



Telecom Decision CRTC 2008-96

Ottawa, 1 October 2008

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

Reference: 8640-B54-200809759

In this Decision, the Commission approves Bell Aliant's request for forbearance from the regulation of business local exchange services in the exchange of Pembroke, Ontario, effective 3 November 2008.

Introduction

1. The Commission received an application by Bell Aliant Regional Communications, Limited Partnership (Bell Aliant), dated 15 July 2008, in which the company requested forbearance from the regulation of business local exchange services¹ in the exchange of Pembroke, Ontario.
2. The Commission received submissions and/or data regarding Bell Aliant's application from NRTC Communications (NRTC). The public record of this proceeding, which closed on 12 August 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 business local exchange services.
5. The Commission notes that Bell Aliant is seeking forbearance for 34 tariffed business local exchange services. The Commission also notes that in Telecom Decision 2007-70 it considered 32 of these services to be appropriate for forbearance.
6. The Commission notes that Bell Aliant is seeking forbearance for item 515, 900 Service; however, the Commission notes that the portion of this service that it can forbear from regulating is item 515.3(k), 900 Call Denial/Blocking, as indicated in Telecom Decision 2007-70-2. Accordingly, the Commission considers 900 Call Denial/Blocking to be appropriate for forbearance.

¹ In this Decision, "business local exchange services" refers to local exchange services used by business customers to access the public switched telephone network and any associated service charges, features, and ancillary services.

7. The Commission considers that the remaining service, Fax Line, falls within the definition of local exchange services as set out in Telecom Public Notice 2005-2.
8. The list of approved services is set out in the Appendix to this Decision.

b) Competitor presence test

9. The Commission notes that for the exchange of Pembroke, information provided by the parties indicates that there is, in addition to Bell Aliant, one other independent facilities-based fixed-line telecommunications service provider² that offers local exchange services in the market and is capable of serving at least 75 percent of the number of business local exchange service lines that Bell Aliant is capable of serving.
10. Accordingly, the Commission determines that the exchange of Pembroke meets the competitor presence test.

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

11. The Commission notes that Bell Aliant submitted competitor Q of S results for the period of December 2007 to May 2008.
12. The Commission has reviewed Bell Aliant's competitor Q of S results and finds that for one competitor it provided services that were below the Q of S standard; however, in that case there was only one data point for the six-month period. 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.
13. The Commission notes that 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.

14. Accordingly, the Commission determines that Bell Aliant meets the competitor Q of S criterion for this period.

d) Communications plan

15. 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 This telecommunications service provider is NRTC.

Other matters

16. The Commission notes that NRTC, the only facilities-based, fixed-line telecommunications service provider capable of serving at least 75 percent of the number of business local exchange service lines that Bell Aliant is capable of serving in the exchange of Pembroke, submitted that it should be allowed to benefit from the 18-month grace period for providers with fewer than 20,000 local exchange services customers in Canada, as set out in paragraph 523 of modified Telecom Decision 2006-15.
17. The Commission also notes that Bell Aliant did not dispute NRTC's claim that it has fewer than 20,000 local exchange services customers in Canada, nor did it dispute NRTC's submission that it started offering local exchange services in the exchange of Pembroke on 3 May 2007.
18. The Commission is satisfied that NRTC meets the criterion of paragraph 523 of modified Telecom Decision 2006-15 and that it started offering local exchange services in the exchange of Pembroke on 3 May 2007. Accordingly, the Commission determines that forbearance from the regulation of business local exchange services in that exchange shall become effective as of 3 November 2008.

Conclusion

19. The Commission determines that Bell Aliant's application regarding the exchange of Pembroke, Ontario, meets all the local forbearance criteria set out in modified Telecom Decision 2006-15.
20. 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 Bell Aliant of business 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 business customers only, in the exchange of Pembroke, would be consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.
21. Pursuant to subsection 34(2) of the Act, the Commission finds as a question of fact that these business local exchange services are subject to a level of competition in this exchange sufficient to protect the interests of users of these services.
22. 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 Bell Aliant of these business local exchange services would be unlikely to impair unduly the continuance of a competitive market for these services in this exchange.
23. 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 business customers only, in the exchange of Pembroke, subject to the powers and duties that the Commission has retained as set out in modified Telecom Decision 2006-15.

This determination takes effect on 3 November 2008. The Commission directs Bell Aliant to file revised tariff pages with the Commission by 3 November 2008.

Secretary General

Related documents

- *Bell Aliant – Applications for forbearance from the regulation of business local exchange services*, Telecom Decision CRTC 2007-70, 10 August 2007, as amended by Telecom Decision CRTC 2007-70-1, 22 August 2007, and Telecom Decision CRTC 2007-70-2, 29 November 2007
- *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 business customers only)**

Tariff	Item	List of services
21560	29	Telephone Set Loss Charge
21560	50	Remote Electronic Metering Access Service
21560	70	Rate Schedules for Primary Exchange (Local) Service
21560	72	Reference of Calls (ROC) Service
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	430	Private Branch Exchange Service
21560	500	Direct Inward Dialing
21560	670	Centrex III Service (General)
21560	675	Centrex III Service – Rates and Charges
21560	678	Station Message Detail Recording File Distribution Service
21560	1030	Short-Term Service
21560	1060	Service on Stationary Boats, Ships, Trailers and Trains
21560	1130	Suspension of Service
21560	2025	Integrated Voice Messaging Service (IVMS)
21560	2030	Universal Messaging
21560	2150	Push-Button Dialing (Touch-Tone)
21560	2165	Calling Features
21560	2185	Single Number Reach
21560	2200	Call Blocking Service
21560	2205	Suppressed Ringing Service
21560	2210	SimplyOne Service
21560	2240	Fax Line
21560	2300	Telephone Station Equipment
21560	4699	Internet Call Display Service
21560	5201	Megalink Service
21560	5210	Microlink Services
21560	5300	Digital Exchange Access
21560	6000	Intelligent Routing
21560	7010	Managed Internet Protocol Telephony Service
21560	7026	Business IP Voice Standard
7400	515.3(k)	900 Call Denial/Blocking