



Telecom Decision CRTC 2013-134

PDF version

Ottawa, 18 March 2013

Bell Aliant Regional Communications, Limited Partnership – Application for forbearance from the regulation of residential local exchange services

File number: 8640-B54-201213702

In this decision, the Commission approves Bell Aliant's request for forbearance from the regulation of residential local exchange services in the exchanges of Bishop's Falls, Botwood, Gander, and Grand Falls, Newfoundland and Labrador.

Introduction

1. The Commission received an application from Bell Aliant Regional Communications, Limited Partnership (Bell Aliant), dated 31 October 2012, in which the company requested forbearance from the regulation of residential local exchange services¹ in the exchanges of Bishop's Falls, Botwood, Gander, and Grand Falls, Newfoundland and Labrador.
2. The Commission received submissions and/or data regarding Bell Aliant's application from Rogers Communications Partnership (RCP) and TELUS Communications Company (TCC). The public record of this proceeding, which closed on 17 January 2013, 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 Bell Aliant'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 notes that Bell Aliant is seeking forbearance from the regulation of 17 tariffed residential local exchange services. The Commission received no comments with respect to Bell Aliant's proposed list of services.

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.

5. The Commission notes that it has determined in previous decisions that its local forbearance framework set out in Telecom Decision 2006-15 applies to 16 of the 17 types of services that are the subject of Bell Aliant's application.²
6. The Commission notes that Bell Aliant introduced the remaining service, labelled Fibre to the Home, in 2011. This tariff item is included in the Voice Access Services section of Bell Aliant's tariff, with a description stating that "Company services may be provided over fibre optic facilities which terminate at the customer's premises" and listing limitations of the technology.
7. The Commission notes that in Telecom Public Notice 2005-2 it considered that "local exchange services used by residential and business customers to access the public switched telephone network (PSTN) are within the scope of this proceeding, as are the service charges and any features related to the provision of these services." The Commission considers that fibre optic technology provides an alternative to copper loops as the underlying technology that allows customers to access the PSTN. Therefore, the Commission finds that any residence service elements of this tariff item fall within the definition of local exchange services set out in Telecom Public Notice 2005-2 to which the Commission's local forbearance framework set out in Telecom Decision 2006-15 applies.
8. Accordingly, the Commission determines that the 17 services listed in the Appendix to this decision are eligible for forbearance.

b) Competitor presence test

9. The Commission notes that information provided by parties demonstrates that there are, in addition to Bell Aliant, two independent, facilities-based telecommunications service providers operating in each of the exchanges of Bishop's Falls, Botwood, Gander, and Grand Falls, including a provider of mobile wireless services.³ 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 Bell Aliant is capable of serving, and at least one, in addition to Bell Aliant, is a facilities-based, fixed-line telecommunications service provider.
10. Accordingly, the Commission determines that the exchanges of Bishop's Falls, Botwood, Gander, and Grand Falls meet the competitor presence test.

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

11. The Commission notes that Bell Aliant submitted competitor Q of S results for the period of March to August 2012. The Commission considers that these results demonstrate that Bell Aliant met, on average, the competitor Q of S standards for each indicator set out in Telecom Decision 2006-15, with respect to the services provided to competitors in its territory.

² See Telecom Decisions 2005-35, 2007-59, and 2011-659.

³ These competitors are RCP and TCC.

12. With regard to whether Bell Aliant consistently provided any of those competitors with services that were below those Q of S standards, the Commission considers that, overall, the results demonstrate that Bell Aliant met the Q of S standards for all but one of the individual competitors.
13. However, the Commission notes that there were few data points for that competitor during the six-month period in question. The Commission notes that in Telecom Decision 2007-58, it considered that when there are only a few data points during a six-month period, there is insufficient data to make a finding that a company has consistently provided below-standard Q of S. The Commission considers that this principle applies in the case of the competitor mentioned above.
14. The Commission therefore finds that Bell Aliant has demonstrated that during the six-month period from March to August 2012, 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.
15. Accordingly, the Commission determines that Bell Aliant meets the competitor Q of S criterion for this period.

d) Communications plan

16. The Commission has reviewed Bell Aliant's proposed communications plan and is satisfied that it meets the information requirements set out in Telecom Decision 2006-15. However, the Commission notes that Bell Aliant should change the mailing address for the Canadian Radio-television and Telecommunications Commission to "Ottawa, Ontario K1A 0N2."
17. The Commission **approves** the proposed communications plan with the revision noted above and directs Bell Aliant to provide the resulting communications materials to its customers, in both official languages where appropriate.

Conclusion

18. The Commission determines that Bell Aliant's application regarding the exchanges of Bishop's Falls, Botwood, Gander, and Grand Falls, Newfoundland and Labrador, meets all the local forbearance criteria set out in Telecom Decision 2006-15.
19. 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 Bell Aliant 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.

20. 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.
21. 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 Bell Aliant of these residential local exchange services in these exchanges would be unlikely to impair unduly the continuance of a competitive market for these services.
22. In light of the above, the Commission **approves** Bell Aliant'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 Bishop's Falls, Botwood, Gander, and Grand Falls, Newfoundland and Labrador, 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 Bell Aliant to file revised tariff pages with the Commission within 30 days of the date of this decision.

Secretary General

Related documents

- *Bell Aliant Regional Communications, Limited Partnership – Application for forbearance from the regulation of residential local exchange services*, Telecom Decision CRTC 2011-659, 21 October 2011
- *Bell Aliant - Applications for forbearance from the regulation of residential local exchange services*, Telecom Decision CRTC 2007-59, 25 July 2007
- *Forbearance from the regulation of residential local exchange services in Fort McMurray, Alberta*, Telecom Decision CRTC 2007-58, 25 July 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
- *List of services within the scope of the proceeding on forbearance from the regulation of local exchange services*, Telecom Decision CRTC 2005-35, 15 June 2005, as amended by Telecom Decision CRTC 2005-35-1, 14 July 2005
- *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
21491	125.3	Extra Listings
21491	125.4	Non-Listed, Non-Published Service
21491	125.5	Contract Period for Chargeable Extra Listings
21491	125.6	Directories and Listings – Rates and Charges
21491	205.1	Residence Single Line Access Service
21491	205.3	Residence Multi-line Access Service
21491	205.5	Residence Party Line Access Service
21491	257 ⁴	Express Service
21491	280	Fibre to the Home (FTTH)
21491	300	Residence Single-Line Access Bundles
21491	300.1	Enhanced Consumer Access
21491	300.2	Atlantic Access Bundle
21491	300.3	Canada/U.S. Access Bundle
21491	304	Enhanced Local Calling (Calling Features)
21491	308	Internet Call Manager
21491	312	900 Call Denial/Blocking Service
21491	348	Hospital Patient Telephone Service

⁴ Note: Correction to item number. Express Service is listed in Bell Aliant's General Tariff under item 257, not 247 as submitted.