



## Telecom Decision CRTC 2008-106

Ottawa, 13 November 2008

### **Tuckersmith Communications Co-operative Ltd.'s application regarding Bluewater TV Cable Ltd.'s offering of competitive local exchange services in Bayfield, Ontario**

Reference: 8622-T7-200812083

*In this Decision, the Commission determines that Bluewater TV Cable Ltd. (Bluewater) is providing unauthorized local exchange service to customers in Tuckersmith Co-operative Ltd.'s operating territory. Accordingly, the Commission directs Bluewater to immediately terminate this practice, and ensure that the affected customers are reconnected to Tuckersmith.*

#### **Introduction**

1. On 5 September 2008, the Commission received an application by Tuckersmith Communications Co-operative Ltd. (Tuckersmith), requesting that the Commission direct Bluewater TV Cable Ltd. (Bluewater) to cease and desist from delivering local exchange services to subscribers situated within Tuckersmith's operating territory.
2. The public record of this proceeding, which closed on 19 September 2008, is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."
3. The Commission has identified that the issue to be addressed in its determinations is whether Bluewater is providing local exchange service in an exchange in which it has not achieved competitive local exchange carrier (CLEC) status and, if so, what remedial action must be taken.

#### **Positions of parties**

4. Tuckersmith indicated that Bluewater was providing local exchange service in Tuckersmith's Bayfield 565 exchange, using numbers assigned to the neighbouring Bell Canada Clinton 482 exchange. Tuckersmith also indicated that Bluewater had not even informed it of its intention to register as a CLEC in its local exchange area.
5. Bluewater indicated that it primarily operates as a small cable carrier providing cable television and Internet service in Clinton and its small surrounding rural communities. It also operates as a registered CLEC in the Goderich and Clinton exchanges, offering circuit-switched telephony service delivered over its cable network.
6. Bluewater indicated that, although it has not actively marketed its telephone service outside of its authorized CLEC operating territory, it agreed to supply telephone service using its cable television facilities to 12 customers in the Bayfield area who had approached it.

7. Bluewater indicated that, as it planned to register as a CLEC in the Bayfield exchange within months, it felt that, as an interim measure, it could provide local exchange service to customers in that exchange much like resellers or certain voice over Internet Protocol (VoIP) service providers do when providing nomadic VoIP service.
8. Bluewater requested that the Commission permit it to continue serving this small number of Bayfield customers until such time as it enters the Bayfield exchange as an authorized CLEC.

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

9. In Telecom Decision 2005-28, the Commission considered that cable carriers must become CLECs in areas where they plan to provide local exchange service. Bluewater is a cable carrier and, as such, may not readily compare its provisioning of local exchange service to that of resellers and nomadic VoIP service providers.
10. The Commission therefore does not consider that the number of customers involved, or the technology used, is relevant to the issue of a cable carrier provisioning local exchange service in an exchange prior to achieving CLEC status in that exchange.
11. In Telecom Decision 97-8, the Commission concluded that a CLEC was obliged to file proposed interconnection agreements with the Commission for approval and serve these agreements to the other carriers in the relevant exchange. In Telecom Decision 2006-14, this obligation was extended to CLECs entering the small incumbent local exchange carriers' operating territories.
12. The Commission notes that Bluewater has not filed, nor gained approval for, a proposed interconnection agreement for the Tuckersmith local exchange area. The Commission therefore determines that Bluewater is providing local exchange service to 12 customers in the Bayfield exchange in violation of the CLEC obligations.

### **Conclusion**

13. In light of the above, the Commission directs Bluewater to
  - i) immediately cease offering local exchange service in the Bayfield exchange; and
  - ii) cease providing local exchange services to its existing customers in the Bayfield exchange and ensure that they are reconnected immediately to Tuckersmith and to pay the Service Charges for those customers in accordance with the rates under the Tuckersmith tariff; and to complete this process within 15 days of the date of this Decision.

Secretary General

## Related documents

- *Revised regulatory framework for the small incumbent local exchange carriers*, Telecom Decision CRTC 2006-14, 29 March 2006
- *Regulatory framework for voice communication services using Internet Protocol*, Telecom Decision CRTC 2005-28, 12 May 2005, as modified by Telecom Decision CRTC 2005-28-1, 30 June 2005
- *Local Competition*, Telecom Decision CRTC 97-8, 1 May 1997

*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>*