



## Telecom Decision CRTC 2008-80

Ottawa, 4 September 2008

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

Reference: 8640-B54-200807662

*In this Decision, the Commission approves Bell Aliant's request for forbearance from the regulation of residential local exchange services in the exchange of Clinton, Ontario, effective as of 30 January 2009.*

#### **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 exchange of Clinton, Ontario.
2. The Commission received submissions and/or data regarding Bell Aliant's application from Bluewater TV Cable/EX-CEN Cablevision (Bluewater), Rogers Communications Inc. (RCI), TELUS Communications Company (TCC), and Tuckersmith Communications Co-operative Limited (Tuckersmith). The public record of this proceeding, which closed on 25 July 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 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 19 tariffed residential local exchange services. The Commission also notes that in Telecom Decision 2008-16, 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 exchange of Clinton, information provided by parties confirms that there are, in addition to Bell Aliant, two independent facilities-based, fixed-line telecommunications service providers – Tuckersmith and Bluewater – and two 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.
7. Accordingly, the Commission determines that the exchange of Clinton meets 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 provided services that were below the Q of S standard; 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 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 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 meets the information requirements set out in modified Telecom Decision 2006-15. The Commission **approves** the proposed communications plan and directs Bell Aliant to provide the resulting communications materials to its customers in both official languages, where appropriate.

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

## **Other Matters – 18-month grace period**

13. The Commission notes that Tuckersmith, one of the facilities-based, fixed-line telecommunications service providers capable of serving at least 75 percent of the number of residential local exchange service lines that Bell Aliant is capable of serving in the exchange of Clinton, submitted that it should be allowed to benefit from the 18-month grace period for providers with fewer than 20,000 local exchange service customers in Canada, found in paragraph 523 of modified Telecom Decision 2006-15.
14. The Commission is satisfied that Tuckersmith meets the criterion of paragraph 523 of modified Telecom Decision 2006-15 and that it started offering residential local exchange services in the exchange of Clinton on 30 July 2007. Therefore, forbearance from the regulation of residential local exchange services in that exchange should not be effective until at least 30 January 2009.<sup>3</sup>
15. In light of the above, the Commission determines that forbearance from the regulation of residential local exchange services in the exchange of Clinton shall become effective as of 30 January 2009.

## **Conclusion**

16. The Commission determines that Bell Aliant's application regarding the exchange of Clinton, Ontario, meets all the local forbearance criteria set out in modified Telecom Decision 2006-15.
17. 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 the exchange of Clinton, would be consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.
18. 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 this exchange sufficient to protect the interests of users of these services.
19. 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 in this exchange would be unlikely to impair unduly the continuance of a competitive market for these services in this exchange.

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<sup>3</sup> In Bell Aliant's reply comments, dated 8 August 2007, as part of its application for forbearance from the regulation of business local exchange services in the exchange of Clinton (File number 8640-B54-200809741), Bell Aliant submitted that it had no objection to Tuckersmith's request that forbearance in Clinton, for both residential and business services, be delayed by 18 months from the date on which Tuckersmith received approval from the Commission to operate as a competitive local exchange carrier in that exchange.

20. 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 exchange of Clinton, 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 30 January 2009. The Commission directs Bell Aliant to file revised tariff pages with the Commission by 30 January 2009.

Secretary General

### **Related documents**

- *Bell Aliant Regional Communications, Limited Partnership – Application for forbearance from the regulation of residential local exchange services*, Telecom Decision CRTC 2008-16, 27 February 2008
- *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>*

## Appendix

### 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>
21560	29	Telephone Set Loss Charge
21560	70	Rate Schedules for Primary Exchange (Local) Service
21560	72	Reference of Calls
21560	73	Telephone Number Services
21560	82	Toll Restriction
21560	86	Call Display Blocking
21560	220	Extra Listings – Omission of a Primary Exchange Listing
21560	1060	Service on Stationary Boats, Ships, Trailers and Trains
21560	1130	Suspensions of Services
21560	2025	Integrated Voice Messaging Service (IVMS)
21560	2030	Universal Messaging
21560	2150	Push-Button Dialing (Touch-Tone)
21560	2165	Calling Features
21560	2185	Single Number Reach
21560	2200	Call Blocking Service
21560	2210	SimplyOne Service
21560	2300	Telephone Station Equipment
21560	4699	Internet Call Display Service
21560	7031	Bell Digital Voice