



Telecom Order CRTC 2008-54

Ottawa, 22 February 2008

Bell Aliant Regional Communications, Limited Partnership

Reference: Tariff Notice 260 (Aliant Telecom)

Optional voice services

In this Order, the Commission approves on a final basis Bell Aliant Regional Communications, Limited Partnership's application to introduce a 30-day notification requirement on customers who cancel their subscriptions to certain residential service bundles.

Introduction

1. The Commission received an application by Bell Aliant Regional Communications, Limited Partnership (Bell Aliant), dated 24 August 2007, proposing revisions to its General Tariff item 300 – Residence Single-Line Access Bundles; item 300.1 – Enhanced Consumer Access; item 300.2 – Atlantic Access Bundle; and item 300.3 – Canada/U.S. Access Bundle in order to introduce a 30-day notification requirement on customers of these services.
2. Specifically, Bell Aliant proposed that residential customers who cancelled their subscription to any of the above-noted services without providing at least 30 days advance notice would be charged a pro-rated monthly rate based on 30 days less the number of days from the date of notification. Bell Aliant indicated that residential customers migrating to one of the company's other wireline access services or bundles that included an access service would not be required to provide 30 days notice, nor would the 30-day notification requirement be enforced if the cancellation resulted from circumstances beyond the customer's control.
3. Bell Aliant requested that the Commission treat its application on an *ex parte* basis pursuant to its powers under subsection 61(3) of the *Telecommunications Act* (the Act).
4. The Commission approved Bell Aliant's application on an interim basis in Telecom Order 2007-328.
5. The Commission received comments from Bragg Communications Inc., carrying on business as EastLink (EastLink). The record of this proceeding closed with Bell Aliant's reply comments dated 27 November 2007. The public record of this proceeding is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
6. The Commission has identified the following two issues to be addressed in its determinations:
 - Would Bell Aliant's 30-day notification requirement prevent telephone number porting to competitors?
 - Was *ex parte* treatment appropriate for Bell Aliant's application?

Would Bell Aliant's 30-day notification requirement prevent telephone number porting to competitors?

Positions of parties

7. EastLink submitted that Bell Aliant's proposed 30-day notification requirement could prevent competitors from porting the telephone numbers of Bell Aliant customers wanting to switch to a competitor's service. The company indicated that the current porting process only operated correctly when a Bell Aliant customer contacted EastLink directly to arrange for service disconnection. EastLink argued that if a customer requested service disconnection from Bell Aliant as required by the proposed 30-day notification requirement, EastLink's local service request would be rejected by Bell Aliant.
8. EastLink requested that Bell Aliant's proposed 30-day notification requirement not be implemented until Bell Aliant had provided confirmation that telephone number porting from Bell Aliant to a competitor would not be affected. EastLink also requested that the Commission impose a similar order with respect to Bell Aliant's forborne exchanges, pursuant to section 24 of the Act.
9. In reply, Bell Aliant noted that unexpected technical difficulties delayed implementation of the proposed 30-day notification requirement. However, Bell Aliant confirmed that implementation would not lead to the rejection of competitor local service requests and would not impact telephone number porting from Bell Aliant to a competitor.

Commission's analysis and determination

10. The Commission notes that Bell Aliant has confirmed that the implementation of its 30-day notification requirement would not interfere with the process of porting telephone numbers from Bell Aliant to a competitor. The Commission considers that EastLink's concerns in this matter have been appropriately addressed.

Was *ex parte* treatment appropriate for Bell Aliant's application?

Positions of parties

11. EastLink submitted that Bell Aliant's application did not qualify for *ex parte* treatment according to the criteria set out by the Commission in Telecom Decision 94-19.
12. EastLink further submitted that there appeared to be no valid reason for *ex parte* treatment of Bell Aliant's application. EastLink noted that the affected non-forborne exchanges in its serving territories remained regulated due to lack of competition. EastLink submitted that it was therefore difficult to determine what competitive threat Bell Aliant felt would arise in those exchanges from public disclosure of its application.
13. EastLink also expressed concern that, as a result of the *ex parte* treatment, Bell Aliant could file a public version of the application as late as the proposed effective date of 15 November 2007. EastLink noted, however, that the application was made public 18 October 2007. EastLink submitted that, had the application not been made public until 15 November 2007, it would not

have been able to identify its concern regarding the porting process prior to that date, and would not have had an opportunity to intervene and request that the implementation of the 30-day notification requirement be delayed.

14. Bell Aliant submitted that EastLink's request to restrict its ability to use the *ex parte* filing process was without merit. The company argued that it faced competition in many of the affected non-forborne exchanges from Rogers Wireless Inc. and TELUS Mobility, as well as from smaller resellers and voice over Internet Protocol service providers. Bell Aliant also argued that established competitors in forborne exchanges could introduce competitive services in the non-forborne exchanges should they conclude that competitive conditions were sufficiently attractive. Bell Aliant further suggested that these competitors would be able to infer the significant likelihood that Bell Aliant would introduce a similar service in forborne exchanges, where, by definition, competition was strong.
15. Bell Aliant argued that the Commission should continue to evaluate requests for *ex parte* treatment of tariff applications in light of the potential competitive harm that may arise from disclosure, and of the current requirements of the Governor in Council's *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006 (the Policy Direction).

Commission's analysis and determinations

16. The Commission notes that, in Telecom Decision 94-19, it established a general policy for the disposition of tariff filings on an *ex parte* basis. It found it appropriate to consider an *ex parte* process for interim disposition only for discount toll and 800 Service tariff filings, and only if these filings met all of the Commission's tariff criteria concerning the imputation test, bottleneck services, consumer safeguards, and privacy.
17. The Commission notes that, in subsequent decisions where it weighed the benefits of an open regulatory decision-making process against the potential harm done to the telephone companies from advance knowledge given to competitors of their initiatives, it extended the use of *ex parte* treatment to promotions¹ and uncapped services² under similar criteria. The Commission considered in those instances that the presence of market forces and regulatory safeguards, and the opportunity to comment after interim disposition would be sufficient to ensure that parties were not unduly prejudiced by an *ex parte* process.
18. The Policy Direction requires that, when relying on regulation, the Commission 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 telecommunications policy objectives set out in the Act. The Commission therefore finds that, in light of its past determinations with respect to *ex parte* treatment of tariff filings and the Policy Direction, *ex parte* treatment of uncapped services is appropriate.

¹ Telecom Decision 96-7

² Telecom Decision 97-9

19. With respect to EastLink's submission that it may not have been able to identify its concerns with the porting process, the Commission notes that, while in this case sufficient notice was provided to allow the competitor's concerns to be identified and addressed, such notice may not always be given. The Commission therefore expects *ex parte* applicants to make full and fair disclosure to the Commission of all material facts, particularly operational issues that may have a negative impact on potential parties not aware of the *ex parte* application, and to outline the steps the applicant proposes to take to address such an impact.

Conclusion

20. In light of all of the above, the Commission **approves on a final basis** Bell Aliant's application.

Secretary General

Related documents

- Telecom Order CRTC 2007-328, 6 September 2007
- *Price cap regulation and related issues*, Telecom Decision CRTC 97-9, 1 May 1997
- *Tariff filings relating to promotions*, Telecom Decision CRTC 96-7, 18 September 1996
- *Review of regulatory framework*, Telecom Decision CRTC 94-19, 16 September 1994

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