



Telecom Decision CRTC 2008-59

Ottawa, 26 June 2008

Bell Aliant Regional Communications, Limited Partnership – Application for forbearance from the regulation of residential local exchange services

Reference: 8640-B54-200804882

In this Decision, the Commission approves Bell Aliant Regional Communications, Limited Partnership's request for forbearance from the regulation of residential local exchange services in the exchanges of Azilda, Blezard Valley, Capreol, Chelmsford, Coniston, Garson, Hanmer, Levack, Lively, and Sudbury, Ontario.

Introduction

1. The Commission received an application by Bell Aliant Regional Communications, Limited Partnership (Bell Aliant), dated 31 March 2008, in which the company requested forbearance from the regulation of residential local exchange services¹ in the exchanges of Azilda, Blezard Valley, Capreol, Chelmsford, Coniston, Garson, Hanmer, Levack, Lively, and Sudbury, Ontario.
2. The Commission received submissions and/or data regarding Bell Aliant's application from Persona Communications Corp. (Persona), Rogers Communications Inc. (RCI), and TELUS Communications Company (TCC). The public record of this proceeding, which closed on 6 May 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 Bell Aliant'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 Bell Aliant's proposed list of residential local exchange services.
5. The Commission notes that Bell Aliant is seeking forbearance for 20 tariffed residential local exchange services. The Commission also notes that in Telecom Decision 2008-16, it considered 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 Azilda, Blezard Valley, Capreol, Chelmsford, Coniston, Garson, Hanmer, Levack, Lively, and Sudbury, information provided by the parties confirms that there are, in addition to Bell Aliant, at least two independent facilities-based telecommunications service providers, including providers 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 Bell Aliant is capable of serving, and at least one, in addition to Bell Aliant, is a facilities-based, fixed-line telecommunications service provider.
7. Accordingly, the Commission determines that these 10 exchanges meet the competitor presence test.

c) Competitor Quality of Service (Q of S) results

8. The Commission notes that Bell Aliant submitted competitor Q of S results for the period of August 2007 to January 2008.
9. The Commission has reviewed Bell Aliant's competitor Q of S results and finds that, except in a few cases where a competitor only had one data point for the six-month period, Bell Aliant 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. The Commission notes that in Telecom Decision 2007-58 it considered that where there are only a few data points during a six-month period, there is insufficient data to make a finding that a company has consistently provided below-standard Q of S.
11. Accordingly, the Commission determines that Bell Aliant meets the competitor Q of S criterion for this period.

d) Communications plan

12. The Commission has reviewed Bell Aliant'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 Bell Aliant to provide the resulting communications materials to its customers in both official languages where appropriate.

² These competitors are Persona, RCI, and TCC.

Other matters

13. The Commission notes that Persona, the only facilities-based, fixed-line telecommunications service provider capable of serving at least 75 percent of the number of residential local exchange service lines that Bell Aliant is capable of serving in all 10 exchanges, submitted that it should be allowed to benefit from the 18-month grace period found in paragraph 523 of modified Telecom Decision 2006-15, which states:

If, prior to granting local forbearance, the Commission is informed that the ILEC's application is based on competition in the relevant market from an independent fixed-line telecommunications service provider that, including all of its affiliates, has less than 20,000 local exchange services customers in Canada, the forbearance will not be effective until at least 18 months after the day on which the service provider began providing local exchange services in that market.

14. The Commission also notes that Persona argued that, notwithstanding its acquisition in 2007 by Bragg Communications Inc., carrying on business as EastLink, the Persona division has less than 20,000 customers and therefore the 18-month grace period should apply.
15. The Commission further notes, however, that on the filing date of the present application, Persona was no longer an independent fixed-line telecommunications service provider with less than 20,000 local exchange services customers in Canada.
16. In light of the above, the Commission determines that Persona fails to meet the criterion required to benefit from the 18-month grace period described in paragraph 523 of modified Telecom Decision 2006-15.

Conclusion

17. The Commission determines that Bell Aliant's application regarding the exchanges of Azilda, Blezard Valley, Capreol, Chelmsford, Coniston, Garson, Hanmer, Levack, Lively, and Sudbury meets all the local forbearance criteria set out in modified Telecom Decision 2006-15.
18. Pursuant to subsection 34(1) of the *Telecommunications Act* (the Act), the Commission finds as a question of fact that a determination to forbear, to the extent specified in modified Telecom Decision 2006-15, from the regulation 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 10 exchanges, would be consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.
19. 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.

20. Pursuant to subsection 34(3) of the Act, the Commission finds as a question of fact that to forbear, to the extent specified in modified Telecom Decision 2006-15, from regulating these residential local exchange services in these exchanges would be unlikely to impair unduly the continuance of a competitive market for these services.
21. In light of the above, the Commission **approves** Bell Aliant'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 Azilda, Blezard Valley, Capreol, Chelmsford, Coniston, Garson, Hanmer, Levack, Lively, and Sudbury, 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 Bell Aliant to file revised tariff pages within 30 days for Commission approval.

Secretary General

Related documents

- *Bell Aliant Regional Communications, Limited Partnership – Application for forbearance from the regulation of residential local exchange services*, Telecom Decision CRTC 2008-16, 27 February 2008
- *Forbearance from the regulation of residential local exchange services in Fort McMurray, Alberta*, Telecom Decision CRTC 2007-58, 25 July 2007
- *Forbearance from the regulation of retail local exchange services*, Telecom Decision CRTC 2006-15, 6 April 2006, as amended by the Governor in Council's *Order Varying Telecom Decision CRTC 2006-15*, 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>

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

Tariff	Item	List of services
21560	29	Telephone Set Loss Charge
21560	70	Rate Schedules for Primary Exchange (Local) Service
21560	72	Reference of Calls
21560	73	Telephone Number Services
21560	82	Toll Restriction
21560	86	Call Display Blocking
21560	220	Extra Listings – Omission of a Primary Exchange Listing
21560	1060	Service on Stationary Boats, Ships, Trailers and Trains
21560	1130	Suspensions of Services
21560	2025	Integrated Voice Messaging Service (IVMS)
21560	2030	Universal Messaging
21560	2150	Push-Button Dialing (Touch-Tone)
21560	2165	Calling Features
21560	2180	PrimeLine Executive
21560	2185	Single Number Reach
21560	2200	Call Blocking Service
21560	2210	SimplyOne Service
21560	2300	Telephone Station Equipment
21560	4699	Internet Call Display Service
21560	7031	Bell Digital Voice