



## Telecom Decision CRTC 2010-216

Ottawa, 15 April 2010

### **Bell Aliant – Application to exclude competition-related quality of service indicator 2.10 results from the rate rebate plan for competitors for January 2010**

File number: 8660-B54-201003509

#### **Introduction**

1. The Commission received an application by Bell Aliant Regional Communications, Limited Partnership (Bell Aliant), dated 22 February 2010, requesting the exclusion of the competitor quality of service (Q of S) results related to indicator 2.10 – Mean Time to Repair (MTTR) – CDN [competitor digital network] Services and Type C Loops (indicator 2.10) from its rate rebate plan for competitors for Bell Canada and MTS Allstream Inc. (MTS Allstream) for January 2010.
2. Bell Aliant submitted that a severe storm and extreme ice buildup during the first week of January 2010 had caused its Labrador microwave system to fail and its microwave radio tower at the Double Mer radio site to collapse. It also submitted that on 5 January 2010, when the problem was first detected, Bell Aliant's Emergency Response Center (ERC) identified and secured an alternate traffic route on the fibre ring through Quebec and Labrador West. Bell Aliant further submitted that the ERC began testing and turning up circuits that evening, and that it transferred several DS3s over the next few days according to a priority scheme.
3. Bell Aliant submitted that company personnel could not reach the radio site until 9 January 2010 because of the continuously raging storm. It also submitted that temporary repairs were completed by 13 January 2010, thus allowing for commissioning of the Labrador microwave radio system. Bell Aliant indicated that the permanent infrastructure of the tower would be deployed once the winter season ends in Labrador. The company noted that the adverse event had caused extensive service outages to many of its customers, including Bell Canada and MTS Allstream.
4. Bell Aliant noted that its actual January 2010 competitor Q of S performance results for service to Bell Canada and MTS Allstream were below the four hours MTTR set standard for indicator 2.10. It also noted that service was restored to these companies on 8 and 9 January 2010, respectively. However, Bell Aliant provided evidence that if the trouble reports related to the above-noted adverse event were excluded, its January 2010 results for indicator 2.10 for Bell Canada and MTS Allstream would have been within the accepted standard because results for this indicator for the affected companies were met for at least six of the twelve months prior to the adverse event.
5. The Commission received no comments regarding this application. The public record of this proceeding, which closed on 24 March 2010, 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 microwave radio tower collapse in question qualifies as an incident that was beyond the reasonable control of Bell Aliant and thus triggers the *force majeure* clause.
8. The Commission further considers that Bell Aliant has provided sufficient evidence to demonstrate that the microwave radio tower collapse caused the below-standard results for indicator 2.10 for Bell Canada and MTS Allstream in January 2010.
9. In particular, the Commission has verified that Bell Aliant exceeded the standard for competitor Q of S indicator 2.10 for all its competitors, including Bell Canada and MTS Allstream, for at least six out of twelve months immediately prior to the January 2010 event. In Telecom Decision 2007-14, the Commission concluded that where a competitor Q of S indicator has been met for the three months prior or for at least six out of twelve months prior to an adverse event, it is reasonable to conclude that an ILEC would likely have met its competitor Q of S obligations without the adverse event.
10. In light of the above, the Commission **approves** Bell Aliant's request to exclude below-standard results for competitor Q of S indicator 2.10 for January 2010 in the calculation of the amounts due to Bell Canada and MTS Allstream 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

*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>*

