



## Telecom Decision CRTC 2013-255

PDF version

Ottawa, 21 May 2013

### **Télébec, Limited Partnership – Application for forbearance from the regulation of business local exchange services**

File number: 8640-T78-201300855

*In this decision, the Commission approves Télébec's request for forbearance from the regulation of business local exchange services in the exchange of Princeville, Quebec. The Commission denies Télébec's request for forbearance in the exchange of Contrecoeur, Quebec.*

#### **Introduction**

1. The Commission received an application from Télébec, Limited Partnership (Télébec), dated 21 January 2013, in which the company requested forbearance from the regulation of business local exchange services<sup>1</sup> in the exchanges of Contrecoeur and Princeville, Quebec.
2. The Commission received submissions and data regarding Télébec's application from Quebecor Media Inc. on behalf of its affiliate, Videotron G.P. (Videotron). The public record of this proceeding, which closed on 26 March 2013, is available on the Commission's website at [www.crtc.gc.ca](http://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 Télébec'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 Télébec is seeking forbearance from the regulation of 24 tariffed business local exchange services. The Commission received no submissions with respect to Télébec's proposed list of business local exchange services.

---

<sup>1</sup> In this decision, "business local exchange services" refers to local exchange services used by business 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 all the services that are the subject of Télébec's application.<sup>2</sup>
6. However, the Commission notes Télébec's General Tariff item 1.4 – RAFA Plan – Expanded Local Calling Area for the “Lac-à-Foin” Region is not offered in the exchanges that are the subject of the application. Therefore, the Commission considers that this tariff item cannot be found eligible for forbearance in this decision.
7. In light of the above, the Commission finds that the services listed in the Appendix to this decision are eligible for forbearance.

**b) Competitor presence test**

8. Télébec submitted that Videotron, the competitor offering wireline business local exchange services in the exchanges of Contrecoeur and Princeville, is capable of providing telecommunications services to at least 75 percent of the business local exchange service lines in these exchanges.
9. The Commission notes that information provided by parties demonstrates that there is, in addition to Télébec, one independent, facilities-based, fixed-line telecommunications service provider<sup>3</sup> that offers local exchange services in the exchange of Princeville and that is capable of serving at least 75 percent of the business local exchange service lines that Télébec is capable of serving.
10. Accordingly, the Commission finds that the exchange of Princeville meets the competitor presence test.
11. The Commission notes that Télébec estimated Videotron's capability to provide service in the Contrecoeur exchange based on the location of Videotron's facilities on Télébec's support structures, and taking into account Videotron's facilities that “pass by” commercial buildings. The Commission notes that Télébec used the same method to estimate Videotron's service capability in the proceedings leading to Telecom Decisions 2008-84 and 2010-68. As the Commission determined in those two decisions, facilities “passing by” a building do not demonstrate a competitor's capability to provide a service. The Commission notes that Télébec did not file any new information that would support a different conclusion.
12. Télébec indicated that since Videotron holds over 25 percent of the market in the Contrecoeur exchange, its application should be approved if Videotron considers that the competitor presence test is not met.

---

<sup>2</sup> See Telecom Decisions 2005-35, 2009-446, and 2012-54.

<sup>3</sup> The competitor is Videotron.

13. The Commission notes that the market share element applies when demonstrating the existence of a circumstance in which an incumbent local exchange carrier (ILEC) does not hold market power, and not when a circumstance exists in which a competitor is capable of providing telecommunications services to at least 75 percent of the lines that the ILEC is capable of serving. The Commission also notes that pursuant to Telecom Decision 2006-15, other criteria must be met in order to draw such a conclusion, particularly those set out in paragraph 213 of that decision. The Commission notes that Télébec provided no information that would allow the Commission to conclude that all the criteria set out in Telecom Decision 2006-15 were met.
14. The Commission notes that Videotron, the only other facilities-based, fixed-line, wireline telecommunications service provider in the Contrecœur exchange, filed in confidence an estimate of the number of business lines it is capable of serving in that exchange. The Commission notes that Videotron considers that it is not capable of serving 75 percent of the business local exchange service lines that Télébec is capable of serving in the exchange of Contrecœur.
15. In light of the above, the Commission is not persuaded that Videotron is capable of serving at least 75 percent of the business local exchange service lines that Télébec is capable of serving in the exchange of Contrecœur. Accordingly, the Commission finds that the exchange of Contrecœur does not meet the competitor presence test.

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

16. The Commission notes that Télébec submitted competitor Q of S results for the period of July to December 2012. The Commission has reviewed these results and finds that Télébec has demonstrated that during the 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.
17. Accordingly, the Commission determines that Télébec meets the competitor Q of S criterion for this period.

**d) Communications plan**

18. The Commission has reviewed Télébec'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 its plan to update the contact information for the Commissioner for Complaints for Telecommunications Services Inc., the Competition Bureau, the Canadian Consumer Information Gateway, the Office of the Privacy Commissioner of Canada, and l'Office de la protection du consommateur.

19. The Commission **approves** the proposed communications plan subject to the revisions outlined above and directs Télébec to provide the resulting communications materials to its customers, in both official languages where appropriate.

## **Conclusion**

20. The Commission determines that Télébec's application regarding the exchange of Princeville, Quebec, meets all the local forbearance criteria set out in Telecom Decision 2006-15.
21. 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 Télébec of the business 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 business customers only, in this exchange, would be consistent with the Canadian telecommunications policy objectives set out in section 7 of the Act.
22. Pursuant to subsection 34(2) of the Act, the Commission finds as a question of fact that these business local exchange services are subject to a level of competition in this exchange sufficient to protect the interests of users of these services.
23. 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 Télébec of these business local exchange services in this exchange, would be unlikely to impair unduly the continuance of a competitive market for these services.
24. In light of the above, the Commission **approves** Télébec'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 business customers only, in the exchange of Princeville, 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 Télébec to file revised tariff pages with the Commission within 30 days of the date of this decision.
25. With respect to the exchange of Contrecoeur, the Commission finds that Télébec's application does not meet all the local forbearance criteria set out in Telecom Decision 2006-15. The Commission therefore **denies** Télébec's application for forbearance from the regulation of business local exchange services in that exchange.

Secretary General

## Related documents

- *Télébec, Limited Partnership – Application for forbearance from the regulation of business local exchange services*, Telecom Decision CRTC 2012-54, 26 January 2012
- *Télébec, Limited Partnership – Application for forbearance from the regulation of business local exchange services*, Telecom Decision CRTC 2010-68, 10 February 2010
- *Télébec, Limited Partnership – Application for forbearance from the regulation of business local exchange services*, Telecom Decision CRTC 2009-446, 24 July 2009
- *Télébec, Limited Partnership – Application for forbearance from the regulation of business local exchange services*, Telecom Decision CRTC 2008-84, 8 September 2008
- *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 business customers only)*

<b>Tariff</b>	<b>Item</b>	<b>List of services</b>
25140	1.7	Telephone Set Loss Charge
25140	2.1.7.1	Monthly rates for Access Lines, Regional Surcharges, and Other Fees
25140	2.1.7.4	Specialized Business Services
25140	2.1.8	Basic Services Provided Outside the Company's Serving Area
25140	2.1.11	Telephone Service for Senior Citizens' Club
25140	2.5	Telephones
25140	2.6	Access to Switched Automated Private Central Network Equipped with Direct Access
25140	2.8	Télébec Centrex Service
25140	2.10	Emergency Service
25140	2.15	Service to Immobilized Ships, Trailers and Trains
25140	2.23	Telephone Number Reservation/Activation
25140	2.27	Directory Listings
25140	3.1	Intra-Exchange Distance Charges
25140	3.3.17	Toll Restriction Service
25140	3.3.18	Call Management Services
25140	3.3.19	Call Display Blocking – Per Call
25140	5.2.6.5	Call Blocking Service
25140	8.4	Internet Call Display
25140	8.7	Integrated Services Digital Network (ISDN) 2B+D Télébec
25140	8.9	Integrated Services Digital Network (ISDN) 23B+D Télébec – Premium Option
25140	8.11	Boreal Service
25140	8.13	Digital Exchange Service