



Telecom Decision CRTC 2008-113

Ottawa, 5 December 2008

Saskatchewan Telecommunications – Application for forbearance from the regulation of residential local exchange services

Reference: 8640-S22-200814105

In this Decision, the Commission approves SaskTel's request for forbearance from the regulation of residential local exchange services in the exchanges of Moose Jaw, Prince Albert, and Swift Current, Saskatchewan.

Introduction

1. The Commission received an application by Saskatchewan Telecommunications (SaskTel), dated 20 October 2008, in which the company requested forbearance from the regulation of residential local exchange services¹ in the exchanges of Moose Jaw, Prince Albert, and Swift Current, Saskatchewan.
2. The Commission received submissions and/or data regarding SaskTel's application from Rogers Communications Inc. (RCI) and Shaw Cablesystems Ltd. (Shaw). The public record of this proceeding, which closed on 13 November 2008, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."

Commission's analysis and determinations

3. The Commission has assessed SaskTel's application based on the local forbearance test set out in Telecom Decision 2006-15, as amended by the Governor in Council's *Order Varying Telecom Decision CRTC 2006-15*, P.C. 2007-532, 4 April 2007 (modified Telecom Decision 2006-15), by examining the four criteria set out below.
 - a) **Product market**
4. The Commission received no comments with respect to SaskTel's proposed list of residential local exchange services.
5. The Commission notes that SaskTel is seeking forbearance for 16 tariffed residential local exchange services. The Commission also notes that in Telecom Decision 2007-66 it found all of these services to be appropriate for forbearance. The list of approved services is set out in the Appendix to this Decision.

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.

b) Competitor presence test

6. The Commission notes that for the exchanges of Moose Jaw, Prince Albert, and Swift Current, Saskatchewan, information provided by parties confirms that there are, in addition to SaskTel, at least two independent facilities-based telecommunications service providers, including a provider of mobile wireless services.² Each of these service providers offers local exchange services in the market and is capable of serving at least 75 percent of the number of residential local exchange service lines that SaskTel is capable of serving, and at least one, in addition to SaskTel, is a facilities-based, fixed-line telecommunications service provider.
7. Accordingly, the Commission determines that the exchanges of Moose Jaw, Prince Albert, and Swift Current, Saskatchewan meet the competitor presence test.

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

8. The Commission notes that SaskTel submitted competitor Q of S results for the period of March to August 2008.
9. The Commission has reviewed SaskTel's competitor Q of S results and finds that the company has demonstrated that during this six-month period it
 - i) met, on average, the Q of S standard for each indicator set out in Appendix B of modified 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.
10. Accordingly, the Commission determines that SaskTel meets the competitor Q of S criterion for this period.

d) Communications plan

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

² These telecommunications service providers are RCI and Shaw.

Other matters

12. SaskTel noted that in previous forbearance decisions, the Commission had included a "limitation of liability" provision to address the transitional period from full regulation to regulatory forbearance. SaskTel requested that the Commission include a limitation of liability clause in its decisions and, as an example, proposed the following words:

Any provision limiting liability in existing contracts or other arrangements with customers will continue to remain in force for the greater of (i) 90 days after the effective date of this Forbearance Order, and (ii) until the end of the term of such contracts or other arrangements, in accordance with the terms of such contracts or other arrangements.

13. The Commission notes that in modified Telecom Decision 2006-15, paragraph 313, it stated:

...that any provision limiting liability in any existing contracts or arrangements, as of the date of the Commission decision granting forbearance in a relevant market, will remain in force until its expiry. Such existing contracts or arrangements will be deemed to terminate on the date or in the manner provided therein, notwithstanding any contractual provisions governing extensions.

14. The Commission considers that SaskTel's concerns have been addressed by this statement and that no further ruling regarding limitation of liability provisions is required in this Decision.

Conclusion

15. The Commission determines that SaskTel's application regarding the exchanges of Moose Jaw, Prince Albert, and Swift Current, Saskatchewan meets all the local forbearance criteria set out in modified Telecom Decision 2006-15.
16. 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 modified Telecom Decision 2006-15, in relation to the provision by SaskTel of residential local exchange services listed in the Appendix 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 three exchanges, would be consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.
17. 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.
18. 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 modified Telecom Decision 2006-15, in relation to the provision by SaskTel of these residential local exchange services would be unlikely to impair unduly the continuance of a competitive market for these services in these exchanges.

19. In light of the above, the Commission **approves** SaskTel's application for forbearance from the regulation of the local exchange services listed in the Appendix 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 exchanges of Moose Jaw, Prince Albert, and Swift Current, Saskatchewan, subject to the powers and duties that the Commission has retained as set out in modified Telecom Decision 2006-15. This determination takes effect as of the date of this Decision. The Commission directs SaskTel to file revised tariff pages with the Commission within 30 days of this Decision.

Secretary General

Related documents

- *Saskatchewan Telecommunications – Application for forbearance from the regulation of residential local exchange services*, Telecom Decision CRTC 2007-66, 3 August 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
- *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

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>

Appendix

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

Tariff	Item	List of services
21411	100.30	Extended Area Service (Discontinued)
21411	105.10	Excess Mileage Charges
21411	110.02	Seasonal Service
21411	110.06	Extended Network Access Service
21411	110.10	Network Access Service (Discontinued)
21411	110.12	Network Access Service
21411	110.14	Temporary Telephone Service
21411	150.05	Rotary Hunting Service
21411	150.15	SmartTouch Subscription Service
21411	160.10	Telephone Directory Service – Non-Listed and Non-Published Numbers
21411	160.25	Intercept Service
21411	300.05	Feature Package
21412	550.06	Combined Voice Mail
21412	550.08	SaskTel Voice Mail Service
21412	550.10	TalkMail
21412	580.02	Internet Call Waiting