



Telecom Decision CRTC 2012-507

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Ottawa, 24 September 2012

TELUS Communications Company – Application for forbearance from the regulation of business local exchange services

File number: 8640-T66-201203992

In this decision, the Commission approves TCC's request for forbearance from the regulation of business local exchange services provided in 35 exchanges in Alberta, British Columbia, and Quebec. The Commission also denies TCC's request concerning 54 other exchanges in these provinces.

Introduction

1. The Commission received an application from TELUS Communications Company (TCC), dated 30 March 2012, in which the company requested forbearance from the regulation of business local exchange services¹ in 89 exchanges in Alberta, British Columbia, and Quebec. A list of these exchanges is set out in Appendix 1 to this decision.
2. The Commission received submissions and/or data regarding TCC's application from Bell Canada; CityWest Cable and Telephone Corp.; Bragg Communications Inc., operating as EastLink (EastLink); Cogeco Cable Inc. (Cogeco); Distributel Communications Limited (Distributel); Iristel Inc. (Iristel); Quebecor Media Inc., on behalf of its affiliate Videotron Ltd. (Videotron); Shaw Telecom G.P. (Shaw); Xittel Telecommunications Inc. (Xittel); and one member of the general public. The public record of this proceeding, which closed on 5 July 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 TCC's application based on the local forbearance test set out in Telecom Decision 2006-15 by examining the four criteria set out below.

a) Product market

4. The Commission notes that TCC is seeking forbearance from the regulation of 63 tariffed business local exchange services. The Commission also notes that in Telecom Decisions 2008-107 and 2012-23, it found all of these services to be eligible for forbearance.

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.

5. The Commission received no comments with respect to TCC's proposed list of business local exchange services.
6. The Commission determines that the 63 services listed in Appendix 2 to this decision are eligible for forbearance.

b) Competitor presence test

7. The Commission notes that information provided by parties confirms that in the 35 exchanges listed in Appendix 3 there is, in addition to TCC, one independent, facilities-based, fixed-line telecommunications service provider (TSP)² that offers local exchange services and is capable of serving at least 75 percent of the number of business local exchange service lines that TCC is capable of serving.
8. The Commission therefore determines that the 35 exchanges listed in Appendix 3 to this decision meet the competitor presence test.
9. For each of the remaining 54 exchanges, the Commission notes that there is no independent, facilities-based, fixed-line TSP capable of offering local exchange services to at least 75 percent of the number of business local exchange service lines that TCC is capable of serving.
10. In 28 of these exchanges, the facilities-based, fixed-line TSP identified by TCC indicated that it was not capable of serving at least 75 percent of the number of business local exchange service lines that TCC is capable of serving.
11. For the other 26 exchanges, the TSPs identified by TCC, namely Distributel, Iristel, and Xittel, indicated that they were providing local access-independent voice over Internet protocol (VoIP) services.³
12. TCC submitted that, so long as a TSP is registered as a competitive local exchange carrier within an exchange, the type of VoIP services provided is not relevant. Consequently, TCC argued that local access-independent VoIP service providers are appropriate for consideration as part of the competitor presence test.
13. The Commission notes, however, that in *Order Varying Telecom Decision CRTC 2005-28*,⁴ the Governor in Council stated that while local access-dependent⁵ VoIP services are typically indistinguishable from traditional local telephone services, local access-independent VoIP services require high-speed Internet access

² These competitors are Bell Canada, Cogeco, EastLink, Shaw, and Videotron.

³ Local access-independent VoIP services are services in which access and service may be provided by distinct providers – the service provider is not required to provide the underlying network on which the service rides and is not required to obtain the permission of the network provider to offer the service to customers on that network.

⁴ *Order Varying Telecom Decision CRTC 2005-28*, P.C. 2006-1314, 9 November 2006

⁵ Local access-dependent VoIP services are services for which access and service are both provided by the same provider, and can be provided by changing the underlying technology of the local access network from circuit-switched to packet-switched.

as well as special handsets, adapters, or the use of a computer, and may be more susceptible to service deterioration or disruption. The Governor in Council considered that local access-independent VoIP services are a distinct class of local telephone services for regulatory purposes.

14. In light of the above, the Commission considers that local access-independent VoIP services are not equivalent to local access services. Accordingly, the Commission finds that Distributel, Iristel, and Xittel do not constitute independent facilities-based, fixed-line TSPs that offer local exchange services for the purposes of the local forbearance test set out in Telecom Decision 2006-15.
15. Accordingly, the Commission determines that the remaining 54 exchanges do not meet the competitor presence test.

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

16. The Commission notes that TCC submitted competitor Q of S results for the period of August 2011 to January 2012. The Commission has reviewed TCC's competitor Q of S results and finds that TCC has met, on average, the Q of S standards for each indicator set out in Appendix B of Telecom Decision 2006-15.
17. However, the Commission notes that more than 70 percent of the services TCC provided to one competitor were below Q of S standards. The Commission considers that this would amount to consistently providing a competitor with services below Q of S standards, contrary to subparagraph 242b)(ii) of Telecom Decision 2006-15. The Commission, however, also notes that this competitor had only a few data points for the six-month period in question. In Telecom Decision 2007-58, the Commission considered that when there are only a few data points during a six-month period, there is insufficient data to make a finding that a company has consistently provided below-standard Q of S. The Commission considers that this principle applies in the case of the competitor mentioned above.
18. The Commission therefore finds that TCC has demonstrated that during this six-month period, it
 - i) met, on average, the Q of S standards for each indicator set out in Appendix B of Telecom Decision 2006-15, as defined in Telecom Decision 2005-20, with respect to the services provided to competitors in its territory; and
 - ii) did not consistently provide any of those competitors with services that were below those Q of S standards.
19. Accordingly, the Commission determines that TCC meets the competitor Q of S criterion for this period.

d) Communications plan

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

Conclusion

21. The Commission determines that TCC's application regarding the 35 exchanges in Alberta, British Columbia, and Quebec listed in Appendix 3 meets all the local forbearance criteria set out in Telecom Decision 2006-15.
22. 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 TCC of the business local exchange services listed in Appendix 2 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.
23. 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.
24. 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 TCC of these business local exchange services in these exchanges would be unlikely to impair unduly the continuance of a competitive market for these services.
25. In light of the above, the Commission **approves** TCC's application for forbearance from the regulation of the local exchange services listed in Appendix 2 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 35 exchanges listed in Appendix 3, 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 TCC to file revised tariff pages with the Commission within 30 days of the date of this decision.

Secretary General

Related documents

- *TELUS Communications Company – Application for forbearance from the regulation of business local exchange services*, Telecom Decision CRTC 2012-23, 18 January 2012
- *TELUS Communications Company – Application for forbearance from the regulation of business local exchange services*, Telecom Decision CRTC 2008-107, 19 November 2008
- *Forbearance from the regulation of residential local exchange services in Fort McMurray, Alberta*, Telecom Decision CRTC 2007-58, 25 July 2007
- *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
- *Finalization of quality of service rate rebate plan for competitors*, Telecom Decision CRTC 2005-20, 31 March 2005

Appendix 1

TCC requested forbearance from the regulation of its business local exchange services in the following 89 exchanges:

| Alberta | British Columbia | Quebec |
|----------------|-------------------------|--------------------------|
| Acme | 100 Mile House | Amqui |
| Beaverlodge | 108 Mile House | Cap-Chat |
| Bonnyville | Cache Creek | Chandler |
| Brooks | Castlegar | Donnacona |
| Caroline | Dawson Creek | Mont-Joli |
| Chauvin | Elkford | Percé |
| Drayton Valley | Golden | St-Augustin-de-Desmaures |
| Drumheller | Gulf Islands | St-Fabien |
| Eckville | Hazelton | St-Henri-de-Lévis |
| Etzikom | Houston | St-Jean-Port-Joli |
| Grande Centre | Invermere | St-Lambert-de-Lauzon |
| Hanna | Kaslo | St-Martin |
| High Prairie | Kitimat | St-Pamphile |
| Hinton | Ladner | St-Prosper |
| Irma | Merritt | St-Tite |
| Irricana | Naksup | Ste-Thècle |
| Jasper | Nelson | Val-Brillant |
| Langdon | Oliver | |
| Leslieville | Osoyoos | |
| Lloydminster | Owama | |
| Manning | Pender Island | |
| Mayerthorpe | Port Alice | |
| Milk River | Princeton | |
| Millet | Salmon Arm | |
| Nisku | Sechelt | |
| Peace River | Smithers | |
| Provost | Terrace | |

Alberta

Raymond

Rimbey

Rocky Mountain House

Spruce View

St. Paul

Stettler

Stony Plain

Sundre

Three Hills

Trochu

Vauxhall

Wainwright

Westlock

Wetaskiwin

Whitecourt

British Columbia

Trail

Ucluelet

Valemont

Appendix 2

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

| Tariff | Item | List of services |
|---------------|-------------|--|
| 1005 | 25 | Exchange Classification and Rates – General |
| 1005 | 26 | Business and Residence Service |
| 1005 | 27 | Base Rate Areas |
| 1005 | 32 | Exchange Rates |
| 1005 | 122 | Foreign Central Office Service – Voice |
| 1005 | 122-A | Foreign Central Office Service – Data |
| 1005 | 132 | Service to Ships and Trains |
| 1005 | 150 | Reserved Telephone Number Service |
| 1005 | 153 | Optional Hunting Arrangements |
| 1005 | 157 | Suspension of Service |
| 1005 | 161 | Call Guardian |
| 1005 | 164 | Dual Tone Multi-Frequency (DTMF) / Multi-Frequency (MF) Services |
| 1005 | 200 | Terminal Attachment Program |
| 1005 | 465 | Integrated Services Digital Network – Basic Rate Interface (ISDN-BRI) Service |
| 1005 | 470 | Integrated Services Digital Network – Primary Rate Interface (ISDN-PRI) Service |
| 1005 | 470-A | Integrated Services Digital Network – Primary Rate Interface (ISDN-PRI) Monthly Non-Contracted Service |
| 1005 | 490 | DataDial Service |
| 1005 | 495 | Digital Exchange Access |
| 18001 | 165 | Digital Exchange Access (DEA) |
| 18001 | 215 | Dataline Service |
| 18001 | 235 | Calling Features |
| 18001 | 240 | Extended Area Service (EAS) |

| Tariff | Item | List of services |
|---------------|--------------------|---|
| 18001 | 295 | Inbound Data Access (IDA) Service |
| 18001 | 305 | Denial Services |
| 18001 | 310 | Toll Restriction Services |
| 18001 | 380 | Temporary Disconnect |
| 18001 | 425 | Exchange Service |
| 18001 | 430 | Deductions – Churches, Community Centres and Senior Citizen Drop-In Centres |
| 18001 | 485 | Integrated Services Digital Network – Basic Rate Interface (ISDN-BRI) Service |
| 18001 | 495 | Integrated Services Digital Network – Primary Rate Interface (ISDN-PRI) Service |
| 18001 | 505 | Switched 56 Digital Service |
| 21461 | 129 | Directory Listings |
| 21461 | 202 | Individual Line Service (ILS) |
| 21461 | 209 | Local Calling Area (LCA) Expansion |
| 21461 | 213 | Centrex Service |
| 21461 | 215 | Direct In Dial Service |
| 21461 | 216 | <i>IntelliRoute</i> Service |
| 21461 | 217 | Reserved Telephone Number Service |
| 21461 | 300 | Call Management Services |
| 21461 | 307 | Special Number Search |
| 21461 | 311 | Dual Line Call Manager |
| 21461 | 314 | Remote Call Forwarding |
| 21461 | 316 | 900 Blocking |
| 21461 | 1000 | Chargeable Call Intercept – Business Numbers |
| 25080 | 2.03.01 a., b., d. | Basic Business Service and Regional Service |
| 25080 | 2.02 | Business and Residence Service |
| 25080 | 2.04 | Shared Use |
| 25080 | 2.05 | Directories and Listings |

| Tariff | Item | List of services |
|---------------|-------------|--|
| 25080 | 2.11 | Service to Immobilized Ships, Trailers and Trains |
| 25080 | 2.12 | Telephone Number Reservation Service |
| 25080 | 2.13 | Centrex Business Service |
| 25080 | 2.16.03 | Toll Restriction Service |
| 25080 | 2.17 | Direct Inward Dialling |
| 25080 | 2.20 | TELUS Québec's SmartTouch Services |
| 25080 | 2.21 | DataMedia Service |
| 25080 | 2.22 | Call Display Blocking |
| 25080 | 2.29 | Access service 310-XXXX |
| 25080 | 3.02.07 e. | Call Blocking Service – 900 Service |
| 25080 | 4.08 | Use of Customer-Provided Equipment with the Company's Facilities |
| 25080 | 5.03 | Multiflex Service |
| 25080 | 5.05 | ISDN-PRI Service |
| 25080 | 5.07 | <i>IntelliRoute</i> Call Redirection |
| 25081 | 5.08 | <i>Intelliroute</i> Call Screening |

Appendix 3

Exchanges that meet all the local forbearance criteria set out in Telecom Decision 2006-15

| Alberta | British Columbia | Quebec |
|----------------------|-------------------------|----------------------|
| Beaverlodge | 100 Mile House | Cap-Chat |
| Brooks | 108 Mile House | Mont-Joli |
| Drayton Valley | Dawson Creek | St-Fabien |
| Drumheller | Elkford | St-Lambert-de-Lauzon |
| Mayerthorpe | Invermere | St-Martin |
| Millet | Ladner | St-Prosper |
| Peace River | Nelson | Val-Brillant |
| Raymond | Oliver | |
| Rocky Mountain House | Osoyoos | |
| St. Paul | Owama | |
| Stony Plain | Salmon Arm | |
| Wainwright | Sechelt | |
| Westlock | Terrace | |
| Wetaskiwin | Trail | |