



Telecom Decision CRTC 2012-219

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Ottawa, 13 April 2012

TBayTel – Application for forbearance from the regulation of business local exchange services

File number: 8640-T8-201200576

In this decision, the Commission approves TBayTel's request for forbearance from the regulation of business local exchange services in the exchange of Thunder Bay, Ontario.

Introduction

1. The Commission received an application by TBayTel, dated 19 January 2012, in which the company requested forbearance from the regulation of business local exchange services¹ in the exchange of Thunder Bay, Ontario.
2. The Commission received submissions and/or data regarding TBayTel's application from Shaw Telecom G.P. (Shaw). The public record of this proceeding, which closed on 1 March 2012, 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 TBayTel's application by examining the four criteria set out below. These criteria are based on the local forbearance test originally set out in Telecom Decision 2006-15 and applied to the small incumbent local exchange carriers, with modifications, in Telecom Regulatory Policy 2009-379.

a) Product market

4. The Commission notes that TBayTel is seeking forbearance from the regulation of 25 tariffed business local exchange services. The Commission received no comments regarding TBayTel's proposed list of business local exchange services.
5. The Commission notes that 22 of the above-mentioned services fall within the definition of local exchange services set out in Telecom Public Notice 2005-2. Of the remaining three services, two services (Additional Telephones, and Multi-Line Telephone Systems and Key Equipment) relate to terminal equipment, which is already forborne from regulation pursuant to Telecom Decision 96-6, and the other service (Advanced Intelligent Network), does not fall within the definition of local exchange services.

¹ 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.

6. The Commission therefore determines that the 22 services listed in the Appendix to this decision are eligible for forbearance.

b) Competitor presence test

7. The Commission notes that information provided by parties confirms that there is, in addition to TBayTel, one independent, facilities-based, fixed-line telecommunications service provider² that offers local exchange services in the exchange of Thunder Bay and that is capable of serving at least 75 percent of the number of business local exchange service lines that TBayTel is capable of serving.
8. Accordingly, the Commission determines that the exchange of Thunder Bay meets the competitor presence test.

c) Competitor quality of service (Q of S) results

9. The Commission notes TBayTel's attestation that it received no Q of S complaints from competitors in the six months prior to the date of this application for forbearance. The Commission also notes that it has received no comments with respect to TBayTel's competitor Q of S results for that period.
10. Accordingly, the Commission determines that TBayTel's competitor Q of S is at a sufficient level to warrant forbearance from the regulation of business local exchange services in the exchange of Thunder Bay.

d) Communications plan

11. The Commission has reviewed TBayTel's proposed 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 change the mailing address for the Canadian Radio-television and Telecommunications Commission, as set out in the plan, to "Ottawa, Ontario K1A 0N2," the TTY number to "1-877-909-2782," and the fax number to "1-819-994-0218."
12. The Commission **approves** the proposed communications plan with the revisions outlined above and directs TBayTel to provide the resulting communications materials to its customers, in both official languages where appropriate.

Conclusion

13. The Commission determines that TBayTel's application regarding the exchange of Thunder Bay, Ontario, meets all the local forbearance criteria set out in Telecom Decision 2006-15 and modified by Telecom Regulatory Policy 2009-379 for small incumbent local exchange carriers.

² This competitor is Shaw.

14. 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 TBayTel 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 this exchange, would be consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.
15. 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 this exchange sufficient to protect the interests of users of these services.
16. 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 TBayTel of these business local exchange services in this exchange would be unlikely to impair unduly the continuance of a competitive market for these services.
17. In light of the above, the Commission **approves** TBayTel'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 exchange of Thunder Bay, 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 TBayTel to file revised tariff pages with the Commission 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
- *Regulatory framework for the independent telephone companies in Quebec and Ontario (except Ontario Northland Transportation Commission, Québec-Téléphone and Télébec Ltée)*, Telecom Decision CRTC 96-6, 7 August 1996

Appendix

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

Tariff	Item	List of services
25570	TB100	Rates and Charges for Primary Exchange (Local) Service
25570	TB100	Telephone Number Service
25570	TB100	Call Number Blocking
25570	TB120	Telephone Set Loss Charge
25570	TB140	Extra Listings – Omission of a Primary Exchange Listing
25570	TB190	Private Branch Exchange Service
25570	TB190	Direct Inward Dialing
25570	TB190	Centrex III Services
25570	TB280	Short-Term Service
25570	TB300	Service on Stationary Ships and Trains
25570	TB320	Suspension of Service
25570	TB490	Custom Calling Features
25570	TB490	Push-Button Dialling (Touch-Tone)
25570	TB490	Call Management Services
25570	TB490	Call Blocking Service
25570	TB490	500-Type Telephones
25570	TB490	Toll Management Service
25570	TB490	Time of Day Routing
25570	TB490	Telephone Station Sets
25570	TB500	Fax Line
25570	TB940	Litelink Services
25570	TB940	Primelink Services