



Telecom Decision CRTC 2009-806

Ottawa, 23 December 2009

Bell Aliant Regional Communications, Limited Partnership – Competitive local exchange carrier access to incumbent local exchange carrier operational support systems

File number: 8621-B54-200911025

In this decision, the Commission determines that Bell Aliant is not required to implement competitive local exchange carrier access to incumbent local exchange carrier operational support systems in its Atlantic territory at this time.

Introduction

1. In Telecom Decision 2005-14, the Commission directed Bell Canada and TELUS Communications Company (TCC)¹ to develop and implement competitor local exchange carrier (CLEC) access to certain elements of their operational support systems (OSS).
2. The Commission also determined that Bell Aliant Regional Communications, Limited Partnership (Bell Aliant),² MTS Allstream Inc., and Saskatchewan Telecommunications were to implement their access to OSS services once a CLEC indicated its willingness to access their respective OSS databases.
3. In Telecom Decision 2008-17, the Commission classified CLEC access to ILEC OSS (CLEC access to OSS) as a conditional mandated non-essential service. The Commission determined that the mandated status of this service was conditional on unbundled local loop services continuing to be classified as conditional essential.
4. On 31 July 2009, Bell Aliant filed a submission informing the Commission that it had received a request from Rogers Cable Communications Inc. (RCCI) to access its OSS in its Atlantic territory.
5. In its submission, Bell Aliant requested that the Commission determine that CLEC access to OSS in its Atlantic territory is not necessary or not appropriate in light of current circumstances and fundamental changes that have occurred since Telecom Decision 2005-14.
6. The Commission received comments from RCCI and Bragg Communications Inc., operating as EastLink (EastLink), opposing Bell Aliant's request. Bell Canada and TCC filed comments supporting the request. The public record of this proceeding, which closed on 3 September 2009, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.

¹ TCC was then known as TELUS Communications Inc.

² Bell Aliant was then known as Aliant Telecom Inc.

Preliminary matter: procedural objection

7. RCCI and Eastlink submitted that Bell Aliant's submission raises procedural concerns because it constitutes a review and vary of Telecom Decision 2005-14 but was not filed as such and does not meet the test for a review and vary application.
8. Bell Aliant stated that its submission questions the continuing correctness of Telecom Decision 2005-14 rather than the original correctness of the decision, and therefore meets the characteristics of a new application rather than a review and vary application.
9. The Commission considers that Bell Aliant's submission relies on changes in circumstances that have occurred since the release of Telecom Decision 2005-14, and does not question the original correctness of the decision. As such, the Commission considers that Bell Aliant's submission constitutes a new application, and not a review and vary application.

Issues

10. The Commission has identified the following two issues to be addressed in its determinations:
 - I. Is CLEC access to OSS necessary for competition in Atlantic Canada?
 - II. Would the costs of developing and implementing CLEC access to OSS in Atlantic Canada outweigh the benefits?

I. Is CLEC access to OSS necessary for competition in Atlantic Canada?

11. Bell Aliant submitted that the absence of CLEC access to OSS has not impeded competition in Atlantic Canada. As an example, the company noted that in its Atlantic territory, local forbearance has been granted in 86 exchanges for residential services and in 20 exchanges for business services.
12. Bell Aliant submitted that CLEC access to OSS is intended for use by competitors that rely on unbundled local loops to provide service and that it is not necessary for cable competitors. Bell Aliant also submitted that its main competitors in Atlantic Canada are cable companies who offer retail services using their own networks. As an example, Bell Aliant submitted that as of March 2009, cable companies offered telephony services to 59 percent of households in Atlantic Canada, an increase of 8 percentage points from the same period in 2008.
13. RCCI submitted that although there is competition in a number of exchanges in Atlantic Canada, Bell Aliant continues to be dominant in a number of areas, including areas in New Brunswick and Newfoundland and Labrador, where RCCI mainly operates. As an example, RCCI noted that forbearance from regulation of residential local exchange services has been granted in only 26 percent of exchanges in New Brunswick and in less than 1 percent of exchanges in Newfoundland and Labrador.

14. RCCI submitted that the Commission had ruled in Telecom Decision 2005-14 that incumbents such as Bell Aliant were required to provide CLEC access to OSS on request, notwithstanding that there was cable competition in Atlantic Canada at that time. RCCI also submitted that, according to the *2005 CRTC Telecommunications Monitoring Report, Status of Competition in Canadian Telecommunications Markets*, competitors held 20 percent and 27.9 percent residential market share in Halifax in 2003 and 2004 respectively, with EastLink having been the principal competitor. As such, RCCI submitted that the Commission was well aware that Bell Aliant had faced facilities-based competition from EastLink when it issued Telecom Decision 2005-14.
15. RCCI submitted that CLEC access to OSS was meant to provide all competitors with an equal opportunity to compete with ILECs, not just those competitors who use unbundled local loops.
16. The Commission notes that one of the main considerations for mandating CLEC access to OSS in Telecom Decision 2005-14 was that local competition was not developing at a rate that would result in sustainable Canada-wide facilities-based local competition in the foreseeable future. In that decision, the Commission noted that in 2003, competitor market share, by line, was 6.3 percent nationally, as compared to 5.1 percent in 2002.
17. However, the Commission considers that the competitive landscape in Canada, as well as in Atlantic Canada, has changed considerably since it issued Telecom Decision 2005-14. The Commission notes that in 2008, national competitor market share, by line, was 21.9 percent.
18. In terms of the level of competition in Atlantic Canada, the Commission notes that in 2003, the competitor market shares, by line, were 0.3 percent in New Brunswick, 3 percent in Newfoundland and Labrador, 11 percent in Nova Scotia, and 6.9 percent in Prince Edward Island (P.E.I.). By contrast, in 2008, competitor market shares, by line, were 7.1 percent in New Brunswick, 8.2 percent in Newfoundland and Labrador, 26.2 percent in Nova Scotia, and 17.5 percent in P.E.I.
19. The Commission notes that at the time of Telecom Decision 2005-14, local forbearance had not been granted in any exchanges in Canada.
20. The Commission notes that as of June 2009, it had forbore from regulating local exchange services in 105 exchanges in Atlantic Canada, representing approximately 74 percent of residential lines and approximately 47 percent of business lines in Atlantic Canada.
21. The Commission considers that CLEC access to OSS was primarily intended for competitors who rely on unbundled local loops to provide service. In this regard, the Commission notes that two of the three OSS data elements that were to be made available to CLECs were specifically related to ILEC facility information.³ In addition, the Commission's reasons for mandating CLEC access to OSS in Telecom Decision 2005-14 included the inconvenience and service installation delays that CLECs might experience when ordering facilities from an ILEC, as well as the results of certain competitor quality of service indicators associated with an ILEC's ability to provide and repair local loops within specific intervals.

³ In Telecom Decision 2005-14, the Commission directed ILECs to make three OSS database elements available: customer status information, an indication whether or not a customer is served from a remote, and repair status information. The latter two elements are required only by CLECs who use ILEC facilities to provide service.

22. The Commission considers that competitive growth in Atlantic Canada is mainly attributable to the entry of cable companies into local markets and that competition from users of unbundled local loops in Atlantic Canada has so far been minimal. In this respect, the Commission notes that the total demand for unbundled local loops in Bell Aliant's Atlantic territory is low, and represents a very small percentage of total residential lines in Atlantic Canada.
23. By contrast, the Commission notes that the principal competitors in Atlantic Canada are cable companies that rely mainly on their own networks to provide service. EastLink is the main cable operator and competitor in Nova Scotia and P.E.I., and RCCI is the main cable operator and competitor in the major centres in New Brunswick and Newfoundland and Labrador.
24. The Commission considers that competition – predominantly from cable companies – started and has expanded into local markets in Atlantic Canada without CLEC access to OSS. Accordingly, the Commission considers that CLEC access to OSS is not necessary for competition in Atlantic Canada at this time.

II. Would the costs of developing and implementing CLEC access to OSS in Atlantic Canada outweigh the benefits?

25. Bell Aliant submitted that the costs associated with developing and implementing CLEC access to OSS would outweigh the benefits.
26. In terms of costs, Bell Aliant submitted that its preliminary estimates indicate that the development and implementation of CLEC access to OSS would cost between \$3 and \$5 million to complete. The company also submitted that it would not be able to recover these costs because the demand for unbundled loops in its Atlantic territory has been low and has been decreasing. It further submitted that the volume of repair tickets related to the provision of unbundled loops has also been low.
27. In terms of benefits to CLECs, Bell Aliant submitted that its local service request (LSR) rejection rate is comparable to the rates of Bell Canada and TCC, both of which have implemented CLEC access to OSS.
28. Bell Aliant submitted that it would not benefit from any efficiency gains by implementing CLEC access to OSS, as RCCI and EastLink have submitted, because it will still have to incur costs to maintain its manual system.
29. Bell Canada submitted that although many CLECs order unbundled loops from Bell Canada, demand for CLEC access to OSS in its territory has been low, for both the customer information component and the repair information component. Bell Canada submitted that these facts suggest that CLEC access to OSS is not necessary for efficient customer transfers for CLECs who rely on unbundled loops.

30. RCCI submitted that Bell Aliant's cost estimates should be tested and that a complete cost study should be ordered. It also submitted that it had already sunk costs into developing its systems to support access to OSS in Bell Aliant's Atlantic territory. RCCI further submitted that in previous determinations the Commission had consistently ruled that each party was responsible for its own costs for the development and implementation of CLEC access to OSS.
31. RCCI acknowledged that its demand for CLEC access to OSS had been low to date, in terms of the volume of queries submitted to Bell Canada and TCC, but submitted that it was currently in the process of implementing a new system that would greatly expand its use of the service by increasing the number of users capable of accessing the ILECs' OSS. RCCI also submitted that its new system would increase inter-carrier efficiencies and improve quality of service. RCCI further submitted that comparisons between the LSR rejection rates of Bell Aliant, Bell Canada, and TCC are irrelevant given that its new system has not yet been implemented.
32. RCCI submitted that CLEC access to OSS was mandated in Telecom Decision 2005-14 to provide CLECs with an equal opportunity to compete with ILECs for local exchange customers and to eliminate barriers to effective competition in the local marketplace.
33. The Commission considers that Bell Aliant's initial cost estimates are reasonable given the costs Bell Canada and TCC submitted to the Commission with respect to their CLEC access to OSS services.
34. The Commission notes that demand for CLEC access to OSS from competitors using unbundled loops has been low in Bell Canada's territory. The Commission also notes that the demand for unbundled loops in Bell Aliant's Atlantic territory has been low. As such, the Commission considers that it is unlikely that Bell Aliant would be able to recover its incremental costs in a reasonable time frame.
35. Regarding RCCI's argument that it plans to greatly expand its use of CLEC access to OSS, the Commission notes that RCCI predominantly offers services using its cable network and, as such, considers that it would likely only make minimal use of the ILECs' OSS for facility information and for identifying whether a customer is served from a remote. As for using the OSS to acquire customer status information, the Commission notes that if OSS were not required to be made available, RCCI and other CLECs in Bell Aliant's Atlantic territory could continue to submit manual requests to Bell Aliant.
36. Additionally, the Commission considers that at this time the main competitors in Atlantic Canada, which are cable companies who predominantly offer services using their own networks, are able to compete on an equal basis with Bell Aliant without access to the customer information component of Bell Aliant's OSS.

37. The Commission notes that one of the expected benefits of mandating CLEC access to OSS in Telecom Decision 2005-14 was to reduce LSR rejections to acceptable levels. However, the Commission notes that the LSR rejection rates for Bell Canada and TCC are approximately 9 percent and 11 percent, respectively. In comparison, the Commission notes that the LSR rejection rate in Bell Aliant's Atlantic territory is approximately 9 percent.⁴ Given that LSR rejection rates are comparable between ILECs that have, and have not, implemented CLEC access to OSS, the Commission is not persuaded that CLEC access to OSS would significantly reduce LSR rejections in Atlantic Canada at this time.
38. Further, the Commission notes that there is no evidence on the record of this proceeding that would suggest that there are serious problems with the customer transfer process in Atlantic Canada.
39. In light of the above, the Commission considers that the costs associated with implementing CLEC access to OSS in Atlantic Canada outweigh the potential benefits at this time.
40. The Commission considers that, given the reasons outlined above, requiring Bell Aliant to implement CLEC access to OSS in its Atlantic territory at this time would not be consistent with the Policy Direction's⁵ requirement that regulation be efficient and proportionate to its purpose.

Conclusion

41. In light of the above, the Commission determines that Bell Aliant is not required to implement CLEC access to OSS in its Atlantic territory at this time.
42. However, as competition continues to grow and customers increasingly switch service providers, the Commission considers that the volume of customers switching between ILECs and CLECs, and vice-versa, will also increase. As such, the Commission considers that in the absence of CLEC access to OSS, it is important for both ILECs and CLECs to continue cooperating to ensure that LSRs are processed efficiently and accurately on both sides.
43. In this regard, service providers are encouraged to find means to improve the processes associated with customer transfers in order to ensure that LSRs are processed efficiently, and that LSR rejections and service delays are minimized.
44. To this end, the Commission notes that in Telecom Order 2009-805, it requested that the CRTC Interconnection Steering Committee submit a report to the Commission that identifies the reasons for LSR rejections and proposes solutions for reducing the number of LSR rejections.

Secretary General

⁴ Based on competitor quality of service statistics submitted to the Commission by the ILECs in quarters 2 and 3 of 2009

⁵ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

Related documents

- *Bell Aliant Regional Communications, Limited Partnership and Bell Canada – Introduction of Local Service Request Rejection Charge*, Telecom Order CRTC 2009-805, 23 December 2009
- *Revised regulatory framework for wholesale services and definition of essential service*, Telecom Decision CRTC 2008-17, 3 March 2008
- *Competitive local exchange carrier access to incumbent local exchange carrier operational support systems*, Telecom Decision CRTC 2005-14, 16 March 2005

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