



Telecom Decision CRTC 2012-650

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Ottawa, 28 November 2012

MTS Inc. – Application for forbearance from the regulation of business local exchange services

File number: 8640-M59-201209164

In this decision, the Commission approves MTS's request for forbearance from the regulation of business local exchange services in the exchanges of Brandon and Portage la Prairie, Manitoba. The Commission approves MTS's proposed communication plan, subject to MTS making changes to include all of the information required by Telecom Decision 2006-15.

Introduction

1. The Commission received an application from MTS Inc. (MTS), dated 30 July 2012, in which the company requested forbearance from the regulation of business local exchange services¹ in the exchanges of Brandon and Portage la Prairie, Manitoba.
2. The Commission received submissions and/or data regarding MTS's application from Les.Net (1996) Inc. (Les.Net), Rogers Communications Partnership (RCP), Shaw Communications Inc. (Shaw), TELUS Communications Company (TCC), and Westman Communications Group (Westman). The public record of this proceeding, which closed on 21 September 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 MTS'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 MTS is seeking forbearance from the regulation of 24 tariffed business local exchange services. The Commission also notes that in Telecom Decision 2005-35, 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 MTS's proposed list of business local exchange services.
6. The Commission therefore determines that the 24 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 MTS, one independent, facilities-based, fixed-line telecommunications service provider² in each of the exchanges of Brandon and Portage la Prairie that offers local exchange services and that is capable of serving at least 75 percent of the number of business local exchange service lines that MTS is capable of serving.
8. Accordingly, the Commission determines that the exchanges of Brandon and Portage la Prairie meet the competitor presence test.

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

9. The Commission notes that MTS submitted competitor Q of S results for the period of December 2011 to May 2012. The Commission considers that these results demonstrate that MTS met, on average, the competitor Q of S standards for each indicator set out in Telecom Decision 2006-15, with respect to the services provided to competitors in its territory.
10. With regard to whether MTS consistently provided any of those competitors with services that were below those Q of S standards, the Commission considers that, overall, the results demonstrate that MTS met the Q of S standards for all but one of the individual competitors.
11. The Commission also notes that Les.Net has disputed the results that MTS reported for Q of S indicator 2.10 for Les.Net. In its reply, MTS stated that it was working diligently with Les.Net to resolve the issue and submitted a document describing the complaint and the actions it took to quickly repair connectivity with Les.Net.
12. The Commission notes that there were few data points for some competitors during the six-month period in question, including Les.Net. The Commission also notes that in Telecom Decision 2007-58, it 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 consistently provided below-standard Q of S to the competitor. The Commission considers that this principle applies in the case of the competitors mentioned above.

² These competitors are Westman in the exchange of Brandon, and Shaw in the exchange of Portage la Prairie.

13. The Commission therefore finds that MTS has demonstrated that during the six-month period from December 2011 to May 2012, 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.
14. Accordingly, the Commission determines that MTS meets the competitor Q of S criterion for this period.

d) Communications plan

15. The Commission has reviewed MTS's proposed communications plan and considers that, while reasonable, certain elements are missing. Telecom Decision 2006-15 specifies the elements that should be contained in the plan.
16. The Commission notes that according to the draft plan, the only information that will be provided directly to all customers is a short draft bill message of fewer than three lines. The Commission also notes that in Telecom Decision 2011-351, it approved MTS's proposed communications plan as submitted, noting that it was satisfied that the plan met the information requirements set out in Telecom Decision 2006-15. The Commission considers that MTS should provide all of its business customers in the affected exchanges with the information required by Telecom Decision 2006-15 and that this information should be modelled on the communications plan approved in Telecom Decision 2011-351.
17. The Commission **approves** the proposed communications plan, subject to the changes noted above, and directs MTS to provide the resulting communications materials to its customers, in both official languages where appropriate.

Conclusion

18. The Commission determines that MTS's application regarding the exchanges of Brandon and Portage la Prairie, Manitoba, meets all the local forbearance criteria set out in Telecom Decision 2006-15.
19. 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 MTS 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.

20. 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.
21. 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 MTS of these business local exchange services in these exchanges would be unlikely to impair unduly the continuance of a competitive market for these services.
22. In light of the above, the Commission **approves** MTS'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 Brandon and Portage la Prairie, Manitoba, 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 MTS to file revised tariff pages with the Commission within 30 days of the date of this decision.

Secretary General

Related documents

- *MTS Allstream Inc. – Application for forbearance from the regulation of business local exchange services*, Telecom Decision CRTC 2011-351, 27 May 2011
- *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
- *List of services within the scope of the proceeding on forbearance from the regulation of local exchange services*, Telecom Decision CRTC 2005-35, 15 June 2005, as amended by Telecom Decision CRTC 2005-35-1, 14 July 2005
- *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

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

Tariff	Item	List of services
24001	475	Rate Schedule for Primary Exchange Service
24001	480	Community Calling Service
24001	490	Urban Unlimited Service
24001	710	Exchange Measurement – Telephone Service Facilities
24001	720	Premium Exchange Service
24001	800	Suspension of Service
24001	1000	Joint User Service
24001	1600	Directory Listings
24001	1980	Centrex
24001	1981	Electronic Transfer Capability for Centrex
24001	1982	Centrex 2
24001	1985	National Centrex Service
24001	1990	Digital Exchange Access Service
24001	2000	Megalink Service (ISDN Primary Rate Access)
24001	2126	Label Service
24001	2135	Custom Telephone Number Service
24001	2136	Rotary Service
24001	2140	Direct Inward Dialing (DID)
24001	2142	Calling Features
24001	2145	900 Call Denial/Blocking Service*
24001	2450	Remote Call Forwarding
24002	9275	Centrex Digital Data Service Premium
24003	12170	Centrex Miscellaneous
24003	12930	Stop Hunt Feature

* MTS noted that Tariff 7400, item 515.3, which was included in Telecom Decision 2005-35, has been replaced by Tariff 24001, item 2145 – 900 Call Denial/Blocking Service.