



## Telecom Decision CRTC 2009-748

Ottawa, 2 December 2009

### **Saskatchewan Telecommunications – Application to exclude competition-related quality of service indicator 2.10 results from the rate rebate plan for competitors for August 2009**

File number: 8660-S22-200912130

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

#### **Introduction**

1. The Commission received an application by Saskatchewan Telecommunications (SaskTel), dated 1 September 2009, in which the company requested the exclusion of performance results associated with competitor quality of service (Q of S) indicator 2.10 – Mean Time To Repair – CDN [competitor digital network] Services & Type C Loops from its rate rebate plan for competitors for August 2009.
2. SaskTel submitted that two separate incidents – one near Paynton and the other near a subdivision of Kinistino, Saskatchewan, both of which had resulted in service outages to Bell Canada – were beyond its control.
3. SaskTel submitted that on 11 August 2009, a contractor working for the Department of Highways and Infrastructure had cut a fibre cable while excavating soil for a new highway approach to Highway 16, west of Paynton. It submitted that its technicians spent 6.5 hours restoring the cable. The company also submitted that on 25 August 2009, a worker from Caribou Pumping Inc. had cut a fibre cable while working on a water main near Kinistino. It submitted that in this case its technicians spent 7.5 hours restoring the cable. SaskTel submitted that in both cases the cable paths were clearly marked on-site.
4. SaskTel noted that its actual August 2009 competitor Q of S performance result for service to Bell Canada was below the set standard of four hours for indicator 2.10. However, SaskTel provided evidence that if the trouble tickets directly associated with the above-noted adverse events were excluded, its August 2009 performance result for indicator 2.10 for Bell Canada would have exceeded the standard.
5. The Commission received no comments regarding this application. The public record of this proceeding, which closed on 28 October 2009, date at which SaskTel filed the third quarter confidential Q of S results, 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

6. 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.
7. 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 cuts in question qualify as incidents that were beyond the reasonable control of SaskTel and thus trigger the *force majeure* clause.
8. The Commission further considers that SaskTel has provided sufficient evidence to demonstrate that the damages to the buried fibre cables in the highway and subdivision construction sites near Paynton and Kinistino caused the below-standard results for indicator 2.10 for Bell Canada in August 2009.
9. The Commission has reviewed the evidence submitted by SaskTel to demonstrate that the buried fibre cable cuts caused the below-standard results for indicator 2.10 for Bell Canada in August 2009. After reviewing this evidence and further verifying that SaskTel met or exceeded the standard for competitor Q of S indicator 2.10 with respect to the services provided to Bell Canada for the three months prior to the 11 and 25 August 2009 events, based on results adjusted for May 2009 as permitted by Telecom Decision 2007-54<sup>1</sup>, the Commission considers it reasonable to conclude that SaskTel would have met its Q of S obligations towards Bell Canada without the adverse events.
10. 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 August 2009 in the calculation of the amounts due to Bell Canada 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

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<sup>1</sup> An ILEC may exclude for each competitor one trouble report in a month, where the volume of trouble reports is between 1 and 19, if by doing so, the result changes from missing the standard to meeting the standard.

- *CISC Business Process Working Group – Non-Consensus report BPRE064a to revise competitor quality of service indicator business rules per Telecom Decision 2006-59, Telecom Decision CRTC 2007-54, 13 July 2007*
- *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>*