



Telecom Decision CRTC 2016-209

PDF version

Ottawa, 31 May 2016

File number: 8640-C1-201510826

Cochrane Telecom Services – Application for forbearance from the regulation of business local exchange services

*The Commission **approves** Cochrane Telecom Services' request for forbearance from the regulation of business local exchange services in the exchange of Cochrane, Ontario.*

Introduction

1. The Commission received an application from Cochrane Telecom Services (Cochrane), dated 8 September 2015, in which the company requested forbearance from the regulation of business local exchange services¹ in the exchange of Cochrane, Ontario.
2. The Commission received one submission regarding Cochrane's application from Bragg Communications Incorporated, operating as Eastlink (Eastlink). The public record of this proceeding, which closed on 15 April 2016, is available on the Commission's website at www.crtc.gc.ca or by using the file number provided above.

Commission's analysis and determinations

3. The Commission has assessed Cochrane's application by examining the four criteria set out below. These criteria are based on the local forbearance test originally set out in Telecom Decision 2006-15 and applied to the small incumbent local exchange carriers (small ILECs), with modifications, in Telecom Regulatory Policy 2009-379.

Product market

4. Cochrane is seeking forbearance from the regulation of the tariffed business local exchange services listed in an appendix to its application. However, certain services that Cochrane proposed be forborne from Commission regulation do not fall within the classes of services eligible for forbearance.
5. The Commission has determined in previous decisions that its local forbearance framework set out in Telecom Decision 2006-15 applies to a certain class of

¹ 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.

services.² In Telecom Decision 2005-35, the Commission noted that generic services, including service charges, and construction service charges apply not only to local exchange services but to other telecommunications services. Consequently, the Commission considered them to be outside the scope of the proceeding on forbearance from the regulation of local exchange services (the local forbearance proceeding).³ The Commission noted that (i) the tariffs for these types of services apply only to tariffed services, and (ii) if the Commission forbore from regulating a particular local exchange service, the relevant generic service tariffs and construction service charge tariffs would no longer apply to that forborne service. Therefore, the service charges and construction services charges identified by Cochrane are not eligible for forbearance in this decision.

6. Cochrane also proposed that items 1 to 6 of its General Tariff Section 190 – Private Branch Exchange be forborne from Commission regulation. However, items 5 and 6 refer to trunk lines and tie trunks, respectively. The Commission considers that trunk lines and tie trunks are point-to-point services. In Telecom Public Notice 2005-2, the Commission noted that point-to-point services were not within the scope of the local forbearance proceeding.
7. Cochrane’s General Tariff Section 240 – Multi-Line Telephone Systems and Key Equipment contains business local exchange service elements – that is, Key Line-Business and Key Line-Business-Rural (SH) rates – and terminal equipment elements – that is, general and service feature information, plus a rate for Dial Intercom Circuits. While it would be appropriate to include the business local exchange elements in the list of services eligible for forbearance, the terminal equipment elements are already forborne from regulation pursuant to Telecom Decision 98-13. In accordance with that decision, Cochrane should file a tariff application if it wishes to remove the terminal equipment elements from Section 240.
8. Regarding the items from Section 490 – Miscellaneous Equipment,
 - items 3 and 4 – Cords, and jack and plug equipment are not part of the product market for local exchange services;
 - item 16 – Pursuant to Telecom Regulatory Policy 2010-777, forbearance from the regulation of voice mail services, including integrated voice messaging service, will take effect on the date on which Cochrane issues revised tariff pages for these services;⁴ and
 - items 15, 17, and 18 – These services are related to historic promotions and do not qualify for forbearance.

² See for example Telecom Decision 2005-35, as amended by Telecom Decision 2005-35-1. In addition, the Commission confirmed, in Telecom Decision 2008-10, that for local forbearance purposes, Centrex service also forms part of the same relevant market as business local exchange services.

³ The proceeding discussed in Telecom Decision 2005-35 eventually led to Telecom Decision 2006-15.

⁴ The Commission determined in Telecom Decision 2005-35 that competitor integrated voice messaging service was outside the scope of the local forbearance proceeding.

9. Cochrane's General Tariff Section 910 is labelled "Intra-Exchange Distance Charges," but this section contains information about Optical Fibre Services, which do not qualify for forbearance because they are considered to be point-to-point services.
10. Finally, the services listed in Cochrane's General Tariff Section 1000 – Special Assemblies are not business local exchange services for the following reasons:
 - item 2.01 (Digital Auto Loopback VF-AL4 Unit) refers to equipment used for the remote testing of facilities.
 - item 2.02 (Digital Service Access) refers to a Digital Network Access service. In Telecom Decision 2005-35, the Commission determined that Digital Network Access service was outside the scope of the local forbearance proceeding.
11. Accordingly, only the services listed in the Appendix to this decision are eligible for forbearance.

Competitor presence test

12. In reply to Cochrane's application, Eastlink submitted that it had yet to launch local exchange services in the Cochrane, Ontario, exchange because local competition had not yet been enabled by Cochrane. In response to a subsequent request for information, Cochrane submitted that local competition had been implemented in accordance with Telecom Decision 2015-98 on 3 December 2015. On 29 January 2016, Eastlink confirmed that it had satisfied the competitor presence test in the Cochrane, Ontario, exchange as of 3 December 2015.
13. The information provided by parties demonstrates that there is, in addition to Cochrane, one independent, facilities-based, fixed-line telecommunications service provider⁵ that offers local exchange services in the exchange of Cochrane, Ontario, and that is capable of serving at least 75% of the number of business local exchange service lines that Cochrane is capable of serving.
14. Accordingly, the exchange of Cochrane, Ontario, meets the competitor presence test.

Competitor quality of service results

15. Pursuant to Telecom Regulatory Policy 2009-379, the Commission requires that when applying for forbearance from the regulation of retail local exchange services in an exchange, a small ILEC must provide the Commission with a list of all the complaints it has received from competitors during a six-month period, or since the implementation of local competition if less than six months, beginning no earlier than eight months before the date of its application for local forbearance and ending at any time before the Commission's decision regarding the application.

⁵ This competitor is Eastlink.

16. While Cochrane initially submitted an attestation that it had received no quality of service complaints from competitors in the six months prior to the date of its forbearance application, it subsequently updated this information and submitted that it had received two complaints from Eastlink since the implementation of local competition. Cochrane indicated that both complaints were related to local number portability, with which it had no prior experience, and that it had addressed these complaints through communication with Eastlink.
17. The Commission considers that Cochrane addressed the complaints in a timely manner. The Commission did not receive any comments with respect to Cochrane's competitor quality of service submission or results. Accordingly, Cochrane's competitor quality of service is at a sufficient level to warrant forbearance from the regulation of business local exchange services in the exchange of Cochrane, Ontario.

Communications plan

18. The Commission has reviewed Cochrane's proposed communications plan and is generally satisfied that it meets the information requirements set out in Telecom Decision 2006-15. However, the proposed customer bill insert should be modified to (i) update the contact information for the Canadian Consumer Information Gateway and the Office of the Privacy Commissioner of Canada; and (ii) add contact information, such as telephone and fax numbers, as well as websites, for the Commissioner for Complaints for Telecommunications Services Inc. (CCTS) and the Competition Bureau.
19. The Commission **approves** the proposed communications plan with the revisions outlined above and **directs** Cochrane to provide the resulting communications materials to its customers, in both official languages where appropriate.

Conclusion

20. Cochrane's application regarding the exchange of Cochrane, Ontario, meets all the local forbearance criteria set out in Telecom Decision 2006-15 as modified by Telecom Regulatory Policy 2009-379 for small ILECs.
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 Cochrane in this exchange, of the business local exchange services listed in the Appendix to this decision and of future local exchange services (as defined in Telecom Public Notice 2005-2 and as they pertain to business customers only) 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 Cochrane of these business local exchange services in this exchange would be unlikely to unduly impair the continuance of a competitive market for these services.
24. In light of the above, the Commission **approves** Cochrane's application for forbearance from the regulation of the local exchange services listed in the Appendix to this decision and future local exchange services (as defined in Telecom Public Notice 2005-2), as they pertain to business customers only, in the exchange of Cochrane, Ontario, 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** Cochrane to issue revised tariff pages⁶ within **30 days** of the date of this decision.
25. The Commission reminds Cochrane that, pursuant to its direction set out in Broadcasting and Telecom Regulatory Policy 2016-102, the company will be required to become a participating service provider of the CCTS should the CCTS inform Cochrane that it has received a complaint about the company that falls within the CCTS's mandate.

Secretary General

Related documents

- *Review of the structure and mandate of the Commissioner for Complaints for Telecommunications Services Inc.*, Broadcasting and Telecom Regulatory Policy CRTC 2016-102, 17 March 2016
- *Forbearance from the regulation of retail voice mail services provided by the incumbent local exchange carriers*, Telecom Regulatory Policy CRTC 2010-777, 20 October 2010
- *Framework for forbearance from regulation of retail local exchange services in the serving territories of the small incumbent local exchange carriers*, Telecom Regulatory Policy CRTC 2009-379, 23 June 2009
- *The relevant product market for Centrex and Enhanced Exchange Wide Dial services for the purposes of forbearance from regulation*, Telecom Decision CRTC 2008-10, 31 January 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

⁶ Revised tariff pages can be submitted to the Commission without a description page or a request for approval; a tariff application is not required.

- *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
- *Regulatory framework for Abitibi-Consolidated and Cochrane Public Utilities Commission*, Telecom Decision CRTC 98-13, 1 September 1998

Appendix to Telecom Decision CRTC 2016-209

Local exchange services eligible for forbearance from regulation in this decision (for business customers only)

Tariff	Section	Item	List of services
25350	100	4.03	Primary Exchange (Local) Service
25350	170	2	Business Service
25350	190	1 to 4	Private Branch Exchange Service
25350	210	1 to 5	Centrex Service
25350	240	3.01	Key Line-Business (1LWC) Key Line-Business-Rural (SH) (1LWCR)
25350	260	1 to 2	Intra-Exchange Distance Charges*
25350	490	6	Touch Tone
25350	490	8	Custom Calling Features
25350	490	9	Toll Restriction Service
25350	490	10	900 and 976 Call Blocking Services
25350	490	12	Call Management Service

*Cochrane's application incorrectly listed Section 260 – Intra-Exchange Distance Charges as “Interexchange Channels.”