



## Telecom Circular CRTC 2006-12

Ottawa, 19 December 2006

### Status of certain proceedings in light of proposed Order in Council to vary Telecom Decision CRTC 2006-15

#### Introduction

1. On 6 April 2006, the Commission issued *Forbearance from the regulation of retail local exchange services*, Telecom Decision CRTC 2006-15 (Decision 2006-15). This Decision, among other things, established a framework for assessing applications from the incumbent local exchange carriers (ILECs) for forbearance from the regulation of local exchange services (local forbearance). The Decision set out the local forbearance criteria, which included, among other things, a 25 percent market share loss test<sup>1</sup> and compliance with competitor quality of service indicators.<sup>2</sup> The Commission also stated that it was prepared to consider applications from an ILEC requesting the removal of the local winback rule in a relevant market when the ILEC could, among other things, demonstrate that it had lost 20 percent of its market share in that relevant market.
2. On 16 June 2006, the Commission issued *Proceeding to examine whether mobile wireless services should be considered to be in the same relevant market as wireline local exchange services with respect to forbearance, and related issues*, Telecom Public Notice CRTC 2006-9 (Public Notice 2006-9). In that proceeding, the Commission invited comments regarding whether mobile wireless services, or a subset thereof, should be considered to be part of the same relevant market as wireline local exchange services for forbearance analysis purposes and, if so, how mobile wireless services, or a subset thereof, should be measured for the purpose of inclusion in the relevant market and calculation of market share loss.
3. On 1 September 2006, the Commission issued *Proceeding to reassess certain aspects of the local forbearance framework established in Decision 2006-15*, Telecom Public Notice CRTC 2006-12 (Public Notice 2006-12). In that proceeding, the Commission invited comments regarding whether the 25 percent market share loss test set out in Decision 2006-15 continued to be appropriate. The Commission also invited comments on the continued appropriateness of the 20 percent market share loss threshold established in Decision 2006-15 with respect to the local winback rule. In addition, given the relationship between the issues related to mobile wireless services and the relevant market, and the issues related to market share loss levels, the Commission indicated that it would address the issues identified in Public Notice 2006-9 in the Public Notice 2006-12 proceeding.

<sup>1</sup> The market share loss test requires an ILEC to suffer a 25 percent market share loss in the relevant market for which forbearance is sought.

<sup>2</sup> An ILEC, for the six months prior to a forbearance application, must meet individual standards for each of the 14 specified competitor quality of service indicators of the rate rebate plan for each competitor, when the results are averaged across the six-month period.

4. On 5 October 2006, TELUS Communications Company (TCC) filed an application pursuant to Part VII of the *CRTC Telecommunications Rules of Procedure* and section 62 of the *Telecommunications Act* (the Act) to review and vary that part of Decision 2006-15 with respect to the application of competitor quality of service indicators in the determination of local forbearance (TCC's review and vary application).

#### **Proposed Order in Council to vary part of Decision 2006-15**

5. On 16 December 2006, the Governor in Council published, in the *Canada Gazette, Part I*, a proposed Order to vary part of Decision 2006-15 (the proposed Order) pursuant to subsection 12(1) of the Act. The proposed Order sets out a revised framework to determine when local forbearance would be granted to the ILECs. The revised framework would, among other things, eliminate the Commission's 25 percent market share loss test and modify the application of the competitor quality of service indicators. Upon coming into force, the proposed Order would also eliminate the winback rule.
6. Interested parties were given 30 days to provide comments on the proposed Order.
7. In light of the above, the Commission is deferring its consideration of the issues in the Public Notice 2006-12 proceeding and in the proceeding initiated by TCC's review and vary application pending a final determination with respect to the proposed Order.

Secretary General

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