



Telecom Decision CRTC 2009-741

Ottawa, 1 December 2009

Bell Canada – Application to exclude competition-related quality of service indicator 2.7A results from the rate rebate plan for competitors for May 2009

File number: 8660-B2-200910473

The Commission approves Bell Canada's request to exclude, for rate rebate purposes, its results for competitor quality of service indicator 2.7A for May 2009.

Introduction

1. The Commission received an application by Bell Canada, dated 20 July 2009, in which the company requested the exclusion of performance results associated with competitor quality of service (Q of S) indicator 2.7A – Competitor Out-of-Service Trouble Reports Late Clearance (indicator 2.7A) from its rate rebate plan for competitors for May 2009.
2. Bell Canada submitted that two separate incidents in Toronto and Montréal, which resulted in service outages to Rogers Communications Inc. (RCI) and other customers, were beyond its control.
3. Bell Canada noted that its actual May 2009 competitor Q of S performance result for service to RCI was below the set standard (90 percent) for indicator 2.7A. However, Bell Canada provided evidence that if the trouble tickets related to the above-noted adverse events were excluded, its May 2009 performance result for indicator 2.7A to RCI would have exceeded the standard.
4. The Commission received no comments regarding this application. The public record of this proceeding, which closed on 21 August 2009, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.

Montréal incident

5. Bell Canada submitted that on 22 May 2009, it received a number of trouble reports originating from a building at 99 Chabanel Street in Montréal. The company submitted that its technicians were dispatched to the building on the same day, at which time the building owner informed them that there had been a water pipe break several days earlier which he had repaired without seeing the need to involve Bell Canada. The company's technicians examined the various cables and facilities around the water pipe break and determined that the cable splices in the nearby riser cables were filled with water. Bell Canada submitted that its technicians drained the affected splices and dried out the riser cables, with service being restored to the building tenants after two days of work.

6. Bell Canada further submitted that its technicians were dispatched to the same address a second time when additional trouble reports were received. At this time, the technicians determined that the initial water pipe break had caused some additional damage and that two circuit interconnection boxes had to be replaced and 1400 cable pairs had to be reconnected. Bell Canada noted that service was restored to the residents of the building on 26 May 2009.

Toronto incident

7. Bell Canada noted that, on 25 May 2009, a 2700 pair paper insulated cable housed in a concrete structure had been damaged by a third-party company installing anchors at a new condominium building site located at 84 Forest Manor Road in Toronto. Bell Canada submitted that this incident, which occurred even though the company had provided the third-party company with cable location information, resulted in a three-inch hole being drilled in both the duct structure and its 2700 pair paper insulated cable. Bell Canada submitted that temporary repairs were not possible and that the entire section of cable between the manholes had to be replaced. Bell Canada submitted that this required technicians to work around the clock for five days to restore all affected services, which were restored on 29 May 2009.

Commission's analysis and determinations

8. 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.
9. 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 fire or other events beyond the reasonable control of the ILEC. The Commission considers that, based on the evidence filed, the reported situations qualify as incidents that are beyond the reasonable control of Bell Canada, and thus trigger the *force majeure* clause.
10. The Commission further considers that Bell Canada has provided sufficient evidence to demonstrate that the damages to the underground cables in Toronto and to the riser cables and circuit interconnection boxes in Montréal caused the below-standard results for indicator 2.7A for RCI in May 2009.
11. In particular, the Commission verified that Bell Canada has met or exceeded the standard for competitor Q of S indicator 2.7A for RCI for the three consecutive months prior to the 22 and 25 May 2009 events. 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 was reasonable to conclude that an ILEC would likely have met its competitor Q of S obligations without the adverse event.

12. In light of the above, the Commission **approves** Bell Canada's request to exclude below-standard results for competitor Q of S indicator 2.7A for May 2009 in the calculation of the amounts due to RCI 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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