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July 27, 2009

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

Dear Mr. Morin:

Re: **Applications for forbearance from the regulation of residential local services in various exchanges in Alberta and British Columbia - Commission File No. 8640-T66-200909319 - Reply Comments of TELUS Communications Company**

1. TELUS Communications Company (“TELUS” or the “Company”) is in receipt of letters from each of Shaw Telecom Inc. (“Shaw”), Rogers Communications Inc. (“Rogers”), MTS Allstream Inc. (“MTS Allstream”) and Bell Mobility Inc. (“Bell Mobility”) filed with respect to TELUS’ Application for forbearance from the regulation of residential local exchange services in the exchanges of Morinville and Namao in Alberta and the exchanges of Aspen Park, Dallas, Falkland, Lumby, Naramata, and Westsyde in British Columbia (the “Application”).
2. In their respective letters, Shaw, Rogers and Bell Mobility have each confirmed that their cable or wireless services, as applicable, are capable of serving 75% of the residential local exchange services lines that TELUS is capable of serving in the exchanges of Morinville and Namao in Alberta and in the exchanges of Aspen Park, Dallas, Falkland, Lumby, Naramata and Westsyde in British Columbia. As a result, TELUS has satisfied the first of the two criteria required for residential local exchange forbearance as set out in the *Forbearance from the regulation of local exchange services*, Telecom Decision CRTC 2006-15 (“Decision 2006-15”),

as varied by the Governor-in-Council in *Order Varying Telecom Decision 2006-15*, P.C. 2007-0532 (the “Order in Council”).

3. In the remainder of this Reply, TELUS responds to allegations made by Shaw and MTS Allstream regarding competitor quality of service (“CQoS”) indicator 1.19, Confirmed Due Dates Met – CDN Services and Type C Loops (“Indicator 1.19”). The failure of TELUS to respond to any particular statement made by any party in this Reply should not be construed as TELUS’ agreement with or acceptance of such statement.

### **Reply to Shaw’s comments**

4. In its letter dated July 7, 2009, Shaw claims that TELUS has failed to meet the forbearance criterion related to CQoS indicators set out in Decision 2006-15, as varied by the Order in Council. In particular, Shaw claims that “over a six month period TELUS has failed to meet the [quality of service] service levels for Indicator 1.19 in relation to CDN service orders placed by Shaw.”<sup>1</sup> Shaw further claims that “TELUS has not, on average, ever met the QoS service level for Indicator 1.19 in relation to Shaw”<sup>2</sup>
5. Shaw has incorrectly interpreted and applied the forbearance criteria from the Order in Council relating to the ILEC’s CQoS results. The CQoS criterion from the Order in Council requires that the ILEC meet “on average, the quality of service standard for each indicator”<sup>3</sup> for all competitors, and that the ILEC “did not consistently provide any of those competitors with services that were below those quality standards.”<sup>4</sup>
6. TELUS’ CQoS results show that TELUS has met the criterion for local exchange forbearance in relation to the CQoS standards provided to all competitors, including the results for Indicator 1.19. For the six-month period from December 2008 to May 2009, TELUS’ average for Indicator 1.19 for all competitors is

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<sup>1</sup> Shaw’s reply comments, paragraph 3.

<sup>2</sup> Shaw’s reply comments, paragraph 4.

<sup>3</sup> Decision 2006-15, as varied by the Order in Council, paragraph 242(b)(i).

<sup>4</sup> Decision 2006-15, as varied by the Order in Council, paragraph 242(b)(ii).

- 94%.<sup>5</sup> As a result, TELUS' six-month average for Indicator 1.19 for all competitors met the quality of service standard of 90% or more.
7. Regarding the CQoS results specific to Shaw, the specific results for an individual indicator for one competitor are themselves not determinative of the forbearance CQoS criterion. TELUS notes that in *Bell Canada - Applications for forbearance from the regulation of residential local exchange services*, Telecom Decision CRTC 2007-65 ("Decision 2007-65"), the Commission established that to make a determination about the quality of service provided to an individual competitor, the Commission, as a general guideline, would have to find that an ILEC has provided below-standard service to that competitor for at least two-thirds of the individually reported numbers, where each reported number is one indicator's result for one month.<sup>6</sup> For the period of December 2008 to May 2009, TELUS has provided Shaw at or above-standard service in over 80% (15 out of 18 indicators) of the individually reported numbers, even on a monthly basis, results that are well above the Commission's established guideline.<sup>7</sup>
  8. Although TELUS did not meet the average of 90% or more for Indicator 1.19 for Shaw's six-month CQoS results, it is important to examine the details for Indicator 1.19. In particular, for the six-month period from December 2008 to May 2009, TELUS' failure to achieve the 90% standard results from the fact that there were a very small number of CDN orders from Shaw. Over the six-month period, TELUS missed the standard by only four orders. This equates to less than one missed order per month. Generally, Shaw has a very low number of CDN orders per month, meaning that TELUS' results for Indicator 1.19 specific to Shaw are subject to high variability depending on the results for each individual order.
  9. Finally, Shaw also stated that TELUS has disregarded the Commission staff direction to inform the competitor as to the specific basis of a no facilities response on a CDN order.<sup>8</sup> TELUS submits that following the Commission staff letter dated January 15, 2009, the Commission staff, in a letter dated April 27,

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<sup>5</sup> See worksheet titled "SummAll" contained in Appendix 3 (abridged) to TELUS' Application.

<sup>6</sup> Decision 2007-65, paragraph 24.

<sup>7</sup> See worksheet titled "Shaw" contained in Appendix 3 (abridged) to TELUS' Application.

<sup>8</sup> Shaw's reply comments, paragraph 5.

2009, stated that “[g]iven the different suggested interpretations of a “no facilities available” situation, Commission staff is re-opening the process initiated by the MTS Allstream application dated 18 December 2008.”<sup>9</sup> TELUS submits that after it became apparent to Commission staff that the scenarios proposed by MTS Allstream, for which no facilities should not be claimed, were not as clear as MTS Allstream had stated in its Part VII application, the Commission had no alternative but to re-open MTS Allstream’s Part VII application.

10. Until the Commission issues its determination regarding MTS Allstream Part VII application, and provides clear directions on which circumstances meet the requirements for no facilities claim, it would be inefficient for TELUS, or any other party, to make changes to its internal process to potentially have to modify the same process following the Commission’s determination on the matter.
11. In any event, how TELUS communicates issues related to no facilities to its customers is outside the local exchange forbearance framework, and cannot be considered by the Commission for the determination of local exchange forbearance. The CQoS criterion requires the Commission to determine if TELUS has met, on average, the quality of service standard for each indicator and that TELUS did not consistently provide any of those competitors with services that were below those quality standards. To inform the competitors with the reason for no facilities claim is not a condition under the local forbearance framework and does not give the Commission any basis upon which to deny the local exchange forbearance applications.
12. Therefore, TELUS reiterates that it has met the second element of the CQoS forbearance criteria because TELUS did not consistently provide Shaw, or any other competitors, with services that were below the quality of service standards for the six-month period ending May 2009. As a result, Shaw’s requests should be denied.

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<sup>9</sup> Commission staff letter, paragraph 10.

## Reply to MTS Allstream's comments

13. In its comments dated July 8, 2009, MTS Allstream suggests that “TELUS has never been compliant with the measurement of Indicator 1.19...”.<sup>10</sup> In reply, TELUS submits that its CQoS results have been calculated in good faith and in accordance with processes that have been accepted by the Commission for past periods.<sup>11</sup> There is no justification for MTS Allstream’s claim that TELUS is not compliant.
14. In any event, TELUS submits that any modification, if required, to its CQoS procedures relating to Indicator 1.19 should be implemented following the Commission’s determination relating to MTS Allstream’s Part VII application on Indicator 1.19. TELUS submits that if the Commission were to decline to assess forbearance applications on their own, and as a separate process from MTS Allstream’s Part VII application, it would be giving merit to MTS Allstream’s views of TELUS’ CQoS procedures without any evidence to support these views. Until the Commission makes its determination regarding MTS Allstream’s Part VII application, current processes regarding the calculation of the CQoS indicators must be deemed to be correct, and any determinations from that Part VII application must be applied on a forward basis. To do otherwise would be inconsistent with past determinations made by the Commission on forbearance applications.
15. MTS Allstream further submits that the CQoS results filed by TELUS in support of its Application for forbearance from the regulation of local residential exchange services do *not* meet the established CQoS standards for Indicator 1.19”<sup>12</sup>[emphasis in original]. In response, TELUS submits that for the six-month period from December 2008 to May 2009, TELUS has exceeded met or exceeded all of MTS Allstream results for CQoS Indicator 1.19 as well as exceeding, on average, with an overall result of 94%. Therefore there is no basis for MTS Allstream’s claim.

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<sup>10</sup> MTS Allstream’s comments, paragraph 5.

<sup>11</sup> Application, paragraph 18.

<sup>12</sup> MTS Allstream’s comments, paragraph 7.

16. TELUS submits that MTS Allstream's request should be denied because TELUS has indeed met, on average, the quality of service standard for each indicator and that TELUS' current processes regarding the calculation of Indicator 1.19 are correct. In addition, any modification that the Commission may propose to Indicator 1.19 following MTS Allstream's Part VII application, should be implemented on a forward basis, otherwise it would result in an unworkable situation. Finally, MTS Allstream has not provided any basis to deny TELUS' applications for forbearance in Alberta and British Columbia.

### **Conclusion**

17. In conclusion, TELUS submits that Shaw's and MTS Allstream's submissions relating to TELUS' CQoS results are flawed and inconsistent with the Commission's determinations in Decision 2006-34<sup>13</sup> and Decision 2007-65.
18. As a result, based on the evidence filed in TELUS' application in Alberta and British Columbia and the confirmations from each Shaw, Rogers and Bell Mobility regarding their respective service capabilities, TELUS submits that it has met the criteria for residential local exchange forbearance as provided in Decision 2006-15, as varied by the Order in Council. Therefore, TELUS requests that the Commission proceed expeditiously with its review and approval of its forbearance applications.

Yours truly,

*{original signed by Ted Woodhead}*

Ted Woodhead  
Vice President  
Telecom Policy & Regulatory Affairs

MD/cs

cc: Interested parties to Decision 2006-15  
Mario Bertrand, CRTC  
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<sup>13</sup> *Follow-up to Finalization of quality of service rate rebate plan for competitors, Telecom Decision CRTC 2005-20 - Service intervals for provisioning CDN services and Type C loops, Telecom Decision CRTC 2006-34.*