



## Telecom Decision CRTC 2010-60

Route reference: Telecom Decision 2008-1

Ottawa, 5 February 2010

### **Follow-up to Telecom Decision 2008-1 – Requests by Bell Aliant Regional Communications, Limited Partnership and Bell Canada to expand broadband services to certain supplemental communities in Ontario and Quebec using deferral account funds**

File number: 8638-C12-200800377

*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 38 distribution serving areas (DSAs) in 10 Ontario and Quebec communities, and denies the Bell companies' request to use deferral account funds with respect to 29 DSAs in 8 Ontario and Quebec 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 the expansion of broadband services to communities in rural and remote areas. With respect to 14 communities in the serving territories of Bell Aliant Regional Communications, Limited Partnership and Bell Canada (collectively, the Bell companies), comprising 67 distribution serving areas (DSAs),<sup>1</sup> the Commission initiated a follow-up process<sup>2</sup> to evaluate requests by the Bell companies to expand broadband service using deferral account funds where insufficient information was available to make a determination at the time. These 14 communities, comprising 67 DSAs, are hereinafter referred to as the supplemental communities.
2. In order for the Commission to have a full record on which to base its final decision regarding the use of deferral account monies in the supplemental communities, the Bell companies were directed to file, by letter dated 17 January 2008 (the 17 January 2008 letter), certain additional information. Alternative broadband service providers (ABSPs) were also provided an opportunity to request the exclusion of DSAs or communities identified in the list of supplemental communities from the broadband expansion proposal of the Bell companies consistent with the guidelines for such exclusion as provided in Telecom Decision 2008-1.
3. The follow-up process was put on hold pending disposition 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 allow parties to make submissions in respect of the supplemental communities.

<sup>1</sup> 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.

<sup>2</sup> See paragraph 64 of Telecom Decision 2008-1.

4. The Bell companies submitted the information requested in respect of the supplemental communities. Exclusion requests were received from Barrett Xplore Inc. and Barrett Broadband Networks Inc.; Bragg Communications Inc.; Cable Axion Digitel inc. (Cable Axion); Nor-Del Cablevision Limited; and Telecommunications Xittel Inc. The Bell companies provided comments with respect to the submissions of the ABSPs.
5. The public record of this proceeding, which closed on 8 December 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. The Commission has identified the following three issues to be addressed in this decision:
  - I. Was the ABSP serving the community or did it have firm plans to serve the community as of 19 February 2007?
  - II. Is the ABSP's service consistent with the guidelines for exclusion as provided in Telecom Decision 2008-1?
  - III. Do the service areas identified by the ABSPs overlap with the DSAs identified by the Bell companies?

**I. Was the ABSP serving the community or did it have firm plans to serve the community as of 19 February 2007?**
7. In the 17 January 2008 letter, ABSPs were provided an opportunity to request the exclusion of supplemental communities from the Bell companies' broadband expansion proposal on the basis that either
  - 1) the ABSP provided broadband service to the supplemental community as of 19 February 2007; or
  - 2) the ABSP advised the Commission in its initial exclusion submission in February 2007, as part of the record of the Telecom Public Notice 2006-15 proceeding, that it planned to provide broadband service to the supplemental community.
8. Accordingly, the Commission will not approve exclusion requests for communities or DSAs in which the ABSP was not providing broadband service as of 19 February 2007 or had not advised the Commission as part of the record of the Telecom Public Notice 2006-15 proceeding that it had plans to provide broadband service to the supplemental communities.
9. The Commission also notes that Telecom Decision 2008-1 required ABSPs requesting exclusion on the basis of planned service to provide evidence of firm plans to serve the community in question. The Commission does not consider plans which are contingent on the receipt of funding from programs such as the federal government's *Broadband Canada: Connecting Rural Canadians* program to be firm plans as there is no guarantee that the ABSP will receive such funding. Accordingly, the Commission is not approving exclusion requests which are contingent on obtaining such funding.

10. Further, the Commission notes that as part of the record of the Telecom Public Notice 2006-15 proceeding, a number of other ABSPs requested exclusion of certain supplemental communities. However, no evidence was provided to substantiate their requests. Accordingly, the Commission is not approving exclusion requests for these communities.

## **II. Is the ABSP's service consistent with the guidelines for exclusion as provided in Telecom Decision 2008-1?**

11. In Telecom Decision 2008-1, the Commission considered exclusion requests on the basis of certain service requirements and, in particular, required that an ABSP's service be comparable to that of an ILEC in urban areas in terms of rates, terms, conditions, upload and download speeds, and reliability.
12. Based on the information provided, the Commission is satisfied that the service provided or proposed by the ABSPs who submitted exclusion requests as part of this proceeding meet the guidelines set out in Telecom Decision 2008-1.

## **III. Do the service areas identified by the ABSPs overlap with the DSAs identified by the Bell companies?**

13. The Bell companies submitted that the mapping information provided by a number of ABSPs lacked sufficient detail to confirm that the service of the ABSP overlapped with the DSAs that the Bell companies proposed to serve.
14. Having reviewed the mapping information provided by the Bell companies and the ABSPs, the Commission is satisfied that it is sufficient to allow the Commission to make a determination as to the broadband service coverage of the ABSPs in the communities and DSAs in question. The Commission considers that, with the exception of certain DSAs requested for exclusion by Cable Axion, the service areas identified by the ABSPs overlap with the DSAs that the Bell companies have proposed to serve.
15. With respect to the mapping information provided by Cable Axion, the Commission notes that Cable Axion submitted evidence to the effect that it was providing broadband service on 19 February 2007 in 5 DSAs located in the Quebec communities of La Patrie and Napierville. The Commission considers that, based on an analysis of the mapping information provided, Cable Axion's service only overlaps with the Bell companies' proposed service in DSA 301-1 in La Patrie and that Cable Axion does not appear to offer broadband service in the other four DSAs. Accordingly, the Commission is only approving Cable Axion's request for exclusion in respect of DSA 301-1.

## **Conclusion**

16. In light of the above, the Commission **approves** the use of deferral account funds by the Bell companies in the 38 DSAs in 10 Ontario and Quebec communities set out in Appendix A, and **denies** the use of deferral account funds by the Bell companies in the 29 DSAs in 8 Ontario and Quebec communities set out in Appendix B.

Secretary General

## Related documents

- *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
- *Review of proposals to dispose of the funds accumulated in the deferral accounts*, Telecom Public Notice CRTC 2006-15, 30 November 2006

*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 A

### Approved Bell companies' supplemental communities

#### Ontario

Community Name	ZSD	CLLI (Wire Centre)
Harriston	180-1, 480-1	HARSON06
Hastings	180-1, 182-1, 183-1, 482-1	HSNGON67
Hepworth	160-1, 460-1, 461-1, 482-1	HPWHON52
Lanark	181-1, 181-2, 183-1, 183-2, 184-1, 184-3, 185-1	LNRKON12
Michigan	212-1, 283-1, 284-1	SARNON32
Tweed	181-2	TWEDON40
Wingham	180-1, 181-1, 280-1, 280-2, 381-2, 480-1, 480-2	WGHMON68

#### Quebec

Community Name	ZSD	CLLI (Wire Centre)
La Patrie	302-1	LPTRPQ13
Napierville	110-1, 121-1, 202-1	NRVLPQ91
Yamaska	105-1, 112-2, 204-1, 1005, 1101, 1102	YMSKPQ65

## Appendix B

### Denied Bell companies' supplemental communities

#### Ontario

Community Name	DSA	CLLI (Wire Centre)
Campbellford	182-1, 281-2, 282-1, 282-4, 382-1, 584-1	CPFDON74
Casselman	460-1, 481-1	CSMNON05
Delhi	180-1, 180-2, 280-2, 282-1, 481-1, 482-1, 484-1	DELHON01
Hastings	480-1	HSNGON67
Lanark	381-1	LNRKON12
Maxville	182-1, 281-1, 383-1, 384-1	MXVLON30
Tweed	181-1, 281-1, 281-2, 380-1, 381-1, 383-1, 480-1	TWEDON40

#### Québec

Community Name	DSA	CLLI (Wire Centre)
La Patrie	301-1	LPTRPQ13