



Telecom Decision CRTC 2010-400

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Ottawa, 21 June 2010

Bell Canada - Application to exclude competition-related quality of service indicator 2.7A results from the rate rebate plan for competitors for February 2010

File number: 8660-B2-201007485

The Commission approves Bell Canada's request to exclude, for rate rebate purposes, its results for competitor quality of service indicator 2.7A for February 2010 for Globility Communications Corporation.

Introduction

1. The Commission received an application by Bell Canada, dated 14 April 2010, requesting the exclusion of the competitor quality of service (Q of S) results related to indicator 2.7A – Competitor Out-of-Service Trouble Report Late Clearances (indicator 2.7A) from its rate rebate plan for competitors for Globility Communications Corporation (Globility) for February 2010.
2. Bell Canada submitted that four buried cables were cut by a City of Montréal work team excavating to gain access to a water main that broke overnight on 23 February 2010. Bell Canada indicated that the cable cut occurred despite the fact that, prior to the beginning of the excavation work, it had provided the city with proper facilities location and associated information about its network in the immediate excavation area. Bell Canada submitted further that, due to the number of Globility and other customers affected by the cable cut, it assigned twenty-five cable technicians and five testers to the repair activities for three days and nights. Bell Canada reported that service was ultimately restored to Globility on 26 February 2010 by late afternoon.
3. Bell Canada noted that its actual February 2010 competitor Q of S performance results for service to Globility were below the set standard of 90 percent for indicator 2.7A. It also noted that service was restored to this company on 26 February 2010. However, Bell Canada provided evidence that if the trouble reports related to the above-noted adverse event were excluded, its February 2010 results for indicator 2.7A for Globility would have been within the accepted standard because results for this indicator for the affected company were met for the three months immediately prior to the adverse event.
4. The Commission received no comments regarding this application. The public record of this proceeding, which closed on 18 May 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

5. 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.
6. 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 cut in question qualifies as an incident that was beyond the reasonable control of Bell Canada and thus triggers the *force majeure* clause.
7. The Commission considers that Bell Canada has provided sufficient evidence to demonstrate that the cable cut caused the below-standard results for indicator 2.7A for Globility in February 2010.
8. In particular, the Commission has verified that Bell Canada exceeded the standard for competitor Q of S indicator 2.7A for most of its competitors, including Globility, for either three consecutive months, or at least six out of the twelve months, immediately prior to the February 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 the 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.
9. 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 February 2010 in the calculation of the amounts due to Globility 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