



Telecom Decision CRTC 2007-87

Ottawa, 13 September 2007

Bell Canada – Applications for forbearance from the regulation of business local exchange services

Reference: 8640-B2-200705593, 8640-B2-200706822 and 8640-C12-200706351

In this Decision, the Commission approves Bell Canada's request for forbearance from the regulation of business local exchange services in 59 exchanges in Ontario and Quebec. The Commission denies Bell Canada's request for forbearance in 123 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 business local exchange services¹ in 182 exchanges in Ontario and Quebec, including exchanges in the priority census metropolitan areas (CMAs) of Hamilton, London, Montréal, Ottawa-Gatineau, Québec, and Toronto.² A list of these exchanges is set out in Appendix 1 to this Decision.
2. In a letter dated 7 May 2007, the Commission directed incumbent local exchange carriers (ILECs), competitive local exchange carriers (CLECs), and wireless service providers to provide additional information regarding current local forbearance applications.
3. 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 (EastLink); Bruce Telecom; Cable Axion Digitel Inc.; Canadian Cable Systems Alliance Inc.; Cogeco Cable Inc.; 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; Quebecor Media Inc., on behalf of Videotron Ltd. (Videotron); Rogers Communications Inc.; Saskatchewan Telecommunications; Shaw Communications Inc.; 9163-7918 Québec inc.,

¹ 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.

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.

doing business as CoopTel; 9164-3122 Québec inc., doing business as Sogetel Numérique; Téléphone Drummond inc.; TELUS Communications Company; Wightman Telecom Ltd.; and WTC Communications.

4. The record of this proceeding closed with Bell Canada's reply comments, dated 20 July 2007.
5. 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
6. The Commission notes that it has already addressed an additional issue raised by Bell Canada in its applications, namely limitation of liability provisions, in Telecom Decision 2007-65.

Commission's analysis and determinations

a) Product market

7. Bell Canada requested forbearance from the regulation of the business local exchange services set out in Appendix 2 to this Decision. The company also requested forbearance from the regulation of various Centrex services (this includes Enhanced Exchange Wide Dial services), which are set out in Appendix 3 to this Decision.
8. MTS Allstream and EastLink raised objections to the inclusion of Centrex services in the relevant product market.
9. The Commission notes that it issued Telecom Public Notice 2007-14 on 17 August 2007 to address the issue of Centrex services in relation to applications for forbearance from the regulation of business local exchange services. Accordingly, the Commission will not consider Bell Canada's application regarding the above-noted Centrex services in this Decision.
10. With respect to the list of services set out in Appendix 2, the Commission notes that all but the following were included in the list of services set out in Telecom Decision 2005-35: Remote Electronic Metering Access and Business IP [Internet Protocol] Voice Standard. The Commission considers that the above-noted services fall within the definition of local exchange services as set out in Telecom Public Notice 2005-2.
11. Accordingly, the Commission considers that, with the exclusion of Centrex services, the list of services proposed by Bell Canada for forbearance, as set out in Appendix 2, is appropriate.

b) Competitor presence test

12. The Commission notes Bell Canada's submission that competitors were capable of serving at least 75 percent of the number of business local exchange service lines that Bell Canada is capable of serving in the 182 exchanges.
13. The Commission also notes that information provided by parties indicates that there is no facilities-based fixed-line telecommunications service provider, other than Bell Canada, offering business services in the exchanges of Luskville, Brownsburg, Crabtree, Dunham, Grand-Mère, Montebello, Papineauville, Ste-Adèle, Ste-Agathe, St-Germain-de-Grantham, St-Jacques, St-Jovite, Ste-Julienne, St-Tite-des-Caps, or Wickham. Accordingly, the Commission determines that these 15 exchanges of the 182 exchanges do not meet the competitor presence test.
14. With respect to the 167 remaining exchanges, the Commission notes Bell Canada's submission that in the case of cable companies that offered both residential and business local exchange services using their cable network, such as Videotron, it would be reasonable to consider the market coverage of their cable networks to be the same in both markets. The Commission further notes Bell Canada's proposal that, accordingly, the residential market coverage be used as an estimate of the business market coverage. In this regard, the Commission notes that residential and business serving areas may not be in the same locations; for example, business parks do not typically include households. Therefore, the Commission considers that it is inappropriate to use residential coverage as a proxy for business coverage.
15. The Commission notes that for some exchanges, Videotron has reported the number of buildings connected to its fibre network. The Commission also notes that Videotron could not convert this information into the number of business local exchange lines it could serve, but submitted that the fibre network would have a negligible impact on its capability to offer business local exchange services. In these circumstances, the Commission analyzed the available evidence to estimate Videotron's fibre network capability in providing business local exchange services. The Commission notes that its analysis, even with positive assumptions from the applicant's perspective, did not provide sufficient evidence for the Commission to determine that the competitor presence test has been met in those exchanges where Videotron reported fibre network capability in addition to its cable facilities to provide business local exchange services.
16. Certain competitors noted that they lease unbundled loops from Bell Canada and commented that in the case of end-user locations served off remotes, they were unable to serve any end-user locations in the absence of the deployment of Central Office Terminal technology by Bell Canada or the availability of an end-to-end copper loop. In these circumstances, the Commission notes that it adjusted the competitor serving capability accordingly.
17. Some competitors challenged Bell Canada's evidence, noting that service area maps are not synonymous to the CLEC using its own facilities. The Commission is of the view that while service area maps provide the evidence that competitors offer services, service area maps do not demonstrate that the competitors' capability within the exchange is facilities-based. For these exchanges, the competitors were requested to provide the Commission with additional information with regard to their facilities-based capability within an exchange.

18. The Commission notes that of these 167 exchanges, information provided by parties confirms that for the 59 exchanges listed in Appendix 4, there is, in addition to Bell Canada, at least one other independent facilities-based, fixed-line telecommunications service provider that offers local exchange services in the market and is capable of serving more than 75 percent of the number of business local lines that Bell Canada is capable of serving. Accordingly, the Commission determines that these 59 exchanges meet the competitor presence test.
19. The Commission finds that the remaining 108 exchanges do not meet the competitor presence test, as the other fixed-line telecommunications service providers are not capable of serving at least 75 percent of the number of business local exchange service lines that Bell Canada is capable of serving.

c) Competitor Q of S results

20. In Telecom Decision 2007-65, the Commission determined that Bell Canada's competitor Q of S results met the competitor Q of S criterion.

d) Communications plan

21. 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.
22. The Commission notes that MTS Allstream attached a copy of Bell Canada's communications to its business customers, including what Bell Canada referred to as the Unregulated Terms of Service (UTOS).
23. The Commission 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 be able to impose conditions in the future, should that prove necessary. In addition, the Commission retained, among other things, the following existing regulatory conditions, which are set out in the terms of service for business customers:
 - Provision of telephone directories, and
 - Customer confidentiality provisions.
24. The Commission considers that the UTOS sent by Bell Canada to its business customers do not comply with modified Telecom Decision 2006-15 regarding the above terms of service in a forborne market.
25. The Commission directs Bell Canada to update its UTOS to be consistent with the terms of service, as set out in modified Telecom Decision 2006-15, with respect to business customers.

26. 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 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.

ii) Indicate that Bell Canada is to be the first point of contact for its local service customers' questions regarding local forbearance and provide its contact information, including 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 Bell Canada'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

27. The Commission **approves** the proposed business 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.

Conclusion

28. The Commission determines that Bell Canada's applications regarding the 59 exchanges listed in Appendix 4 meet all the local forbearance criteria set out in modified Telecom Decision 2006-15.

29. 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 business 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 business customers only, in the 59 exchanges listed in Appendix 4, would be consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.
30. 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 these exchanges sufficient to protect the interests of users of these services.
31. 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 business local exchange services in these exchanges would be unlikely to impair unduly the continuance of a competitive market for these services.
32. 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 business customers only, in the 59 exchanges listed in Appendix 4, 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.
33. The Commission determines that Bell Canada's applications do not meet all of the forbearance criteria set out in modified Telecom Decision 2006-15 for the remaining 123 exchanges. Accordingly, the Commission **denies** Bell Canada's application for forbearance from the regulation of the business local exchange services in these 123 exchanges.

Secretary General

Related documents

- *Examination of the relevant market for Centrex and Enhanced Exchange Wide Dial services for the purposes of forbearance from the regulation of local exchange services*, Telecom Public Notice CRTC 2007-14, 17 August 2007
- *Bell Canada – Applications for forbearance from the regulation of residential local exchange services*, Telecom Decision CRTC 2007-65, 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

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
Binbrook
Burlington
Dundas
Grimsby
Hamilton
Mount Hope
Stoney Creek
Waterdown

London CMA

Dorchester
Lambeth
London

Montréal CMA

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

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

Ottawa-Gatineau CMA

Aylmer
Buckingham
Chelsea
Gatineau
Kanata-Stittsville
Luskville
Orléans
Ottawa-Hull
Perkins

Québec CMA

Boischatel
Charny
Lévis
Loretteville
Notre-Dame-des-Laurentides
Québec
St-Jean-Île-d'Orléans
St-Nicolas
Ste-Pétronille
Valcartier

Toronto CMA

Acton
Ajax-Pickering
Aurora
Brampton
Castlemore

Clarkson
Cooksville
Georgetown
Gormley
Keswick
King City
Kleinburg
Malton
Maple
Markham
Milton
Newmarket
Oak Ridges
Oakville
Port Credit
Richmond Hill
Schomberg
South Pickering
Streetsville
Thornhill
Toronto
Unionville
Woodbridge

Exchanges outside of the priority CMAs

Actonvale
Barrie
Beamsville
Belleville
Brantford
Bromont
Bromptonville
Brownsburg
Coaticook
Coteau-du-Lac
Coteau-Landing
Cowansville
Crabtree
Deauville
Drummondville
Dunham
East Angus
Essex
Farnham
Fort Erie
Galt

Gananoque
Granby
Grand-Mère
Guelph
Joliette
Kingston
Kingsville
Kitchener-Waterloo
Lachute
Leamington
Lindsay
Louiseville
Magog
Marieville
Montebello
Niagara Falls
Niagara-on-the-Lake
Oshawa
Papineauville
Pelham
Peterborough
Port Colborne
Ridgeway
Rigaud
Shawinigan
Sherbrooke
Sorel
Ste-Adèle
Ste-Agathe
Ste-Anne-de-Beaupré
St. Catharines
St-Calixte-de-Kilkenny
St-Césaire
St-Denis
St-Féréol
St-Germain-de-Grantham
St-Hyacinthe
St-Jacques
St-Jean
St-Jovite
Ste-Julienne
St-Lin
St-Marc
St-Paul-d'Abbotsford
St-Polycarpe
St-Rémi

St-Sauveur
St-Tite-des-Caps
Stoke
Stratford
Tecumseh
Thurso
Trenton
Trois-Rivières
Valleyfield
Verchère
Waterloo
Waterville
Welland
Whitby
Wickham
Windsor

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

Tariff	Item	List of services
6716	29	Telephone Set Loss Charge
6716	50	Remote Electronic Metering Access
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	430	Private Branch Exchange Service
6716	500	Direct Inward Dialing
6716	1030	Short-Term Service
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	2205	Suppressed Ringing Service
6716	2210	SimplyOne Service
6716	2300	Telephone Station Equipment
6716	4699	Internet Call Display Service
6716	5201	Megalink Service
6716	5210	Microlink Services
6716	5300	Digital Exchange Access
6716	6000	Intelligent Routing
6716	7026	Business IP Voice Standard
7400	515	900 Service – 900 Call Denial/Blocking

Bell Canada requested forbearance for the following Centrex services:

Tariff	Item	List of services
6716	670	Centrex III Service (General)
6716	675	Centrex III Rates and Charges
6716	677	Electronic Transfer Capability for Centrex
6716	678	Station Message Detail Recording File Distribution Service
6716	350	Enhanced Exchange-Wide Dial Service
6716	7010	Managed Internet Protocol Telephony Service

List of exchanges in Ontario and Quebec where competitor presence test is met

Exchanges within the priority CMAs

Hamilton CMA

Ancaster
Burlington
Dundas
Hamilton
Stoney Creek

London CMA

London

Montréal CMA

Boucherville
Chomedey
Lachine
Longueuil
Mirabel-Ste-Scholastique
Montréal
Pointe-Claire
Pont-Viau
Roxboro
Ste-Geneviève
St-Lambert

Ottawa-Gatineau CMA

Kanata-Stittsville
Orléans
Ottawa-Hull

Québec CMA

Québec

Toronto CMA

Ajax-Pickering
Aurora
Brampton
Castlemore
Clarkson
Georgetown
Malton
Maple
Markham

Milton
Newmarket
Oakville
Port Credit
Richmond Hill
South Pickering
Streetsville
Toronto
Unionville
Woodbridge

Exchanges outside of the priority CMAs

Barrie
Belleville
Brantford
Drummondville
Galt
Guelph
Kitchener-Waterloo
Oshawa
Peterborough
Sherbrooke
St. Catharines
St-Hyacinthe
Stratford
Tecumseh
Trenton
Trois-Rivières
Welland
Whitby
Windsor