



Telecom Decision CRTC 2009-240

Ottawa, 30 April 2009

Bell Canada – Application to exclude competition-related quality of service indicator 2.10 results from the rate rebate plan for competitors for January 2009

File number: 8660-B2-200904781

Introduction

1. The Commission received an application by Bell Canada, dated 11 March 2009, in which the company requested that the competitor quality of service (Q of S) results related to indicator 2.10 – Mean Time to Repair (MTTR) – CDN and Type C Loops (indicator 2.10) be excluded from its rate rebate plan for competitors for January 2009.
2. Bell Canada submitted that a third-party contractor carrying out work for the City of Toronto had damaged an 1800 pair cable on 14 January 2009, despite the fact that the company had provided accurate field locate services, physical markings, and location drawings for this cable to the contractor in advance. Bell Canada indicated that the cable cut had disrupted services to Rogers Communications Inc. (RCI) and to other Bell Canada customers served by that cable. The company also indicated that it had completed repairs on the evening of 16 January 2009.
3. Bell Canada noted that its actual January 2009 competitor Q of S results for service to RCI were below the set standard for indicator 2.10. However, Bell Canada provided evidence that if the trouble tickets related to the above-noted adverse event were excluded, its January 2009 results for indicator 2.10 to RCI would exceed the standard.
4. The Commission received no comments regarding this application. The public record of this proceeding, which closed on 14 April 2009, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.

Commission's analysis and determinations

5. In Telecom Decision 2005-20, the Commission created a mechanism for considering possible exclusions from competitor Q of S results where circumstances beyond the control of an incumbent local exchange carrier (ILEC) might have caused it to fail to meet a performance standard.
6. In Telecom Decision 2007-102, the Commission adopted a *force majeure* clause that provided that no rate rebates would apply in a month where failure to meet a competitor Q of S standard was caused in that month by fire or other events beyond the reasonable control of the ILEC. The Commission considers that, based on the evidence filed, the cable cut in question qualifies as an incident that is beyond the reasonable control of Bell Canada and thus triggers the *force majeure* clause.

7. The Commission further considers that Bell Canada has provided sufficient evidence to demonstrate that the cable cut caused the below-standard results for indicator 2.10 for RCI in January 2009.
8. In particular, the Commission has verified that Bell Canada exceeded the standard for competitor Q of S indicator 2.10 for all its competitors, including RCI, for three consecutive months prior to the 14 January 2009 event. In Telecom Decision 2007-14, the Commission concluded that where a competitor Q of S indicator has been met for three months prior to an adverse event, it is reasonable to conclude that an ILEC would likely have met its competitor Q of S obligations without the adverse event.
9. In light of the above, the Commission **approves** Bell Canada's request to exclude below-standard results for competitor Q of S indicator 2.10 for January 2009 in the calculation of the amounts due under the rate rebate plan for competitors.

Secretary General

Related documents

- *Retail quality of service rate adjustment plan and competitor quality of service rate rebate plan – Adverse events*, Telecom Decision CRTC 2007-102, 31 October 2007
- *TELUS Communications Company – Application to exclude certain competition-related quality of service results from the rate rebate plan for competitors for July 2005*, Telecom Decision CRTC 2007-14, 28 February 2007
- *Finalization of quality of service rate rebate plan for competitors*, Telecom Decision CRTC 2005-20, 31 March 2005

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