



Telecom Decision CRTC 2008-13

Ottawa, 21 February 2008

DERY Telecom – Application to review and vary certain determinations in Telecom Decision 2007-50

Reference: 8662-D41-200718231 and 8678-C12-200615578

In this Decision, the Commission approves an application by DERY Telecom to review and vary certain determinations in Telecom Decision 2007-50 with respect to the community of Île-aux-Coudres, Quebec.

Introduction

1. DERY Telecom filed an application, dated 2 December 2007, to review and vary certain determinations in Telecom Decision 2007-50. In particular, DERY Telecom submitted that the Commission had made an error in fact in approving deferral account-funded broadband expansion in the community of Île-aux-Coudres, Quebec. DERY Telecom argued that the cable television co-operative of Île-aux-Coudres had been providing high-speed broadband services in that community before the Commission issued Telecom Decision 2007-50.
2. Bell Aliant Regional Communications, Limited Partnership (Bell Aliant) and Bell Canada (collectively, Bell Canada et al.) filed comments with respect to the application. The public record of this proceeding is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Background

3. In Telecom Decision 2006-9, the Commission set out guidelines for the incumbent local exchange carriers (ILECs)¹ concerning the disposition of funds remaining in their deferral accounts. The Commission determined, among other things, that initiatives to expand broadband services to rural and remote communities would be an appropriate use of those funds. Accordingly, the Commission directed each ILEC that planned to pursue broadband expansion to file, by 30 June 2006,² proposals to expand broadband services to the customer premises in communities located primarily in Bands E and F in high-cost serving areas, where it was unlikely that those areas would receive such services from any other service provider in the near future. The Commission also directed the ILECs to consult with provincial government agencies responsible for broadband initiatives to ensure that their proposals would take into account provincial priorities.

¹ The ILECs referred to in Telecom Decision 2006-9 were Aliant Telecom Inc., now part of Bell Aliant; Bell Canada; MTS Allstream Inc.; Saskatchewan Telecommunications; TELUS Communications Inc., now TELUS Communications Company (TCC); Télébec, Limited Partnership; and TELUS Communications (Québec) Inc., now part of TCC.

² The deadline was later extended to 1 September 2006.

4. In Telecom Public Notice 2006-15, the Commission initiated a proceeding to consider the ILECs' proposals. As part of this process, alternative broadband service providers (ABSPs) had the opportunity to file submissions with respect to the exclusion of any community identified in the ILECs' proposals, on the basis that it was already served or likely to be served in the near future. ABSPs were directed to file certain information regarding their current and proposed service areas by 19 January 2007. This date was subsequently extended to 19 February 2007. The Commission, the ILECs, and other interested parties were then able to test the information submitted by the ABSPs through the use of interrogatories and requests for further responses to interrogatories.
5. In Telecom Decision 2007-50, the Commission approved the use of deferral account funds by Bell Canada et al., MTS Allstream Inc., and TELUS Communications Company to expand broadband services to certain rural and remote communities in Rate Bands E, F, and G in British Columbia, Manitoba, Ontario, and Quebec where no ABSP had indicated, on the record of the Telecom Public Notice 2006-15 proceeding, that it currently provided or had firm plans to provide broadband services in the near future ("uncontested communities"). Île-aux-Coudres was included in this approved list of communities.

Commission's analysis and determinations

6. In Telecom Public Notice 98-6, the Commission set out the criteria to consider review and vary applications. Specifically, the Commission stated the following:

... applicants must demonstrate that there is substantial doubt as to the correctness of the original decision, for example due to: i) an error in law or in fact; ii) a fundamental change in circumstances or facts since the decision; iii) a failure to consider a basic principle which had been raised in the original proceeding; or iv) a new principle which has arisen as a result of the decision.
7. The Commission notes that, for the purposes of Telecom Decision 2007-50 and based on its review of the record of the Telecom Public Notice 2006-15 proceeding, Île-aux-Coudres was identified as an uncontested community since no ABSP, including DERY Telecom, had requested its exclusion within the established time frame.
8. The Commission notes, however, Bell Canada et al.'s submission that they concurred with DERY Telecom's claim that high-speed broadband services are being provided in Île-aux-Coudres, and that the community should be removed from the list of communities approved in Telecom Decision 2007-50.
9. In light of the above, the Commission is of the view that there is substantial doubt as to the correctness of Telecom Decision 2007-50 regarding the community of Île-aux-Coudres.

10. Accordingly, the Commission **approves** DERY Telecom's application to review and vary Telecom Decision 2007-50. In light of the agreement between the parties, no further process is required to consider DERY Telecom's claim. The Commission therefore excludes Île-aux-Coudres from the list of uncontested communities in the attachment to Telecom Decision 2007-50.

Secretary General

Related documents

- *Telecom Public Notice CRTC 2006-15 – Use of deferral account funds to expand broadband services to certain rural and remote communities*, Telecom Decision CRTC 2007-50, 6 July 2007, as amended by Telecom Decision CRTC 2007-50-1, 27 July 2007
- *Review of proposals to dispose of the funds accumulated in the deferral accounts*, Telecom Public Notice CRTC 2006-15, 30 November 2006
- *Disposition of funds in the deferral accounts*, Telecom Decision CRTC 2006-9, 16 February 2006
- *Guidelines for review and vary applications*, Telecom Public Notice CRTC 98-6, 20 March 1998

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