



Telecom Decision CRTC 2014-349

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Wightman Telecom Ltd. – Application regarding the appropriate interconnection regime for Rogers Wireless Home Phone Service

*The Commission **denies** a request by Wightman Telecom Ltd. that the Commission find that the Rogers Wireless Home Phone Service is a local exchange service that Rogers Communications Inc. must offer as a competitive local exchange carrier and not as a wireless service provider.*

Introduction

1. Rogers Communications Inc. (RCI) launched the Rogers Wireless Home Phone Service (RWHPS) in July 2013. This service is marketed as a low-cost, wireless, traditional home or office voice service. RWHPS operates using RCI's wireless network and is available across Canada where RCI does not offer landline services.
2. RWHPS requires customers to purchase an electrically powered adapter with an active subscriber identification module (SIM) card and plug existing cordless or corded phones into that device.

Application

3. The Commission received an application from Wightman Telecom Ltd. (Wightman), dated 9 October 2013, in which the company requested that the Commission find that RWHPS is a local exchange service that RCI must offer as a competitive local exchange carrier (CLEC) and not as a wireless service provider (WSP).
4. The Commission received interventions in support of Wightman's application from the Association des Compagnies de Téléphone du Québec inc. and the following 15 small incumbent local exchange carriers (ILECs): Bruce Telecom, CityWest Telephone and Cable Corp., Cochrane Telecom Services, Execulink Telecom Inc., Hay Communications Co-operative Limited, Huron Telecommunications Co-operative Limited, Lansdowne Rural Telephone Company Limited, Nexicom Telecommunications Inc., Nexicom Telephones Inc., North Renfrew Telephone Company Limited, Ontera, Quadro Communications Co-operative Inc., Roxborough Telephone Company Limited, Tuckersmith Communications Co-operative Limited, and WTC Communications. The public record of this proceeding, which closed on 5 March 2014, is available on the Commission's website at www.crtc.gc.ca or by using the file number provided above.

Should the Commission require RCI to interconnect as a CLEC to provide RWHPS?

5. Wightman submitted that RWHPS is an access-dependent, fixed local exchange service, and that based on RCI's marketing material, which Wightman provided as part of its application, the service meets the same general user requirements as circuit-switched local exchange services and is a close substitute for these services. Wightman added that since RWHPS is a local exchange service, RCI should be offering the service in no other capacity than as a CLEC.
6. Wightman argued that the Commission should use the same tests and conclusions it outlined in Telecom Decision 2005-28 regarding voice over Internet Protocol (VoIP) services¹ to evaluate the regulatory status of RWHPS, since RWHPS is similar to and should have the same regulatory treatment as VoIP services.
7. RCI submitted that Wightman's application is without merit and should be dismissed. RCI indicated that RWHPS is offered on a wireless network as a wireless service, and that in the context of this service, RCI complies with the regulatory requirements to be met by WSPs.
8. RCI argued that the Commission has not established, in Telecom Decision 2005-28 or any other decision, a rule that a company offering a service that is functionally a replacement of, or a close substitute for, a wireline local exchange service should be offering the service under no other regulatory classification than as a CLEC. RCI submitted that the Commission used the test outlined in Telecom Decision 2005-28, which Wightman is seeking to apply to RWHPS, solely to determine the relevant market for the then-new and unclassified VoIP services. RCI added that the Commission used this test as part of its forbearance test and framework to determine that VoIP services are a substitute for local exchange services.
9. RCI noted that in Telecom Decisions 97-8 and 2003-53, the Commission established that telecommunications service providers can provide wireless services either as WSPs (with no CLEC obligations) or as wireless CLECs (i.e. type II CLECs).² RCI submitted that although RWHPS is a substitute for wireline service, the company falls under the WSP class in the context of this service, and that, therefore, the company is subject to the regulatory requirements applicable only to that class.

¹ In this decision, the Commission identified four factors to determine whether local VoIP services meet the same general user requirements as circuit-switched local exchange services: (i) the fundamental purpose of the services; (ii) the manner in which local VoIP services are marketed and offered; (iii) whether or not consumers perceive, or can be expected to perceive, local VoIP services as close substitutes for circuit-switched local exchange services; and (iv) whether or not local VoIP services and circuit-switched local exchange services are, or will be, purchased as replacements for one another.

² In Telecom Decision 97-8, the Commission indicated that, should a WSP wish to become a CLEC, it would be subject to the same terms and conditions set out for wireline CLECs. In Telecom Regulatory Policy 2012-24, the Commission determined that a wireless carrier that wishes to become a CLEC is no longer required to meet the obligations related to equal access, supply of directory listings to other local exchange carriers, or provision of details of all their service options with applicable prices and applicable service charges to the Commission, except upon request.

10. RCI added that many wireless devices that are currently available in the market enable Canadian wireless customers to easily turn their wireless phones into a home phone replacement using inside wiring in their residence.
11. Wightman replied that the fact that RWHPS satisfies the WSP regulatory framework is irrelevant, and that unless RCI is prepared to offer this service as a CLEC, RCI should cease offering this service anywhere in Canada.

Commission's analysis and determinations

12. Under the current rules regarding WSPs' interconnection with ILECs, WSPs are permitted to interconnect either directly or indirectly. For direct network interconnection, a WSP can either (i) become a type II CLEC (i.e. a wireless CLEC) or (ii) subscribe to the ILEC's wireless access service. Alternatively, the WSP could establish an indirect network interconnection with the ILEC through interconnection arrangements that the WSP has established with another local exchange carrier, which has established local network interconnection arrangements with that ILEC. The Commission notes that RCI has indicated that it does not interconnect directly with Wightman.
13. Pursuant to Telecom Regulatory Policy 2012-24, implementation of wireless number portability³ in the territory of a small ILEC is conditional on the wireless carrier directly interconnecting with that ILEC, unless otherwise negotiated. Accordingly, RCI would only be required to interconnect directly with Wightman as a WSP if it wished to provide wireless number portability.
14. While RWHPS is marketed as a substitute for wireline home phone service, it is provisioned using RCI's wireless network in Wightman's serving territory without the option of wireless number portability. The Commission notes that it has not established a rule that a service that is a close substitute for a wireline local exchange service should be offered by a service provider only as a CLEC. Accordingly, the Commission finds that RWHPS is a wireless service and that RCI is operating within the regulatory framework under which wireless services can be provided by WSPs in small ILECs' serving territories.
15. In light of the above, the Commission **denies** Wightman's request that the Commission find that RWHPS is a local exchange service that RCI should be offering as a CLEC.
16. The Commission considers that its determination in this decision relies on market forces to the maximum extent feasible as the means of achieving the policy objectives

³ Wireless number portability enables customers to keep their telephone numbers when switching to or from a WSP.

set out in paragraphs 7(c) and (f) of the *Telecommunications Act*,⁴ consistent with subparagraph 1(a)(i) of the Policy Direction.⁵

Secretary General

Related documents

- *Network interconnection for voice services*, Telecom Regulatory Policy CRTC 2012-24, 19 January 2012
- *Regulatory framework for voice communication services using Internet Protocol*, Telecom Decision CRTC 2005-28, 12 May 2005, as amended by Telecom Decision CRTC 2005-28-1, 30 June 2005
- *Conditions of service for wireless competitive local exchange carriers and for emergency services offered by wireless service providers*, Telecom Decision CRTC 2003-53, 12 August 2003, as amended by Telecom Decision CRTC 2003-53-1, 25 September 2003
- *Local competition*, Telecom Decision CRTC 97-8, 1 May 1997

⁴ The cited policy objectives are
7(c) to enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications; and
(f) to foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective.

⁵ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006