



Telecom Decision CRTC 2009-531

Ottawa, 27 August 2009

Saskatchewan Telecommunications – Application to exclude competition-related quality of service results from the rate rebate plan for competitors for April 2009

File number: 8660-S22-200908676

The Commission approves SaskTel's request to exclude, for rate rebate purposes, its results for competitor quality of service indicator 2.10 for April 2009.

Introduction

1. The Commission received an application by Saskatchewan Telecommunications (SaskTel), dated 3 June 2009, requesting the exclusion of the competitor quality of service (Q of S) results related to indicator 2.10 – Mean Time to Repair (MTTR) – CDN [competitor digital network] Services and Type C Loops (indicator 2.10) from its rate rebate plan for competitors for April 2009.
2. SaskTel submitted that Wappel Construction Co. Ltd., a third-party contractor providing sewer and water, excavating, and general contracting services, had damaged a 50 pair cable at the intersection of Woodland Grove and Highway 33 in Regina, Saskatchewan on 3 April 2009, despite the fact that accurate field locate services and clear markings for this cable were provided in advance. SaskTel indicated that the damaged cable was buried at a depth of 36 inches, which is the appropriate standard for a utility. SaskTel indicated that the cable cut had resulted in three trouble tickets affecting CDN circuits leased to Rogers Wireless Inc. (RWI) and that no other customer was impacted. SaskTel reported that the average repair time for the three trouble tickets on the affected cable was 4.88 hours.
3. SaskTel noted that its actual April 2009 competitor Q of S performance results for service to RWI were below the set standard for indicator 2.10. However, SaskTel provided evidence that if the trouble tickets related to the above-noted adverse event were excluded, its April 2009 results for indicator 2.10 to RWI would have been within the standard.
4. The Commission received no comments regarding this application. The public record of this proceeding, which closed on 3 July 2009, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.

Commission's analysis and determinations

5. In Telecom Decision 2005-20, the Commission created a mechanism for considering possible exclusions from competitor Q of S results where circumstances beyond the control of an incumbent local exchange carrier (ILEC) might have caused it to fail to meet a performance standard.
6. In Telecom Decision 2007-102, the Commission adopted a *force majeure* clause that provided that no rate rebates would apply in a month where failure to meet a competitor Q of S standard was caused in that month by events beyond the reasonable control of the ILEC. The Commission considers that, based on the evidence filed, the cable cut in question qualifies as an incident that is beyond the reasonable control of SaskTel and thus triggers the *force majeure* clause.
7. The Commission further considers that SaskTel has provided sufficient evidence to demonstrate that the cable cut caused the below-standard results for indicator 2.10 for RWI in April 2009.
8. In particular, the Commission has verified that SaskTel exceeded the standard for competitor Q of S indicator 2.10 for all its competitors, including RWI, for the three consecutive months prior to the 3 April 2009 event. In Telecom Decision 2007-14, the Commission concluded that where a competitor Q of S indicator has been met for three months prior to an adverse event, it is reasonable to conclude that an ILEC would likely have met its competitor Q of S obligations without the adverse event.
9. In light of the above, the Commission **approves** SaskTel's request to exclude below-standard results for competitor Q of S indicator 2.10 for April 2009 in the calculation of the amounts due under the rate rebate plan for competitors.

Secretary General

Related documents

- *Retail quality of service rate adjustment plan and competitor quality of service rate rebate plan – Adverse events*, Telecom Decision CRTC 2007-102, 31 October 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

- *Finalization of quality of service rate rebate plan for competitors, Telecom Decision CRTC 2005-20, 31 March 2005*

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