



Telecom Decision CRTC 2010-598

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Télébec, Limited Partnership – Application for forbearance from the regulation of residential local exchange services

File number: 8640-T78-200913419

In this decision, the Commission approves Télébec’s request for forbearance from the regulation of residential local exchange services in the exchanges of Chesterville, Norbertville, Tingwick, and Villeroy, Quebec.

Introduction

1. The Commission received an application by Télébec, Limited Partnership (Télébec), dated 30 September 2009, in which the company requested forbearance from the regulation of residential local exchange services¹ in the exchanges of Chesterville, Norbertville, Ste-Victoire, Tingwick, and Villeroy, Quebec. The Commission approved Télébec’s application regarding the exchange of Ste-Victoire in Telecom Decision 2010-127.
2. The Commission received submissions and/or data regarding Télébec’s application from IVIC Télécom s.e.n.c., which was acquired by Sogetel inc. (Sogetel); TELUS Communications Company (TCC); and Quebecor Media Inc. on behalf of its affiliate, Videotron Ltd. (Videotron). The public record of this proceeding, which closed on 4 June 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 Télébec’s application based on the local forbearance test set out in Telecom Decision 2006-15. Télébec indicated that it met all the forbearance criteria set out in Telecom Decision 2006-15. However, in the supplementary information it provided on 19 October 2009, the company asked that the Commission apply the structured rule of reason, as defined in the same decision, rather than the usual competitor presence test. Consequently, the Commission examined the four criteria set out below.

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.

a) Product market

4. The Commission received no comments with respect to Télébec's proposed list of residential local exchange services.
5. The Commission notes that Télébec is seeking forbearance from the regulation of 19 tariffed residential local exchange services. The Commission also notes that in Telecom Decision 2008-36, it found all of these services to be eligible for forbearance. A list of the 19 approved services is set out in the Appendix to this decision.

b) Market power

6. In Telecom Decision 2006-15, the Commission concluded that it would forbear from regulating the local exchange services of an incumbent local exchange carrier (ILEC) if the ILEC does not possess market power and if the conditions of the structured rule of reason are met. These conditions are set out below:
 - i) at least two independent facilities-based service providers must exist, the ILEC and a facilities-based entrant, capable of offering local service that has been determined to fall within the relevant product market for ILEC local service;
 - ii) the entrant was able to obtain and retain a customer base;
 - iii) the entrant's variable costs of providing local service are similar to or lower than the ILEC's variable costs of providing local service;
 - iv) neither the ILEC nor the entrant is capacity-constrained;
 - v) there is evidence of vigorous rivalry between the ILEC and the entrant in the provision of local service; and
 - vi) industry characteristics are such that the ILECs are unlikely to engage in anti-competitive behaviour.

i) Condition concerning the number of providers

7. The Commission notes that Sogetel and Videotron are independent, facilities-based service providers. At least one of the two companies is present in each of the Chesterville, Norbertville, Tingwick, and Villeroy exchanges, and provides local exchange services in the same market as Télébec.
8. Consequently, the Commission finds that condition i) is met in these exchanges.

ii) Condition concerning obtaining and retaining a customer base

9. The Commission obtained data from Télébec and its competitors on their customer base over the past three years, as well as their forecasts for the next few years.

According to these data, the competitors have consistently obtained new customers to the detriment of Télébec, and this trend seems stable. Thus, the Commission notes that Sogetel and Videotron have been successful in the exchanges in which they offer services and that they have a large market share in those exchanges.

10. Consequently, the Commission finds that condition ii) is met in the Chesterville, Norbertville, Tingwick, and Villeroy exchanges.

iii) Condition concerning variable costs

11. The Commission notes that Videotron did not contest that its variable costs are not higher than those of Télébec.
12. The Commission also notes that Sogetel maintained that its variable costs are much higher than those of Télébec. The Commission carefully examined the data submitted by Sogetel and finds that they cannot be compared directly with those of Télébec. The Commission considers that the figures submitted by Sogetel include certain elements – depreciation, for example – that should not be counted as variable costs. The Commission also considers that Sogetel did not supply satisfactory evidence that its variable costs are higher than those of Télébec.
13. Consequently, the Commission finds that Sogetel and Videotron meet condition iii) in the Chesterville, Norbertville, Tingwick, and Villeroy exchanges.

iv) Condition concerning capacity

14. The Commission notes Videotron's submission that its capacity is defined by the network and that it has deployed enough nodes in the residential areas for all households near its network to be connected. Videotron also indicated that it always examines the possibility of expanding its network when the number of households justifies doing so.
15. The Commission also notes Sogetel's submission that its capacity is constrained due to its difficulty in getting a return on its investments. Sogetel also indicated that Télébec has received subsidies that have given it a large deployment capacity for implementing its network and that it has already been able to recover its original costs.
16. The Commission notes that Télébec maintained that its competitors have no capacity constraints preventing them from expanding their networks, regarding both technology and infrastructure, and that such an expansion would generate costs comparable to its own. Also, Télébec submitted that its competitors are able to rent its local loops for a regulated price.
17. The Commission considers that Videotron and Sogetel are able to expand their networks if they decide to do so. The Commission notes that based on the market shares the competitors have acquired, they are able to compete with

Télébec, and their success in the Chesterville, Norbertville, Tingwick, and Villeroy exchanges will likely motivate them to expand their networks. Particularly in the case of Sogetel, the Commission considers that the company has not demonstrated satisfactorily that it is capacity-constrained in these exchanges, regarding both its financial and network capacities.

18. Consequently, the Commission finds that Sogetel and Videotron meet condition iv) in these exchanges.

v) Condition concerning rivalry

19. The Commission notes that Videotron has conducted major marketing campaigns and offers low rates everywhere it offers services. The Commission considers that Videotron has the capacity to carry on a long-term rivalry with Télébec. The Commission also notes that Sogetel has conducted major marketing campaigns, that it offers its customers low introductory rates for the first 12 months of their contracts, and that its rates are comparable to those of Télébec.
20. Consequently, the Commission finds that condition v) is met in these exchanges.

vi) Condition concerning the possibility of the ILECs engaging in anti-competitive behaviour

21. The Commission notes Sogetel's submission that, if forbearance from the regulation of residential local exchange service is granted to Télébec, the latter will drop its prices to eliminate competition.
22. The Commission also notes Télébec's submission that, in the exchanges in which it is the incumbent and has been granted forbearance from the regulation of local exchange services, competition has not decreased – in fact, quite the contrary. The company added that it cannot adopt anti-competitive practices because of its obligations, such as quality of service to competitors.
23. The Commission notes that competitors may react immediately if Télébec engages in anti-competitive behaviour. The Commission also notes that it has not received any complaints from competitors regarding other exchanges in which Télébec has been granted forbearance from regulation.
24. The Commission therefore finds that it is unlikely that Télébec would engage in anti-competitive behaviour if its request is approved. Consequently, the Commission finds that condition vi) is met in the Chesterville, Norbertville, Tingwick, and Villeroy exchanges.

Conclusion

25. In light of the above, the Commission finds that the Chesterville, Norbertville, Tingwick, and Villeroy exchanges meet the market power criterion.

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

26. The Commission notes that Télébec submitted competitor Q of S results for the period of March to August 2009. The Commission has reviewed these results and finds that the company has demonstrated that during this six-month period it
 - i) met, on average, the Q of S standards for each indicator set out in Appendix B of 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.
27. Accordingly, the Commission determines that Télébec meets the competitor Q of S criterion for this period.

d) Communications plan

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

Conclusion

29. The Commission determines that Télébec's application regarding the exchanges of Chesterville, Norbertville, Tingwick, and Villeroy, Quebec, meets all the local forbearance criteria set out in Telecom Decision 2006-15.
30. Pursuant to subsection 34(1) of the *Telecommunications Act* (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 Telecom Decision 2006-15, in relation to the provision by Télébec of the 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 these exchanges, would be consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.
31. 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 these exchanges sufficient to protect the interests of users of these services.
32. 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 Telecom Decision 2006-15, in relation to the provision by Télébec of these residential local exchange services in these exchanges would be unlikely to impair unduly the continuance of a competitive market for these services.

33. In light of the above, the Commission **approves** Télébec'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 exchanges of Chesterville, Norbertville, Tingwick, and Villeroy, Quebec, subject to the powers and duties that the Commission has retained as set out in Telecom Decision 2006-15. This determination takes effect as of the date of this decision. The Commission directs Télébec to file revised tariff pages with the Commission within 30 days of the date of this decision.

Secretary General

Related documents

- *Télébec, Limited Partnership – Application for forbearance from the regulation of residential local exchange services*, Telecom Decision CRTC 2010-127, 3 March 2010
- *Télébec, Limited Partnership – Application for forbearance from the regulation of residential local exchange services*, Telecom Decision CRTC 2008-36, 1 May 2008
- *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
- *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

Appendix

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

Tariff	Item	List of services
25140	1.7	Telephone Set Loss Charge (Residence)
25140	2.1.2.2c	Basic Service for Students
25140	2.1.7.1	Basic Services and Regional Service – Monthly Rates for Basic Services and Other Fees
25140	2.1.7.4	Basic Services and Regional Service – Rate Adjustment for Multi-Party Access Line Customers
25140	2.1.8	Basic Services Provided Outside the Company’s Serving Area
25140	2.5	Telephones Available Only for Two-Party Line or Multi-Party Access Service
25140	2.15	Service to Immobilized Ships, Trailers and Trains
25140	2.19	Enhanced Telephone Service
25140	2.23.2	Telephone Number Reservation and Activation Service – Rates and Fees
25140	2.27.6	Monthly Rates for Extra Listings
25140	3.1	Intra-Exchange Distance Charges
25140	3.3.17	Toll Restriction Service
25140	3.3.18	Smart Touch Services
25140	3.3.19	Call Display Blocking – Per Line, Per Call
25140	3.3.20	Integrated Vocal Messaging Service
25140	5.2.6.5	Call Blocking Service – 900 Service
25140	8.4	Internet Call Display
25140	8.7.3	Integrated Services Digital Network (ISDN) 2B+D Télébec – Rates and Fees
25140	11.1	Services for Handicapped Persons