



Telecom Public Notice CRTC 2007-5

Ottawa, 13 April 2007

Incumbent local exchange carrier applications for local forbearance – Methodology to be used where quality of service (Q of S) results are excluded for purposes of the competitor Q of S rate rebate plan

Reference: 8660-C12-200705585

Background

1. The Commission has, in a series of decisions beginning with *Quality of service indicators for use in telephone company regulation*, Telecom Decision CRTC 97-16, 24 July 1997, established competitor quality of service (Q of S) indicators. These indicators permit the Commission to monitor the provision of certain services to competitors by the incumbent local exchange carriers (ILECs).
2. In *Finalization of quality of service rate rebate plan for competitors*, Telecom Decision CRTC 2005-20, 31 March 2005 (Decision 2005-20), the Commission finalized 14 competitor Q of S indicators as well as the Q of S rate rebate plan (RRP) for competitors, and established minimum performance standards for each of the 14 competitor Q of S indicators that would be included in the final RRP. The Commission noted that the purpose of the Q of S regime for competitors, including the RRP for competitors, was to ensure that all competitors received a quality of service from the ILECs of a sufficiently high level to enable them to compete on a level playing field with the ILECs.
3. In Decision 2005-20, the Commission created a mechanism for considering possible exclusions from competitor Q of S results where circumstances beyond the control of an ILEC might have caused it to fail to meet a performance standard. The Commission determined that if an ILEC believed that a performance failure for a certain competitor Q of S indicator was due to circumstances beyond its control, the ILEC could file an exclusion application within 21 days of the end of the adverse event. The Commission added that exclusions would best be dealt with on a case-by-case basis.
4. In *Forbearance from the regulation of retail local exchange services*, Telecom Decision CRTC 2006-15, 6 April 2006 (Decision 2006-15), the Commission determined that in order for an ILEC to qualify for local forbearance in a particular relevant market it would be required to, among other things, show that for the six months prior to the application it had met the individual standards for each of the 14 Q of S indicators for each competitor when the results were averaged across the six-month period.
5. On 4 April 2007, the Governor in Council (GIC) issued *Order Varying Telecom Decision CRTC 2006-15*, P.C. 2007-0532 (the Order). In the Order, the GIC determined, among other things, that for a forbearance determination to be granted, an ILEC must demonstrate that with respect to the services provided to competitors in its territory, during a six-month period,

beginning no earlier than eight months before its application for local forbearance and ending at any time before the Commission's decision respecting the application, that the ILEC met, on average, the nine primary competitor Q of S standards for each indicator averaged across all competitors.

Issues to be addressed in this proceeding

6. The Commission considers that this public process will provide greater certainty and will expedite the local forbearance process.
7. The Commission invites comments on what the Commission should do when an ILEC applies for local forbearance and the Commission has approved an exclusion, for RRP purposes, of results of one or more competitor Q of S indicators for one or more months of the six-month period that the ILEC has used to demonstrate that it met, on average, the standards for each of the specified competitor Q of S indicators. Specifically, the Commission invites comments on whether in determining local forbearance in the above case the Commission should
 - a) consider the six-month period used by the ILEC in its local forbearance application, replacing the excluded indicator(s) in a given month with an indicator (or indicators) from earlier or later permissible non-excluded months (e.g. if four months of the six-month period used by the ILEC in its local forbearance application are excluded for a particular indicator, should the Commission consider competitor Q of S results for that indicator for the two months that are not excluded, as well as the four other non-excluded months before or after that six-month period?);
 - b) consider the six-month period used by the ILEC in its local forbearance application, although one or more of those months are excluded (e.g. if four months of the six-month period used by the ILEC in its local forbearance application are excluded for a particular indicator, should the Commission consider competitor Q of S results for that indicator using the remaining two months in that six-month period?). If so, is there a minimum number of months that are not excluded within the six-month period used by the ILEC in its local forbearance application that should be considered?
or
 - c) use another methodology.

Procedure

8. Interested parties are invited to file written comments with the Commission with respect to the issues described in this Public Notice, serving a copy on all parties to the proceeding initiated by *Forbearance from regulation of local exchange services*, Telecom Public Notice CRTC 2005-2, 28 April 2005 (Public Notice 2005-2) proceeding, by **27 April 2007**.

9. Interested parties may file reply comments with the Commission, serving a copy on all parties to the proceeding initiated by Public Notice 2005-2 and all other parties that provided comments pursuant to paragraph 7, by **4 May 2007**.
10. The Commission expects to issue a decision on the issues raised herein within 60 days of the issuance of this Public Notice.
11. Where a document is to be filed or served by a specific date, the document must be actually received, not merely sent, by that date.
12. Parties can file their submissions electronically or on paper. Submissions longer than five pages should include a summary.
13. Electronic submissions should be in HTML format. As an alternative, those making submissions may use "Microsoft Word" for text and "Microsoft Excel" for spreadsheets.
14. Each paragraph of all submissions should be numbered. In addition, the line ***End of document*** should be entered following the last paragraph of the document. This will help the Commission verify that the document has not been damaged during electronic transmission.
15. The Commission also encourages parties to monitor the record of this proceeding (and/or the Commission's website) for additional information that they may find useful when preparing their submissions.

Important notice

16. Note that all information that you provide as part of this public process, except information granted confidentiality, whether sent by postal mail, facsimile, email or through the Commission's website at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's website. This information includes your personal information, such as your full name, email address, postal/street address, telephone and facsimile number(s), and any other personal information you provide.
17. The personal information you provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.
18. Documents received electronically or otherwise will be put on the Commission's website in their entirety exactly as you send them, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.
19. Please note that the information you provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the webpage of this particular public process. As a result, a general search of our website with the help of either our own search engine or a third-party search engine will not provide access to the information which was provided as part of this public process.

Location of CRTC offices

20. Submissions may be examined or will be made available promptly upon request at the Commission offices during normal business hours.

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