Canadian Radio-television and Telecommunications Commission   Conseil de la radiodiffusion et des télécommunications canadiennes

Telecom Decision CRTC 2007-72

Ottawa, 17 August 2007

TELUS Communications Company – Application to adjust certain retail quality of service results used in the calculation of the retail rate adjustment plan for 2006 and 2007

Reference: 8660-T66-200705262

In this Decision, the Commission determines that TELUS Communications Company is to exclude the results of four retail quality of service indicators from the calculation of the retail quality of service rate adjustment plan for the period from November 2006 to January 2007 to remove the impact of severe storms in southern British Columbia which occurred during that period.

The dissenting opinion of Commissioner Noël is attached.

Background

1. In Telecom Decision 2005-17, the Commission finalized a retail quality of service (Q of S) rate adjustment plan (RAP) for the large incumbent local exchange carriers (ILECs). In that Decision, the Commission considered it appropriate for the retail Q of S RAP to include a mechanism whereby Q of S performance failures might be excluded from the ILECs' Q of S results. The Commission determined that such an exclusion mechanism should be sufficiently flexible to accommodate the effects of natural disasters and other adverse events that, by their very nature, were unpredictable and beyond the reasonable control of an ILEC.

Application

2. The Commission received an application by TELUS Communications Company (TCC), dated 5 April 2007, in which the company requested that the Commission adjust certain of its retail Q of S indicators used in the calculation of the retail Q of S RAP to remove the impact of a series of severe storms that occurred throughout the lower mainland of British Columbia (B.C.) and Vancouver Island during November and December 2006 and the first two weeks of January 2007.

3. TCC proposed adjustments for the following retail Q of S indicators for the months indicated:

    a) Indicators 2.1A and 2.1B – Out-of-Service Trouble Reports Cleared Within 24 hours – Urban and Rural (indicators 2.1A and 2.1B) for November and December 2006 and January 2007. These indicators measure the percentage of out-of-service trouble reports that are cleared within 24 hours. The standard is set at 80 percent or more; and

b) Indicators 2.2A and 2.2B – Repair Appointments Met – Urban (indicator 2.2A) for December 2006 and January 2007 and Rural (indicator 2.2B) for November and December 2006 and January 2007. These indicators measure the percentage of completed repair orders for which repair appointments are met. The standard is set at 90 percent or more.

4. The Commission received no comments regarding this application.

Issues to be addressed

5. TCC's application raises the following issues:

I. whether the storms qualify as an adverse event;

II. whether there is a causal link between the adverse event and the retail Q of S results;

III. the appropriate adjustment methodology; and

IV. which Q of S results should be adjusted.

I. Whether the storms qualify as an adverse event

6. TCC submitted that a series of severe storms that began 5 November 2006 and ended 15 January 2007 affected a large portion of the most densely populated region of B.C. TCC noted that winds were in excess of 150 kilometers per hour and precipitation, in the form of both rain and snow, reached record levels. TCC also noted that Environment Canada considered the storms to be among the top weather stories of the year.

7. In particular, TCC noted that a storm that occurred on 15 November 2006 blocked seven provincial highways and toppled telephone and power lines, leaving an estimated 200,000 households in eight communities[1] without electricity. TCC also noted that a storm that occurred on 13 December 2006 resulted in a record 250,000 customers losing power. B.C. emergency personnel described the weather as the most destructive storm event for hydro and telephone infrastructure in the province's history.

Commission's analysis and determinations

8. The Commission considers that TCC has provided sufficient evidence to demonstrate that the series of storms from early November 2006 to mid-January 2007 were unpredictable and beyond the company's reasonable control. Accordingly, the Commission determines that these storms qualify as an adverse event pursuant to Telecom Decision 2005-17.

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[1] Greater Vancouver region, Victoria, the Gulf Islands, and the Fraser Valley.

II. Whether there is a causal link between the adverse event and the retail Q of S results

9. TCC submitted that for a sustained period, its efforts were directed at restoring services, in many instances on a temporary basis. TCC also submitted that approximately 24,000 customers in the lower mainland and Vancouver Island were without telephone service as a result of service outages caused by the storms. TCC submitted that customers were often without telephone service for extended periods as travel to affected sites was impaired by mudslides, floods, fallen trees, and snow. TCC further noted that it provided a significant percentage of its service in the affected areas using aerial cable on electric utility power poles.

10. TCC argued that repair activities necessitated by extreme weather conditions were significantly different than most other repair activities. TCC also argued that the repair-related Q of S indicators addressed in its application were measures of response time. TCC noted this fact was particularly critical as the company was unable to access repair sites due to extensive road closures and was unable to begin service restoration until power pole damage had been addressed. TCC further noted that following temporary repairs, it was unable to proceed with final repairs until support structures had been restored, debris had been cleared, and the immediate crises had been addressed.

11. TCC also argued that even after the storms had abated and permanent repairs had been completed, it was unable to meet the retail Q of S results for indicators 2.1 and 2.2 due to a considerable backlog of out-of-service trouble reports not addressed during the storms.

Commission's analysis and determinations

12. The Commission considers that TCC has demonstrated that there was a causal link between the type and extent of damage created in the wake of the storms and its substandard retail Q of S results for repair indicators 2.1A, 2.1B, 2.2A, and 2.2B. The Commission notes that the affected indicators were particularly prone to lengthy response times caused by impaired travel and the need to repair or replace damaged infrastructures.

13. The Commission therefore concludes that the Q of S results for the above-noted indicators were adversely affected by the storms.

III. The appropriate adjustment methodology

14. TCC indicated that it used the criteria set out for the competitor Q of S indicators in Telecom Decision 2007-14 to assess whether the retail Q of S standards would have been met absent the adverse event.

15. TCC noted that under the rate rebate plan (RRP) for competitors, rebates were applied based on the results for each month which, in their view, meant that if the standard for an indicator was not met in a certain month, a rebate had to be paid on that indicator for that month. TCC further noted that in the case of an adverse event, if the ILEC had successfully met or exceeded the competitor Q of S standard for a particular indicator for at least six out of twelve months, or for three consecutive months, immediately prior to the adverse event, the months affected by the adverse event were excluded and rebates were not applied. TCC argued that excluding the results for the period affected by the adverse event had the same effect as if the ILEC had met the competitor Q of S standards for the affected months and no rebate was applied.

16. TCC argued that the retail RAP differed in an important respect from the RRP for competitors.

17. TCC noted that under the retail RAP, rate adjustments were set based on the annual average monthly result for each Q of S indicator. TCC submitted that if the standard was not met for a certain month, the below-standard result would be factored into the annual average monthly result for that indicator which in turn would affect the amount of the retail rate adjustment. TCC argued that under the retail RAP, if the ILEC had met or exceeded the Q of S standard for a particular indicator for at least six out of twelve months, or for three consecutive months, immediately prior to the adverse event, excluding the result for the months affected by an adverse event did not have the same effect as if the ILEC had met the standard during the affected month.

18. TCC proposed that, therefore, rather than exclude the months according to the criteria used by the Commission in Telecom Decision 2007-14, it proposed to substitute average results based on prior months' actuals as an estimate of what the company's results would have been in the absence of the adverse event.

19. For indicators 2.1A, 2.2A, and 2.2B, TCC noted that for the months of August, September, and October immediately prior to the storms, the results for these indicators were above standard. TCC proposed to use the average result for these three months as an estimate of what its results would have been for the affected months if the adverse event had not occurred.

20. For indicator 2.1B, TCC noted that while this indicator was inferior to the standard for the three months immediately prior to the storms, the indicator was above standard for seven of the twelve previous months immediately prior to the storms. TCC proposed to use the average result for the twelve-month period of November 2005 to October 2006 as an estimate of what its results would have been for indicator 2.1B for the affected months.

Commission's analysis and determinations

21. The Commission agrees with TCC that there are differences between the retail RAP and the RRP for competitors in terms of the effect of excluding individual monthly results under the RRP for competitors versus the effect of monthly exclusions on annual average results under the retail RAP. However, the Commission considers that based on the following, TCC's proposal to adjust the results of indicators 2.1A, 2.1B, 2.2A, and 2.2B by substituting the affected results with average results derived from either three-month or twelve-month periods preceding the storms, rather than excluding the affected results, is inappropriate.

22. The Commission considers that the substitution of results based on an average of selected results of prior months can be highly subjective. The Commission considers that a more objective approach would be to simply exclude affected results on the basis that an adverse event was beyond the reasonable control of the ILEC, and therefore, the annual average result would only be based on unaffected months.

23. The Commission notes that TCC referenced Telecom Decision 2007-14 concerning the criteria the Commission had used to assess whether competitor Q of S standards would have been met absent an adverse event. On the other hand, in Telecom Decisions 2007-29 and 2007-30 the

Commission has excluded substandard results relating to adverse events where the retail Q of S results were above standard for at least six out of the twelve months, or for the three consecutive months, immediately prior to the adverse event.

24. The Commission considers that in this case, for indicators 2.1A, 2.2A, and 2.2B, it would be appropriate to continue to use the same methodology noted above to exclude results affected by an adverse event rather than use a less objective methodology to substitute average results.

25. However, for indicator 2.1B, the Commission considers that it would not be appropriate to use the same methodology to exclude results affected by the storms because some of TCC's results in the twelve months immediately prior to the storms were excluded because of unrelated adverse events.[2] In this case, the Commission considers that it would be appropriate to review a period longer than the twelve months immediately preceding the storms in order to have twelve months of data unaffected by unrelated adverse events. Therefore, for the purpose of considering whether to exclude certain results for indicator 2.1B, the Commission will review the period of time from February 2005 to October 2006 inclusive.

IV. Which Q of S results should be adjusted

26. TCC noted that during the period affected by the storms, its average performance was above standard for eleven of the thirteen indicators and below standard for two of the indicators. TCC indicated that although the adverse event may have affected its performance on all thirteen indicators, its application only addressed those indicators (indicators 2.1 and 2.2) for which its performance was below standard for the affected period.

Commission's analysis and determinations

27. For each of indicators 2.1A, 2.2A, and 2.2B, the Commission notes that TCC met or exceeded the standards for three consecutive months immediately prior to the storms. The Commission considers that it would be reasonable to conclude that TCC would likely have met the standard for these indicators in the absence of the adverse event, and accordingly, the results for these indicators should be excluded for the purpose of the retail RAP.

28. For indicator 2.1B, the Commission notes that TCC did not meet the standard for this indicator for the three consecutive months immediately prior to the storms. However, the Commission further notes that over the period from February 2005 to October 2006, TCC met the standard for indicator 2.1B for seven of the twelve months for which no other exclusions were granted due to unrelated adverse events. Therefore, the Commission considers that it would be reasonable to conclude that TCC would likely have met the standard for indicator 2.1B in the absence of the adverse event and accordingly, the result for these indicators should be excluded for the purpose of the retail RAP.

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[2] For example, in Telecom Decision 2007-55**,** the Commission excluded the results of indicator 2.1B from the retail RAP for the months of August 2005 to February 2006 inclusive due to a labour disruption. Further, in Telecom Decision 2007-30, the months of June and July 2005 were also excluded from the retail RAP due to an unrelated adverse event.

29. The Commission determines that during the period of the storms of 5 November 2006 to 15 January 2007, TCC's repair service would have been adversely affected by lengthened repair times due to difficult travel conditions and the need to repair or replace damaged utility infrastructures. Further, the Commission considers that full recovery to normal operations would have been delayed for a period following the last storm of 15 January 2007 as TCC cleared the backlog resulting from the storms. The Commission considers completion of the backlog by the end of January 2007 to be reasonable and notes that the standard was met for all of the above indicators for February 2007.

30. Based on the above, the Commission directs TCC to exclude the results of indicators 2.1A, 2.1B and 2.2B from the retail RAP for November and December 2006 and January 2007. Furthermore, TCC is to exclude the result of indicator 2.2A from the retail RAP for December 2006 and January 2007.

Customer credits

31. Under the retail RAP, customer credits are determined based on total average annual retail Q of S results.

32. The Commission notes that based on TCC's 2006 retail Q of S results and the Commission's determinations to exclude certain retail Q of S results in Telecom Decision 2007-55 and in this Decision, TCC has met the standard for each of its retail Q of S indicators in 2006. Accordingly, TCC will not be required to implement customer credits for 2006. The Commission also notes that the calculation of any customer credits for 2007 will only be known once TCC has filed its 2007 annual retail RAP report in 2008.

33. The dissenting opinion of Commissioner Noël is attached.

Secretary General

Related documents

- *TELUS Communications Company – Application to exclude certain retail quality of service results from the retail quality of service rate adjustment plan for the months of July 2005 to February 2006,* Telecom Decision CRTC 2007-55, 20 July 2007

- *TELUS Communications Company – Application to exclude certain quality of service results from the retail quality of service rate adjustment plan for June and July 2005*, Telecom Decision CRTC 2007-30, 3 May 2007

- *TELUS Communications Company – Application to exclude certain quality of service results from the retail quality of service rate adjustment plan from 1 July 2002 to December 2003,* Telecom Decision CRTC 2007-29, 3 May 2007

- *TELUS Communications Company – Application to exclude certain competition-related quality of service results from the rate rebate plan for competitors for July 2005*, Telecom Decision CRTC 2007-14, 28 February 2007
- *Retail quality of service rate adjustment plan and related issues*, Telecom Decision CRTC 2005-17, 24 March 2005

Dissenting opinion of Commissioner Andrée Noël

My dissent from this decision is founded on the same reasons and susceptible to the same remedies as those which I expressed in my dissent to Telecom Decision 2007-29.