



## Telecom Decision CRTC 2012-53

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Ottawa, 26 January 2012

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

File number: 8640-N51-201114256

*In this decision, the Commission approves NorthernTel's request for forbearance from the regulation of business local exchange services in the exchange of Kirkland Lake, Ontario.*

#### **Introduction**

1. The Commission received an application by NorthernTel, Limited Partnership (NorthernTel), dated 20 October 2011, in which the company requested forbearance from the regulation of business local exchange services<sup>1</sup> in the exchange of Kirkland Lake, Ontario.
2. The Commission received submissions and/or data regarding NorthernTel's application from Bragg Communications Inc., operating as EastLink (EastLink). The public record of this proceeding, which closed on 16 November 2011, 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 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 NorthernTel is seeking forbearance from the regulation of 18 tariffed business local exchange services. The Commission received no comments regarding this list.
5. The Commission notes that in Telecom Decision 2010-273, it found all these services to be eligible for forbearance. Subsequent to that decision, the Commission issued Telecom Regulatory Policy 2010-777, in which it forbore conditionally from regulating one of these services, Integrated Voice Messaging Service (IVMS).

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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.

Pursuant to Telecom Regulatory Policy 2010-777, forbearance from the regulation of IVMS will take effect on the date that NorthernTel issues revised tariff pages for the service.

6. Accordingly, the Commission finds the services proposed by NorthernTel for forbearance, excluding IVMS, to be appropriate. A list of the remaining 17 approved services is set out in the Appendix to this decision.

**b) Competitor presence test**

7. The Commission notes that information provided by parties confirms that there is, in addition to NorthernTel, one independent, facilities-based, fixed-line telecommunications service provider<sup>2</sup> that offers local exchange services in the exchange of Kirkland Lake and that is capable of serving at least 75 percent of the number of business local exchange service lines that NorthernTel is capable of serving.
8. Accordingly, the Commission determines that the exchange of Kirkland Lake meets the competitor presence test.

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

9. The Commission notes NorthernTel'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 NorthernTel's competitor Q of S results for that period.
10. Accordingly, the Commission determines that NorthernTel'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 Kirkland Lake.

**d) Communications plan**

11. The Commission has reviewed NorthernTel'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."
12. 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.

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<sup>2</sup> This competitor is EastLink.

## Conclusion

13. The Commission determines that NorthernTel's application regarding the exchange of Kirkland Lake, 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.
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 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 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 NorthernTel 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** 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 exchange of Kirkland Lake, 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 the date of this decision.

Secretary General

## Related documents

- *Forbearance from the regulation of retail voice mail services provided by the incumbent local exchange carriers*, Telecom Regulatory Policy CRTC 2010-777, 20 October 2010
- *NorthernTel, Limited Partnership – Application for forbearance from the regulation of business local exchange services*, Telecom Decision CRTC 2010-273, 13 May 2010
- *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

## 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	N900	15	Integrated services digital network 23B+D service