



Telecom Decision CRTC 2009-712

Ottawa, 20 November 2009

Forbearance from the regulation of high capacity/digital data services interexchange private line services on certain additional routes

File number: 8638-S1-01/98

In this decision, the Commission forbears, with some conditions, from regulating high capacity/digital data services interexchange private line services on 36 additional routes.

Introduction

1. In Telecom Order 99-434, the Commission directed the competitors of several incumbent local exchange carriers (ILECs) to file a semi-annual report identifying the interexchange private line (IXPL) routes on which they provided or offered high capacity/digital data services IXPL services (IXPL services) to at least one customer, at the equivalent of DS-3 or greater bandwidth, using terrestrial facilities from a company other than the ILEC or an affiliate of the ILEC.¹
2. The Commission stated that upon being satisfied that one or more competitors met this criterion, it would proceed to forbear from the regulation of IXPL services on those particular routes without further process. The reports are due on 1 April and 1 October of each year.
3. The Commission received October 2009 filings from the following competitors: Atria Networks LP; Axia SuperNet Ltd.; Bell Canada, on behalf of itself, Bell Aliant Regional Communications, Limited Partnership (Bell Aliant), and NorthernTel, Limited Partnership (NorthernTel); Bragg Communications Inc., on behalf of EastLink, Persona Communications Corp., Delta Cable, and Amtelecom Telco GP Inc.; Greater Sudbury Telecommunications Inc., operating as Agilis Networks; Hydro One Telecom Inc.; Kenora Municipal Telephone System; Manitoba Hydro Telecom; MTS Allstream Inc. (MTS Allstream); O.N.Tel Inc., carrying on business as Ontera; Rogers Communications Inc.; Saskatchewan Telecommunications (SaskTel); Shaw Business Solutions Inc.; TBayTel; TELUS Communications Company (TCC); and Videotron Ltd.

Commission's analysis and determinations

4. The Commission established a framework for considering whether to forbear from regulation in Telecom Decision 94-19.

¹ In Telecom Order 99-905, the Commission extended the IXPL forbearance process of Telecom Order 99-434 to Québec-Téléphone, now part of TELUS Communications Company (TCC), and to Télébec Itée, now Télébec, Limited Partnership (Télébec).

5. In Telecom Decision 97-20, pursuant to section 34 of the *Telecommunications Act* (the Act) and in accordance with the framework set out in Telecom Decision 94-19, the Commission forbore in large part from regulating the IXPL services provided by the former Stentor-member companies on certain routes. The Commission expanded the scope of forbearance for forborne IXPL services provided by TCC in Telecom Decision 2003-77 and for those provided by Bell Canada, Aliant Telecom Inc. (now part of Bell Aliant), MTS Allstream, and SaskTel in Telecom Decision 2004-80.
6. The Commission has reviewed the competitors' reports filed pursuant to Telecom Order 99-434 and finds that the above-noted forbearance criterion is met for 36 additional routes, which are in territories served by Bell Aliant, Bell Canada, Cochrane Telecom Services (Cochrane), NorthernTel, TCC, and/or Télébec, Limited Partnership (Télébec). The Commission notes that these additional routes are listed in the Appendix.
7. Pursuant to subsection 34(1) of the Act, the Commission finds, as a question of fact, that to refrain from the exercise of its powers and the performance of its duties to the extent set out in this decision with respect to the regulation of the IXPL services on the routes listed in the Appendix is consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.
8. Pursuant to subsection 34(2) of the Act, the Commission also finds, as a question of fact, that the IXPL services on the routes listed in the Appendix are subject to a level of competition sufficient to protect the interests of users and that, to the extent set out in this decision, it is appropriate to refrain from regulating the IXPL services provided on these routes.
9. Pursuant to subsection 34(3) of the Act, the Commission finds, as a question of fact, that refraining from regulating the IXPL services on the routes listed in the Appendix, to the extent set out in this decision, is unlikely to unduly impair the continuance of a competitive market for these services.
10. In light of the above and pursuant to subsection 34(4) of the Act, the Commission declares that the following sections of the Act, with some exceptions as noted, do not apply to the affected ILECs' IXPL services on the routes identified in the Appendix:
 - section 24, except that the Commission directs the ILECs whose territories include one or more of the IXPL routes listed in the Appendix (the affected ILECs) to incorporate where appropriate, on a going-forward basis, the existing conditions regarding the disclosure of confidential customer information to third parties into all contracts and any other arrangements for the provision of the IXPL services forborne from regulation in this decision. The Commission considers that it is also appropriate to retain sufficient powers under section 24 of the Act to specify possible future conditions upon the forborne services provided by the affected ILECs, where circumstances warrant;
 - section 25;

- section 27, except with respect to subsection 27(3) of the Act in relation to compliance with powers and duties not forborne from in this decision;
 - section 29; and
 - section 31.
11. The Commission directs the affected ILECs to issue, within 45 days, tariff pages removing the tariffs for the IXPL services on the routes identified in the Appendix, effective on the date of issuance of the tariff pages.

Secretary General

Related documents

- *Aliant Telecom, Bell Canada, MTS Allstream and SaskTel – Forbearance from section 29 of the Act for agreements related to forborne domestic toll services and forborne interexchange private line services*, Telecom Decision CRTC 2004-80, 9 December 2004
- *TELUS' application for forbearance from section 29 of the Telecommunications Act with respect to forborne interexchange private line and long distance services*, Telecom Decision CRTC 2003-77, 19 November 2003
- Telecom Order CRTC 99-905, 17 September 1999
- *Follow-up Proceeding to Telecom Decision CRTC 97-20: Establishment of criterion and process for considering further forbearance for High Capacity/DDS interexchange private line services*, Telecom Order CRTC 99-434, 12 May 1999
- *Stentor Resource Centre Inc. – Forbearance from regulation of interexchange private line services*, Telecom Decision CRTC 97-20, 18 December 1997
- *Review of regulatory framework*, Telecom Decision CRTC 94-19, 16 September 1994

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

***Additional IXPL routes that qualify for forbearance
based on the October 2009 reports from competitors, pursuant to Telecom Order 99-434***

	<i>ILEC A</i>	<i>Exchange A</i>	<i>Exchange B</i>	<i>ILEC B</i>
1	Bell Aliant	Britt, ON	Sudbury, ON	Bell Aliant
2	Bell Aliant	McKellar, ON	Sudbury, ON	Bell Aliant
3	Bell Aliant	Pointe au Baril, ON	Sudbury, ON	Bell Aliant
4	Bell Aliant	Port Loring, ON	Sudbury, ON	Bell Aliant
5	Bell Canada	Chambly, QC	Marieville, QC	Bell Canada
6	Bell Canada	Chambly, QC	St-Bruno, QC	Bell Canada
7	Bell Canada	Kitchener, ON	Peace Bridge	Bell Canada
8	Bell Canada	St-Bruno, QC	St-Lambert, QC	Bell Canada
9	Bell Canada	St-Constant, QC	Toronto, ON	Bell Canada
10	Cochrane	Cochrane, ON	Toronto, ON	Bell Canada
11	NorthernTel	Timmins, ON	Toronto, ON	Bell Canada
12	TCC	Athabasca, AB	Edmonton, AB	TCC
13	TCC	Brownvale, AB	Edmonton, AB	TCC
14	TCC	Calgary, AB	Coadale, AB	TCC
15	TCC	Calgary, AB	Consort, AB	TCC
16	TCC	Calgary, AB	Crossfield, AB	TCC
17	TCC	Calgary, AB	Kananaskis, AB	TCC

18	TCC	Calgary, AB	Langdon, AB	TCC
19	TCC	Calgary, AB	Milk River, AB	TCC
20	TCC	Calgary, AB	Olds, AB	TCC
21	TCC	Calgary, AB	Red Earth, AB	TCC
22	TCC	Calgary, AB	Rocky Mountain House, AB	TCC
23	TCC	Edmonton, AB	Fort Vermilion, AB	TCC
24	TCC	Edmonton, AB	Grand Centre, AB	TCC
25	TCC	Edmonton, AB	Grande Cache, AB	TCC
26	TCC	Edmonton, AB	High Level, AB	TCC
27	TCC	Edmonton, AB	Morinville, AB	TCC
28	TCC	Edmonton, AB	Seattle, WA	
29	TCC	Edmonton, AB	Sexsmith, AB	TCC
30	TCC	Edmonton, AB	Wembley, AB	TCC
31	TCC	North Vancouver, BC	Toronto, ON	Bell Canada
32	Télébec	Rouyn-Noranda, QC	Sudbury, ON	Bell Aliant
33	Télébec	Rouyn-Noranda, QC	Timmins, ON	NorthernTel
34	Télébec	Rouyn-Noranda, QC	Val D'Or, QC	Télébec
35		Chicago IL (Border Crossing)	Clarkson, ON	Bell Canada
36		Chicago IL (Border Crossing)	Oshawa, ON	Bell Canada