



Telecom Decision CRTC 2007-64

Ottawa, 3 August 2007

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

Reference: 8640-T66-200705569, 8640-T66-200705577, 8640-T66-200705650, 8640-T66-200705668 (Alberta and British Columbia); 8640-T66-200705700 (Rimouski); and 8640-C12-200706351 (general)

In this Decision, the Commission approves TELUS Communications Company's request for forbearance from the regulation of residential local exchange services in 11 exchanges in Alberta, British Columbia, and Quebec.

Introduction

1. The Commission received applications by TELUS Communications Company (TCC), dated 11 and 13 April 2007, in which the company requested forbearance from the regulation of residential local exchange¹ services in 10 exchanges in Alberta and British Columbia, including exchanges in the priority census metropolitan areas (CMAs) of Calgary, Edmonton, and Vancouver.² TCC also requested forbearance for the exchange of Rimouski, Quebec. These 11 exchanges are listed in Appendix 1.
2. In a letter dated 7 May 2007, the Commission directed incumbent local exchange carriers (ILECs), competitive local exchange carriers, and wireless service providers to provide additional information regarding current local forbearance applications.
3. The Commission received submissions and/or data regarding TCC's applications and/or local forbearance applications in general from Access Communications Co-operative Limited; Amtelecom Cable Limited Partnership; Bell Aliant Regional Communications, Limited Partnership; Bell Canada; Bell Mobility Inc.; Bragg Communications Inc., carrying on business as EastLink; Bruce Telecom; Canadian Cable Systems Alliance Inc.; Cogeco Cable Inc.; Execulink Telecom Inc.; Globility Communications Corporation; Mountain Cablevision Ltd; MTS Allstream Inc. (MTS Allstream); Primus Telecommunications Canada Inc.; the Public Interest Advocacy Centre on behalf of the Consumers' Association of Canada and the National Anti-Poverty Organization (the Consumer Groups); Quebecor Media Inc., on behalf of Videotron Ltd.; Rogers Communications Inc. (RCI); Saskatchewan Telecommunications; Shaw Communications Inc. (Shaw); 9164-3122 Québec inc., doing business as Sogetel Numérique; Téléphone Drummond inc.; and WTC Communications.

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.

² Paragraph 522 of 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) states that applications for local forbearance related to local exchanges located wholly or partially within the CMAs of Calgary, Edmonton, Halifax, Hamilton, London, Montréal, Ottawa-Gatineau, Québec, Toronto, Vancouver, or Winnipeg will be given priority by the Commission.

4. The record of this proceeding closed with TCC's reply comments regarding competitor quality of service (Q of S) results, dated 19 June 2007.
5. The Commission has assessed TCC's applications 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 Q of S results
 - d) Communications plan

Commission's analysis and determinations

a) Product market

6. The Commission received no comments with respect to TCC's proposed lists of residential local exchange services.
7. The Commission notes that TCC is seeking forbearance for 22 tariffed residential local exchange services in Alberta, 29 in British Columbia, and 15 in Quebec.
8. The Commission also notes that 15 of the services in Alberta, 19 of the services in British Columbia, and 10 of the services in the Rimouski, Quebec exchange were included in the list of services eligible for forbearance set out in Telecom Decision 2005-35.
9. Regarding services for which TCC is seeking forbearance for the Rimouski, Quebec exchange, the Commission notes that
 - i) former TELUS Communications (Quebec) Inc. (TCQ) General Tariff item 2.01.06a, Basic Service – Residence, was not included in Telecom Decision 2005-35; however, as it falls within the definition of local exchange services set out in Telecom Public Notice 2005-2, it is therefore eligible for forbearance; and
 - ii) TCQ General Tariff item 2.01.06g, Temporary surcharge for an LCA,³ is not applicable to residential customers in that exchange.
10. Accordingly, the Commission considers TCQ General Tariff item 2.01.06a and the above-referenced items listed in Decision 2005-35 to be appropriate for forbearance.

³ LCA stands for local calling area.

11. The Commission notes that among the services for which TCC is seeking forbearance, the remaining services – 7 in Alberta, 10 in British Columbia, and 3 in Rimouski, Quebec – were excluded from the scope of eligible local exchange services in Telecom Decision 2005-35 because they were either generic services or service bundles. In that Decision, the Commission noted that
 - i) tariffs for generic services apply not only to local exchange services, but also to other telecommunications services, and when it forbore from regulating a particular local exchange service, the relevant generic service tariffs would no longer apply to that forborne service; and
 - ii) tariff approval is not required for a bundle that does not include any tariffed service.
12. Accordingly, the Commission determines that it need not make forbearance findings regarding generic services and service bundles that do not include a tariffed service.
13. The lists of approved services for Alberta, British Columbia, and Rimouski, Quebec, are set out in Appendix 2.

b) Competitor presence test

14. Based on the network access line (NAL) data provided by TCC, Shaw estimated that it was capable of serving at least 75 percent of the residential service lines in the Newton exchange. Shaw requested, however, that the Commission further examine this issue since its cable network covered approximately 50 percent of that exchange's geographic area. In reply, TCC submitted that although Shaw was serving only a certain portion of the Newton exchange, it was likely serving areas with the highest density of households in the Newton exchange.
15. The Commission considers that the number of homes Shaw's network passes in the Newton exchange is a suitable proxy for the number of NALs that Shaw is capable of serving. On that basis, the Commission considers that Shaw is capable of serving over 75 percent of the exchange.
16. The Commission notes that for all of the exchanges, including Newton, 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. 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.
17. Accordingly, the Commission determines that the 11 exchanges listed in Appendix 1 meet the competitor presence test.

c) Competitor Q of S results

18. The Commission notes that TCC submitted competitor Q of S results for the period of December 2006 to May 2007.
19. MTS Allstream argued that TCC had failed to demonstrate that it had met the competitor Q of S standards averaged across six months for each indicator for each competitor, as required by modified Telecom Decision 2006-15. MTS Allstream also argued that TCC had consistently provided it and other competitors with below-standard service during the six-month period in question.
20. The Commission notes that based on modified Telecom Decision 2006-15, an ILEC must demonstrate that on average, for each applicable indicator, it met the Q of S standard "with respect to the services provided to competitors in its territory," not to each competitor in its territory. The Commission has reviewed TCC's competitor Q of S results and finds that during the six-month period in question, TCC provided at- or above-standard service to MTS Allstream for more than 80 percent of the individually reported numbers, where each reported number is one indicator's result for one month.
21. In addition, the Commission notes that except in a few cases where a competitor only had one or two data points for the six-month period, TCC provided services to the other competitors as effectively as it did to MTS Allstream. The Commission considers that where there are only a few data points during a six-month period, there is insufficient data to make a finding as to whether a company has consistently provided below-standard Q of S to a competitor.
22. 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.
23. Accordingly, the Commission determines that TCC's competitor Q of S results meet the competitor Q of S criterion.

d) Communications plan

24. TCC proposed that, in keeping with the Commission direction in Telecom Decision 2007-18, it jointly develop and implement a communications plan with competing local service providers in the selected exchanges where it was seeking forbearance, within one month of the date that forbearance was granted. RCI and Shaw requested that the Commission deny TCC's request since it was inconsistent with modified Telecom Decision 2006-15 and with *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, dated 14 December 2006.

25. The Commission considers that, consistent with modified Telecom Decision 2006-15, the onus should be on the ILECs to develop and implement a communications plan.
26. The Consumer Groups submitted that TCC's communications plan was inadequate, and proposed specific and detailed elements to be addressed by the company in its plan.
27. The Commission notes that modified Telecom Decision 2006-15 states that the communications plan should describe how the ILEC intends to explain local forbearance to customers in the relevant market, provide information concerning the ongoing availability of stand-alone primary exchange service in the market, and provide contact information for customers who have questions or concerns.
28. The Commission has reviewed TCC's draft communications plan and is satisfied that it generally meets the information requirements set out in modified Telecom Decision 2006-15. However, the Commission considers that the company should make the following changes to the plan (*italics represent revisions to be made*):

- i) Revise the first sentence of the last bullet as follows:

The CRTC has directed TELUS to maintain certain requirements, such as continuing to provide stand-alone residential primary exchange service in forborne areas at no more than the most recently CRTC-approved rates.

- ii) Indicate that TCC is to be the first point of contact for its local service customers' questions regarding local forbearance. Contact information must include a mailing address, telephone number, and email address.
- iii) Provide mailing addresses for each organization listed in the communications plan.
- iv) Add the following information to the contact list, after TCC's contact information and before the Commission's contact information:

Commissioner for Complaints for Telecommunications Services (CCTS)

Website

www.ccts-cprst.ca

Email

General inquiries: info@ccts-cprst.ca

Complaints: complaints@ccts-cprst.ca

Telephone

Toll-free: 1-888-221-1687

Ottawa area: 613-244-9585

Toll-free fax: 1-877-782-2924

Postal address

P.O. Box 81088, Ottawa, ON K1P 1B1

- v) Add the following information to the contact list, following the Commission's contact information:

Canadian Consumer Information Gateway – Office of Consumer Affairs

Industry Canada
235 Queen Street
6th Floor West
Ottawa, ON
K1A 0H5
Tel: 613-946-2576
E-mail: consumer.information@ic.gc.ca

29. The Commission **approves** the proposed communications plan with the revisions outlined above. The Commission directs TCC to provide the resulting communications materials to its customers in both official languages, where appropriate.

Other issues

30. The Commission notes that in addition to seeking forbearance from regulation of its residential local exchange services, TCC is seeking forbearance from regulation of its General Tariff items 100-110 and 112-124, General Terms of Service; and TCQ General Tariff items 1.02, Terms of Service, and 1.04, General Rules (General Terms and Rules).
31. The Commission also notes that, as for the generic services identified in paragraph 11 above, these General Terms and Rules apply not only to local exchange services, but also to other telecommunications services. The Commission considers that when it forbears from regulating a particular local exchange service, the General Terms and Rules will no longer apply to that forborne service. Accordingly, the Commission determines that this matter does not require a forbearance finding.
32. The Commission also notes that in modified Telecom Decision 2006-15, the Commission retained its powers under section 24 of the *Telecommunications Act* (the Act) in order, among other things, to retain certain conditions, such as, in the case of residential customers, those regarding the following matters associated with the ILECs' terms of service:
- ILEC-initiated suspension or disconnection of service,
 - Deposit policy,
 - Provision of telephone directories, and
 - Customer confidentiality provisions.
33. The Commission reminds TCC that it is required to comply with the conditions referred to above in a forborne market.

Conclusion

34. The Commission determines that TCC's applications regarding the 11 exchanges listed in Appendix 1 meet all the local forbearance criteria set out in modified Telecom Decision 2006-15.
35. Pursuant to subsection 34(1) of 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 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 11 exchanges listed in Appendix 1, would be consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.
36. 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.
37. Pursuant to subsection 34(3) 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.
38. In light of the above, the Commission **approves** TCC's applications 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 11 exchanges listed in Appendix 1, 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.

Related documents

- *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
- *Application for forbearance from the regulation of residential local exchange services in Fort McMurray, Alberta*, Telecom Decision CRTC 2007-18, 27 March 2007, as amended by Telecom Decision CRTC 2007-18-1, 27 March 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

Secretary General

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>

List of exchanges

Alberta

Calgary
Edmonton

British Columbia

New Westminster
Newton
North Vancouver
Richmond
Vancouver
Victoria
West Vancouver
Whalley

Quebec

Rimouski

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

Calgary and Edmonton, Alberta

Services included in Telecom Decision 2005-35

Tariff	Item	List of services
18001	230	Voice Messaging Options Service
18001	235	Calling Features
18001	240	Extended Area Service
18001	305	Denial Service
18001	310	Toll Restriction Services
18001	380	Temporary Disconnect
18001	425	Exchange Service
21461	129.1b; 129.1c; and 129.1d	Directory Listings, Extra Listings, Non-Published Telephone Numbers and Non-Listed Telephone Numbers
21461	202	Individual Line Service
21461	209	Local Calling Area (LCA) Expansion
21461	300	Call Management Service
21461	301	Voice Mail Service (VMS)
21461	307	Special Number Search
21461	311	Dual Line Call Manager
21461	314	Remote Call Forwarding

Victoria and Vancouver, British Columbia

Services included in Telecom Decision 2005-35

Tariff	Item	List of services
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	165	Call Intercept – Residence Numbers
1005	405	Internet Call Director
1005	168-C	Voice Messaging Options Service
1005	465-B	ISDN-BRI Home Service
21461	129.1b; 129.1c; and 129.1d	Directory Listings, Extra Listings, Non-Published Telephone Numbers and Non-Listed Telephone Numbers

Victoria and Vancouver, British Columbia (cont'd)

Services included in Telecom Decision 2005-35

Tariff	Item	List of services
21461	202	Individual Line Service
21461	209	Local Calling Area (LCA) Expansion
21461	300	Call Management Services – residential only
21461	301	Voice Mail Service (VMS) – residential only
21461	307	Special Number Search
21461	311	Dual Line Call Manager
21461	314	Remote Call Forwarding

Rimouski, Quebec

Services included in Telecom Decision 2005-35

Tariff	Item	List of services
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

Additional forbearance-eligible services

Tariff	Item	List of services
25080	2.01.06a	Basic Service – Residence