



## Telecom Decision CRTC 2007-119

Ottawa, 27 November 2007

### **Forbearance from the regulation of high capacity/digital data services interexchange private line services on certain additional routes**

Reference: 8638-S1-01/98

*In this Decision, the Commission forbears, with some conditions, from regulating high capacity/digital data services interexchange private line services on 12 additional routes on which the competitors of several incumbent local exchange carriers now offer or provide such services at DS-3 or greater bandwidth.*

1. In Telecom Order 99-434, the Commission directed the competitors of several incumbent local exchange carriers (ILECs) to file a semi-annual report identifying the interexchange private line (IXPL) routes on which they provided or offered high capacity/digital data services IXPL services (IXPL services) to at least one customer, at the equivalent of DS-3 or greater bandwidth, using terrestrial facilities from a company other than the ILEC or an affiliate of the ILEC.
2. The Commission stated that upon being satisfied that one or more competitors met this criterion, it would proceed to forbear from the regulation of IXPL services on those particular routes without further process. The reports are due on 1 April and 1 October of each year.
3. The Commission received October 2007 filings from the following competitors: Axia SuperNet Ltd.; Bell Canada on behalf of itself, Bell Aliant Regional Communications, Limited Partnership (Bell Aliant), and NorthernTel, Limited Partnership; Bragg Communications Inc. carrying on business as EastLink; Greater Sudbury Telecommunications Inc. operating as Agilis Networks; Hamilton Hydro Services Inc.; Hydro One Telecom Inc.; Manitoba Hydro; MTS Allstream Inc. (MTS Allstream); O.N.Tel Inc. carrying on business as Ontera; Rogers Communications Inc.; Saskatchewan Telecommunications (SaskTel); SCBN Telecommunications Inc.; Shaw Cablesystems Ltd.; TBayTel; TELUS Communications Company (TCC); and Videotron Ltd.

### **Background**

4. The Commission established a framework for considering whether to forbear from regulation in Telecom Decision 94-19.
5. In Telecom Decision 97-20, pursuant to section 34 of the *Telecommunications Act* (the Act) and in accordance with the framework set out in Telecom Decision 94-19, the Commission forbore in large part from regulating the IXPL services provided by the former Stentor-member companies on certain routes.

6. With respect to the scope of forbearance, in Telecom Decision 97-20 the Commission forbore from the exercise of its powers and the performance of its duties under sections 25 and 31, and subsections 27(1), 27(2), 27(4), 27(5), and 27(6) of the Act. In that Decision, the Commission found it appropriate to impose conditions pursuant to section 24 of the Act with respect to the protection of customer confidential information since the ILECs' Terms of Service, which protect customer confidentiality in relation to regulated services, did not apply to forborne services. In addition, the Commission retained its powers pursuant to section 24 of the Act to impose future conditions on the forborne services provided by the ILECs, where circumstances warrant.
7. In Telecom Order 99-905, the Commission extended the IXPL forbearance process of Telecom Order 99-434 to Québec-Téléphone, now part of TCC, and to Télébec ltée, now Télébec, Limited Partnership. In Telecom Order 99-905, the Commission also determined that the scope of forbearance would be the same as in Telecom Decision 97-20.
8. Subsequent to Telecom Decision 97-20, the Commission forbore from section 29 of the Act in relation to forborne IXPL services provided by TCC in Telecom Decision 2003-77, and in relation to forborne IXPL services provided by Bell Canada, Aliant Telecom Inc. (now part of Bell Aliant), MTS Allstream, and SaskTel in Telecom Decision 2004-80.

### **Commission's analysis and determinations**

9. The Commission has reviewed the competitors' reports filed pursuant to Telecom Order 99-434 and finds that one or more competitors met the above-noted criterion for 12 additional routes, which are in territories served by Bell Aliant, Bell Canada, and/or TCC. The Commission notes that these additional routes are listed in the Appendix.
10. Pursuant to subsection 34(1) of the Act, the Commission finds, as a question of fact, that to refrain from the exercise of its powers and the performance of its duties to the extent set out in this Decision with respect to the regulation of the IXPL services on the routes listed in the Appendix is consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.
11. Pursuant to subsection 34(2) of the Act, the Commission also finds, as a question of fact, that the IXPL services on the routes listed in the Appendix are subject to a level of competition sufficient to protect the interests of users and that, to the extent set out in this Decision, it is appropriate to refrain from regulating the IXPL services provided on these routes.
12. Pursuant to subsection 34(3) of the Act, the Commission finds, as a question of fact, that refraining from regulating the IXPL services on the routes listed in the Appendix, to the extent set out in this Decision, is unlikely to unduly impair the continuance of a competitive market for these services.
13. In light of the above and pursuant to subsection 34(4) of the Act, the Commission declares that the following sections of the Act, with some exceptions, do not apply to the affected ILECs' IXPL services on the routes identified in the Appendix:

- section 24, except that the Commission directs the ILECs whose territories include one or more of the IXPL routes listed in the Appendix (the affected ILECs) to incorporate where appropriate, on a going-forward basis, the existing conditions regarding the disclosure of confidential customer information to third parties into all contracts and any other arrangements for the provision of the IXPL services forborne from regulation in this Decision. The Commission considers that it is also appropriate to retain sufficient powers under section 24 of the Act to specify possible future conditions upon the forborne services provided by the affected ILECs, where circumstances so warrant;
- section 25;
- section 27, except with respect to subsection 27(3) of the Act in relation to compliance with powers and duties not forborne from in this Decision;
- section 29; and
- section 31.

#### **Tariff filings**

14. The Commission directs the affected ILECs to issue, within 45 days, tariff pages removing the tariffs for the IXPL services on the routes identified in the Appendix, effective on the date of issuance of the tariff pages.

Secretary General

#### **Related documents**

- *Aliant Telecom, Bell Canada, MTS Allstream and SaskTel – Forbearance from section 29 of the Act for agreements related to forborne domestic toll services and forborne interexchange private line services*, Telecom Decision CRTC 2004-80, 9 December 2004
- *TELUS' application for forbearance from section 29 of the Telecommunications Act with respect to forborne interexchange private line and long distance services*, Telecom Decision CRTC 2003-77, 19 November 2003
- Telecom Order CRTC 99-905, 17 September 1999
- *Follow-up Proceeding to Telecom Decision CRTC 97-20: Establishment of criterion and process for considering further forbearance for High Capacity/DDS interexchange private line services*, Telecom Order CRTC 99-434, 12 May 1999

- *Stentor Resource Centre Inc. – Forbearance from regulation of interexchange private line services*, Telecom Decision CRTC 97-20, 18 December 1997
- *Review of regulatory framework*, Telecom Decision CRTC 94-19, 16 September 1994

*This document is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>*

*New IXPL routes that qualify for forbearance based on the October 2007 reports from competitors pursuant to Telecom Order 99-434*

	<i><b>ILEC A</b></i>	<i><b>Exchange A</b></i>	<i><b>Exchange B</b></i>	<i><b>ILEC B</b></i>
1	Bell Aliant	Thetford Mines QC	Victoriaville QC	Bell Canada
2	Bell Canada	Burlington ON	Oakville ON	Bell Canada
3	Bell Canada	Hamilton ON	Oakville ON	Bell Canada
4	Bell Canada	North Bay ON	Orillia ON	Bell Canada
5	Bell Canada	North Bay ON	Toronto ON	Bell Canada
6	Bell Canada	Oakville ON	Streetsville ON	Bell Canada
7	Bell Canada	Oakville ON	Toronto ON	Bell Canada
8	Bell Canada	Orillia ON	Sudbury ON	Bell Canada
9	Bell Canada	Orillia ON	Toronto ON	Bell Canada
10	Bell Canada	Sault Ste. Marie ON	Streetsville ON	Bell Canada
11	TCC	Edmonton AB	Streetsville ON	Bell Canada
12	TCC	Edson AB	Spruce Grove AB	TCC