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Via email: procedure@crtc.gc.ca

Ms. Diane Rhéaume
Secretary General
Canadian Radio-television and
Telecommunications Commission
Ottawa, Ontario
K1A 0N2

Dear Ms. Rhéaume:

Re: Aliant Telecom Inc. and Bell Canada Part VII Application – Application to revise the *Telecommunications Fee Regulations, 1995*

1. Rogers Communications Inc. (“Rogers”) is in receipt of the above-noted Application filed by Aliant Telecom Inc. and Bell Canada (“The Companies”), requesting revisions to the current regulations regarding telecommunications fees and the basis on which such fees are paid, the imposition of financial penalties on the Commission should regulatory service standards not be met and various other reviews of matters that The Companies believe are related to the general issue of telecommunications fees. Rogers does not support the proposals advanced by The Companies in its Application and submits the following comments.

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Request to Review CRTC Cost Structure and Freeze Telecom Fees at 2005-06 Level

2. The Companies request that the Commission “undertake a review of its cost structure and commit to reducing activities which do not contribute to the objectives of the *Telecommunications Act*.”¹ Rogers submits that the CRTC is acutely aware of its responsibilities to regulate in an efficient manner and does not pursue activities that do not contribute to the objectives of the *Telecommunications Act*. The mere fact that total costs are increasing does not mean that the Commission is not operating in an efficient manner.
3. The last several years have been marked by intensive activity in the telecommunications side of the Commission. The Companies should be aware of these activities as many of them have occurred at their direct request, or as a result of their actions. For example, the recently concluded Local Forbearance proceeding was initiated by Aliant’s request for relief from the requirements to file local service tariffs. Similarly the lengthy proceedings into Quality of Service standards for the ILECs’ retail and competitor tariffed services have imposed a significant workload on the Commission as have various proceedings associated with ILEC violations of various bundling and winback prohibition rules.
4. Further the Commission expended considerable incremental resources in preparing its submissions to the Telecom Policy Review. Currently, Rogers is aware that the Commission has a number of working groups involved in reviewing the TPR recommendations and working towards potential implementation of certain of the recommendations either unilaterally and in conjunction with external bodies such as the Competition Bureau.

¹ The Companies Application, May 26, 2006. at para. 46.

5. Therefore, it is neither surprising nor disturbing to Rogers that the rate of increase in costs has exceeded the increase in the general Consumer Price Index.
6. The Companies compare the increase in fees to “the efficiency reduction that the Commission places on incumbent local exchange carriers through the price cap regime (i.e., a productivity factor of 3.5% per year)”.² This comparison is misleading as the productivity factor applies to a unit of work not to the overall quantum. In other words, if the overall workload of the Commission were to increase by 13.5%, the total quantum of costs of the Commission would increase by 10% including a 3.5% productivity factor. Put simply, efficiencies do not guarantee fees reductions.
7. Moreover, the comparison ignores the fact that, independent of workload levels, the price cap regime also recognizes that costs will increase generally in line with the GDP-PI. For the most recent year, the ILECs are subject to a per unit price decrease on price capped services, on average, of 0.39% (I-X, 3.061% - 3.5%)
8. Rogers submits that none of the three items raised by The Companies in paragraph 10 provide any support for allegations that the Commission has operated in an inefficient manner. Consequently, there is no justification for the four requests contained in paragraph 46 and they should be denied. In this regard, Rogers notes that PN 2006-7 has already announced the level of Telecom fees for the 2006-2007 fiscal year.

² The Companies Application, May 26, 2006. at para. 10.

9. In paragraph 15, The Companies state:

“The Commission has indicated that its new accelerated tariff approval process has reduced the average time to dispose of retail tariff applications by 50%.³ If the Commission’s telecommunications related costs were truly driven by tariff items, then a material reduction in telecommunications fees would be expected as a result of this process improvement. Such a reduction has not materialized, and in fact, telecommunications fees are expected to increase significantly in the coming year.⁴”

This reasoning makes no sense. Disposing of tariffs more quickly takes more resources, not less. The requirement to dispose of tariffs more quickly would therefore be expected to raise the CRTC’s costs, not reduce them.

Request to Apply Service Standards to CRTC with Penalties for Substandard Performance

10. The Companies submit that:

“consistent with Treasury Board principles, and adopting the User Fees Act as a guide, the Commission should consult with industry to establish measurable service standards with regards to its activities, and publish the results of the Commission’s performance with regards to these standards on a quarterly basis. Further, a mechanism for remedial action should be established in the event service standards are unmet. Such an approach will facilitate regulatory transparency and equity, reduce the regulatory harm caused to telecommunications fee payers, and contribute to the stability of telecommunications markets.”⁵

As noted by The Companies the Commission has recently undertaken a review of the regulatory reporting required by each carrier, soliciting the input of industry

³ CRTC Accomplishments 2005-2006, p. 13.

⁴ CRTC staff estimate.

⁵ The Companies Application, May 26, 2006. at para. 45.

participants.⁶ In addition, again as noted by The Companies “the Commission has made efforts recently to establish service standards for determinations regarding tariff filings. These standards have accelerated tariff approval intervals, increased regulatory transparency, and contributed to market certainty.”⁷ Further, the Commission has established and reported on certain service standards as described in Decision 2002-34.⁸ Rogers submits that the Commission has been diligent in establishing service standards where appropriate.

11. Rogers submits that to go further as requested by The Companies is inappropriate. As the CRTC is a regulatory body, many of its activities are unpopular with the incumbent telephone companies. A principal role of the regulator is to constrain monopoly behaviour. The ILECs, of course, would be pleased to see these activities eliminated in the name of costs savings or under the guise of the Partnership and Efficiency principles of the Treasury Board in regard to User Fees. This would be inappropriate. For example, the fact that the ILEC's are not demanding certain regulatory services has no bearing on whether the regulatory activity is appropriate.

12. The Companies submit that “In the event that standards are consistently not met, it would be appropriate for the Commission to develop a remedial action plan and to implement a financial relief mechanism for fee payers.”⁹ Rogers finds this proposal preposterous. Even if the proposal made sense on a theoretical basis which it does not, it does not require much imagination to see the administrative quagmire in implementing it. For example, who has caused a delay when the CRTC and potentially other Interested Parties consider an ILEC interrogatory

⁶ Commission letter, 21 February 2006.

⁷ The Companies Application, May 26, 2006. at para. 32.

⁸ Telecom Decision CRTC 2002-34, *Regulatory framework for second price cap period*, at paragraph 1017.

⁹ The Companies Application, May 26, 2006. at para. 35.

response to be incomplete and must request further information and, on the other hand, the ILEC thinks the response was complete?

13. Rogers submits that costs would increase as resources were spent to monitor and document the chronology of every activity. Who would track requests for delay? How would the Commission deal with the impact of unanticipated Part VII requests that require the re-allocation of resources that, in turn, cause delays in other activities? For example, how could the CRTC have foreseen that it would be dealing with another Part VII concerning Bell's latest Winback card when it had within the past three months ruled that the original card was a violation?
14. Bluntly put, the CRTC's activities cannot be reduced to an industrial process that is amenable to cost accounting variance analysis.
15. For all these reasons, Rogers submits that the requests contained in paragraph 45 of the Application should be denied.

Request to Alter the Telecom Fees Allocation Methodology

16. The Companies have requested that "telecommunications fees [would] be payable by all telecommunications service providers and on a consistent base of revenues, i.e.. their total Canadian Telecommunications Service Revenues (CTSR)."¹⁰ Rogers does not support this request.
17. The current regulations require Canadian carriers that file tariffs to pay telecom fees. As noted by The Companies, the determination that "only tariff filing companies should bear the costs of the Commission's activities was made at a

¹⁰ The Companies Application, May 26, 2006. at para. 44.

time when the Commission considered that its telecommunications regulatory cost drivers would consist of, in large part, oversight of regulated services.”¹¹

This remains the case today.

18. The basis for Commission activity in the telecommunications sector is the need for regulation in the face of market failure. Regulation is applied through tariffs that impose the necessary regulatory constraints and obligations.
19. The Companies argue that “in 2005 the Commission devoted considerable effort to several major proceedings which were not related to tariffs, e.g., VoIP regulation, extension of the price cap framework, establishment of a framework for the forbearance of local exchange services and disposition of deferral account funds.”¹² Rogers submits that all of these activities are related to tariffs; the need to tariff the ILECs and the appropriate level of tariffs. Each of these proceedings dealt specifically with the regulated local services of the ILECs and tariffs for these services.
20. The Companies appear to argue that only activities that are labeled as tariff applications are associated with tariffs. This is incorrect. As noted in paragraph 18 above, the most important tariff issues of the past year have been dealt with in specific proceedings.

¹¹ The Companies Application, May 26, 2006. at para. 12.

¹² The Companies Application, May 26, 2006. at para. 13.

21. For all these reasons, Rogers submits that the requests contained in paragraph 44 of the Application should be denied.

Conclusion

22. For the reasons described in the above paragraphs, Rogers respectfully submits that the Commission should deny all requests in The Companies Application.

Yours very truly,



Ken Engelhart
Vice President - Regulatory

Copy: Richard A. Stephen - Aliant
Michael MacInnis - Bell Canada

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