



Telecom Decision CRTC 2009-763

Route reference: Telecom Decision 2008-1

Ottawa, 9 December 2009

Follow-up to Telecom Decision 2008-1 – Late filed requests to exclude certain Ontario communities from the list of approved communities for broadband service expansion by Bell Aliant Regional Communications, Limited Partnership and Bell Canada

File number: 8638-C12-200800385

In this decision, the Commission approves the use of deferral account funds by Bell Aliant and Bell Canada (the Bell companies) to expand broadband services to 10 distribution serving areas (DSAs) in 2 Ontario communities, and denies the Bell companies' request to use deferral account funds with respect to 25 DSAs in 7 Ontario communities.

Introduction

1. In Telecom Decision 2008-1, the Commission approved proposals for the use of deferral account funds by incumbent local exchange carriers (ILECs) for expansion of broadband services to communities in rural and remote areas. With respect to eight communities in the serving territories of Bell Aliant Regional Communications, Limited Partnership and Bell Canada (collectively, the Bell companies), comprising 35 distribution serving areas (DSAs),¹ the Commission initiated a follow-up process² to evaluate late filed requests by alternative broadband service providers (ABSPs) to exclude communities from deferral account funding where insufficient information was available to make a determination at the time. The Commission would exclude any of these communities or DSAs from deferral account funding where the ABSP could show that it offered broadband service comparable to that of the Bell companies as of the deadline of 19 February 2007.
2. In order to have a full record on which to base its final decision regarding the exclusion of these communities or DSAs from the broadband expansion plans of the Bell companies, the Commission addressed interrogatories to the following ABSPs: Rogers Communications Inc. (RCI), Amtelecom Telco GP Inc. (Amtelecom),³ and NRTC Communications (NRTC).
3. The follow-up process was put on hold when Telecom Decision 2008-1 became the subject of appeals before the Federal Court of Appeal and the Supreme Court of Canada. The Supreme Court of Canada dismissed the appeals on 18 September 2009. Following the dismissal of these appeals, Commission staff, by letter dated 25 September 2009, reopened the follow-up process in order to evaluate the evidence filed by the three ABSPs identified above.

¹ A DSA is the Bell companies' geographical planning unit within a wire centre for commercial broadband expansion to unserved areas. A DSA is identifiable by a reference number and the name or identifier of the associated wire centre.

² See paragraph 62 of Telecom Decision 2008-1.

³ Known as Amtelecom Cable Limited Partnership at the time of Telecom Decision 2008-1.

4. The public record of this proceeding, which closed on 30 October 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

A. Communities requested by RCI to be excluded from deferral account funding

5. The Commission notes that RCI submitted evidence to the effect that it was providing broadband service on 19 February 2007 comparable to that of the Bell companies in two DSAs in Beachville, Ontario and in four DSAs in Bluewater Beach, Ontario. The Commission also notes that the Bell companies agreed that these DSAs should be excluded from their proposed deferral account-funded broadband expansion program.
6. Accordingly, the Commission **denies** the Bell companies' proposal to include DSAs 160-1 and 160-2 in Beachville and DSAs 161-1, 165-1, 166-1, and 167-1 in Bluewater Beach, as part of their broadband expansion plans funded from their deferral account.

B. Communities requested by Amtelecom to be excluded from deferral account funding

7. The Commission notes that Amtelecom submitted evidence to the effect that it was providing broadband service on 19 February 2007 comparable to that of the Bell companies in fifteen DSAs located in the Ontario communities of Port Lambton, Sombra, Oil Springs, and Brigden. The Commission also notes that the Bell companies agreed that these DSAs should be excluded from their proposed deferral account-funded broadband expansion program.
8. Accordingly, the Commission **denies** the Bell companies' proposal to include the following fifteen DSAs as part of their broadband expansion plans funded from their deferral account:

Port Lambton DSAs: 161-1, 161-2, 280-1, and 361-2

Sombra DSAs: 160-1, 281-1, 360-1, and 361-1

Oil Springs DSA: 260-1

Brigden DSAs: 161-1, 180-1, 180-2, 380-1, 382-1, and 480-1

C. Communities requested by NRTC to be excluded from deferral account funding

Pembroke

9. The Commission notes that NRTC only submitted evidence of service availability on 19 February 2007 in four of the eleven DSAs located in Pembroke, Ontario, namely DSAs 162-1, 163-1, 262-1, and 509-1. The Commission also notes that the Bell companies agreed that the four DSAs should be excluded from the Bell companies' proposed deferral account-funded broadband expansion program.
10. Accordingly, the Commission **denies** the Bell companies' proposal to include DSAs 162-1, 163-1, 262-1, and 509-1 located in Pembroke as part of their broadband expansion plans funded from their deferral account.

11. With respect to the other seven DSAs located in Pembroke, the Commission notes that NRTC has indicated that its broadband service is not available in these areas.
12. In light of the fact that NRTC does not provide service in Pembroke DSAs 111-0, 161-1, 190-1, 302-0, 506-0, 780-1, and 880-1, the Commission **approves** the Bell companies' request that these DSAs be funded for broadband expansion under their deferral account program.

Petawawa

DSAs identified for follow-up in Telecom Decision 2008-1

13. The Commission notes that NRTC has submitted that it does not provide service in DSA 266-3 located in Petawawa, Ontario. In light of the fact that NRTC does not provide service to this DSA, the Commission **approves** DSA 266-3 for broadband expansion under the Bell companies' deferral account program.
14. NRTC has also confirmed that in two other DSAs located in Petawawa (266-1 and 303-0), service was made available in December 2008, after the prescribed deadline of 19 February 2007. As the Commission has noted in previous decisions,⁴ to permit exclusion of a community where an ABSP had installed broadband service after the 19 February 2007 deadline would introduce unreasonable uncertainty into the broadband rollout plans of the ILECs. Accordingly, the Commission **approves** the Bell companies' request that these two DSAs in Petawawa be funded for broadband expansion under the deferral account program.

Additional DSA already approved for deferral account funding in Telecom Decision 2008-1

15. With respect to DSA 302-0 in Petawawa, NRTC stated that it also provided service to this DSA in December 2008. However, the Commission notes that NRTC made no previous request to exempt this DSA, and that it has already been approved for deferral account funding in Telecom Decision 2008-1. Consistent with previous decisions,⁵ the Commission considers that it would be inappropriate to remove communities where service was not in place by 19 February 2007.
16. Accordingly, NRTC's new request to exempt DSA 302-0 in Petawawa is **denied**.

Secretary General

Related documents

- *Axia SuperNet Ltd. – Request to exclude certain Alberta communities from the approved list of communities for broadband service expansion by TELUS Communications Company in Telecom Decision 2008-1*, Telecom Decision CRTC 2008-110, 25 November 2008

⁴ See Telecom Decisions 2007-111, 2008-5, 2008-88, and 2008-110.

⁵ Ibid.

- *Quebecor Media Inc. – Application to review and vary certain aspects of Telecom Decision 2008-1 related to the use of deferral account funds for broadband expansion, Telecom Decision CRTC 2008-88, 9 September 2008*
- *Andy Shadrack, Director, Area D, Regional District of Central Kootenay – Application to review and vary certain determinations in Telecom Decision 2007-50, Telecom Decision CRTC 2008-5, 25 January 2008*
- *Use of deferral account funds to improve access to telecommunications services for persons with disabilities and to expand broadband services to rural and remote communities, Telecom Decision CRTC 2008-1, 17 January 2008*
- *Barrett Xplore Inc. – Application to review and vary certain determinations in Telecom Decision 2007-50, Telecom Decision CRTC 2007-111, 22 November 2007*

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