



## Telecom Decision CRTC 2012-35

PDF version

Ottawa, 24 January 2012

### **Bruce Telecom – Implementation of local competition for Bragg Communications Inc., operating as EastLink, and wireless number portability for Rogers Communications, on behalf of Rogers Wireless**

File numbers: 8663-B7-200905052 and 8620-B7-200905599

*In this decision, the Commission approves, by majority vote and with some modifications, Bruce Telecom's implementation plans for local competition and wireless number portability, which were filed in response to formal expressions of interest from EastLink and Rogers, respectively.*

#### **Introduction**

1. The Commission received local competition and wireless number portability (WNP) implementation plans, both dated 22 July 2011, from Bruce Telecom. The plans were filed in response to formal signed expressions of interest from, respectively, Bragg Communications Inc., operating as EastLink (EastLink), and Rogers Communications, on behalf of Rogers Wireless (Rogers). While Rogers confirmed its interest in obtaining number portability in Bruce Telecom's territory, EastLink confirmed that it wished to interconnect with Bruce Telecom to provide local services as a competitive local exchange carrier (CLEC) in Bruce Telecom's serving territory.
2. In its implementation plans, Bruce Telecom identified the services and network components that it planned to make available to EastLink and Rogers. Bruce Telecom also provided its estimated costs for implementing local competition, including local number portability (LNP) [referred to jointly as local competition] and WNP in its serving territory.
3. In Telecom Decisions 2006-14 and 2008-122, the Commission, among other things, set out the frameworks for, respectively, local competition and WNP implementation in the territories of the small incumbent local exchange carriers (ILECs). Those decisions included directives that the small ILECs must follow when submitting their implementation plans.
4. The Commission reviewed these frameworks and determined, in Telecom Regulatory Policy 2011-291, that local competition and WNP should continue to be introduced in the territories of all the small ILECs based on the existing frameworks, subject to the modifications set out in that decision. In particular, the Commission established certain measures to help mitigate the financial impact on small ILECs of implementing local competition.

5. The Commission received comments from EastLink and Rogers. The public record of these proceedings, which closed on 17 November 2011, are available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings" or by using the file numbers provided above.

## Issues

6. The Commission notes that Bruce Telecom, EastLink, and Rogers have generally agreed on most elements of the local competition and WNP implementation plans, but that issues related to costs and certain implementation matters remain.
7. The Commission has examined the following questions in considering whether to approve Bruce Telecom's proposed local competition and WNP implementation plans:
  - I. Are Bruce Telecom's proposed costs for implementing local competition and WNP appropriate?
  - II. What mechanisms are available to Bruce Telecom to recover its local competition and WNP costs?
  - III. What outstanding matters need to be addressed prior to implementing local competition and WNP in Bruce Telecom's territory?

### **I. Are Bruce Telecom's proposed costs for implementing local competition and WNP appropriate?**

8. Bruce Telecom proposed start-up and ongoing costs for the components required to implement local competition and WNP within its serving territory, including those related to carrier service group (CSG)<sup>1</sup> functions, LNP access, consulting, maintenance, and system modifications, among others. Over the five-year study period, Bruce Telecom estimated that it would incur approximately \$176,000 in start-up costs and an average of \$169,000 per year in ongoing costs to implement local competition and WNP in its serving territory.
9. Based on its review of Bruce Telecom's proposed costs, the Commission has made adjustments to the following cost components: CSG, maintenance, access to LNP database, Neustar membership, and other expenses; and consulting fees. A summary of the company's proposals, the Commission's adjustments, and the rationale for these adjustments is set out in the Appendix to this decision.
10. Accordingly, the Commission **approves** \$176,000 in start-up costs and \$136,000 per year in ongoing costs for the implementation of local competition and WNP in Bruce Telecom's serving territory.<sup>2</sup>

---

<sup>1</sup> The CSG is functionally separate from a telecommunications company's retail operations. Its role is to liaise and coordinate with CLECs when conducting a variety of inter-carrier activities, primarily with respect to customer transfers.

<sup>2</sup> Start-up costs are expressed in terms of the present worth of annual costs over the five-year study period, while ongoing annual costs are expressed as annual equivalent costs over the five-year study period.

## II. What mechanisms are available to Bruce Telecom to recover its local competition and WNP costs?

11. Two regulatory mechanisms are available to Bruce Telecom for the recovery of local competition and WNP implementation costs: the recovery of up to \$2 per network access service (NAS)<sup>3</sup> per month of ongoing costs through the National Contribution Fund (NCF) and an exogenous adjustment.<sup>4</sup>
12. In Telecom Regulatory Policy 2011-291, the Commission concluded that the small ILECs that incur ongoing local competition and/or WNP costs will be permitted to lower the primary exchange service (PES) rate component used in calculating their subsidy by an amount equal to the lesser of the approved ongoing costs on a per-NAS, per-month basis or \$2 per NAS per month.
13. The Commission notes that the approved ongoing costs for Bruce Telecom are below the maximum of \$2 per NAS per month established for ongoing cost recovery. Accordingly, the Commission **approves** a reduction of \$1.19 in Bruce Telecom's rate component used in its subsidy calculation effective the date that local competition and WNP are implemented.
14. Regarding the approved \$176,000 in start-up costs, the Commission considers that implementation of local competition and WNP by Bruce Telecom pursuant to a Commission direction would meet the three criteria for an exogenous event and qualify for an exogenous adjustment.<sup>5</sup> The Commission notes that, in Telecom Decisions 2007-78 and 2007-93,<sup>6</sup> it allowed other small ILECs to recover their local competition start-up and ongoing costs through the use of an exogenous adjustment.
15. The Commission notes that an exogenous adjustment would give Bruce Telecom the flexibility to increase rates to recover its local competition and WNP start-up costs. Should Bruce Telecom choose to take advantage of the exogenous adjustment by filing a tariff application to increase rates, its application should include a proposed cost recovery methodology that (i) complies with the regulatory framework and policies in place at the time of filing, and (ii) is consistent with previous decisions regarding the implementation of local competition for other small ILECs.<sup>7</sup>

---

<sup>3</sup> A NAS provides customers with access to the telephone network.

<sup>4</sup> Pursuant to Telecom Regulatory Policy 2011-291, the local competition and WNP start-up costs of small ILECs with 3,000 or fewer total residential and business NAS, including those of all their affiliates and/or their parent company, are to be reimbursed by new entrants. Given that Bruce Telecom serves more than 3,000 NAS, this cost recovery mechanism is not available to Bruce Telecom.

<sup>5</sup> An exogenous adjustment, which could result in a rate increase, reflects the financial impact associated with events that are not captured by other elements of the price cap regime. Adjustments would be considered for events or initiatives that meet the following criteria:

- a) they are legislative, judicial, or administrative actions beyond the control of the company;
- b) they are addressed specifically to the telecommunications industry; and
- c) they have a material impact on the company.

<sup>6</sup> In these decisions, the Commission determined that the affected small ILECs should be allowed to recover their start-up costs over a period of five years.

<sup>7</sup> See Telecom Decisions 2007-78 and 2007-93.

### III. What are the outstanding matters prior to implementing local competition and WNP in Bruce Telecom's territory?

16. The Commission notes that Bruce Telecom has not yet filed a tariff application to introduce competitor services. Accordingly, Bruce Telecom is to file a tariff application for any wholesale services required for the implementation of local competition in its territory.<sup>8</sup>
17. The Commission notes that Bruce Telecom proposed that the company serving a customer should be responsible for inside wire,<sup>9</sup> while EastLink submitted that this was not a desirable arrangement and that transferring responsibility to the customers was the most efficient option.
18. The Commission has approved numerous ILEC applications to transfer responsibility for inside wire to their customers in the past, but it has never approved transfer of that responsibility to CLECs. The Commission notes that if CLECs were to assume responsibility for inside wire for their customers, they could choose to transfer that responsibility to their customers or charge for repair service without Commission oversight since their retail operations are not regulated. As a result, the Commission finds that it would not be appropriate to transfer responsibility for inside wire based on which company serves the customer.
19. The Commission notes that transferring responsibility for Bruce Telecom's inside wire to its customers would be consistent with the approach approved for the large ILECs and some small ILECs. The Commission considers that transferring responsibility to customers would benefit those customers by allowing them to change local service providers without creating misunderstandings about who is responsible for the inside wire. Accordingly, the Commission encourages Bruce Telecom to file a Part 1 application to transfer responsibility for inside wire to its customers.
20. Based on the parties' submissions and number portability guidelines set out by the CRTC Interconnection Steering Committee (CISC), the Commission determines that all steps required to allow for local competition and WNP to be implemented in the territory of Bruce Telecom are to be completed by no later than **23 July 2012**, which will constitute the effective date of local competition and WNP implementation.<sup>10</sup>

---

<sup>8</sup> The Commission will treat these applications as competitor tariffs based on the procedures summarized in Telecom Information Bulletin 2010-455.

<sup>9</sup> Inside wire is the wire inside the customer's home. It is currently owned by Bruce Telecom and not by the customer.

<sup>10</sup> This local competition implementation date reflects the 180-day timeline proposed by Bruce Telecom and which is consistent with the CISC guidelines for number portability.

## Conclusion

21. In light of the above,

- a) The Commission **approves, by majority vote**, Bruce Telecom's implementation plans as modified above.
- b) The Commission also **approves** an exogenous adjustment of \$44,000<sup>11</sup> per year over a period of five years for the recovery of the start-up costs for local competition and WNP.
- c) The Commission directs Bruce Telecom to
  - i. file for Commission approval all required wholesale tariffs by **3 February 2012**; and
  - ii. provide information and assistance to EastLink and Rogers in the negotiation process, as required, in order to implement local competition and WNP as quickly as possible so that EastLink may begin operating and Rogers may obtain WNP in Bruce Telecom's territory, by no later than **23 July 2012**.
- d) When implementing all aspects of local competition and WNP in its serving territory, including but not limited to technical and network interconnection, Bruce Telecom is to abide by the industry consensus items outlined in the various CISC documents related to interconnection, as well as the existing rules as outlined in the various decisions, orders, and letters issued by the Commission pertaining to local competition.

## Compliance with the Policy Direction

22. The Commission considers that its approval of Bruce Telecom's implementation plans for local competition and WNP, as modified above, is consistent with the Policy Direction<sup>12</sup> requirements that the Commission should (i) rely on market forces to the maximum extent feasible as the means of achieving the telecommunications policy objectives; and (ii) when relying on regulation, use measures that are efficient and proportionate to their purpose and that interfere with the operation of competitive market forces to the minimum extent necessary to meet the policy objectives. The Commission also considers that its determinations in this decision will advance the policy objectives set out in paragraphs 7(b), 7(f), and 7(h) of the *Telecommunications Act*.<sup>13</sup>

Secretary General

---

<sup>11</sup> This amount represents Bruce Telecom's start-up costs of \$176,000 annualized over a period of five years.

<sup>12</sup> *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

<sup>13</sup> These objectives are the following: 7(b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada; 7(f) to foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective; and 7(h) to respond to the economic and social requirements of users of telecommunications services.

## Related documents

- *Obligation to serve and other matters*, Telecom Regulatory Policy CRTC 2011-291, 3 May 2011, as amended by Telecom Regulatory Policy CRTC 2011-291-1, 12 May 2011
- *Approval processes for tariff applications and intercarrier agreements*, Telecom Information Bulletin CRTC 2010-455, 5 July 2010
- *Regulatory framework for the implementation of wireless number portability within the serving territories of the small incumbent local exchange carriers*, Telecom Decision CRTC 2008-122, 18 December 2008
- *Implementation of local competition in NorthernTel, Limited Partnership's serving territory – ExaTEL Inc. and Ontera*, Telecom Decision CRTC 2007-93, 28 September 2007, as amended by Telecom Decision CRTC 2007-93-1, 1 November 2007
- *Implementation of local competition in TBayTel's serving territory – ExaTEL Inc. and Shaw Communications Inc.*, Telecom Decision CRTC 2007-78, 31 August 2007
- *Revised regulatory framework for the small incumbent local exchange carriers*, Telecom Decision CRTC 2006-14, 29 March 2006

**Summary of local competition implementation cost adjustments for Bruce Telecom**

	<b>Proposal</b>	<b>Commission adjustment</b>	<b>Rationale for adjustment</b>
1.	<p><b>CSG (salaries)</b></p> <p>Proposed ongoing CSG expenses based on estimate of number of full-time employees (FTEs) and labour unit costs.</p>	<p>Adjusted the FTE hourly labour rate for CSG functions to \$33.</p>	<p>Proposed FTE hourly labour rate for CSG functions is unreasonable. Revised hourly labour rate is more in line with the rates proposed by other small ILECs.</p> <p>Revised expenses are consistent with those proposed by other small ILECs of similar size.</p>
2.	<p><b>CSG (accommodation)</b></p> <p>Proposed ongoing expenses based on cost per square foot.</p>	<p>Limited the floor space costs to \$6,000 per year.</p>	<p>Proposed annual floor space expenses are too high relative to expected amount of office space required and expected costs of office space in rural areas.</p>
3.	<p><b>Consulting</b></p> <p>Proposed ongoing consulting fees based on time estimates and labour unit costs.</p>	<p>Limited ongoing consulting fees to \$10,000 per year for the first three years and \$5,000 per year for the remaining two years.</p>	<p>Consulting fees should generally be similar among small ILECs; revised fees are more in line with those proposed by other small ILECs.</p> <p>Expect greater efficiencies given the duplicative nature of the work.</p> <p>Need for ongoing consulting services should decrease over time as local competition is implemented.</p>
4.	<p><b>Maintenance</b></p> <p>Proposed ongoing maintenance expenses based on a given percentage of the associated capital costs.</p>	<p>Limited the maintenance expenses to a maximum of 10% of associated capital costs.</p>	<p>Cost to maintain telecommunications equipment should generally be similar across small ILECs; revised expenses are more in line with those proposed by other small ILECs.</p>

## Appendix

	<b>Proposal</b>	<b>Commission adjustment</b>	<b>Rationale for adjustment</b>
5.	<p><b>Access to LNP database</b></p> <p>Proposed ongoing local competition expenses for access to the LNP database.</p>	Excluded these expenses.	The company's response indicated that these expenses would remain if local competition were not implemented. Hence, these expenses are not causal to local competition. Accordingly, these expenses have been excluded from local competition costs.
6.	<p><b>Neustar membership</b></p> <p>Proposed ongoing local competition expenses for Neustar membership.</p>	Excluded these expenses.	The company's response indicated that these expenses would remain if local competition were not implemented. Hence, these expenses are not causal to local competition. Accordingly, these expenses have been excluded from local competition costs.
7.	<p><b>Other expenses</b></p> <p>Proposed ongoing other expenses for upgrades and support estimated based on a given percentage of the associated capital costs.</p>	Limited the other expenses to a maximum of 10% of associated capital costs.	Revised percentage is more in line with the percentage approved for other small ILECs.