



## Telecom Decision CRTC 2008-27

Ottawa, 19 March 2008

### Regulatory policy

#### Improving access to local services

Reference: 8638-C12-200515002

*In this Decision, the Commission finds that it would not be appropriate to require the incumbent local exchange carriers to implement a debt repayment plan for previously disconnected subscribers. However, the Commission requests the Commissioner for Complaints for Telecommunications Services Inc. to examine credit management issues related to improving access to local services.*

#### Introduction

1. In Order 2000-393, the Commission began a process to improve access to retail local exchange service (local service), which led to Telecom Decisions 2004-31 and 2005-38.
2. In Telecom Decision 2004-31, the Commission determined that the incumbent local exchange carriers (ILECs), under their Terms of Service, are not permitted to disconnect or threaten to disconnect, for non-payment, any of a customer's tariffed services if that customer (a) has made partial payments sufficient to cover outstanding arrears for tariffed services and/or (b) is willing to enter into and honour a reasonable deferred payment agreement.<sup>1</sup>
3. In Telecom Decision 2005-38, the Commission noted the difficulties experienced by involuntarily disconnected customers in attempting to regain access to local services. In this regard, the Commission noted that, of the ILECs, only Saskatchewan Telecommunications (SaskTel) had a debt repayment plan (DRP) to assist customers who were willing to enter into and honour the terms of the plan in regaining access to local services prior to all outstanding debts being paid. The other ILECs, namely, Bell Aliant Regional Communications, Limited Partnership (Bell Aliant),<sup>2</sup> Bell Canada, MTS Allstream Inc., and TELUS Communications Company (TCC) (collectively, the Companies), indicated that, in general, they would reconnect a customer's local service, after all outstanding debts, as well as a security deposit and reconnection fees, were paid in full.
4. In order to improve access to local service for involuntarily disconnected subscribers, the Commission directed the Companies to undertake a pilot DRP, based on SaskTel's program, for a period of 18 months. Under the pilot DRP, among other things, (a) a debt repayment schedule would be established; (b) no interest would be charged on the amounts owing; (c) security deposits would be waived; and (d) the reconnection fees would be spread over six months.

<sup>1</sup> The ILECs' disconnection policy was retained in Telecom Decision 2006-15 for forborne local service markets.

<sup>2</sup> Telecom Decision 2005-38 made reference to Aliant Telecom Inc., which is now part of Bell Aliant, and to TELUS Communications Inc., which is now TELUS Communications Company.

5. The Commission directed the Companies to file the results of the pilot DRP and to show cause why it should not be permanently implemented. The Commission also directed SaskTel to file the comparable results of its program for the same period and to show cause why its program should not be modified to conform with the pilot DRP.
6. The following parties participated in this proceeding: the Companies, SaskTel, and the Consumer Groups.<sup>3</sup> The record of the proceeding closed on 15 June 2007. The public record of this proceeding is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."

## **Issues**

7. In this Decision, the Commission will consider whether it should require the Companies to implement the pilot DRP on a permanent basis, as well as other related matters.

### **I. Should the Commission require the Companies to implement the pilot DRP on a permanent basis?**

8. The Consumer Groups and the Companies disagreed on whether the pilot DRP was effective and whether it would be appropriate for the Commission to direct the ILECs to implement a permanent DRP in light of *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006 (the Policy Direction).
9. The Consumer Groups considered that the pilot DRP was sufficiently effective to warrant its permanent implementation. The Consumer Groups submitted, however, that the Commission should modify the pilot DRP to make it more consistent with the Policy Direction, then direct the ILECs and the competitive local exchange carriers to implement it on a permanent basis after sufficient process had been undertaken.
10. In this regard, the Consumer Groups submitted that
  - the take-rates and default rates of the pilot DRP were encouraging and that improvements, such as allowing one missed payment per 12-month period, would increase the take-rates and decrease the default rates.
  - a permanent DRP would meet the policy objectives set out in paragraphs 7(a), (b), and (h) of the *Telecommunications Act* (the Act) and, in particular, strongly benefit consumers with low income since connection to local services provided many important benefits including increased security (i.e. access to 9-1-1 service), reduced isolation, and improved employment opportunities.

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<sup>3</sup> In this Decision, the term "Consumer Groups" refers collectively to the Public Interest Advocacy Centre, as counsel for the National Anti-Poverty Organization, and l'Union des consommateurs.

- the DRP would not have a substantive, detrimental effect on the ILECs' finances; the amount of new debt incurred during the pilot period was not material, particularly when considering the amount of debt retired. Further, the Companies would recover the implementation costs over several years through the financial gains associated with the program.

11. The Companies argued that, in light of their current obligations under their Terms of Service and given their current credit management practices, it would not be necessary to implement the pilot DRP on a permanent basis. The Companies also argued that imposing the pilot DRP on a permanent basis would be inconsistent with the Policy Direction on the basis that it was inefficient, disproportionate to its purpose, and highly interfering with the operation of competitive market forces.

12. In this regard, the Companies submitted that

- the low take-rates and high default rates for the pilot DRP demonstrated that implementing the pilot DRP on a permanent basis would be ineffective at improving reconnection rates.
- the objectives set out in paragraphs 7(a), (b), and (h) of the Act would not be met by implementing the pilot DRP on a permanent basis; further, to do so would be contrary to the objective set out in paragraph 7(f) of the Act.<sup>4</sup>
- to require only the ILECs to implement the pilot DRP on a permanent basis would constitute asymmetrical regulation.
- despite the additional service revenues associated with the program, the DRP would have a significant negative impact on their respective finances. In this regard, (a) there would be significant costs associated with implementing the DRP on a larger scale; (b) the DRP would negatively impact their existing debt collection mechanisms; and (c) due to the high default rates, the DRP would significantly increase new debt.

13. SaskTel indicated that if the Commission did not find it necessary to direct the Companies to implement the pilot DRP on a permanent basis, it would review its decision to offer its DRP.

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<sup>4</sup> The cited objectives of the Act are:

- (a) to facilitate the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions;
- (b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada;
- (f) to foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective; and
- (h) to respond to the economic and social requirements of users of telecommunications services.

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

14. The Commission considers that access to local services provides many important social and economic benefits to consumers, including increased security (e.g. access to 9-1-1 service), reduced isolation, and improved employment opportunities.
15. The Commission considers that options may be limited for consumers, in particular those with low income, who wish to reconnect to the network following an involuntary disconnection. In this regard, the Commission notes that, as set out in the June 2007 Affordability Monitoring Report,<sup>5</sup> the Companies initiated 167,332 involuntary disconnections during the previous calendar year.
16. The Commission notes that the Policy Direction applies to the Commission's determinations in this Decision. The Commission further notes that subparagraph 1(a)(ii) of the Policy Direction states that the Commission should, "when relying on regulation, use measures that are efficient and proportionate to their purpose and that interfere with the operation of competitive market forces to the minimum extent necessary to meet the policy objectives."
17. The Commission recognizes that the pilot DRP resulted in a number of consumers regaining access to local services. However, the Commission notes that the default rates varied significantly between companies (e.g. Bell Aliant experienced a default rate of 81 percent, while TCC's default rate was 40 percent). The Commission also notes that the financial impact of a permanent implementation of the pilot DRP would vary between companies based on the implementation costs as well as the debt recovery ratio (i.e. debt recovered as a result of the pilot DRP divided by the new debt accrued during the pilot DRP).
18. Accordingly, the Commission considers that, overall, the results of the pilot DRP are inconclusive with respect to whether the benefits of implementing the program on a permanent basis outweigh the costs. The Commission considers that there are more efficient and proportionate methods to achieve the goal of improved access to local services for consumers, such as measures that would lead to a reduction in disconnections. In light of the above, the Commission considers that it would not be consistent with the Policy Direction to direct the Companies to implement this pilot DRP on a permanent basis.
19. On balance, the Commission concludes that it is not appropriate to direct the Companies to implement, on a permanent basis, this pilot DRP. The Commission directs the Companies to allow the consumers presently participating in the pilot DRP who continue to honour the terms of the pilot DRP to remain enrolled.

### **II. Other related matters**

20. In the course of this proceeding, the Consumer Groups argued that measures should be taken to improve access to local services, particularly for consumers with low income facing involuntary disconnection, prior to disconnection.

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<sup>5</sup> Filed pursuant to Telecom Decision 96-10.

21. The Consumer Groups noted that, as set out in Telecom Decision 2004-31, the ILECs have a regulatory obligation to give each customer the opportunity to enter into and honour a reasonable deferred payment agreement before they can disconnect that customer's local services. The Consumer Groups argued that the ILECs were not doing so in all cases, largely because the term "reasonable" was not clearly defined under the Terms of Service and, as such, was subject to the ILECs' interpretation on a case-by-case basis.
22. In this regard, the Consumer Groups submitted that the terms of the reasonable deferred payment agreement offered to the customer would vary significantly depending on whether a customer attempted to set out repayment terms with the ILEC directly or requested that the Consumer Groups negotiate with the ILEC on his or her behalf. The Consumer Groups submitted that, generally, when they acted on a customer's behalf, an ILEC would allow three to six months for repayment; however, during that customer's original attempt to negotiate an agreement, the ILEC frequently demanded full payment of outstanding arrears by the next billing date. The Consumer Groups further argued that demanding full payment of outstanding arrears by the next billing date did not constitute a reasonable deferred payment agreement.
23. The Consumer Groups submitted that the original motivation for the establishment of a DRP post-disconnection was the inability of consumers with low income to successfully negotiate reasonable deferred payment agreements prior to disconnection.
24. The Consumer Groups noted that the average debt accumulated by a disconnected subscriber was significant for consumers with low income and considered that access to local services could be further improved for such customers by improved credit management measures being offered prior to large debts being accumulated.
25. The Companies disagreed with the Consumer Groups and submitted that they had met their regulatory obligation to offer reasonable deferred payment agreements. The Companies submitted that their deferred payment agreements were flexible and took into account the affordability of the repayment requested, the services used, the payment history, the revenue of the subscriber, and any justification regarding previous defaults.
26. Some of the Companies indicated that, as a measure to prevent the further accumulation of large debts, they notified customers when their accounts had been flagged with an unusually high level of chargeable messages. As such, the Companies did not consider that further credit management measures were necessary.

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

27. The Commission notes that, for the Companies, the average debt per involuntarily disconnected consumer ranged from \$400-\$500, with the debts of certain consumers exceeding \$3,300.<sup>6</sup> The Commission considers the level of average debt to be high, especially for consumers with low income.

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<sup>6</sup> Based on the debts accrued by subscribers to the pilot DRP.

28. The Commission notes that, under their Terms of Service, the ILECs are not permitted to disconnect or threaten to disconnect, for non-payment, any of a customer's tariffed services if that customer is willing to enter into and honour a reasonable deferred payment agreement.
29. The Commission considers that the Companies have not, in all circumstances, been offering sufficiently flexible deferred payment agreements. In this regard, the Commission considers that a deferred payment agreement in which full payment of arrears was required within a very short time frame (for example, by the next billing date) would be inconsistent with the ILECs' Terms of Service. The Commission considers that offering inflexible payment agreements, in particular to consumers on low income, is likely to lead to disconnections that might have otherwise been avoided.
30. The Commission reminds the ILECs of their requirements under their Terms of Service in this regard. The Commission encourages the ILECs to review their practices with respect to setting the terms of such debt repayment agreements with a view to further reducing avoidable disconnections.
31. The Commission also considers that consumers would benefit from prompt notification of a sudden, substantive increase in their outstanding debt (rather than waiting until the next billing statement), in order to give them the ability to take the necessary measures to avoid disconnection. The Commission encourages the ILECs to take steps to promptly notify consumers of sudden, substantive increases in outstanding debts.
32. Finally, the Commission notes that credit management issues related to forborne services are within the scope of the mandate of the Commissioner for Complaints for Telecommunications Services Inc. (CCTS) as set out in Telecom Decision 2007-130. The Commission notes that the CCTS's mandate includes tracking complaints, identifying industry trends, and developing industry codes or standards.
33. The Commission considers that it would be appropriate for the CCTS to examine credit management issues related to improving access to local services.
34. In light of the above, the Commission requests that the CCTS track and monitor complaints related to (a) credit management issues and (b) the reconnection policies of its telecommunications service provider members with a view to determining whether further action, for example, the development of an industry code, is required.

Secretary General

### **Related documents**

- *Establishment of an independent telecommunications consumer agency*,  
Telecom Decision CRTC 2007-130, 20 December 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
- *Bill management tools – Debt repayment plans*, Telecom Decision CRTC 2005-38, 29 June 2005
- *Terms of Service – Disconnection for partial payment of charges*, Telecom Decision CRTC 2004-31, 11 May 2004
- *Commission modifies reporting requirements for affordability*, Order CRTC 2000-393, 10 May 2000
- *Local service pricing options*, Telecom Decision CRTC 96-10, 15 November 1996, as amended by Telecom Decision CRTC 96-10-1, 29 November 1996

*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>*