



Telecom Decision CRTC 2011-529

PDF version

Ottawa, 25 August 2011

Revised Procedures for the Operation of the National Contribution Fund, effective 1 September 2011

File number: 8695-C53-201110000

1. The Commission received an application by Canadian Portable Contribution Consortium Inc. (CPCC),¹ dated 29 June 2011, requesting that the Commission approve revised Procedures for the Operation of the National Contribution Fund (NCF).²
2. CPCC proposed to increase the affidavit/audit contribution threshold for required contributors,³ in section 7.2 of the Procedures for the Operation of the National Contribution Fund (the Procedures), to the NCF Auditor, to \$100 million of contribution-eligible revenue and to have this affidavit/audit threshold applied at the group of related required contributors' level. Currently, the affidavit/audit contribution threshold for required contributors is \$50 million and it is applied at the individual required contributor level. CPCC noted that this change was part of its ongoing process of reducing compliance costs, and that the NCF Auditor has stated that it accepts the increased affidavit/audit threshold.
3. CPCC also proposed to introduce, in section 7.3 of the Procedures, a \$0.5 million affidavit/audit subsidy threshold for local exchange carriers (LECs) who receive a subsidy based on the monthly reporting of network access service (NAS) information. When a LEC receives less than \$0.5 million in subsidy in a given year, it would provide the NCF Auditor with an affidavit attesting to the accuracy of its monthly NAS information. Currently, all LECs who receive subsidy based on the monthly reporting of NAS information must have their NAS information audited regardless of how much subsidy they receive. CPCC submitted that approval of this proposed new threshold would reduce audit costs for LECs receiving less than \$0.5 million in subsidy in a given year, noting that the NCF Auditor has stated that it accepts the introduction of an affidavit/audit threshold for LECs.

¹ CPCC is responsible for establishing the procedures necessary for the efficient operation of the National Contribution Fund.

² The current Procedures for the Operation of the NCF were approved in *Revised procedures for the operation of the National Contribution Fund, effective 1 January 2010*, Telecom Decision CRTC 2009-789, 17 December 2009.

³ "Required contributor" is a company, or group of related companies, with \$10 million or more in Canadian telecommunications service revenue.

4. Finally, CPCC proposed to update the auditing standards, in section 7.4 of the Procedures, to reflect the fact that the Canadian Institute of Chartered Accountants (CICA) has recently adopted section 805 of the Canadian Auditing Standards, in place of its own section 5805 auditing standards. With this change, CPCC also proposed to eliminate the sample audit reports contained in the Procedures, as audit report information is contained in the CICA Handbook.
5. CPCC noted that the Central Fund Administrator would transmit a copy of its application to all required contributors and LECs, because it (CPCC) was not entitled to know the identity of the required contributors.
6. The Commission received comments in support of CPCC's application from Canadian Network Operators Consortium Inc. The public record of this proceeding, which closed on 1 August 2011, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.
7. The Commission notes that the changes related to the increase in the required contributor affidavit/audit contribution threshold and the introduction of the NAS affidavit/audit subsidy threshold will reduce costs for affected required contributors and LECs, respectively. The Commission also notes that the change to the audit requirements will ensure that the Procedures are kept current with the CICA Handbook.
8. The Commission has reviewed the revised Procedures and considers the changes to be reasonable.
9. Therefore, the Commission **approves** the attached revised Procedures for the Operation of the NCF, effective 1 September 2011.

Secretary General

PROCEDURES
FOR THE OPERATION OF THE
NATIONAL CONTRIBUTION FUND
(approved effective 1 September 2011)

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SECTION ONE

Introduction

- 1.1 This document comprises the Procedures for the purposes of the National Contribution Fund Administration Agreement dated 1 January 2001 (the 'National CFA Agreement'). These Procedures are the 'Procedures' referred to in the National CFA Agreement and form part of the contractual obligations entered into by the signatories of that contract.

- 1.2 The National CFA Agreement is between the Canadian Portable Contribution Consortium Inc. ('CPCC'), of the first part, Welch Fund Administration Services Inc., in its capacity as the Central Fund Administrator (the 'CFA') of the National Contribution Fund (the 'NCF'), of the second part, each telecommunications service provider ('TSP') as shall be determined by the CRTC from time to time to be a Required Contributor and which shall have become a party to the National CFA Agreement through execution and delivery to the CFA of a Required Contributor Accession Agreement in the manner provided in Section 10.14(a) of the National CFA Agreement, of the third part, and each TSP as shall be determined by the CRTC from time to time to be an Eligible Recipient and which shall have become a party to the National CFA Agreement through execution and delivery to the CFA of an Eligible Recipient Accession Agreement in the manner provided in Section 10.14(b) of the National CFA Agreement, of the fourth part.
- 1.3 The purpose of these Procedures is to prescribe the rules for the operation of the National Contribution Fund, established by the CRTC in Decision 2000-745.
- 1.4 These Procedures have been established through a consultative process overseen by the CRTC. The consensus reports of this consultative process were filed with, and approved by, the CRTC. Certain points on which a consensus could not be achieved were filed with, and resolved by, the CRTC.
- 1.5 For administrative convenience, it has been agreed that CPCC has the power to amend these Procedures from time to time subject to the approval of the CRTC. Those TSPs that elect or are required to become shareholders of CPCC will be given adequate notice of proposed changes through the distribution of the agenda and minutes of directors meeting of CPCC.
- 1.6 Decision 2000-745 stated that the CRTC would perform certain tasks. For completeness, the tasks undertaken by the CRTC have also been described in these Procedures.
- 1.7 Headings: The division of these Procedures into Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of these Procedures. The terms 'hereof', 'hereunder' and similar expressions refer to these Procedures and not to any particular Section or other portion hereof and include any agreement supplemental hereto. Unless something in the subject matter or context is inconsistent therewith, references herein to Sections and Appendices are to Sections of, and Appendices to, these Procedures.
- 1.8 Extended meanings: In these Procedures, words importing the singular number also include the plural and vice versa; words importing any gender include all genders and words importing persons include individuals, partnerships, associations, trusts, unincorporated organizations and corporations.
- 1.9 Accounting principles: Wherever in these Procedures reference is made to a calculation to be made or an action to be taken in accordance with generally accepted accounting principles, such reference shall be deemed to be to the generally accepted accounting principles from time to time approved by the Canadian Institute of Chartered Accountants ('CICA'), or any successor institute, applicable as at the date on which such calculation or action is made or taken or required to be made or taken in accordance with generally accepted accounting principles.

- 1.10 Interest calculations and payments: Unless otherwise stated, wherever in these Procedures reference is made to a rate of interest ‘per annum’ or a similar expression is used, such interest shall be calculated on the basis of a calendar year of 365 days or 366 days, as the case may be, and using the nominal rate method of calculation, and will not be calculated using the effective rate method of calculation or on any other basis that gives effect to the principle of deemed reinvestment of interest. All late payment charges and interest to be payable hereunder will be paid both before and after default and/or judgment, if any, until payment thereof, and interest will accrue on overdue interest, if any, compounded monthly.
- 1.11 Currency: All references to currency herein are to the lawful money of Canada.
- 1.12 Action on business day: Whenever pursuant to these Procedures an action is to be taken by a specific date and such specific date is not a business day, such action shall be taken on the first business day following such specific date.

SECTION TWO

Definitions

- 2.1 In these Procedures, unless something in the subject matter or context is inconsistent therewith:

“**Auditor**” means Ernst & Young LLP, or such other firm of chartered accountants licensed to practice as public accountants in each of the Provinces of Canada as may be appointed by the Consortium from time to time as Auditor for purposes of the National Contribution Fund and these Procedures.

“**Banded NAS**” means a geographic area (including a number of non-contiguous geographic areas) within the Incumbent Local Exchange Carrier’s (“ILEC”) operating territory in which the CRTC has found the costs of providing telephone exchange service to be reasonably homogenous for the purpose of the distribution of the National Contribution Fund and which the CRTC has designated as a Band pursuant to Decision 2001-238, as varied or amended by the CRTC from time to time.

“**Bundled services**” is part of the annual revenue report form contained in Appendix 1 and shall have the meaning ascribed thereto in Orders 2001-220 and 2001-221.

“**Business Day**” means any day of the week other than Saturday, Sunday or other day on which banks operating in the province where the office of the CFA administering this Agreement shall be located from time to time are authorized by law to close.

“**Canadian Non-Telecommunications Revenues**” is part of the annual revenue report form contained in Appendix 1 and shall have the meaning ascribed thereto in Order 2001-288.

“**Canadian Telecommunications Services Revenues**” or “**CTSR**” is part of the annual revenue report form contained in Appendix 1 and shall have the meaning ascribed thereto in Order 2001-220.

“CFA” means Welch Fund Administration Services Inc., including any replacement third-party administrator of the National Contribution Fund appointed by the Consortium from time to time and designated as such by the CRTC pursuant to the *Telecommunications Act* (Canada).

“CFA Payment” means the amount payable to the CFA out of the National Contribution Fund at any time for services performed and expenses incurred by the CFA hereunder or pursuant to the contract under which the CFA is appointed, as amended from time to time, such amount to be determined as provided in such contract or these Procedures.

“Consortium” or **“CPCC”** means the Canadian Portable Contribution Consortium Inc., a corporation incorporated under the provisions of the *Canada Business Corporations Act*, established, inter alia, to contract with, and oversee the administration of the National CFA Agreement and these Procedures, by the CFA.

“Consortium Costs” means costs and expenses incurred by the Consortium in fulfilling its mandate with respect to the National CFA Agreement and these Procedures.

“Contribution payments received” is part of the annual revenue report form contained in Appendix 1 and shall have the meaning ascribed thereto in Order 2001-220.

“Contribution-Eligible Revenues” means, with respect to each TSP, and in respect of each year, the Contribution-Eligible Revenues of such TSP calculated on the annual revenue report form contained in Appendix 1 and calculated in accordance with Commission directives.

“CRTC” means the Canadian Radio-television and Telecommunications Commission.

“Decision 97-8” means *Local competition*, Telecom Decision CRTC 97-8, dated 1 May 1997, and references in these Procedures to such decision shall be deemed to include, as appropriate, such decision as varied, amended, refined and/or supplemented by the CRTC in proceedings, decisions, orders or interpretations made or issued thereafter and/or arising therefrom.

“Decision 99-16” means *Telephone service to high-cost serving areas*, Telecom Decision CRTC 99-16, dated 19 October 1999, and references in these Procedures to such decision shall be deemed to include, as appropriate, such decision as varied, amended, refined and/or supplemented by the CRTC in proceedings, decisions, orders or interpretations made or issued thereafter and/or arising therefrom.

“Decision 2000-745” means *Changes to the contribution regime*, Decision CRTC 2000-745, dated 30 November 2000, and references in these Procedures to such decision shall be deemed to include, as appropriate, such decision as varied, amended, refined and/or supplemented by the CRTC in proceedings, decisions, orders or interpretations made or issued thereafter and/or arising therefrom.

“Decision 2001-238” means *Restructured bands, revised loop rates and related issues*, Decision CRTC 2001-238, dated 27 April 2001, and references in these Procedures to such decision shall be deemed to include, as appropriate, such decision as varied, amended, refined and/or supplemented by the CRTC in proceedings, decisions, orders or interpretations made or issued thereafter and/or arising therefrom.

“Decision 2005-28” means *Regulatory framework for voice communication services using Internet Protocol*, Telecom Decision CRTC 2005-28, dated 12 May 2005, and references in these Procedures to such decision shall be deemed to include, as appropriate, such decision as varied, amended, refined and/or supplemented by the CRTC in proceedings, decisions, orders or interpretations made or issued thereafter and/or arising therefrom.

“Decision 2005-32” means *Accutel Conferencing Systems Inc. - Definition of terminal equipment revenues within the contribution regime*, Telecom Decision CRTC 2005-32, dated 2 June 2005, and references in these Procedures to such decision shall be deemed to include, as appropriate, such decision as varied, amended, refined and/or supplemented by the CRTC in proceedings, decisions, orders or interpretations made or issued thereafter and/or arising therefrom.

“Effective date” means 1 January 2001.

“Eligible NAS” means a residential network access service (NAS) in a high-cost serving area that meets all of the CRTC criteria necessary to be eligible to receive subsidy from the National Contribution Fund, as varied or amended by the CRTC from time to time, including (a) having both the underlying access and the local service components being provided by the same local exchange carrier (“LEC”), (b) that the LEC meets all of the criteria established in Decision 97-8 and (c) the level of service being provided meets or exceeds the basic service objective established in Decision 99-16.

“Eligible Recipient” means each TSP that has been determined by the CRTC from time to time to be entitled to receive payments from time to time out of the National Contribution Fund.

“Eligible Recipient Accession Agreement” means a document by which a TSP that is an Eligible Recipient shall become a party to the National CFA Agreement, such agreement to be substantially in the form of Schedule ‘B’ to the National CFA Agreement.

“Inter-carrier payments” is part of the annual revenue report form contained in Appendix 1 and shall have the meaning ascribed thereto in Order 2001-220.

“Late Payment Charge” means, with respect to any amount to which such a charge is applicable in accordance with the provisions of these Procedures, a charge equal to one percent (1%) per month (12.68% per annum) applied to the amount in question commencing as from the due date of the relevant payment, compounded monthly.

“National Contribution Fund” or **“NCF”** means the National Contribution Fund required to be created by the CRTC pursuant to Decision 2000-745, and established by the National CFA Agreement and these Procedures.

“National Subsidy Requirement” or **“NSR”** means, in respect of each year, that amount, as determined by the CRTC from time to time, to be the total of the Total Subsidy Requirements for all LEC territories in such year.

“Non-Canadian Revenues” is part of the annual revenue report form contained in Appendix 1 and shall have the meaning ascribed thereto in Order 2001-220.

“Order 2001-220” means *Industry consensus reports submitted by the Contribution Collection Mechanism (CCM) Implementation Working Groups*, Order CRTC 2001-220, dated 15 March 2001, and references in these Procedures to such order shall be deemed to include, as appropriate, such order as varied, amended, refined and/or supplemented by the CRTC in proceedings, decisions, orders or interpretations made or issued thereafter and/or arising therefrom.

“Order 2001-221” means *Disputed issues submitted by the Contribution Collection Mechanism (CCM) Implementation Working Groups*, Order CRTC 2001-221, dated 15 March 2001, and references in these Procedures to such order shall be deemed to include, as appropriate, such order as varied, amended, refined and/or supplemented by the CRTC in proceedings, decisions, orders or interpretations made or issued thereafter and/or arising therefrom.

“Order 2001-288” means *Definition of Canadian non-telecommunications service revenues for the purpose of the contribution regime*, Order CRTC 2001-288, dated 11 April 2001, and references in these Procedures to such order shall be deemed to include, as appropriate, such order as varied, amended, refined and/or supplemented by the CRTC in proceedings, decisions, orders or interpretations made or issued thereafter and/or arising therefrom.

“Payment and Receipt Advice” means a notice in writing from the CFA to each Required Contributor pursuant to Section 5.7 of these Procedures.

“Related Party” means companies that meet the definition of related companies based upon Section 3840 of the Handbook of the Canadian Institute of Chartered Accountants. The minimum threshold of \$10 million in CTSR applies to the group of related companies that are TSPs.

“Required Contributor” means each TSP which has been determined by the CRTC from time to time to be required to contribute to the National Contribution Fund based upon such TSP’s Canadian Telecommunications Services Revenues.

“Required Contributor Accession Agreement” means a document by which a TSP that is a Required Contributor shall become a party to the National CFA Agreement; such agreement to be substantially in the form of Schedule ‘A’ to the National CFA Agreement.

“Retail Internet Service” is part of the annual revenue report form contained in Appendix 1 and shall have the meaning ascribed thereto in Order 2001-220 and as amended by Decision 2005-28.

“Retail Paging Service” is part of the annual revenue report form contained in Appendix 1 and shall have the meaning ascribed thereto in Order 2001-220.

“Revenue-Percent Charge” means the percentage charge from time to time established by the CRTC to be applied to each Required Contributor’s Canadian Telecommunications Services Revenues less allowable deductions for purposes of determining contribution payable by such Required Contributor to the National Contribution Fund for purposes of the National CFA Agreement and these Procedures.

“Telecommunications Service Provider” or **“TSP”** means a “telecommunications service provider” as defined in the *Telecommunications Act* (Canada). As outlined in Decision 2000-745 paragraph 88, Telecommunications Service Providers, include ILECs, alternate providers of long-distance services (“APLDS”), competitive local exchange carriers (“CLECs”), resellers, wireless service providers (“WSPs”), international licensees, satellite service providers, Internet service providers (if a telecommunications service is provided), payphone providers, data and private line service providers.

“Terminal Equipment Revenues” is part of the annual revenue report form contained in Appendix 1 and shall have the meaning ascribed thereto in Order 2001-221 and Decision 2005-32.

“Total Operating Revenues” is part of the annual revenue report form contained in Appendix 1 and shall have the meaning ascribed thereto in Order 2001-220.

“Total Subsidy Requirement” or **“TSR”** means, in respect of each year and each LEC providing local exchange service in high-cost bands, the total of the subsidy requirements of such LECs for such year, determined in accordance with rules and Procedures of the CRTC from time to time in effect.

“TSP User Manual” means a document issued by the CFA that describes the procedures for reporting and the functionality of the Internet website used to report revenue-based contribution information to the CFA.

SECTION THREE

Becoming a Required Contributor

- 3.1 All TSPs are required to file a report with the CRTC on or before 31 March of each year, based on the financial data of the fiscal year ending in the immediate prior calendar year, in the format of the annual revenue report form that is contained in Appendix 1 of these Procedures or changed by the CRTC from time to time and completed in accordance with all Commission directives. Each TSP must complete an individual report and file a separate report with supporting information for each Related Party/company that is also a TSP. The CRTC can request assistance from Industry Groups, the CFA and CPCC to identify all TSPs who fit the requirement for reporting.
- 3.2 For TSPs with total operating revenues on their financial statements of \$10 million or more, or groups of related TSPs with combined total operating revenues of \$10 million or more, their annual report is to consist of:

- The annual revenue report form including the calculation of Canadian Telecommunications Services Revenues and the further calculation of the Contribution-Eligible Revenues. A copy of the annual revenue report form is contained in Appendix 1 of these Procedures.
- A detailed list of Non-Contribution-Eligible Revenues and Inter-carrier payments. The detailed reporting information is contained in Appendix 1 of these Procedures.
- A compliance statement to ensure the integrity of the information filed. A TSP with audited financial statements is required to have their external auditors attest to the accuracy of the information filed. A TSP that does not have audited financial statements can have an external auditor attest to the accuracy of the information or the TSP can provide an affidavit, signed by two officers of the company, one of the officers being the company's chief financial officer, attesting to the accuracy of the information filed.

Audit requirements can be found in Sections 7.4 to 7.7 below. A sample affidavit is contained in Appendix 2 of these Procedures.

- A copy of the TSP's audited financial statements for the immediate prior calendar year. For a TSP that does not have audited financial statements, a copy of the financial statements accompanied with an affidavit, signed by two officers of the company, one of the officers being the company's chief financial officer, attesting to the accuracy of the financial statements will be accepted. A sample affidavit is contained in Appendix 2 of these Procedures.

3.3 For TSPs that do not meet the conditions outlined in Section 3.2 above (i.e., TSPs with total operating revenues on their financial statements of less than \$10 million and not in a group of related TSPs with combined total operating revenues of \$10 million or more), their annual report is to consist of:

- Completing Area A (Company information), Area B (Contact information) and Area C (Reporting year information) of the annual revenue report form. A copy of the annual revenue report form is contained in Appendix 1 of these Procedures.
- A copy of the TSP's audited financial statements for the immediate prior calendar year. For a TSP that does not have audited financial statements, a copy of the financial statements accompanied with an affidavit, signed by two officers of the company, one of the officers being the company's chief financial officer, attesting to the accuracy of the financial statements will be accepted. A sample affidavit is contained in Appendix 2 of these Procedures.

3.4 With the exception of those LECs that are to receive a predetermined amount of subsidy, each Eligible Recipient is required to file a report with the CRTC, on or before 31 March of each year, showing the total Eligible NAS by band, based on the actual NAS per band from December of the previous year.

- 3.5 Following a review by the CRTC of the information provided, the CRTC will, pursuant to Decision 2000-745, determine if a TSP is a Required Contributor for the current calendar year for purposes of the National CFA Agreement and these Procedures. In the event that the CRTC determines that the TSP is a Required Contributor, the CRTC will notify such TSP and the CFA that such TSP is a Required Contributor for the year.
- 3.6 If a TSP becomes a Required Contributor and has not previously executed and delivered to the CFA a Required Contributor Accession Agreement, whereby such Required Contributor shall become a party to the National CFA Agreement, such Required Contributor shall execute and deliver to the CFA such Required Contributor Accession Agreement within thirty (30) days of such determination by the CRTC.

SECTION FOUR

Reporting and Payment Responsibilities of TSPs to the CFA

- 4.1 Each TSP shall provide to the CFA the current contact information (name, telephone number, fax number and email address) of the person responsible for the monthly reporting of contribution and of Eligible NAS (if applicable) and also of an alternate contact who can act as a replacement.
- 4.2 The monthly reporting shall be submitted by each Required Contributor based on a consolidated basis and/or reporting by each related company that is a TSP. Each Required Contributor that reports on a consolidated basis must advise the CRTC and the CFA of the reporting structure and shall also provide the CFA supporting reports for each Related Party/company that is also a TSP. If the monthly reporting for the related companies is unduly onerous, the TSP may file a request with the CRTC to reduce the reporting requirements.
- 4.3 The reporting of Contribution-Eligible Revenues is to be completed on a monthly basis by all TSPs that have been identified as a Required Contributor, in accordance with the schedule in Section 5.2. The reporting will be completed through the CFA website in accordance with the TSP User Manual, the CRTC's approved definitions and in the same format as the annual revenue report form contained in Appendix 1.
- 4.4 Failure to adhere to the contribution reporting schedule causes additional administrative costs, is disruptive to the orderly administration of the contribution regime, risks causing a rerun of the systems, and a possible delay in the payment of subsidies. Accordingly, a Required Contributor that is late with its filing may be assessed costs by the CFA of up to \$1,000 for each late filing. Assessed costs will be deposited by the CFA in the bank account of the National Contribution Fund. In the event of persistent late filing by a Required Contributor or the continued absence of a required filing, the CFA may refer the situation to the Commission and recommend that it exercise its powers under section 24 of the *Telecommunications Act* to impose conditions on such Required Contributor relating to its continued offering and supply of telecommunications services.
- 4.5 If an adjustment for a previous reporting period in the current year is deemed necessary by a Required Contributor, the Required Contributor will report the adjustment on a separate monthly reporting form (see the TSP User Manual). The CFA on receipt of a revision to contribution-eligible revenue (CER) will process the revision in accordance with the following rules:

- a) If the revision results in an increase in CER, process the revision;
- b) If the revision results in a decrease in CER that reduces CER by \$50 million or less and by 20% or less of the Required Contributor's CER for the immediate preceding data year, process the revision; and
- c) If the revision results in a decrease in CER that reduces CER by over \$50 million, or by more than 20% of the Required Contributor's CER for the immediately preceding data year (unless the reduction is less than \$10,000 of CER in which case the CFA will process the revision), refer the revision to the CRTC for approval and not process the revision until it is approved by the CRTC.

The CFA will aggregate the adjustment with the current reporting period for inclusion in the National Contribution Fund. No Late Payment Charges or penalties will be assessed with the reporting of adjustments that are either completed within six (6) months of the period being adjusted or have an impact on the National Contribution Fund for the month impacted of less than one percent (1%). In the event that the adjustment is completed in a subsequent year, the payment will be calculated at the rate that was in effect in the month that the payment was due.

- 4.6 Where an additional contribution or other charges for a prior reporting period are payable, the related cash adjustment is due on the next contribution payment date. If a single payment in respect of an adjustment would cause undue financial hardship to a Required Contributor, the Required Contributor may request that the CFA negotiate a deferred payment arrangement in respect of the adjustment and present it as a proposal to CPCC for approval. The CFA may not disclose the identity of the Required Contributor to CPCC without the expressed permission of the Required Contributor that is requesting deferred payments. In no circumstances may the deferred payment term exceed twelve months. Interest of 12.0% per annum will be added to the deferred payments, calculated in the manner described in Section 1.05 of the National CFA Agreement. Deferred payments become contribution payable on the agreed date and if not paid on the agreed date, the Required Contributor will be deemed to be a Defaulting Contributor for the purposes of Section 4.9 of these Procedures. For greater certainty, the deferral of contribution payments and other charges for a prior reporting period is an accommodation that may be extended to a Required Contributor and is not a right of a Required Contributor. If a deferred payment schedule is not agreed, or not accepted by CPCC, then the entire adjustment is payable on the next contribution payment date.
- 4.7 With the exception of those LECs that are to receive a predetermined amount of subsidy, all Eligible Recipients that operate as LECs will report Eligible NAS by band, in accordance with the instructions from the TSP User Manual. Each new LEC must provide to the CFA the LEC's approval to operate issued by the CRTC before the CFA will process claims by it on the National Contribution Fund. Eligible NAS reporting will be completed in accordance with the schedule established pursuant to Section 5.2.
- 4.8 Payments due to the National Contribution Fund will be transferred to the CFA in accordance with the process in the TSP User Manual and in accordance with the schedule established pursuant to Section 5.2.

4.9 Security for payment obligations

- (a) Recognizing that timely payment by Required Contributors to the CFA of amounts payable by Required Contributors to the CFA hereunder is essential to the orderly operation of the National Contribution Fund, in the event a Required Contributor fails to make payment to the CFA of the amount so required to be paid by it, in full and on the relevant due date or within two (2) business days thereafter (in this Section 4.9 called a 'Defaulting Contributor'), the CFA shall make all reasonable efforts to advise such Defaulting Contributor of (i) the fact that such Defaulting Contributor has failed to make payment of an amount due to the CFA hereunder, and (ii) the amount of the required payment. If, within five (5) business days of the CFA having given the notice referred to in the immediately preceding sentence to a Defaulting Contributor, such Defaulting Contributor shall have failed to remit such amount to the CFA (together with any applicable Late Payment Charges), such Defaulting Contributor shall, if requested by the CFA, provide to the CFA, within the next ten (10) business days of the request, security for such Defaulting Contributor's payment obligations to the CFA hereunder in accordance with these Procedures. Unless otherwise agreed by the CFA, security provided by a Defaulting Contributor pursuant to this Section 4.9 (a) shall remain in effect until such Defaulting Contributor shall have paid, in full and on the relevant due dates or within two (2) business days thereafter, all amounts required to be paid by such Defaulting Contributor to the CFA hereunder in respect of twelve (12) consecutive payment periods following such failure to pay. In the event security provided by a Defaulting Contributor to the CFA pursuant to this Section 4.9 (a) shall thereafter have been released and such Defaulting Contributor shall again default in making due and punctual payment of amounts due to the CFA hereunder, the provisions of this Section 4.9 (a) shall again be applicable in respect of any subsequent failure on the part of such Defaulting Contributor to make full and timely payment of amounts payable by such Defaulting Contributor to the CFA hereunder. The CFA shall, prior to requesting security, consult with the Chief Financial Officer of CPCC.
- (b) Security required of a Defaulting Contributor hereunder shall consist of readily realizable security, such as a deposit of cash or marketable securities, an irrevocable letter of credit or letter of guarantee issued by a Canadian chartered bank, an irrevocable performance bond issued by a Canadian issuer of performance bonds, or such other form of readily realizable security as may be satisfactory to the CFA, acting reasonably (a 'Credit'). The Credit shall be in form and substance satisfactory to the CFA and shall name the CFA, for and on behalf of the National Contribution Fund, as beneficiary. The Credit provided by a Defaulting Contributor hereunder shall be in a principal amount equal to the sum of the net amounts payable by such Required Contributor to the CFA in accordance with these Procedures in respect of the most recent three (3) payment periods preceding the due date of the payment that gave rise to the obligation of such Defaulting Contributor to provide security hereunder (or three times the net amount payable by such Defaulting Contributor in respect of the payment period preceding the due date of the payment that gave rise to the obligation of such Defaulting Contributor to provide security hereunder in the case of a Defaulting Contributor, which shall not have been at such time a Required Contributor hereunder for at least three payment periods, as the case may be), as determined in good faith by the CFA. Such Credit shall entitle the CFA, for and on behalf of the National Contribution Fund, to draw against the Credit, or to demand payment by the issuer of the

Credit, as the case may be, for any amount payable by such Defaulting Contributor to the CFA pursuant to these Procedures, up to the undrawn principal amount of the Credit. Partial drawings under any such Credit shall be permitted. The CFA shall be entitled to draw upon the Credit, in the case of a Credit issued by a third party, upon provision of a written statement of the CFA, addressed to the issuer of the Credit, as to non-payment of the corresponding amounts pursuant to the provisions of these Procedures by the Defaulting Contributor on whose behalf the Credit was issued, without any requirement that the CFA pursue or exhaust any remedies or recourses it may have against such Defaulting Contributor before being entitled to require payment under such Credit. Despite the foregoing, the CFA may not call for payment under any such Credit until the relevant amount, if in respect of contribution payable by such Defaulting Contributor to the CFA hereunder, has been overdue for not less than two (2) business days following the relevant due date. Promptly following the making of any such drawing or demand for payment under any such Credit, the CFA shall advise the Defaulting Contributor and the CRTC of the making of such drawing or demand for payment. Each Defaulting Contributor from whom a Credit is required pursuant to the provisions of these Procedures shall cause the Credit, or a replacement thereof satisfactory in form and in substance to the CFA, acting reasonably, to be maintained in force for so long as required by this Section 4.9.

- (c) A Defaulting Contributor required to provide a Credit hereunder shall arrange for an increase in the undrawn principal amount of the Credit provided by it or issued on its behalf hereunder in the event that the undrawn principal amount payable under any such Credit shall, at any time, be less than eighty-five percent (85%) of the sum of the net amounts payable by such Defaulting Contributor to the CFA in respect of the then most recent three (3) payment periods pursuant to these Procedures, as notified to such Defaulting Contributor by the CFA. Any such increase shall be for an amount sufficient to ensure that the undrawn principal amount of the Credit respecting such Defaulting Contributor's obligations hereunder shall not be less than the sum of the net amounts payable by such Defaulting Contributor to the CFA in respect of the then most recent three (3) payment periods. Each Defaulting Contributor shall cause the undrawn principal amount of any Credit provided by it or issued on its behalf hereunder to be so increased, or to otherwise post readily realizable security for performance of its obligations hereunder in form and substance satisfactory to the CFA, acting reasonably, within ten (10) business days of the undrawn principal amount of such Credit ceasing to be equal to at least eighty-five percent (85%) of the sum of the net amounts payable by such Defaulting Contributor to the CFA in respect of the then most recent three (3) payment periods pursuant to these Procedures. For the avoidance of doubt, in the event the CFA shall make a drawing or a demand for payment under a Credit in accordance with the provisions of these Procedures and, following the drawing or the payment by the financial institution or other party which issued such Credit, the then remaining undrawn balance of such Credit shall be less than the sum of the net amounts payable by the Defaulting Contributor on whose behalf the Credit has been issued to the CFA in respect of the then most recent three (3) payment periods, such Defaulting Contributor shall cause the undrawn principal amount of such Credit to be increased in accordance with this Section 4.9.

(d) In the event that the undrawn principal amount payable under any Credit issued on account of a Defaulting Contributor at any time shall be greater than the sum of the net amounts payable by such Defaulting Contributor to the CFA in respect of the then most recent three (3) payment periods pursuant to these Procedures, as notified to such Defaulting Contributor by the CFA in accordance with these Procedures, the Defaulting Contributor on whose behalf such Credit has been issued shall be entitled to request the CFA to consent, and the CFA shall consent, to the reduction in the undrawn principal amount payable under such Credit, such that the undrawn principal amount of the Credit respecting such Defaulting Contributor's obligations hereunder shall be not more than the sum of the net amounts payable by such Defaulting Contributor to the CFA in respect of the then most recent three (3) payment periods.

SECTION FIVE

Responsibilities of the CFA

5.1 The CFA is responsible for the operation of the National Contribution Fund, established by the CRTC pursuant to Decision 2000-745, in accordance with its contract with CPCC.

5.2 The CFA will establish a list of dates by January 10th of each year for the reporting of data and the receipt and disbursement of funds to and from the National Contribution Fund based on the following pattern:

Contribution and NAS reporting	28th day of the following month
CFA calculation of payments to recipients	+ 8 business days
Payer and Net Payer TSPs pay amounts due to the NCF	+ 7 business days
Recipients and Net Recipients receive their subsidy payments	+ 4 business days

The CFA may make subsidy payments to Recipients and Net Recipients earlier than the due date.

5.3 The CFA will establish and maintain a website for the reporting of all data related to the operation of the National Contribution Fund.

5.4 The CFA will prepare and maintain a TSP User Manual giving detailed instructions relating to the reporting of data and payments to and from the National Contribution Fund.

5.5 The CFA will maintain accurate records of all Required Contributors.

5.6 The CFA will deposit contribution monies received, together with any other monies received that relate to the operation of the National Contribution Fund (e.g., interest, penalties and late payment charges), in the bank accounts specified in the Bank Direction Documents and will record all such monies to the credit of the National Contribution Fund.

5.7 The CFA will provide a Payment and Receipt Advice to each TSP identifying the amount:

- a) to be paid to the National Contribution Fund;
- b) to be paid by the Fund to the TSP for subsidy;
- c) of contribution uncalled at the beginning of the month;
- d) of contribution uncalled this month;
- e) of uncalled contribution reclaimed this month;
- f) of contribution uncalled at the end of the month; and
- g) the date on which payment is due.

5.8 The CFA is authorized to deduct from the National Contribution Fund the CFA Payment as and when the CFA Payment is payable to the CFA. The CFA will also, from time to time, pay the Consortium Costs to the Consortium from the National Contribution Fund upon receipt by the CFA of certificate from an officer of the Consortium stating the amount and nature of the Consortium Costs in respect of the period specified in such certificate.

5.9 The following are priority charges on the NCF:

- a) CFA Payments;
- b) Consortium Costs;
- c) Subsidy payments to NWTel as prescribed by the CRTC;
- d) Subsidy payments to the small ILECs as prescribed by the CRTC;
- e) Unpaid subsidies to the remaining LECs relating to prior periods; and
- f) Any amount required to restore the NCF cash reserve to its minimum balance.

5.10 Subsidy payments to the remaining LECs for the current period will only be made to the extent that there is sufficient money remaining in the NCF, after payment of the priority charges described in Section 5.9, to pay all remaining LECs.

5.11 For each month, after payment of the priority charges for that month, the CFA will:

- a) Determine the remaining contribution amount, being the total amount credited to the NCF, including surpluses from prior periods and any interest and penalties earned, minus the priority charges;
- b) Determine the amount of the subsidy requirement due to each of the remaining LECs using the bands and rates per band approved by the CRTC from time to time;

- c) Determine the total calculated in b) above and compare it to the remaining contribution amount available calculated in a) above to determine whether there is sufficient money in the NCF to pay all of the subsidies determined in b) above;
- d) If pursuant to c) above, there is more due to be collected in contribution than paid in subsidy to the remaining LECs, then reduce each TSPs contribution pro rata;
- e) For each TSP whose contribution has been reduced, record the amount of the reduction as uncalled contribution and also calculate the total uncalled contribution to date;
- f) If pursuant to c) above, there is more subsidy to be paid to the remaining LECs than the contribution to be collected, then determine the additional contribution required and allocate that amount to each TSP pro rata on the sum of their contribution to date for the contribution year;
- g) Deduct from each TSP uncalled contribution, to the extent possible, the amount of any contribution being reclaimed;
- h) In the event that the additional subsidy required in excess of contribution is also in excess of the total of all uncalled contribution to date, take the amount of such excess from the NCF cash reserve;
- i) If, pursuant to h) above, there is sufficient money in the NCF, pay the subsidy amounts due to each of the remaining LECs;
- j) If, pursuant to h) above, there is insufficient money in the NCF, apportion the deficit to each of the remaining LECs by reducing the amount of subsidy due to each of these LECs in proportion to the overall deficit. For greater clarity, the calculation is represented as follows:

$$\begin{array}{rcccl} \text{Subsidy due} & & & & \\ \text{to a LEC} & \times & \frac{\text{National Subsidy Available}}{\text{National Requirement}} & = & \text{LEC Subsidy} \\ & & & & \text{Payable} \end{array}$$

- k) For each of the remaining LECs, the amount calculated in j) above will be included in their respective Payment and Receipt Advices. The Payment and Receipt Advices will also report the amount of unpaid subsidy payable to them; and
- l) Any unpaid subsidy or reduction in the NCF cash reserve below the minimum balance becomes a priority charge for the following month.

For the purposes of this section (5.11), subsidy includes all subsidy payable in a month including adjustments to subsidy mandated by the CRTC, unless the CRTC has prescribed another manner in which such adjustments to subsidy is to be paid or received by the NCF.

5.12 On or before the prescribed date, the CFA will distribute the subsidy amounts to the Eligible Recipients in accordance with the payment procedures set forth in the TSP User Manual.

- 5.13 The CFA will provide monthly a report to the CRTC of Required Contributors that fail to report or pay by the due date. Further, the CFA will provide a report to the Chief Financial Officer of CPCC of Required Contributors that fail to report or pay within 15 business days of the due date. Upon the occurrence of a Required Contributor not reporting or paying by the due date, the CFA will proceed, with the direction of CPCC, in accordance with Section 11.01 of the National CFA Agreement. This process will not affect the obligation of such delinquent Required Contributor to provide security to the CFA, in accordance with the provisions of Section 4.9 or the right of the CFA to realize upon security so provided.
- 5.14 Late payments to the NCF will be subject to Late Payment Charges applied to any amounts in default commencing on the relevant due date and compounded monthly. Late payment charges received by the CFA will be processed through the NCF in the month that the charges are received.
- 5.15 The CFA will hold all information received by it, pursuant to these Procedures, in confidence, in accordance with the provisions of Section 10.06 of the National CFA Agreement. Notwithstanding this, the CFA will report on a total basis for the entire National Contribution Fund:
- the amount of surplus or deficit;
 - the total of the revenues and deductions from revenues prescribed by the CRTC on the Reporting Form For The Calculation Of The Contribution-Eligible Revenues;
 - total contribution into the NCF;
 - total expenses of the NCF (including but not limited to the CFA service fee, CFA administration expenses and CPCC expenses);
 - total disbursements to those companies that are entitled to a predetermined amount of subsidy; and
 - total disbursements to Eligible Recipients that receive subsidy on a per NAS basis.

The CFA may also report to the CRTC, in confidence, any information requested by the CRTC.

- 5.16 The CFA may also on its own initiative report in confidence to the CRTC:
- any apparent discrepancy in the information reported to it; and
 - any situation where information has not been reported that might reasonably be expected to have been reported.
- 5.17 The CFA will, on its own initiative, request from CPCC clarification of issues related:
- to the overall operation of the NCF;

- to clarifying the correct operation of the NCF; and
- to reporting any apparent discrepancy in the operation of the NCF.

5.18 The CFA will report to the CRTC, on a quarterly basis, the status of the National Contribution Fund.

5.19 At the end of each calendar year, the CFA will identify to each contributing company its share of the operating expenses, GST/HST, interest earned and miscellaneous items (e.g., late payment charges) related to the operation of the NCF. The allocation of each of these items to a company will be determined by multiplying each item by that company's total contribution payments for the year and dividing by the total contribution payments by all companies for that year. The remainder of a company's contribution will be deemed to be contribution to subsidy. The CFA will provide a report to each contributor of the allocation of their payments into the NCF between operating expenses, GST/HST, interest earned, miscellaneous items and contribution to subsidy.

SECTION SIX

Changes to the Revenue-Percent Charge or Subsidy Amounts Payable

- 6.1 The CRTC will, from time to time and pursuant to Decision 2000-745, determine and announce a final Revenue-Percent Charge. The CRTC will also determine and announce the subsidies payable for a particular TSP, either as a rate per residential NAS or as a fixed amount.
- 6.2 The CFA will provide to each Required Contributor contributing to the National Contribution Fund a calculation of the adjustment to the amount paid by such Required Contributor for the period from the beginning of the year to the month immediately prior to the implementation of the new Revenue-Percent Charge for the year.
- 6.3 The CFA will also provide to each TSP entitled to a subsidy from the National Contribution Fund a calculation of the adjustment to its subsidy for the period covered by the adjustment.
- 6.4 The CFA will process the changes directed by the CRTC as soon as reasonably possible and in any case within 45 days of a Commission Decision. The CFA will advise TSPs of the dates on which these adjustments will be processed. In the event of an exceptional circumstance such that the CFA is unable to process the changes within 45 days, the CFA may apply to CPCC for an extension giving the reasons for such extension. If CPCC agrees to an extension, the CFA will then have the extended period in which to process the adjustments.
- 6.5 To ensure the orderly administration of the NCF, of the Commission's Decision and to ensure that no TSP gains an unfair advantage, a TSP may not deduct the adjustment from its contribution payment prior the adjustment being posted to their account by the CFA. Changes to the amount payable by a TSP prior to the dates announced by the CFA will be considered a default.

SECTION SEVEN

Audit and Affidavit Requirements of TSPs to the NCF Auditor

- 7.1 Each Required Contributor shall file a report with the auditor of the National Contribution Fund on or before May 31 of each year, showing the total Contribution-Eligible Revenue for the immediate prior calendar year, in the same format as that used for the filing of this information on a monthly basis, together with a report in accordance with section 7.2.
- 7.2 Required Contributors with \$100 million or more of annual Contribution-Eligible Revenues, measured on a consolidated basis with TSPs that are Related Parties of the Required Contributor, are required to file an audit report with the NCF Auditor attesting to the accuracy of the information provided. Required Contributors with less than \$100 million of annual Contribution-Eligible Revenues, measured on a consolidated basis with TSPs that are Related Parties of the Required Contributor, may provide an affidavit, signed by two officers of the company, one of those officers being the chief financial officer (or equivalent in the absence of a chief financial officer), attesting to the accuracy of the information provided.
- 7.3 Each Eligible Recipient, with the exception of those LECs that are to receive a predetermined amount of subsidy, that receives \$0.5 million or more of subsidy in a year calculated on the basis of Eligible NAS shall file an audit report with the auditor of the National Contribution Fund on or before May 31 of each year, showing the total Eligible NAS by band based on the actual NAS per band for each month of the immediate prior calendar year, in the same format as that used for the filing of this information on a monthly basis. Each Eligible Recipient that receives less than \$0.5 million of subsidy in a year calculated on the basis of Eligible NAS shall provide an affidavit, signed by two officers of the company, one of those officers being the chief financial officer (or equivalent in the absence of a chief financial officer), attesting to the accuracy of the information provided.
- 7.4 Audit reports will be prepared in accordance with Generally Accepted Auditing Standards as defined by the Canadian Institute of Chartered Accountants by an external auditor and based on either Section 805 of the Canadian Auditing Standards or 9100 of the Handbook of the Canadian Institute of Chartered Accountants. Where a reporting TSP is incorporated in a country other than Canada, the audit should be conducted in accordance with the applicable auditing standards of that country.
- 7.5 In the event that a NAS audit is being conducted under Section 9100 of the Handbook of the Canadian Institute of Chartered Accountants, the procedures must include a verification that the NAS assigned to a particular band for subsidy claim are in wire centres or exchanges that are assigned to that same band in tariffs approved by the Commission.
- 7.6 This audit report, or affidavit, is to be on a non-consolidated basis, but a related group of TSPs may file on a consolidated basis. If the audit report is on a consolidated basis, it must be accompanied by an individual report for each TSP subject to the contribution regime established by the CRTC in Decision 2000-745.

- 7.7 The auditor will give his opinion on whether the annual report of Contribution-Eligible Revenues and, where applicable, Eligible NAS by band are presented fairly in accordance with the definitions approved by the CRTC for the preparation of these reports.
- 7.8 A sample affidavit is contained in Appendix 2 of these Procedures.
- 7.9 Failure to adhere to the filing dates for audited financial information and affidavits causes additional administrative costs, is disruptive to the orderly administration of the contribution regime and risks the loss of contribution that otherwise would be due. Accordingly, on being informed by the NCF Auditor that a Required Contributor is late with such filing, the CFA may assess such Required Contributor costs of up to \$1,000 per month. Assessed costs will be deposited by the CFA in the bank account of the National Contribution Fund. In the event of persistent late filing by a Required Contributor or the continued absence of a required filing, the NCF Auditor will refer the situation to CPCC who may then recommend to the Commission that it exercise its powers under section 24 of the *Telecommunications Act* to impose conditions on such Required Contributor relating to its continued offering and supply of telecommunications services.

**CRTC REVENUE-BASED CONTRIBUTION REGIME
ANNUAL REVENUE REPORT FORM
FOR THE CALCULATION OF CONTRIBUTION-ELIGIBLE REVENUES**

Area A: Company identification

- A.1 Legal name of entity
- A.2 Name under which the telecommunications service provider (TSP) carries on business
- A.3 List of related TSPs (provide separate list if required)

Area B: Contact information

- B.1 Person who completed this form
- B.2 Title of position
- B.3 Telephone number
- B.4 Fax number
- B.5 Email address

Area C: Reporting year information - Attach copy of relevant financial statements

- C.1 Reporting year
- C.2 Fiscal year end

Area D: Calculation of Contribution-Eligible Revenues

- D.1.A Total Operating Revenues reported in financial statements
- D.1.B Add deductions from revenues
- D.1 Total Operating Revenues for contribution purposes
- LESS
- D.2 Non-Canadian Revenues
- D.3 Canadian Non-Telecommunications Revenues
- D.4 Canadian Telecommunications Services Revenues
(D.1-D.2-D.3)
- LESS
- D.5 Contribution payments received
- D.6 Inter-carrier payments
- D.7 Retail Internet Service Revenues
- D.8 Retail Paging Service Revenues
- D.9 Terminal Equipment Revenues
- D.10 Non-Contribution-Eligible Revenues eliminated from those bundles to which both contribution-eligible and non-eligible revenue are attributed
- D.11 Subtotal D.5+D.6+D.7+D.8+D.9+D.10
- ADD
- D.12 Contribution-Eligible Revenues on package discounts
- D.13 Contribution-Eligible Revenues D.4-D.11+D.12

CRTC REVENUE-BASED CONTRIBUTION REGIME
REPORTING FORM FOR NON-CONTRIBUTION-ELIGIBLE REVENUES

Provide details of Non-Canadian Revenues claimed on Line D.2, Canadian Non-Telecommunications Revenues claimed on Line D.3 and Non-Contribution-Eligible Revenues removed from bundles claimed on Line D.10 of the Annual Reporting Form.

Note: Not required to be filed monthly with the Central Fund Administrator.

- Annual Revenue Report form line number
- Type of service/Product
- Associated revenues
- Total by Annual Revenue Report form line number

Signature _____

Date _____

CRTC REVENUE-BASED CONTRIBUTION REGIME
REPORTING FORM FOR INTER-CARRIER PAYMENTS

Provide the following details of the Inter-carrier payments claimed on Line D.6 of the Annual Reporting Form. Add additional forms as required.

Note: Not required to be filed monthly with the Central Fund Administrator.

- Supplier
- Services purchased
- Expense
- Total

Signature _____

Date _____

SAMPLE AFFIDAVIT

**IN THE MATTER OF REPORTING OF CONTRIBUTION-ELIGIBLE
REVENUES FOR THE PURPOSES OF CALCULATING CONTRIBUTION
UNDER DECISION CRTC 2000-745**

I, _____ (individual's name), OF THE _____
(City/Town, etc.) OF _____ MAKE OATH AND SAY AS FOLLOWS:

1. I have personal knowledge of the matters hereinafter deposed to except where stated to be based on information and belief and where so stated I verily believe the same to be true.
2. As of the date of this Affidavit, I am _____ (corporate title) of the telecommunications service provider (TSP) _____ (provide legal name of corporation), a company that carries on business as _____ (where applicable).
3. Attached as Exhibit(s) 'X' to this my affidavit is the Annual Reporting Form, and supporting financial information and reports, of _____ (legal name of telecommunications service provider) filed with the Commission in accordance with its obligations pursuant to *Changes to the contribution regime*, Decision CRTC 2000-745, 30 November 2000 (Decision 2000-745).
4. The Annual Reporting Form and supporting financial information and reports, attached as Exhibit(s) 'X', are in compliance with the determinations, procedures and guidelines of the Canadian Radio-television and Telecommunications Commission ('CRTC') as set out in Decision 2000-745, Orders CRTC 2001-220 and 2001-221, Telecom Decision CRTC 2002-35, and any other subsequent procedures or directions issued or approved by the CRTC from time to time.
5. The information contained in Exhibit(s) 'X' is accurate and true.

SWORN BEFORE ME

at the City of _____

in the Province of _____

this ____ day of _____ 20XX.

(Signature of affiant)

(a Commissioner, etc.)

AFFIDAVIT NOTE: All TSPs filing unaudited financial statements must provide an affidavit signed by two officers of the company, with one being the chief financial officer.