



## Telecom Decision CRTC 2009-762

Ottawa, 8 December 2009

### **Bell Canada – Application to exclude competition-related quality of service indicator 2.7A results from the rate rebate plan for competitors for June 2009**

File number: 8660-B2-200911231

*The Commission approves Bell Canada's request to exclude, for rate rebate purposes, its results for competitor quality of service indicator 2.7A for June 2009 for TELUS Communications Inc.*

### **Introduction**

1. The Commission received an application by Bell Canada, dated 7 August 2009 and revised on 29 September 2009, in which the company requested the exclusion of the competitor quality of service (Q of S) results related to indicator 2.7A – Competitor Out-of-Service Trouble Reports Late Clearance (indicator 2.7A) from its rate rebate plan (RRP) for competitors for June 2009.
2. Bell Canada submitted that on 18 June 2009, at 7630 Leo Lessard, Charlesbourg, Quebec, two 50-pair aerial cables were pulled to the ground due to a car accident that resulted in a vehicle crashing into the associated support structure, an adverse event beyond the company's control. Bell Canada reported that the damage to the pole, cables and equipment was extensive and resulted in service outages to TELUS Communications Inc. known as TELUS Communications Company (TCC) and other customers of Bell Canada served by those cables. The repair activity required the replacement of a pole and two aerial cables spanning 90 meters each. Special safety measures were implemented during the repair activity which was completed in the afternoon of 19 June 2009 with testing over the weekend of 20-21 June 2009 and all the trouble reports closed in the afternoon of 22 June 2009.
3. Bell Canada submitted that its results for competitor Q of S indicator 2.7A were negatively impacted by the reported event for customer TCC for the month of June 2009.
4. Bell Canada noted that its actual June 2009 competitor Q of S performance result for service to TCC was below the set standard (90%) for indicator 2.7A. However, Bell Canada provided evidence that if the trouble tickets related to the above-noted adverse event were excluded, its June 2009 performance result for indicator 2.7A to TCC would have exceeded the standard.
5. The Commission received no comments regarding this application. The public record of this proceeding, which closed on 29 October 2009, is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings" or by using the file number provided above.

## Commission's analysis and determinations

6. 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.
7. 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 reported situation qualifies as an incident that is beyond the reasonable control of Bell Canada, and thus triggers the *force majeure* clause.
8. The Commission has reviewed the evidence submitted by Bell Canada to demonstrate that the damaged pole and aerial cables caused the below-standard results for indicator 2.7A for TCC in June 2009. After reviewing this evidence and further verifying that Bell Canada met or exceeded the standard for competitor Q of S indicator 2.7A with respect to the services provided to TCC for the three months prior to the 18 June 2009 event, the Commission considers it reasonable to conclude that Bell Canada would have met its Q of S obligations towards TCC without the adverse event.

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
- *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>*