets all the local forbearance criteria set out in Telecom Decision 2006-15.
19. Pursuant to subsection 34(1) 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 Telecom Decision 2006-15, in relation to the provision by TCC of the residential local exchange services listed in Appendix 2 and future services that fall within the definition of local exchange services set out in Telecom Public Notice 2005-2 as they pertain to residential customers only, in these exchanges, 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 residential local exchange services are subject to a level of competition in these exchanges 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 Telecom Decision 2006-15, in relation to the provision by TCC of these residential local exchange services in these exchanges would be unlikely to impair unduly the continuance of a competitive market for these services.
22. In light of the above, the Commission **approves** TCC's application for forbearance from the regulation of the local exchange services listed in Appendix 2 and future services that fall within the definition of local exchange services set out in Telecom Public Notice 2005-2, as they pertain to residential customers only, in the

30 exchanges in Alberta and British Columbia listed in Appendix 3, subject to the powers and duties that the Commission has retained as set out in Telecom Decision 2006-15. This determination takes effect as of the date of this decision. The Commission directs TCC to file revised tariff pages with the Commission within 30 days of the date of this decision.

23. In Telecom Regulatory Policy 2011-291, the Commission determined that the large ILECs would no longer receive subsidies for residential network access service (NAS) in high-cost exchanges for which the Commission has granted forbearance from regulation. Therefore, in accordance with the directions in Appendix B to Telecom Regulatory Policy 2011-291, TCC is to stop reporting to the Central Fund Administrator any high-cost residential NAS associated with the 30 exchanges listed in Appendix 3, effective the date of this decision.

Secretary General

### **Related documents**

- *Obligation to serve and other matters*, Telecom Regulatory Policy CRTC 2011-291, 3 May 2011, as amended by Telecom Regulatory Policy CRTC 2011-291-1, 12 May 2011
- *TELUS Communications Company – Application for forbearance from the regulation of business local exchange services*, Telecom Decision CRTC 2008-67, 28 July 2008
- *TELUS Communications Company – Application for forbearance from the regulation of residential local exchange services*, Telecom Decision CRTC 2008-55, 12 June 2008
- *TELUS Communications Company – Application for forbearance from the regulation of residential local exchange services*, Telecom Decision CRTC 2007-113, 23 November 2007
- *TELUS Communications Company – Applications for forbearance from the regulation of residential local exchange services*, Telecom Decision CRTC 2007-64, 3 August 2007
- *Forbearance from the regulation of residential local exchange services in Fort McMurray, Alberta*, Telecom Decision CRTC 2007-58, 25 July 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

## Appendix 1

### *Exchanges for which TCC requested forbearance from the regulation of its residential local exchange services*

#### **Alberta**

Beaverlodge

Bonnyville

Brooks

Clairmont

Drumheller

Grande Prairie

Irma

Langdon

Millet

Penhold

Raymond

Rocky Mountain House

Sexsmith

Stony Plain

Three Hills

Trochu

Wainwright

Wembley

Wetaskiwin

Whitecourt

**British Columbia**

100 Mile House

108 Mile House

Armstrong

Elkford

Gibsons

Invermere

Keremeos

Kitimat

Ladner

Oliver

Osoyoos

Oyama

Princeton

Sechelt

Terrace



## Appendix 2

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

<b>Tariff</b>	<b>Item</b>	<b>List of services</b>
1005	25	Exchange Classification and Rates – General
1005	26	Business and Residence Service
1005	27	Base Rate Areas
1005	32	Exchange Rates
1005	122	Foreign Central Office Service – Voice
1005	157	Suspension of Service
1005	161	Call Guardian
1005	465.B	ISDN-BRI Home Service
18001	235	Calling Features
18001	240	Extended Area Service
18001	305	Denial Services
18001	310	Toll Restriction Services
18001	380	Temporary Disconnect
18001	425	Exchange Service
21461	129.1.b	Directory Listings – Extra Listings
	129.1.c	Directory Listings – Non-Published Telephone Numbers
	129.1.d	Directory Listings – Non-Listed Telephone Numbers
21461	202	Individual Line Service
21461	209	Local Calling Area (LCA) Expansion
21461	300	Call Management Services
21461	307	Special Number Search
21461	311	Dual Line Call Manager
21461	314	Remote Call Forwarding
21461	316	900 Blocking
21461	1000	Call Intercept Service (Residential Numbers Only)

## **Appendix 3**

*Exchanges that meet all the local forbearance criteria set out in Telecom Decision 2006-15*

### **Alberta**

Beaverlodge  
Bonnyville  
Clairmont  
Drumheller  
Grande Prairie  
Langdon  
Millet  
Penhold  
Raymond  
Rocky Mountain House  
Sexsmith  
Stony Plain  
Three Hills  
Trochu  
Wainwright  
Wembley  
Wetaskiwin

### **British Columbia**

100 Mile House  
108 Mile House  
Armstrong  
Elkford  
Gibsons  
Invermere  
Kitimat  
Ladner  
Oliver  
Osoyoos  
Oyama  
Sechelt  
Terrace