



## Telecom Decision CRTC 2008-76

Ottawa, 29 August 2008

### **Bell Aliant Regional Communications, Limited Partnership – Application for forbearance from the regulation of residential local exchange services**

Reference: 8640-B54-200807696

*In this Decision, the Commission approves Bell Aliant's request for forbearance from the regulation of residential local exchange services in the exchanges of Elmsdale and Shubenacadie, Nova Scotia, and Alberton and O'Leary, Prince Edward Island.*

#### **Introduction**

1. The Commission received an application by Bell Aliant Regional Communications, Limited Partnership (Bell Aliant), dated 30 May 2008, in which the company requested forbearance from the regulation of residential local exchange services<sup>1</sup> in the exchanges of Elmsdale and Shubenacadie, Nova Scotia, and Alberton and O'Leary, Prince Edward Island.
2. The Commission received submissions and/or data regarding Bell Aliant's application from Bragg Communications Inc., carrying on business as EastLink, Rogers Communications Inc. (RCI), and TELUS Communications Company (TCC). The public record of this proceeding, which closed on 26 June 2008, is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."

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

3. The Commission has assessed Bell Aliant's application 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 four criteria set out below.

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

4. The Commission received no comments with respect to Bell Aliant's proposed list of residential local exchange services.
5. The Commission notes that Bell Aliant is seeking forbearance for 13 tariffed residential local exchange services. The Commission also notes that in Telecom Decision 2007-59 it found all of these services to be appropriate for forbearance. The list of approved services is set out in the Appendix to this Decision.

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<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.

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

6. The Commission notes that for the exchanges of Elmsdale, Shubenacadie, Alberton, and O’Leary, information provided by parties confirms that there are, in addition to Bell Aliant, at least two independent, facilities-based telecommunications service providers, including providers of mobile wireless services.<sup>2</sup> 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 Aliant is capable of serving, and at least one, in addition to Bell Aliant, is a facilities-based, fixed-line telecommunications service provider.
7. Accordingly, the Commission determines that the exchanges of Elmsdale, Shubenacadie, Alberton, and O’Leary meet the competitor presence test.

#### **c) Competitor quality of service (Q of S) results**

8. The Commission notes that Bell Aliant submitted competitor Q of S results for the period of October 2007 to March 2008.
9. The Commission has reviewed Bell Aliant's competitor Q of S results and finds that for one competitor it did not meet the Q of S standards; however, in that case there was only one data point for the six-month period. The Commission notes that in Telecom Decision 2007-58 it 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.
10. The Commission notes that, except in the case noted above, Bell Aliant 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.
11. Accordingly, the Commission determines that Bell Aliant meets the competitor Q of S criterion for this period.

#### **d) Communications plan**

12. The Commission has reviewed Bell Aliant's draft communications plan and is satisfied that it generally meets the requirements set out in modified Telecom Decision 2006-15. However, the Commission considers that the company should make the following changes to the plan:

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<sup>2</sup> These competitors are EastLink, RCI, and TCC.

- i) Provide the mailing address for Bell Aliant and for the Office of the Privacy Commissioner of Canada;
- ii) Amend paragraph two of the section 'Changes to regulation of your local phone service' as follows:

The CRTC has directed Bell Aliant to maintain certain requirements, such as the provision of telephone directories, *the provision of stand-alone residential primary exchange service in forborne areas at no more than the most recently CRTC-approved rates*, and the maintenance of customer confidentiality provisions in the provision of local *residential* exchange services in forborne areas.

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

### **Conclusion**

14. The Commission determines that Bell Aliant's application regarding the exchanges of Elmsdale, Shubenacadie, Alberton, and O'Leary meets all the local forbearance criteria set out in modified Telecom Decision 2006-15.
15. Pursuant to subsection 34(1) of the *Telecommunications Act* (the Act), the Commission finds as a question of fact that to refrain from exercising its powers and performing its duties, to the extent specified in modified Telecom Decision 2006-15, in relation to the provision by Bell Aliant of residential local exchange services listed in the Appendix 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 these four exchanges, would be consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.
16. 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.
17. Pursuant to subsection 34(3) of the Act, the Commission finds as a question of fact that to refrain from exercising its powers and performing its duties, to the extent specified in modified Telecom Decision 2006-15, in relation to the provision by Bell Aliant of these residential local exchange services would be unlikely to impair unduly the continuance of a competitive market for these services in these exchanges.
18. In light of the above, the Commission **approves** Bell Aliant's application for forbearance from the regulation of the local exchange services listed in the Appendix 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 exchanges of Elmsdale and Shubenacadie, Nova Scotia, and Alberton and O'Leary, Prince Edward Island, 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 Aliant to file revised tariff pages within 30 days for Commission approval.

Secretary General

### **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 residential local exchange services in Fort McMurray, Alberta*, Telecom Decision CRTC 2007-58, 25 July 2007
- *Forbearance from the regulation of retail local exchange services*, Telecom Decision CRTC 2006-15, 6 April 2006, as amended by Order in Council P.C. 2007-532, 4 April 2007
- *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

*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>*

**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>
21491	125.3	Extra Listings
21491	125.4	Non-Listed, Non-Published Service
21491	125.5	Contract Period for Chargeable Extra Listings
21491	125.6	Directories and Listings – Rates and Charges
21491	205.1	Residence Single Line Access Service
21491	205.3	Residence Multi-line Access Service
21491	304	Enhanced Local Calling (Calling Features)
21491	308	Internet Call Manager
21491	310.1	Voice Messaging Service
21491	312	900 Call Denial/Blocking Service
21491	348	Hospital Patient Telephone Service
10001	2100	Conference Service - Local
11001	910-915	Local Conference Service