



Telecom Decision CRTC 2007-112

Ottawa, 23 November 2007

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

Reference: 8640-T69-200712598

In this Decision, the Commission approves TELUS Communications Company's (TCC) request for forbearance from the regulation of residential local exchange services in three exchanges in Quebec. The Commission denies TCC's request for forbearance in two exchanges in Quebec.

Introduction

1. The Commission received an application by TELUS Communications Company (TCC), dated 4 September 2007, in which the company requested forbearance from the regulation of residential local exchange services¹ in five exchanges in Quebec.
2. The Commission received submissions and/or data regarding TCC's application from Bell Mobility Inc. (Bell Mobility), MTS Allstream Inc. (MTS Allstream), Quebecor Media Inc. on behalf of Videotron Ltd. (Videotron), and Rogers Communications Inc. (RCI). The record of this proceeding closed with TCC's reply to a Commission interrogatory, dated 21 October 2007. The public record of this proceeding is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
3. The Commission has assessed TCC'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), by examining the following:
 - a) Product market
 - b) Competitor presence test
 - c) Competitor quality of service (Q of S) results
 - d) Communications plan

¹ 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.

Commission's analysis and determinations

a) Product market

4. The Commission received no comments with respect to TCC's proposed list of residential local exchange services.
5. The Commission notes that TCC is seeking forbearance for 11 tariffed residential local exchange services offered in Quebec. The Commission also notes that in Telecom Decision 2007-64, it found all of these services to be appropriate for forbearance.
6. The list of approved services is set out in the Appendix to this Decision.

b) Competitor presence test

7. As noted above, in this Decision the Commission addresses TCC's application for forbearance from the regulation of residential local exchange services in five exchanges in Quebec.
8. The Commission notes that for three of these exchanges – Donnacona, Neuville, and St-Augustin – information provided by parties confirms that there are, in addition to TCC, at least two independent facilities-based telecommunications service providers, including providers of mobile wireless services. These competitors include Bell Mobility, RCI, and Videotron. 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. Accordingly, the Commission determines that these three exchanges meet the competitor presence test.
9. The Commission also notes that Videotron, the only wireline competitor identified by TCC as operating in the exchanges in question, submitted evidence based on postal code information that demonstrates that it is not capable of serving at least 75 percent of the number of residential local exchange service lines that TCC is capable of serving in the Ste-Claire and St-Henri-de-Levis exchanges.
10. The Commission further notes that TCC argued that Videotron's approach was flawed because the number of households within a postal code area does not necessarily line up with the number of households in an exchange. The Commission considers, however, that TCC did not provide a reasonable alternative to Videotron's evidence.
11. Where a competitor cannot measure the number of local access lines that it can provide, the Commission considers that using a ratio of the number of households passed by the competitor's network divided by the total number of households within the applicable postal code area(s) would be a valid proxy to estimate competitor presence for the purposes of local forbearance.
12. Based on this proxy methodology, the Commission determines that the Ste-Claire and St-Henri-de-Levis exchanges do not meet the competitor presence test.

c) Competitor Q of S results

13. The Commission notes that TCC submitted competitor Q of S results for the period of February to July 2007 to demonstrate that it had met the competitor Q of S criterion for local forbearance. MTS Allstream argued that TCC had consistently provided it with below-standard quality of service and, as such, TCC's Q of S results for February to July 2007 did not meet the competitor Q of S criterion for local forbearance.
14. In Telecom Decision 2007-65, the Commission considered that, in order to make a determination that an incumbent local exchange carrier (ILEC) had consistently provided below-standard service to a competitor, as a general guideline, it would have to find that an ILEC had provided below-standard service to that competitor for at least two thirds of the individually reported numbers, where each reported number was one indicator's result for one month.
15. The Commission notes that according to the information provided by TCC, during the period in question, TCC provided MTS Allstream with below-standard service in 11 out of 53 of the individually reported numbers. The Commission considers that, based on the circumstances of this case, there is no reason to deviate from the general guideline. Therefore, the Commission finds that TCC did not provide MTS Allstream with consistently below-standard service during the period of February to July 2007.
16. Based on its review of TCC's competitor Q of S results, the Commission finds that the company has demonstrated that during this six-month period it
 - i) met, on average, the Q of S standard 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.
17. Accordingly, the Commission determines that TCC's competitor Q of S results meet the competitor Q of S criterion for local forbearance.

d) Communications plan

18. The Commission notes that in lieu of filing a communications plan, TCC submitted that its communications plan specific to the exchanges in Quebec would conform to the Commission's determinations in Telecom Decision 2007-64.
19. The Commission directs TCC to provide communications materials, in accordance with the Commission's determinations in Telecom Decision 2007-64, to its customers in both official languages, where appropriate.

Conclusion

20. The Commission determines that TCC's application meets all the local forbearance criteria set out in modified Telecom Decision 2006-15 for the Donnacona, Neuville, and St-Augustin exchanges.
21. 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 the regulation of the residential 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 residential customers only, in the Donnacona, Neuville, and St-Augustin exchanges, would be consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.
22. 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.
23. 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 regulating these residential local exchange services in these exchanges would be unlikely to impair unduly the continuance of a competitive market for these services.
24. In light of the above, the Commission **approves** TCC'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 residential customers only, in the Donnacona, Neuville, and St-Augustin exchanges, 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 TCC to file for Commission approval revised tariff pages within 30 days.
25. The Commission determines that TCC's application does not meet all the local forbearance criteria set out in modified Telecom Decision 2006-15 for the Ste-Claire and St-Henri-de-Levis exchanges. Accordingly, the Commission **denies** TCC's application for forbearance from the regulation of the residential local exchange services in these two exchanges.

Secretary General

Related documents

- *Bell Canada – Applications for forbearance from the regulation of residential local exchange services*, Telecom Decision CRTC 2007-65, 3 August 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 retail local exchange services*, Telecom Decision CRTC 2006-15, 6 April 2006, as amended by the Governor in Council's *Order Varying Telecom Decision CRTC 2006-15*, P.C. 2007-532, 4 April 2007
- *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 residential customers only)**

| Tariff | Item | List of services |
|---------------|-------------|--|
| 25080 | 2.01.06a | Basic Service – Residence |
| 25080 | 2.02.03 | Residence Service |
| 25080 | 2.05 | Directories and Listings |
| 25080 | 2.12 | Telephone Number Reservation Service |
| 25080 | 2.16.03 | Toll Restriction Service |
| 25080 | 2.19 | Voice Messaging Services |
| 25080 | 2.20 | TELUS Québec's SmartTouch Services |
| 25080 | 2.22.01 | Call Display Blocking – Per Line |
| 25080 | 2.22.01 | Call Display Blocking – Per Call |
| 25080 | 2.22.01 | Call Display Blocking – Call Dialed by an Operator |
| 25080 | 3.02.07 | Call Blocking Service – 900 Service |