

27 April 2007

Via e-pass

Mr. Robert Morin
Secretary General
Canadian Radio-television and
Telecommunications Commission
Ottawa, ON
K1A 0N2

Dear Mr. Morin:

Re: Telecom Public Notice CRTC 2007-5 (PN 2007-5) – *Incumbent local exchange carrier applications for local forbearance – Methodology to be used where quality of service (Q of S) results are excluded for purposes of the competitor Q of S rate rebate plan*

1. Pursuant to paragraph 8 of PN 2007-5, Cogeco Cable Inc., Quebecor Media Inc., Rogers Communications Inc. and Shaw Communications Inc., (collectively the Competitors) submit their comments with respect to the above-referenced issue.
2. This proceeding will determine what the Commission should do when an ILEC applies for local forbearance and the Commission has approved an exclusion, for rate rebate plan (RRP) purposes, of results of one or more competitor Q of S indicators for one or more months of the six-month period that the ILEC has used to demonstrate that it met, on average, the standards for each of the specified competitor Q of S indicators.
3. The PN invites comments on two specific approaches to the issue described in paragraph 7. The Competitors submit that the approach described in part a) appropriately addresses the issue while the approach described in part b) is deeply flawed and inappropriate.
4. Achieving the Competitor Quality of Service (CQoS) indicators is a fundamental requirement for a successful competitive local telecommunications market.
5. The approach described in part a) would appropriately require the ILEC to meet the CQoS indicators for a six month period. Both the Commission in its Local Forbearance Decision (2006-15) and the Governor in Council (GIC) April 4th Order Varying Telecom Decision 2006-15, P.C. 2007-0532 (the Order) have determined that the ILECs must pass the CQoS indicators for a six month period to fulfil the CQoS tests.
6. In contrast, the approach described in part b) would allow the ILECs to achieve forbearance even in cases where they have not met the CQoS indicators for a six month period. This would violate both Decision 2006-15 and the Order.

7. A simple example will suffice to explain why the part b) approach is inappropriate. If an ILEC had never succeeded in meeting a CQoS indicator prior to the time period included in its forbearance application, yet succeeded in excluding four months of data from its application due to an exclusion event, then the part b) approach would allow the ILEC to achieve forbearance based on only two months of satisfactory QoS performance. In these circumstances, the ILEC will not have proven that it can meet the standard on average for six months. In such an instance forbearance should not be granted because both the CRTC Decision and the Order require that a six-month test be passed.
8. In conclusion, the Competitors submit that the Commission should consider the six-month period used by the ILEC in its local forbearance application, replacing the excluded indicator(s) in a given month with an indicator (or indicators) from earlier or later permissible non-excluded months (e.g. if four months of the six-month period used by the ILEC in its local forbearance application are excluded for a particular indicator, the Commission should consider competitor Q of S results for that indicator for the two months that are not excluded, as well as four other non-excluded months before or after that six-month period).

Yours very truly,



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Copy: Interested parties to Telecom PN CRTC 2005-2

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