



Telecom Decision CRTC 2010-176

Ottawa, 24 March 2010

NorthernTel, Limited Partnership – Application for forbearance from the regulation of residential local exchange services

File number: 8640-N51-201000380

In this decision, the Commission approves NorthernTel's request for forbearance from the regulation of residential local exchange services in the exchanges of Cobalt, Haileybury, and New Liskeard, Ontario.

Introduction

1. The Commission received an application by NorthernTel, Limited Partnership (NorthernTel), dated 14 January 2010, in which the company requested forbearance from the regulation of residential local exchange services¹ in the exchanges of Cobalt, Haileybury, and New Liskeard, Ontario.
2. The Commission received submissions and/or data regarding NorthernTel's application from EastLink Cable Systems (EastLink), Rogers Communications Inc. (RCI), and TELUS Communications Company (TCC). The public record of this proceeding, which closed on 3 February 2010, 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

3. The Commission has assessed NorthernTel's application based on the local forbearance test for small incumbent local exchange carriers (small ILECs) set out in Telecom Regulatory Policy 2009-379 by examining the four criteria set out below. The scope of forbearance will be in accordance with Telecom Decision 2006-15, as amended by the Governor in Council's *Order Varying Telecom Decision CRTC 2006-15*, P.C. 2007-532, 4 April 2007 (modified Telecom Decision 2006-15).

a) Product market

4. The Commission received no comments with respect to NorthernTel's proposed list of residential local exchange services.

¹ In this decision, "residential local exchange services" refers to local exchange services used by residential customers to access the public switched telephone network and any associated service charges, features, and ancillary services.

5. The Commission notes that NorthernTel is seeking forbearance for 19 tariffed residential local exchange services. The Commission finds that these services fall within the definition of local exchange services, as set out in Telecom Public Notice 2005-2. Accordingly, the Commission finds the services proposed by NorthernTel for forbearance to be appropriate. A list of the 19 approved services is set out in the Appendix to this decision.

b) Competitor presence test

6. The Commission notes that for the exchange of Haileybury, information provided by parties confirms that there are, in addition to NorthernTel, at least two independent, facilities-based telecommunications service providers, including providers of mobile wireless services.² Each of these service providers offers local exchange services in the market and is capable of serving at least 75 percent of the number of residential local exchange service lines that NorthernTel is capable of serving, and at least one, in addition to NorthernTel, is a facilities-based, fixed-line telecommunications service provider.
7. Accordingly, the Commission determines that the exchange of Haileybury meets the competitor presence test.
8. The Commission notes that for the exchanges of Cobalt and New Liskeard, NorthernTel has demonstrated that competitors target the core of the exchanges by submitting maps clearly showing the boundaries of the core of the exchange, a comparison of the densities of the entire exchange and its core, the total number of residential local access lines that it is capable of serving with local exchange services in the core of the exchange, and the estimated percentage of households in the core of the exchange that its competitors are capable of serving, together with the assumptions made to support the estimate. As a result, the Commission determines that the competitors will continue to target the core of the exchanges due to the lack of financial incentive to offer services in the outskirts of the exchanges and, as a result, the 75 percent target is unlikely to ever be achieved.
9. The Commission also notes that for these exchanges, information provided by parties confirms that there are, in addition to NorthernTel, at least two independent, facilities-based telecommunications service providers, including providers of mobile wireless services.² Each of these service providers offers local exchange services in the market and is capable of serving at least 50 percent of the number of residential local exchange service lines that NorthernTel is capable of serving,³ and at least one, in addition to NorthernTel, is a facilities-based, fixed-line telecommunications service provider.
10. Accordingly, the Commission determines that the exchanges of Cobalt and New Liskeard meet the competitor presence test.

² These competitors are EastLink, RCI, and TCC.

³ In Telecom Regulatory Policy 2009-379, the Commission determined that a 50 percent competitor presence threshold would apply if evidence filed by the applicant small ILEC indicated that the 75 percent threshold would likely never be reached due to the competitors targeting only the core of the exchange.

e) Competitor quality of service

11. The Commission notes NorthernTel's attestation that it received no complaints from competitors in the six months prior to the date of the application. The Commission also notes that it received no comments with respect to NorthernTel's competitor quality of service.
12. Accordingly, the Commission determines that the quality of service provided by NorthernTel to its competitors is of a sufficient level to grant forbearance.

d) Communications plan

13. The Commission has reviewed NorthernTel's draft communications plan and is satisfied that it meets the information requirements set out in modified Telecom Decision 2006-15. The Commission **approves** the proposed communications plan and directs NorthernTel to provide the resulting communications materials to its customers in both official languages, where appropriate.

Conclusion

14. The Commission determines that NorthernTel's application regarding the exchanges of Cobalt, Haileybury, and New Liskeard, Ontario, meets all the local forbearance criteria set out in Telecom Regulatory Policy 2009-379.
15. Pursuant to subsection 34(1) of the *Telecommunications Act* (the Act), the Commission finds as a question of fact that to refrain from exercising its powers and performing its duties, to the extent specified in modified Telecom Decision 2006-15, in relation to the provision by NorthernTel of residential local exchange services listed in the Appendix and future services that fall within the definition of local exchange services set out in Telecom Public Notice 2005-2 as they pertain to residential customers only, in these exchanges, would be consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.
16. Pursuant to subsection 34(2) of the Act, the Commission finds as a question of fact that these residential local exchange services are subject to a level of competition in these exchanges sufficient to protect the interests of users of these services.
17. Pursuant to subsection 34(3) of the Act, the Commission finds as a question of fact that to refrain from exercising its powers and performing its duties, to the extent specified in modified Telecom Decision 2006-15, in relation to the provision by NorthernTel of these residential local exchange services in these exchanges would be unlikely to impair unduly the continuance of a competitive market for these services.
18. In light of the above, the Commission **approves** NorthernTel's application for forbearance from the regulation of the local exchange services listed in the Appendix and future services that fall within the definition of local exchange services set out in Telecom Public Notice 2005-2, as they pertain to residential customers only, in the exchanges of Cobalt, Haileybury, and

New Liskeard, Ontario, subject to the powers and duties that the Commission has retained as set out in modified Telecom Decision 2006-15. This determination takes effect as of the date of this decision. The Commission directs NorthernTel to file with the Commission revised tariff pages within 30 days of the date of this decision.

Secretary General

Related documents

- *Framework for forbearance from regulation of retail local exchange services in the serving territories of the small incumbent local exchange carriers*, Telecom Regulatory Policy CRTC 2009-379, 23 June 2009
- *Forbearance from the regulation of retail local exchange services*, Telecom Decision CRTC 2006-15, 6 April 2006, as amended by Order in Council P.C. 2007-532, 4 April 2007
- *Forbearance from regulation of local exchange services*, Telecom Public Notice CRTC 2005-2, 28 April 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>.

*Local exchange services eligible for forbearance from regulation in this decision
(for residential customers only)*

Tariff	Section	Item	List of services
25510	N100	1 to 5	Rate schedules for primary exchange (local) services
25510	N100	6	Telephone number services
25510	N100	7	Calling number blocking
25510	N140	4	Extra listings
25510	N280	all	Short-term Service
25510	N300	all	Service on Stationary Ships and Trains
25510	N330	all	Suspension of Service – Residential Primary Service
25510	N400	all	Exchange Radio – Telephone Service
25510	N490	2	Stop Hunt Feature
25510	N490	4	Toll Restriction Service
25510	N490	5	Touch Tone
25510	N490	7	Telephone Station Equipment
25510	N490	8	Call Management Services
25510	N490	9	Call Blocking Service
25510	N490	10	Integrated Voice Messaging Service (IVMS)
25510	N490	15	Residential Valu-ADD Bundle
25510	N920	1 to 7	Advanced Phone Service
25510	N920	8	Advanced Phone Service Valu-ADD Bundle
25510	N920	9	Additional Calling Features