



## Telecom Decision CRTC 2007-65

Ottawa, 3 August 2007

### **Bell Canada – Applications for forbearance from the regulation of residential local exchange services**

Reference: 8640-B2-200705593, 8640-B2-200706830, and 8640-C12-200706351

*In this Decision, the Commission approves Bell Canada's request for forbearance from the regulation of residential local exchange services in 191 exchanges in Ontario and Quebec.*

#### **Introduction**

1. The Commission received applications by Bell Canada, dated 11 April and 1 May 2007, in which the company requested forbearance from the regulation of residential local exchange services<sup>1</sup> in 249 exchanges in Ontario and Quebec.
2. This Decision deals with the applications for forbearance for the 191 exchanges listed in Appendix 1, including exchanges in the priority census metropolitan areas (CMAs) of Hamilton, London, Montréal, Ottawa-Gatineau, Québec, and Toronto.<sup>2</sup> The applications for forbearance in the remaining 58 exchanges will be dealt with in subsequent decisions.
3. 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.
4. The Commission received submissions and/or data regarding Bell Canada'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.; CoopTel; Distributel Communications Limited; Execulink Telecom Inc.; Globility Communications Corporation; Robert Macaulay; Maskatel inc.; Mountain Cablevision Ltd; MTS Allstream Inc. (MTS Allstream); Nexicom Telecommunications Inc.; 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.;

<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.

<sup>2</sup> 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 census metropolitan areas of Calgary, Edmonton, Halifax, Hamilton, London, Montréal, Ottawa-Gatineau, Québec, Toronto, Vancouver, or Winnipeg will be given priority by the Commission.

Rogers Communications Inc. (RCI); Saskatchewan Telecommunications; Shaw Communications Inc.; 9164-3122 Québec inc., doing business as Sogetel Numérique; Téléphone Drummond inc.; TELUS Communications Company; Wightman Communications Ltd. (Wightman); and WTC Communications.

5. The record of this proceeding for the 191 exchanges set out in Appendix 1 closed with reply comments by Bell Canada, dated 20 July 2007.
6. The Commission has assessed Bell Canada'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 quality of service (Q of S) results
  - d) Communications plan
7. The Commission will consider an additional issue – limitation of liability provisions – raised by Bell Canada under the heading "Other issues."

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

#### **a) Product market**

8. The Commission received no comments with respect to Bell Canada's proposed list of residential local exchange services.
9. The Commission notes that Bell Canada is seeking forbearance for 20 tariffed residential local exchange services. The Commission also notes that all but 1 of these 20 services were included in the list of services set out in Telecom Decision 2005-35.
10. The Commission notes that the additional service, Bell Digital Voice, is a new local exchange service that did not exist when Telecom Decision 2005-35 was issued. However, the Commission considers that Bell Digital Voice falls within the definition of local exchange services set out in Telecom Public Notice 2005-2.
11. Accordingly, the Commission considers the list of services proposed by Bell Canada for forbearance to be appropriate. The list is set out in Appendix 2 to this Decision.

#### **b) Competitor presence test**

12. The Commission notes that for the 191 exchanges dealt with in this Decision, information provided by parties confirms that there are, in addition to Bell Canada, 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 Bell Canada is capable of serving, and at least one, in addition to Bell Canada, is a facilities-based, fixed-line telecommunications service provider.

13. Accordingly, the Commission determines that the 191 exchanges listed in Appendix 1 meet the competitor presence test.

**c) Competitor Q of S results**

14. The Commission notes that Bell Canada submitted competitor Q of S results for the period of December 2006 to May 2007.
15. MTS Allstream submitted that Bell Canada had, on average, failed to provide the minimum standards for the applicable indicators for each competitor over the six-month period. Wightman submitted that Bell Canada had not provided it, when averaged, with at- or above-standard service for the activities measured by indicators 2.7 – Competitor Out-of-Service Trouble Reports Cleared Within 24 Hours (indicator 2.7) and 2.9 – Competitor Degraded Trouble Reports Cleared Within 48 Hours (indicator 2.9).
16. The Commission notes that based on modified Telecom Decision 2006-15, the first part of the competitor Q of S criterion requires an ILEC to 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.
17. MTS Allstream also submitted that Bell Canada had incorrectly reported the Q of S results by including data in December 2006 from the exchanges that belonged to Bell Aliant.<sup>3</sup>
18. In Telecom Decision 2007-59, the Commission considered that for the months of August to December 2006, Bell Aliant's compliance with the Q of S forbearance criterion should be assessed based on the competitor Q of S results from the ILEC that reported results that included the particular exchange for which forbearance was requested – that is, exchanges in the Atlantic provinces would be assessed based on Bell Aliant Q of S results as reported, and exchanges in Ontario and Quebec would be assessed based on Bell Canada Q of S results for August to December 2006 plus Bell Aliant's consolidated Q of S results for January 2007. The Commission therefore considers that it is not necessary for Bell Canada to exclude the Q of S data from transferred Bell Aliant exchanges in Ontario and Quebec for the month of December 2006, as requested by MTS Allstream.
19. MTS Allstream submitted that Bell Canada had inflated its performance results for indicators 1.12 – Local Service Requests Confirmed Due Dates Met (indicator 1.12) and 1.19 – Confirmed Due Dates Met – Competitive Digital Network Services and Type C Loops (indicator 1.19) by including disconnection orders.

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<sup>3</sup> On 7 July 2006, Bell Canada's regional wireline telecommunications operations in Ontario and Quebec were combined with, among other things, the wireline telecommunications operations of Aliant Telecom Inc., Société en commandite Télébec, and NorthernTel, Limited Partnership to form Bell Aliant.

20. The Commission notes that there is no provision in the currently approved definitions or in the business rules that disconnection orders must be excluded from indicators 1.12 and 1.19, as requested by MTS Allstream.
21. MTS Allstream and RCI also submitted that Bell Canada had consistently provided them with services that were below the approved Q of S standards, and MTS Allstream suggested that Bell Canada had also done so in the case of other competitors. In addition, RCI disagreed with the numbers Bell Canada had reported for RCI regarding indicators 2.7 and 2.9.
22. The Commission notes that for the second part of the competitor Q of S criterion it must determine that the ILEC has not consistently provided any of the competitors in its territory with services that were below the applicable Q of S standards.
23. The Commission notes that Bell Canada has provided at- or above-standard service to MTS Allstream and RCI for more than 70 percent of the individually reported numbers, where each reported number is one indicator's result for one month, even when calculated using RCI's numbers. The Commission considers that this demonstrates that Bell Canada did not consistently provide MTS Allstream or RCI with services that were below the Q of S standards.
24. The Commission notes MTS Allstream's comments that Bell Canada had consistently provided below-standard service to other competitors. In order to make such a determination regarding any competitor, the Commission considers that, as a general guideline, it would have to find that an ILEC has provided below-standard service to that competitor for at least two thirds of the individually reported numbers, where each reported number is one indicator's result for one month.<sup>4</sup>
25. The Commission has reviewed Bell Canada's competitor Q of S results and finds that, based on this general guideline, Bell Canada did not consistently provide any of the competitors in its territory with services that were below applicable Q of S standards. In addition, the Commission considers that there were no other factors to lead it to conclude that under the circumstances, Bell Canada has failed to meet this part of the competitor Q of S criterion.
26. In light of the above, 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.

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<sup>4</sup> In Telecom Decision 2007-59 the Commission considered that where 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.

27. Accordingly, the Commission determines that Bell Canada's competitor Q of S results meet the competitor Q of S criterion.

**d) Communications plan**

28. MTS Allstream submitted that despite the clear requirement for Commission approval of any communications plan to customers regarding local forbearance, Bell Canada had already sent both residential and business customers notices extolling the supposed benefits of deregulation.

29. The Commission notes that MTS Allstream only attached a copy of Bell Canada's communication to its business customers, including what Bell Canada referred to as the Unregulated Terms of Service (UTOS). The Commission notes that Bell Canada's communications to its residential customers make no specific reference to local exchange services and specifically indicate that the UTOS does not apply to any services or products offered by Bell Canada or its affiliates that have their own specific terms and conditions.

30. The Commission reminds Bell Canada 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.

31. The Consumer Groups submitted that Bell Canada's communications plan was inadequate and proposed specific and detailed elements to be addressed by the company in its plan. In reply, Bell Canada submitted that the Consumer Groups' request would be more appropriately addressed through an application to review and vary modified Telecom Decision 2006-15.

32. 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.

33. The Commission has reviewed Bell Canada'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 second item of the section entitled Objectives as follows:

*Advise residential customers that the CRTC has directed Bell Canada 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) Revise the third item of the section entitled Objectives as follows:

*Advise customers that as of (date), the price and most terms for local telephone services in their area are no longer regulated by the CRTC, but rather by the Company's unregulated terms of service which set out the basic rights, obligations and limitations of Bell Canada and its customers.*

- iii) Indicate that Bell Canada 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.
- iv) Provide mailing addresses for each organization listed in the communications plan.
- v) Add the following information to the contact list, after Bell Canada's contact information and before the Commission's contact information:

Commissioner for Complaints for Telecommunications Services (CCTS)

**Website**

[www.ccts-cprst.ca](http://www.ccts-cprst.ca)

**Email**

General inquiries: [info@ccts-cprst.ca](mailto:info@ccts-cprst.ca)

Complaints: [complaints@ccts-cprst.ca](mailto: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

- vi) Add the following information to the contact list, after 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

Email: [consumer.information@ic.gc.ca](mailto:consumer.information@ic.gc.ca)

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

#### **Other issues**

##### *Limitation of liability*

35. Bell Canada noted that previous forbearance orders, for example, Telecom Decision 97-19, had included a "limitation of liability" provision to address the transitional period from full regulation to regulatory forbearance. Bell Canada requested that the Commission include a limitation of liability clause in its decision and, as an example, proposed the following words:

Any provision limiting liability in existing contracts or other arrangements with customers will continue to remain in force for the greater of (i) 90 days after the effective date of this Forbearance Order, and (ii) until the end of the term of such contracts or other arrangements, in accordance with the terms of such contracts or other arrangements.

36. The Commission notes that this issue was expressly dealt with in modified Telecom Decision 2006-15, where the Commission stated the following:

... The Commission notes that any provision limiting liability in any existing contracts or arrangements, as of the date of the Commission decision granting forbearance in a relevant market, will remain in force until its expiry. Such existing contracts or arrangements will be deemed to terminate on the date or in the manner provided therein, notwithstanding any contractual provisions governing extensions.

37. The Commission considers that Bell Canada's concerns have been addressed by this statement and that no further ruling regarding limitation of liability provisions is required in this Decision.

#### **Conclusion**

38. The Commission determines that Bell Canada's applications regarding the 191 exchanges listed in Appendix 1 meet all the local forbearance criteria set out in modified Telecom Decision 2006-15.
39. 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 191 exchanges listed in Appendix 1, would be consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.
40. 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.

41. 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.
42. In light of the above, the Commission **approves** Bell Canada'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 191 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. The Commission directs Bell Canada to file for Commission approval revised tariff pages within 30 days.

### **Related documents**

- *Bell Aliant – Applications for forbearance from the regulation of residential local exchange services*, Telecom Decision CRTC 2007-59, 25 July 2007, as amended by Telecom Decision CRTC 2007-59-1, 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
- *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
- *Forbearance – Regulation of toll services provided by incumbent telephone companies*, Telecom Decision CRTC 97-19, 18 December 1997, as amended by Telecom Decision CRTC 97-19-1, 9 March 1998

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 in Ontario and Quebec

### Exchanges within the priority CMAs

#### *Hamilton CMA*

Ancaster  
Burlington  
Dundas  
Grimsby  
Stoney Creek  
Waterdown

#### *London CMA*

Belmont  
Dorchester  
Harrietsville  
Lambeth  
London  
St. Thomas  
Thorndale

#### *Montréal CMA*

Beauharnois  
Beloeil  
Boucherville  
Chambly  
Châteauguay  
Chomedey  
Île-Perrot  
L'Épiphanie-L'Assomption  
Lachine  
Laprairie  
Laval-Est  
Laval-Ouest  
Lavaltrie  
Le Gardeur  
Les Cèdres  
Longueuil  
Mascouche  
Mirabel-St-Augustin  
Montréal  
Pointe-Claire  
Pont-Viau  
Roxboro  
St-Bruno  
St-Constant

***Montréal CMA (cont'd)***

Ste-Anne-des-Plaines  
Ste-Geneviève  
Ste-Julie-de-Verchères  
Ste-Rose  
Ste-Thérèse  
St-Eustache  
St-Jérôme  
St-Lambert  
St-Vincent-de-Paul  
Terrebonne  
Varenes  
Vaudreuil

***Ottawa-Gatineau CMA***

Carp  
Cumberland  
Gatineau  
Gloucester  
Jockvale  
Kanata-Stittsville  
Manotick  
Metcalf  
Navan  
North Gower  
Orleans  
Osgoode  
Ottawa-Hull  
Richmond  
Russell

***Québec CMA***

Boischatel  
Charny  
Lévis  
Loretteville  
Québec  
Ste-Pétronille  
St-Nicolas

***Toronto CMA***

Ajax-Pickering  
Alliston  
Aurora  
Beeton  
Bolton  
Bradford

***Toronto CMA (cont'd)***

Brampton  
Caledon East  
Castlemore  
Clarkson  
Cooksville  
Georgetown  
Gormley  
Keswick  
King City  
Kleinburg  
Malton  
Maple  
Markham  
Milton  
Mount Albert  
Newmarket  
Nobleton  
Oakville  
Palgrave  
Port Credit  
Queensville  
Richmond Hill  
Schomberg  
Snelgrove  
South Pickering  
Stouffville  
Streetsville  
Sutton  
Thornhill  
Toronto  
Tottenham  
Unionville  
Victoria  
Woodbridge

**Exchanges outside of the priority CMAs**

Ayr  
Baden  
Barrie  
Beamsville  
Belleville  
Bowmanville  
Brantford  
Breslau  
Brooklin

**Exchanges outside of the priority CMAs (cont'd)**

Caledonia  
Carleton Place  
Collingwood  
Cookstown  
Coteau-du-Lac  
Coteau-Landing  
Deauville  
Drummondville  
East Angus  
Elmira  
Elmvale  
Essex  
Fort Erie  
Galt  
Grand-Mère  
Guelph  
Hespeler  
Ingersoll  
Innerkip  
Kingston  
Kitchener-Waterloo  
Lefroy  
Louiseville  
Magog  
Marieville  
New Dundee  
New Hamburg  
Newcastle  
Niagara Falls  
Niagara-on-the-Lake  
Orillia  
Orono  
Oshawa  
Paris  
Peterborough  
Port Colbourne  
Preston  
Shawinigan  
Sherbrooke  
Sorel  
St. Catharines  
St. Clements  
St. George  
St. Jacobs  
St-Césaire

**Exchanges outside of the priority CMAs (cont'd)**

Ste-Adèle  
Ste-Agathe  
Ste-Anne-de-Beaupré  
St-Féréol  
St-Hyacinthe  
St-Jean  
St-Jovite  
St-Lin  
St-Marc  
Stratford  
Stroud  
St-Sauveur  
Tavistock  
Tecumseh  
Thamesford  
Tillsonburg  
Trenton  
Trois-Rivières  
Valleyfield  
Verchères  
Wasaga Beach  
Waterville  
Welland  
Whitby  
Windsor  
Woodstock

**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>
6716	29	Telephone Set Loss Charge
6716	70	Rate Schedules for Primary Exchange (Local) Service
6716	72	Reference of Calls
6716	73	Telephone Number Services
6716	82	Toll Restriction
6716	86	Call Display Blocking
6716	220	Extra Listings – Omission of a Primary Exchange Listing
6716	1060	Service on Stationary Boats, Ships, Trailers and Trains
6716	1130	Suspension of Service
6716	2025	Integrated Voice Messaging Service (IVMS)
6716	2030	Universal Messaging
6716	2150	Push-Button Dialing (Touch-Tone)
6716	2165	Calling Features
6716	2180	PrimeLine Executive
6716	2185	Single Number Reach
6716	2200	Call Blocking Service
6716	2210	SimplyOne Service
6716	2300	Telephone Station Equipment
6716	4699	Internet Call Display Service
6716	7031	Bell Digital Voice