



Telecom Decision CRTC 2010-153

Ottawa, 12 March 2010

MTS Allstream Inc. – Application for forbearance from the regulation of residential local exchange services

File number: 8640-M59-200913386

In this decision, the Commission approves MTS Allstream's request for forbearance from the regulation of residential local exchange services in the exchange of Brandon, Manitoba, effective 31 May 2010.

Introduction

1. The Commission received an application by MTS Allstream Inc. (MTS Allstream), dated 30 September 2009, in which the company requested forbearance from the regulation of residential local exchange services¹ in the exchange of Brandon, Manitoba.
2. The Commission received submissions and/or data regarding MTS Allstream's application from Rogers Communications Inc. (RCI), TELUS Communications Company (TCC), and Westman Communications (Westman). The public record of this proceeding, which closed on 21 January 2010, 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

3. The Commission has assessed MTS Allstream's application based on the local forbearance test set out in Telecom Decision 2006-15, as amended by the Governor in Council's *Order Varying Telecom Decision CRTC 2006-15*, P.C. 2007-532, 4 April 2007 (modified Telecom Decision 2006-15), by examining the four criteria set out below.

a) Product market

4. The Commission received no comments with respect to MTS Allstream's proposed list of residential local exchange services.
5. The Commission notes that MTS Allstream is seeking forbearance for 13 tariffed residential local exchange services, all of which were included in the list of services set out in Telecom Decision 2005-35. Accordingly, the Commission considers the 13 proposed services to be appropriate for forbearance. The list of approved services is set out in the Appendix to this decision.

¹ 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.

b) Competitor presence test

6. The Commission notes that for the exchange of Brandon, information provided by parties confirms that there are, in addition to MTS Allstream, at least two independent, facilities-based telecommunications service providers, including providers of mobile wireless services.² 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 MTS Allstream is capable of serving, and at least one, in addition to MTS Allstream, is a facilities-based, fixed-line telecommunications service provider.
7. Accordingly, the Commission determines that the exchange of Brandon meets the competitor presence test.

c) Competitor quality of service (Q of S) results

8. The Commission notes that MTS Allstream submitted competitor Q of S results for the period of February to August 2009.
9. The Commission has reviewed MTS Allstream's competitor Q of S results and finds that the company has demonstrated that during this six-month period it
 - i. met, on average, the Q of S standard for each indicator set out in Appendix B of modified Telecom Decision 2006-15, as defined in Telecom Decision 2005-20, with respect to the services provided to competitors in its territory; and
 - ii. did not consistently provide any of those competitors with services that were below those Q of S standards.
10. Accordingly, the Commission determines that MTS Allstream meets the competitor Q of S criterion for this period.

d) Communications plan

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

Other matters

12. MTS Allstream submitted that Westman, the competing provider of facilities-based, fixed-line telecommunications services in the exchange of Brandon, should be allowed to benefit from the 18-month grace period for providers with fewer than 20,000 local exchange service customers in Canada, as found in paragraph 523 of modified Telecom Decision 2006-15.

² These competitors are RCI, TCC, and Westman.

13. The Commission is satisfied that Westman meets the criterion set out in paragraph 523 of modified Telecom Decision 2006-15 and notes that it started offering residential local exchange services in the exchange of Brandon on 30 November 2008. The Commission considers, therefore, that forbearance from the regulation of residential local exchange services in that exchange should not take effect until at least 31 May 2010.
14. In light of the above, the Commission determines that forbearance from the regulation of residential local exchange services in the exchange of Brandon will take effect as of 31 May 2010.

Conclusion

15. The Commission determines that MTS Allstream's application regarding the exchange of Brandon meets all the local forbearance criteria set out in modified Telecom Decision 2006-15.
16. Pursuant to subsection 34(1) of the *Telecommunications Act* (the Act), the Commission finds as a question of fact that a determination to refrain from exercising its powers and performing its duties, to the extent specified in modified Telecom Decision 2006-15, in relation to the provision by MTS Allstream of 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 this exchange, would be consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.
17. 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.
18. 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 modified Telecom Decision 2006-15, in relation to the provision by MTS Allstream of these residential local exchange services in this exchange would be unlikely to impair unduly the continuance of a competitive market for these services.
19. In light of the above, the Commission **approves** MTS Allstream'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 Brandon, subject to the powers and duties that the Commission has retained as set out in modified Telecom Decision 2006-15. This determination takes effect as of 31 May 2010. The Commission directs MTS Allstream to file revised tariff pages with the Commission by 31 May 2010.

Secretary General

Related documents

- *Forbearance from the regulation of retail local exchange services*, Telecom Decision CRTC 2006-15, 6 April 2006, as amended by Order in Council 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 modified 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
- *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>.

Appendix

Local exchange services eligible for forbearance from regulation in this decision (for residential customers only)

Tariff	Item	List of services
24001	475	Rate Schedule for Primary Exchange Service
24001	480	Community Calling Service
24001	490	Urban Unlimited Service
24001	720	Premium Exchange Service (Residential)
24001	800	Suspension of Service
24001	1000	Joint User Service (Residential)
24001	1600	Directory Listings
24001	2126	Label Service
24001	2135	Custom Telephone Number Service
24001	2136	Rotary Service (Residential)
24001	2142	Calling Features
24001	2148	Voice Messaging Service
24001	2450	Remote Call Forwarding