



Telecom Decision CRTC 2010-907

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Ottawa, 3 December 2010

Forbearance from the regulation of high capacity/digital data services interexchange private line services on certain additional routes

File number: 8638-S1-01/98

In this decision, the Commission forbears, with some conditions, from regulating high capacity/digital data services interexchange private line services on 12 additional routes.

Introduction

1. In Telecom Order 99-434, the Commission directed the competitors of several incumbent local exchange carriers (ILECs) to file a semi-annual report identifying the interexchange private line (IXPL) routes on which the competitors provided or offered high capacity/digital data services IXPL services (IXPL services) to at least one customer, at the equivalent of DS-3 or greater bandwidth, using terrestrial facilities from a company other than the ILEC or an affiliate of the ILEC.¹
2. Also in this order, the Commission stated that upon being satisfied that one or more competitors met this criterion, it would proceed to forbear from the regulation of IXPL services on those particular routes without further process. The reports are due on 1 April and 1 October each year.
3. The Commission received October 2010 filings from the following competitors: Atria Networks LP; Axia SuperNet Ltd.; Bell Canada, on behalf of itself, Bell Aliant Regional Communications, Limited Partnership (Bell Aliant), and NorthernTel, Limited Partnership; Bragg Communications Inc., on behalf of itself, Persona Communications Corp., and Amtelecom Telco GP Inc.; Greater Sudbury Telecommunications Inc., operating as Agilis Networks; Hydro One Telecom Inc.; Manitoba Hydro Telecom; MTS Allstream Inc. (MTS Allstream); O.N.Tel Inc., carrying on business as Ontera; Rogers Communications Inc.; Saskatchewan Telecommunications (SaskTel); Shaw Telecom G.P.; TBayTel; TELUS Communications Company (TCC); and Videotron Ltd.

Commission's analysis and determinations

4. The Commission established a framework for considering whether to forbear from regulation in Telecom Decision 94-19.

¹ In Telecom Order 99-905, the Commission extended the IXPL forbearance process of Telecom Order 99-434 to Québec-Téléphone, now part of TELUS Communications Company (TCC), and to Télébec ltée, now Télébec, Limited Partnership.

5. In Telecom Decision 97-20, pursuant to section 34 of the *Telecommunications Act* (the Act) and in accordance with the framework set out in Telecom Decision 94-19, the Commission forbore in large part from regulating the IXPL services provided by the former Stentor-member companies on certain routes. The Commission expanded the scope of forbearance for forborne IXPL services provided by TCC in Telecom Decision 2003-77, and for those provided by Bell Canada, Aliant Telecom Inc. (now part of Bell Aliant), MTS Allstream, and SaskTel in Telecom Decision 2004-80.
6. The Commission has reviewed the competitors' reports filed pursuant to Telecom Order 99-434 and finds that the above-noted forbearance criterion is met for 12 additional routes, which are in territories served by Bell Aliant, Bell Canada, and MTS Allstream. These additional routes are listed in the Appendix.
7. Pursuant to subsection 34(1) 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 this decision, in relation to the regulation of IXPL services on the routes listed in the Appendix would be consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.
8. Pursuant to subsection 34(2) of the Act, the Commission finds as a question of fact that the IXPL services on the routes listed in the Appendix are subject to a level of competition sufficient to protect the interests of users of these services and that, to the extent specified in this decision, it is appropriate to refrain from regulating the IXPL services provided on these routes.
9. Pursuant to subsection 34(3) of the Act, the Commission finds as a question of fact that to refrain from regulating the IXPL services on the routes listed in the Appendix, to the extent specified in this decision, would be unlikely to unduly impair the continuance of a competitive market for these services.
10. In light of the above and pursuant to subsection 34(4) of the Act, the Commission declares that the following sections of the Act, with some exceptions as noted, do not apply to the affected ILECs' IXPL services on the routes identified in the Appendix:
 - section 24, except that the Commission directs the ILECs whose territories include one or more of the IXPL routes listed in the Appendix (the affected ILECs) to incorporate into all contracts and any other arrangements for the IXPL services forborne from regulation in this decision, where appropriate and on a going-forward basis, the existing conditions regarding the disclosure of confidential customer information to third parties. The Commission considers that it is also appropriate for it to retain sufficient powers under section 24 of the Act to specify possible future conditions upon the forborne services provided by the affected ILECs, where circumstances warrant;
 - section 25;

- section 27, except with respect to subsection 27(3) of the Act in relation to compliance with powers and duties not forborne from in this decision;
 - section 29; and
 - section 31.
11. The Commission directs the affected ILECs to issue, within 45 days of the date of this decision, tariff pages removing the tariffs for the IXPL services on the routes identified in the Appendix, effective on the date of issuance of the tariff pages.

Secretary General

Related documents

- *Aliant Telecom, Bell Canada, MTS Allstream and SaskTel – Forbearance from section 29 of the Act for agreements related to forborne domestic toll services and forborne interexchange private line services*, Telecom Decision CRTC 2004-80, 9 December 2004
- *TELUS’ application for forbearance from section 29 of the Telecommunications Act with respect to forborne interexchange private line and long distance services*, Telecom Decision CRTC 2003-77, 19 November 2003
- Telecom Order CRTC 99-905, 17 September 1999
- *Follow-up Proceeding to Telecom Decision CRTC 97-20: Establishment of criterion and process for considering further forbearance for High Capacity/ DDS interexchange private line services*, Telecom Order CRTC 99-434, 12 May 1999
- *Stentor Resource Centre Inc. – Forbearance from regulation of interexchange private line services*, Telecom Decision CRTC 97-20, 18 December 1997
- *Review of regulatory framework*, Telecom Decision CRTC 94-19, 16 September 1994

Appendix

*Additional IXPL routes that qualify for forbearance
based on the October 2010 reports from competitors, pursuant to Telecom Order 99-434*

	<i>ILEC A</i>	<i>Exchange A</i>	<i>Exchange B</i>	<i>ILEC B</i>
1	Bell Aliant	Clareville, NL	St. John's, NL	Bell Aliant
2	Bell Aliant	Corner Brook, NL	St. John's, NL	Bell Aliant
3	Bell Aliant	Debert, NL	Halifax, NS	Bell Aliant
4	Bell Aliant	Gander, NL	St. John's, NL	Bell Aliant
5	Bell Aliant	Grand Falls, NL	Halifax, NS	Bell Aliant
6	Bell Aliant	Logy Bay, NL	St. John's, NL	Bell Aliant
7	Bell Canada	Barrie, ON	Owen Sound, ON	Bell Canada
8	Bell Canada	Barrie, ON	Sudbury, ON	Bell Canada
9	Bell Canada	Brockville, ON	Ottawa, ON	Bell Canada
10	Bell Canada	Pont-Viau, QC	Toronto, ON	Bell Canada
11	MTS Allstream	Brandon, MB	Portage la Prairie, MB	MTS Allstream
12	MTS Allstream	Portage la Prairie, MB	Selkirk, MB	MTS Allstream