



## Telecom Decision CRTC 2009-597

Ottawa, 25 September 2009

### **TBayTel – Application for forbearance from the regulation of residential local exchange services**

File number: 8640-T8-200810962

*In this decision, the Commission approves TBayTel's request for forbearance from the regulation of residential local exchange services in the exchange of Thunder Bay, Ontario. The Commission approves 16 of the 24 tariffed residential local exchange services TBayTel requested.*

#### **Introduction**

1. The Commission received an application by TBayTel, dated 15 August 2008, in which the company requested forbearance from the regulation of residential local exchange services<sup>1</sup> in the exchange of Thunder Bay, Ontario. TBayTel updated the application on 6 July 2009, following the issuance of Telecom Regulatory Policy 2009-379.
2. The Commission received submissions and/or data regarding TBayTel's application from MTS Allstream Inc., Rogers Communications Inc. (RCI), and Shaw Cablesystems Ltd. (Shaw). The public record of this proceeding, which closed on 23 July 2009, is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings" or by using the file number provided above.

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

3. The Commission has assessed TBayTel's application based on the local forbearance test set out in Telecom Regulatory Policy 2009-379, by examining the four criteria set out below.
  - a) **Product market**
4. The Commission received no comments with respect to TBayTel's proposed list of residential local exchange services.
5. The Commission notes that TBayTel is seeking forbearance for 24 tariffed residential local exchange services. The Commission also notes that 16 of those services are equivalent or similar to services identified in Telecom Decision 2005-35-1, which established a list of local exchange services appropriate for forbearance in the territories of the large incumbent local exchange carriers.

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<sup>1</sup> 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.

6. Regarding the eight services identified in TBayTel's application that are not equivalent or similar to services identified in Telecom Decision 2005-35-1, the Commission notes the following:
- The Telephone Features & Voice Mail Promotion relates to a promotion for the period from 20 February 2008 to 19 August 2008. As a result, the request is no longer valid.
  - Additional Telephones and Multi-Line Telephone Systems and Key Equipment relate to terminal equipment, which was already forborne pursuant to Telecom Decision 96-6.
  - Service on Stationary Ships and Trains, Voice Forms and Transcriber Mailboxes, Time of Day Routing, and Litelink Services are business local exchange services. Consequently, these services are excluded from the relevant product market considered in the present decision.
  - The Busy Line Verification & Interruption service requires operator assistance. In Telecom Public Notice 2005-2, which led to Telecom Decision 2005-35, the Commission stated that operator services were excluded from that proceeding. Accordingly, Busy Line Verification & Interruption does not fall within the definition of local exchange services as set out in Telecom Decision 2005-35.
7. The list of approved services is set out in the Appendix to this decision.

**b) Competitor presence test**

8. The Commission notes that information provided by parties confirms that there are, in addition to TBayTel, at least two independent facilities-based telecommunications service providers, including providers of mobile wireless services.<sup>2</sup> 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 TBayTel is capable of serving, and at least one, in addition to TBayTel, is a facilities-based, fixed-line telecommunications service provider.
9. Accordingly, the Commission determines that the Thunder Bay exchange meets the competitor presence test.

**c) Competitor quality of service**

10. The Commission notes that TBayTel submitted that for the period of January to June 2009 it received no complaints from competitors. The Commission further notes that it received no comments with respect to TBayTel's competitor quality of service.

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<sup>2</sup> These telecommunications service providers are RCI and Shaw.

11. Accordingly, the Commission determines that the quality of service provided by TBayTel to its competitors is of a sufficient level to grant forbearance.

**d) Communications plan**

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

**Conclusion**

13. The Commission determines that TBayTel's application regarding the exchange of Thunder Bay, Ontario meets all the local forbearance criteria set out in Telecom Regulatory Policy 2009-379.
14. 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 Telecom Regulatory Policy 2009-379, in relation to the provision by TBayTel of the 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 the exchange of Thunder Bay, would be consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.
15. 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 this exchange sufficient to protect the interests of users of these services.
16. 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 Telecom Regulatory Policy 2009-379, in relation to the provision by TBayTel of these residential local exchange services would be unlikely to impair unduly the continuance of a competitive market for these services in this exchange.
17. In light of the above, the Commission **approves** TBayTel'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 exchange of Thunder Bay, subject to the powers and duties that the Commission has retained as set out in Telecom Regulatory Policy 2009-379. This determination takes effect as of the date of this decision. The Commission directs TBayTel to file revised tariff pages with the Commission within 30 days of the date of this decision.

Secretary General

## Related documents

- *Framework for forbearance from regulation of retail local exchange services in the serving territories of the small incumbent local exchange carriers*, Telecom Regulatory Policy CRTC 2009-379, 23 June 2009
- *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
- *List of services within the scope of the proceeding on forbearance from the regulation of local exchange services*, Telecom Decision CRTC 2005-35, 15 June 2005, as amended by Telecom Decision CRTC 2005-35-1, 14 July 2005
- *Forbearance from regulation of local exchange services*, Telecom Public Notice CRTC 2005-2, 28 April 2005
- *Regulatory framework for the independent telephone companies in Quebec and Ontario (except Ontario Northland Transportation Commission, Québec-Téléphone and Télébec Ltée)*, Telecom Decision CRTC 96-6, 7 August 1996

*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)**

<b>Tariff</b>	<b>Item</b>	<b>List of services</b>
25570	TB100	Rates and Charges for Primary Exchange (Local) Service
25570	TB100	Telephone Number Service
25570	TB100	Call Number Blocking
25570	TB120	Telephone Set Loss Charge
25570	TB140	Extra Listings
25570	TB280	Short-Term Service
25570	TB320	Suspension of Service
25570	TB490	Custom Calling Features
25570	TB490	Voice Messaging
25570	TB490	Integrated Voice Messaging Service (IVMS)
25570	TB490	Push-Button Dialling (Touch-Tone)
25570	TB490	Call Management Services
25570	TB490	Call Blocking Service
25570	TB490	500-Type Telephones
25570	TB490	Toll Management Service
25570	TB490	Telephone Station Sets