



Telecom Decision CRTC 2013-241

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Ottawa, 13 May 2013

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

File number: 8640-B54-201215137

In this decision, the Commission approves Bell Aliant's request for forbearance from the regulation of residential local exchange services in the exchanges of Casselman, Glencoe, and Winchester, Ontario; and Trois-Pistoles, Quebec. The Commission denies Bell Aliant's request for forbearance in the exchanges of Dresden, Lucan, and Mitchell, Ontario.

Introduction

1. The Commission received an application from Bell Aliant Regional Communications, Limited Partnership (Bell Aliant), dated 30 November 2012, in which the company requested forbearance from the regulation of residential local exchange services¹ in the exchanges of Casselman, Dresden, Glencoe, Lucan, Mitchell, and Winchester, Ontario; and Trois-Pistoles, Quebec.
2. The Commission received submissions and/or data regarding Bell Aliant's application from Bragg Communications Inc., operating as EastLink (EastLink); Cogeco Cable Inc. (Cogeco); Quadro Communications Co-operative Inc. (Quadro); Rogers Communications Partnership (RCP); and TELUS Communications Company (TCC). The public record of this proceeding, which closed on 18 February 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 18 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 decisions² that its local forbearance framework set out in Telecom Decision 2006-15 applies to all the services that are the subject of Bell Aliant's application. The Commission therefore determines that the 18 services listed in the Appendix to this decision are eligible for forbearance.

b) Competitor presence test

6. Bell Aliant submitted that EastLink in the exchanges of Casselman, Glencoe, and Winchester, Ontario; Cogeco in the exchange of Dresden, Ontario; Quadro in the exchanges of Lucan and Mitchell, Ontario; and DERYtelecom Inc. (DERYtelecom) in the exchange of Trois-Pistoles, Quebec, are capable of serving at least 75 percent of the residential local exchange service lines in these exchanges. It also submitted that each of the exchanges is served by at least one wireless carrier that is capable of serving at least 75 percent of the residential customers in the exchange.
7. Quadro submitted that its cable network is limited to the more densely populated cores of the exchanges of Lucan and Mitchell – that is, the towns of Lucan and Mitchell. It noted that although it can serve most, if not all, of the households in each of those two towns, its network does not extend into the surrounding countryside and farmland, and it is therefore unable to serve 75 percent of the households in either exchange.
8. The Commission notes that Quadro used postal code information and assistance from post office staff to determine the number of residential customers within the towns of Lucan and Mitchell, and then determined the number of households that it can serve with its cable network.³ The Commission notes that Bell Aliant questioned Quadro's calculations of the number of households it is capable of serving. However, having reviewed Quadro's explanation of its calculations, the Commission considers that Quadro's methodology is reasonable and appropriate. The Commission finds, therefore, that the company is not capable of serving 75 percent of the residential local exchange service lines in either of the exchanges of Lucan or Mitchell.
9. In its submission dated 8 February 2013, Cogeco confirmed that it is capable of serving less than 75 percent of the households in the exchange of Dresden. The Commission notes that Bell Aliant submitted that Cogeco's comments were filed well past the deadline for submissions, did not include an explanation for the late filing, and accordingly should not be added to the record of the proceeding.
10. The Commission notes that there is a significant difference between Bell Aliant's and Cogeco's estimates of Cogeco's ability to serve residential customers in the exchange of Dresden. The Commission therefore considers that there is evidential value in the information provided by Cogeco and that, on balance, it would be in the

² See Telecom Decisions 2005-35 and 2007-67.

³ The Commission notes that Quadro filed an additional submission on 18 February 2013 regarding its calculations that was not contemplated by the procedure set out for this proceeding. The Commission notes that this additional submission introduced no new evidence.

public interest to include that evidence on the record of the proceeding. Accordingly, the Commission considers it reasonable to conclude that the competitor presence test has not been met in this exchange.

11. DERYtelecom did not submit comments regarding the exchange of Trois-Pistoles.⁴ Bell Aliant noted that, by letter dated 7 June 2007,⁵ Commission staff indicated that when no information or evidence is provided to either confirm or contest the applicant incumbent local exchange carriers' (ILECs) evidence submitted in their respective local forbearance applications, the Commission would be required to rely on the information filed on the record of the proceeding by the applicant ILECs.
12. The Commission considers that it would be unreasonable to deny forbearance for the exchange of Trois-Pistoles on the basis that a competitor did not file evidence of its presence. The Commission finds that, based on Bell Aliant's evidence, DERYtelecom is capable of serving at least 75 percent of the number of residential local exchange service lines that Bell Aliant is capable of serving in the exchange of Trois-Pistoles.
13. The Commission notes that information provided by parties demonstrates that there are, in addition to Bell Aliant, three independent, facilities-based telecommunications service providers operating in each of the exchanges of Casselman, Glencoe, and Winchester, Ontario; and Trois-Pistoles, Quebec, including providers of mobile wireless services.⁶ 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.
14. Accordingly, the Commission determines that the exchanges of Casselman, Glencoe, and Winchester, Ontario; and Trois-Pistoles, Quebec, meet the competitor presence test.

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

15. The Commission notes that Bell Aliant submitted competitor Q of S results for the period of April to September 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.
16. 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.
17. 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

⁴ Bell Aliant's application indicates that DERYtelecom was served with a copy of the application.

⁵ This letter set out the process for applications for local forbearance.

⁶ These competitors are EastLink, DERYtelecom, RCP, and TCC.

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.

18. The Commission therefore finds that Bell Aliant has demonstrated that during the six-month period from April to September 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.
19. Accordingly, the Commission determines that Bell Aliant meets the competitor Q of S criterion for this period.

d) Communications plan

20. 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 considers that the company should modify the contact information in its plan to (a) change the mailing address for the Canadian Radio-television and Telecommunications Commission to "Ottawa, Ontario K1A 0N2," and (b) update the contact information for the Commissioner for Complaints for Telecommunications Services Inc., the Canadian Consumer Information Gateway, and the Office of the Privacy Commissioner of Canada.
21. The Commission **approves** the proposed communications plan with the revisions outlined above and directs Bell Aliant to provide the resulting communications materials to its customers, in both official languages where appropriate.

Conclusion

22. The Commission determines that Bell Aliant's application regarding the exchanges of Casselman, Glencoe, and Winchester, Ontario; and Trois-Pistoles, Quebec, meets all the local forbearance criteria set out in Telecom Decision 2006-15.
23. 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.
24. 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.

25. 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.
26. 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 Casselman, Glencoe, and Winchester, Ontario; and Trois-Pistoles, 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 Bell Aliant to file revised tariff pages with the Commission within 30 days of the date of this decision.
27. For the exchanges of Dresden, Lucan, and Mitchell, the Commission determines that Bell Aliant's application does not meet all the local forbearance criteria set out in Telecom Decision 2006-15. The Commission therefore **denies** Bell Aliant's application for forbearance from the regulation of residential local exchange services in these exchanges.

Secretary General

Related documents

- *Bell Aliant – Applications for forbearance from the regulation of residential local exchange services*, Telecom Decision CRTC 2007-67, 9 August 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
21560	29	Telephone Set Loss Charge
21560	70	Rate Schedules for Primary Exchange (Local) Service
21560	72	Reference of Calls
21560	73	Telephone Number Services
21560	82	Toll Restriction
21560	86	Call Display Blocking
21560	220	Extra Listings – Omission of a Primary Exchange Listing
21560	1060	Service on Stationary Boats, Ships, Trailers and Trains
21560	1130	Suspension of Service
21560	2025	Integrated Voice Messaging Service (IVMS)
21560	2030	Universal Messaging
21560	2150	Push-Button Dialling (Touch-Tone)
21560	2165	Calling Features
21560	2185	Single Number Reach
21560	2200	Call Blocking Service
21560	2300	Telephone Station Equipment
21560	4699	Internet Call Display Service
21560	7031	Bell Digital Voice