

Gromoll, Mark

From: Bill Craig [Bill.craig@pridevisiontv.com]
Sent: May 23, 2005 11:40 PM
To: Procedure; Hutson, Randy; Gromoll, Mark
Cc: Cynthia Rathwell; Michael Ferras
Subject: Request for confidentiality by Shaw

Randy Hutson and Mark Gromoll

We notice that Shaw has designated 4 items to be made confidential per page 1 of its May 19th, 2005 information filed with the Commission.

As the Complainant, we believe that their requests are overly broad and that Shaw has not stated "clearly ... why it considers that the disclosure of the information filed in confidence is in the public interest". Shaw only references general commercial concerns as the reason for confidentiality but do not address "public interest".

616 believes that the public interest is best served with the utmost in open disclosure of information so that the public can accurately assess issues at hand even if it's a little uncomfortable for commercial companies involved. Shaw and 616 are licensed to use public airwaves and easements to our commercial benefit thus we owe it to the public to demonstrate that we are using the Canadian public's trust wisely.

Below are specific comments on each request:

#1. The proposed Value Pack price will be made public when and if it is marketed, so it would ultimately be public. If kept confidential at this stage, the public will not be able to assess the true retail cost of the proposed "additional" Value Pack relative to the publicly available rate on its current Value Pack. To keep this information confidential will undercut the needed public hearing debate on "no less favourable pricing" and "equitable" considerations of our Complaint and its solutions.

#2. Having access to the "letter carriage agreement" is also important for the public to understand Shaw's position on its purported contract with 616. To withhold this information, once again would hamper the public's knowledge and understanding of Shaw's position and 616's response to it. Since 616 does not object and is a party to the purported agreement, we see no public interest reason in withholding the contract from the public. 616 has been told repeatedly by Shaw representatives that the purported PrideVision contract is unique due to its "Category 1 pay only" status in Shaw's mind, thus we fail to see reason to withhold a one of a kind former contract from the public.

#3. To make Shaw's response to Q5 confidential is to inhibit public knowledge of Shaw's position on this issue. The public is not served by being denied information to evaluate Shaw's response. The Shaw response does not reveal any direct information from specific agreements with others. Their response is written in very general terms which does not reveal any specific confidential information. This request for confidentiality is also overly broad and stifles knowledgeable public debate on very important public issues at hand.

#4 Malcolmson's email is not designated "confidential" by the author. The ExpressVu deal outlined by Malcolmson no longer stands because ExpressVu used its MFN to adopt the much more advantageous agreement that Shaw was able to force out of PrideVision in October, 2001. Because the documents are operationally obsolete, confidentiality is not necessary. Shaw can not necessarily be trusted to use documents accurately and in proper context if unnecessary confidentiality is imposed. For example, Shaw misquotes a letter from one of their employees, Jennifer Macdonald, (in Q1 - attachment 1) that totally changes the meaning to Shaw's benefit. ("... in a more affordable digital tier of services." — the "s" or pluralization was removed) With only Shaw's misquote of the sentence and the public not being able to read the actual letter of Jennifer Macdonald, the public would be left with wrong information.

For these and other reasons, we are of the view that Shaw is inappropriately hindering public debate by asserting confidentiality over broadly.