



Telecom Decision CRTC 2010-741

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Ottawa, 6 October 2010

Saskatchewan Telecommunications – Application for forbearance from the regulation of residential local exchange services

File number: 8640-S22-201011908

In this decision, the Commission approves SaskTel's request for forbearance from the regulation of residential local exchange services in the exchanges of Esterhazy, Estevan, and Weyburn, Saskatchewan.

Introduction

1. The Commission received an application by Saskatchewan Telecommunications (SaskTel), dated 26 July 2010, in which the company requested forbearance from the regulation of residential local exchange services¹ in the exchanges of Esterhazy, Estevan, and Weyburn, Saskatchewan.
2. The Commission received submissions and/or data regarding SaskTel's application from Access Communications Co-operative Limited (Access) and Rogers Communications Inc. (RCI). The public record of this proceeding, which closed on 7 September 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 SaskTel's application based on the local forbearance test set out in Telecom Decision 2006-15 by examining the four criteria set out below.

a) Product market

4. The Commission received no comments with respect to SaskTel's proposed list of residential local exchange services.
5. The Commission notes that SaskTel is seeking forbearance from the regulation of 15 tariffed residential local exchange services. The Commission also notes that in Telecom Decision 2007-66, it found all of these services to be eligible for forbearance. However, one of these services, Internet Call Waiting, has since been withdrawn by SaskTel and is no longer available to customers. Therefore, this service is not eligible for forbearance. A list of the 14 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 exchanges of Esterhazy, Estevan, and Weyburn, information provided by parties confirms that there are, in addition to SaskTel, at least two independent facilities-based telecommunications service providers, including a provider 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 SaskTel is capable of serving, and at least one, in addition to SaskTel, is a facilities-based, fixed-line telecommunications service provider.
7. Accordingly, the Commission determines that the exchanges of Esterhazy, Estevan, and Weyburn meet the competitor presence test.

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

8. The Commission notes that SaskTel submitted competitor Q of S results for the period of January to June 2010. The Commission has reviewed these results and finds that SaskTel 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.
9. Accordingly, the Commission determines that SaskTel meets the competitor Q of S criterion for this period.

d) Communications plan

10. The Commission has reviewed SaskTel'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 SaskTel to provide the resulting communications materials to its customers, in both official languages where appropriate.

Other matters

11. SaskTel noted that in previous forbearance decisions, the Commission had included a "limitation of liability" provision to address the transitional period from full regulation to regulatory forbearance. SaskTel requested that the Commission include a limitation of liability clause in its decisions and submitted proposed wording for such a clause.

² These competitors are Access and RCI.

12. The Commission notes that in modified Telecom Decision 2006-15, paragraph 313, it stated the following:

... any provision limiting liability in any existing contracts or arrangements, as of the date of the Commission decision granting forbearance in a relevant market, will remain in force until its expiry. Such existing contracts or arrangements will be deemed to terminate on the date or in the manner provided therein, notwithstanding any contractual provisions governing extensions.

13. The Commission considers that SaskTel's concerns have been addressed by this statement and that no further ruling regarding limitation of liability provisions is required in this decision.

Conclusion

14. The Commission determines that SaskTel's application regarding the exchanges of Esterhazy, Estevan, and Weyburn, Saskatchewan, meets all the local forbearance criteria set out in Telecom Decision 2006-15.
15. 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 SaskTel 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.
16. 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.
17. 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 SaskTel of these residential local exchange services in these exchanges would be unlikely to impair unduly the continuance of a competitive market for these services.
18. In light of the above, the Commission **approves** SaskTel'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 Esterhazy, Estevan, and Weyburn, Saskatchewan, 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 SaskTel to file revised tariff pages with the Commission within 30 days of the date of this decision.

Secretary General

Related documents

- *Saskatchewan Telecommunications – Application for forbearance from the regulation of residential local exchange services*, Telecom Decision CRTC 2007-66, 3 August 2007
- *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
21411	105.10	Excess Mileage Charges
21411	110.02	Seasonal Service
21411	110.06	Extended Network Access Service
21411	110.10	Network Access Service – Discontinued
21411	110.12	Network Access Service
21411	110.14	Temporary Telephone Service
21411	150.05	Rotary Hunting Service
21411	150.15	SmartTouch Subscription Service
21411	160.10	Telephone Directory Service – Non-Listed and Non-Published Numbers
21411	160.25	Intercept Service
21411	300.05	Feature Package
21412	550.06	Combined Voice Mail
21412	550.08	SaskTel Voice Mail Service
21412	550.10	TalkMail