



## Telecom Decision CRTC 2010-273

Ottawa, 13 May 2010

### **NorthernTel, Limited Partnership – Application for forbearance from the regulation of business local exchange services**

File number: 8640-N51-201002568

*In this decision, the Commission approves NorthernTel's request for forbearance from the regulation of business 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 16 February 2010, in which the company requested forbearance from the regulation of business local exchange services<sup>1</sup> in the exchanges of Cobalt, Haileybury, and New Liskeard, Ontario.
2. The Commission received a submission regarding NorthernTel's application from EastLink Cable Systems (EastLink). The public record of this proceeding, which closed on 6 April 2010, 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**

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.

##### **a) Product market**

4. The Commission received no comments with respect to NorthernTel's proposed list of business local exchange services.
5. The Commission notes that NorthernTel is seeking forbearance from the regulation of 18 tariffed business 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 considers the list of services proposed by NorthernTel for forbearance to be appropriate. This list of approved services is set out in the Appendix to this decision.

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

#### **b) Competitor presence test**

6. The Commission notes that for the exchanges of Haileybury and New Liskeard, information provided by parties confirms that there is, in addition to NorthernTel, at least one independent, facilities-based, fixed-line telecommunications service provider<sup>2</sup> that offers local exchange services in the market and is capable of serving at least 75 percent of the number of business local exchange service lines that NorthernTel is capable of serving.
7. Accordingly, the Commission determines that the exchanges of Haileybury and New Liskeard meet the competitor presence test.
8. The Commission notes that for the exchange of Cobalt, NorthernTel has demonstrated that the competitor targets the core of the exchange. NorthernTel submitted 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 business 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 competitor will continue to target the core of the exchange due to the lack of financial incentive to offer services in the outskirts of the exchange and, as a result, the 75 percent target is unlikely to ever be achieved.
9. The Commission also notes that for this exchange, information provided by parties confirms that there is, in addition to NorthernTel, at least one independent, facilities-based, fixed-line telecommunications service provider.<sup>2</sup> This service provider offers local exchange services in the market and is capable of serving at least 50 percent of the number of business local exchange service lines that NorthernTel is capable of serving.<sup>3</sup>
10. Accordingly, the Commission determines that the exchange of Cobalt meets the competitor presence test.

#### **c) 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.

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<sup>2</sup> This competitor is EastLink and did not oppose NorthernTel's claim that the competitor presence test was met.

<sup>3</sup> 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.

#### **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 Telecom Decision 2006-15. However, the Commission considers that the company should make the following change to the plan:

Change the mailing address for the Canadian Radio-television and Telecommunications Commission to *Ottawa, Ontario K1A 0N2*.

14. The Commission **approves** the proposed communications plan with the revision outlined above and directs NorthernTel to provide the resulting communications materials to its customers in both official languages, where appropriate.

#### **Conclusion**

15. 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.
16. 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 Telecom Decision 2006-15, in relation to the provision by NorthernTel of the business 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 business customers only, in these exchanges, would be consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.
17. Pursuant to subsection 34(2) of the Act, the Commission finds as a question of fact that these business local exchange services are subject to a level of competition in these exchanges sufficient to protect the interests of users of these services.
18. 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 Telecom Decision 2006-15, in relation to the provision by NorthernTel of these business local exchange services in these exchanges would be unlikely to impair unduly the continuance of a competitive market for these services.
19. 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 business 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 Telecom Decision 2006-15. This determination takes effect as of the date of this decision. The Commission directs NorthernTel to file revised tariff pages with the Commission within 30 days 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>.*

## Appendix

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

<b>Tariff</b>	<b>Section</b>	<b>Item</b>	<b>List of services</b>
25510	N100	1 to 5	Exchange service
25510	N100	6	Telephone number services
25510	N140	4	Extra listings
25510	N190	2	Private branch exchange service
25510	N190	6	Direct inward dialling
25510	N210	all	Centrex
25510	N240	all	Centrex II service
25510	N280	1	Short-term Service
25510	N300	all	Service on Stationary Ships and Trains
25510	N320	all	Suspension of Service – Business
25510	N490	2	Stop Hunt Feature
25510	N490	3	Random make busy feature
25510	N490	4	Toll Restriction Service
25510	N490	5	Touch Tone
25510	N490	8	Call Management Services
25510	N490	9	Call Blocking Service
25510	N490	10	Integrated Voice Messaging Service (IVMS)
25510	N900	15	Integrated services digital network 23B+D service