



Telecom Decision CRTC 2012-79

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Ottawa, 8 February 2012

Bell Aliant Regional Communications, Limited Partnership – Application for forbearance from the regulation of residential local exchange services

File number: 8640-B54-201113282

In this decision, the Commission approves Bell Aliant's request for forbearance from the regulation of residential local exchange services in 26 exchanges in Ontario and Quebec. The Commission denies Bell Aliant's request for forbearance from the regulation of residential local exchange services in another 12 exchanges in Ontario.

Introduction

1. The Commission received an application by Bell Aliant Regional Communications, Limited Partnership (Bell Aliant), dated 29 September 2011, in which the company requested forbearance from the regulation of residential local exchange services¹ in 38 exchanges in Ontario and Quebec. A list of these exchanges is set out in Appendix 1 to this decision.
2. The Commission received submissions and data regarding Bell Aliant's application from Bragg Communications Inc., operating as EastLink (EastLink); Cogeco Cable Inc. (Cogeco); Quebecor Media Inc., on behalf of its affiliate Videotron Ltd. (Videotron); Rogers Communications Partnership (RCP); TELUS Communications Company (TCC); Tuckersmith Communications Co-operative Limited (Tuckersmith); and Wightman Communications Ltd. (Wightman). The public record of this proceeding, which closed on 9 November 2011, 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 Bell Aliant'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 received no comments with respect to Bell Aliant's proposed list of residential local exchange services.

¹ In this decision, "residential local exchange services" refers to local exchange services used by residential customers to access the public switched telephone network and any associated service charges, features, and ancillary services.

5. The Commission notes that Bell Aliant is seeking forbearance from the regulation of 18 tariffed residential local exchange services. The Commission also notes that in Telecom Decisions 2005-35 and 2007-65, it found all these services to be eligible for forbearance. Subsequently, in Telecom Regulatory Policy 2010-777, the Commission forbore conditionally from regulating two of these services, Integrated Voice Messaging Service (IVMS) and Universal Messaging. Pursuant to Telecom Regulatory Policy 2010-777, forbearance from the regulation of these services will take effect on the date that Bell Aliant issues revised tariff pages for the services.
6. Accordingly, the Commission finds the list of services proposed by Bell Aliant, excluding IVMS and Universal Messaging, to be appropriate. A list of the 16 remaining approved services is set out in Appendix 2 to this decision.

b) Competitor presence test

7. Bell Aliant asserted that Câble Axion Digital inc. (Câble Axion) in the exchange of Lac-Mégantic, DERYtelecom Inc. (DERYtelecom) in the exchanges of Baie-St-Paul and La Baie, and NRTC Communications (NRTC) in the exchange of Petawawa are capable of serving at least 75 percent of residential network access services (NAS) based on each CLEC's network, as identified using postal codes and data from Mediastats Inc. for these exchanges.
8. Câble Axion, DERYtelecom, and NRTC provided no information or evidence to either confirm or contest Bell Aliant's evidence.² Bell Aliant noted that by letter dated 7 June 2007,³ Commission staff indicated that where there is no information or evidence provided to either confirm or contest the applicant incumbent local exchange carriers (ILECs) evidence submitted in their respective local forbearance applications, the Commission would be required to rely on the information filed on the record of this proceeding by the applicant ILECs.
9. The Commission considers that it would be unreasonable to deny forbearance for these exchanges on the basis that the competitors did not file evidence of their presence. The Commission finds that based on Bell Aliant's evidence, Câble Axion in the exchange of Lac-Mégantic, DERYtelecom in the exchanges of Baie-St-Paul and La Baie, and NRTC in the exchange of Petawawa are capable of serving at least 75 percent of the number of residential local exchange service lines that Bell Aliant is capable of serving.
10. The Commission notes that information provided by parties confirms that there are, in addition to Bell Aliant, at least two independent, facilities-based telecommunications service providers operating in 26 of the 38 exchanges in question, including providers of mobile wireless services.⁴ Each of these service providers offers local exchange

² Bell Aliant's application indicates that Câble Axion, DERYtelecom, and NRTC were served with the application.

³ The 7 June 2007 letter set out the process for applications for local forbearance.

⁴ These competitors are TCC in all exchanges, and Câble Axion, Cogeco, DERYtelecom, EastLink, NRTC, RCP, Tuckersmith, Videotron, and Wightman in certain exchanges.

services in the market and is capable of serving at least 75 percent of the number of residential local exchange service lines that Bell Aliant is capable of serving, and at least one, in addition to Bell Aliant, is a facilities-based, fixed-line telecommunications service provider.

11. Accordingly, the Commission determines that the 26 exchanges listed in Appendix 3 meet the competitor presence test.
12. The Commission determines that the 12 remaining exchanges do not meet the competitor presence test as the other facilities-based fixed-line telecommunications service providers are not capable of serving at least 75 percent of the residential local exchange service lines services that Bell Aliant is capable of serving.

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

13. The Commission notes that Bell Aliant submitted competitor Q of S results for the period of February 2011 to July 2011. The Commission has reviewed Bell Aliant's competitor Q of S results and finds that it did not meet the Q of S standards for certain competitors. However, in each of these cases, there were few data points for the six-month period. The Commission notes that in Telecom Decision 2007-58 it considered that where 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.
14. The Commission notes that, except in the cases discussed above, Bell Aliant 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.
15. Accordingly, the Commission determines that Bell Aliant meets the competitor Q of S criterion for this period.

d) Communications plan

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

Conclusion

18. The Commission determines that Bell Aliant's application regarding the 26 exchanges in Ontario and Quebec that are listed in Appendix 3 meets all of 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 Bell Aliant of the residential 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 residential 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 residential 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 Bell Aliant of these residential 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** Bell Aliant'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 residential customers only, in the 26 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 Bell Aliant 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
- *Bell Canada – Applications for forbearance from the regulation of residential local exchange services*, Telecom Decision 2007-65, 3 August 2007
- *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 1

Exchanges for which Bell Aliant requested forbearance from the regulation of its residential local exchange services

Ontario

Belle River
Blind River
Cardinal
Elliot Lake
Elora
Emeryville
Espanola
Exeter
Fergus
Glencoe
Ingleside
Long Sault
Meaford
Midland
Morrisburg
Mount Brydges
Norwood
Penetanguishene
Perth
Petawawa
Petrolia
Port McNicoll
Prescott
Seaforth
Simcoe
Sturgeon Falls
Tilbury
Wallaceburg
Winchester
Wingham
Wyoming

Quebec

Baie-St-Paul
Danville
East Broughton
Hébertville-Station
La Baie
Lac-Mégantic
Ste-Martine

Appendix 2

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

Tariff	Item	List of services
21560	29	Telephone Set Loss Charge
21560	70	Rate Schedules for Primary Exchange (Local) Service
21560	72	Reference of Calls
21560	73	Telephone Number Services
21560	82	Toll Restriction
21560	86	Call Display Blocking
21560	220	Extra Listings – Omission of a Primary Exchange Listing
21560	1060	Service on Stationary Boats, Ships, Trailers and Trains
21560	1130	Suspension of Service
21560	2150	Push-Button Dialling (Touch-Tone)
21560	2165	Calling Features
21560	2185	Single Number Reach
21560	2200	Call Blocking Service
21560	2300	Telephone Station Equipment
21560	4699	Internet Call Display Service
21560	7031	Bell Digital Voice

Appendix 3

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

Ontario

Blind River
Cardinal
Elliot Lake
Elora
Emeryville
Espanola
Exeter
Meaford
Midland
Morrisburg
Norwood
Penetanguishene
Petawawa
Port McNicoll
Seaforth
Simcoe
Sturgeon Falls
Wallaceburg
Wingham

Quebec

Baie-St-Paul
Danville
East Broughton
Hébertville-Station
La Baie
Lac-Mégantic
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