



Telecom Decision CRTC 2006-9

Ottawa, 16 February 2006

Disposition of funds in the deferral accounts

Reference: 8678-C12-200402313 and 8678-B2-200318049

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In this Decision, the Commission determines the guidelines for the disposition of funds remaining in the deferral accounts for the following incumbent local exchange carriers (ILECs): Aliant Telecom Inc., Bell Canada, MTS Allstream Inc., Saskatchewan Telecommunications, TELUS Communications Inc., Société en commandite Télébec (Télébec), and TELUS Communications (Québec) Inc. (collectively, the ILECs).

The Commission determines that initiatives 1) to expand broadband services to rural and remote communities and 2) to improve accessibility to telecommunications services for persons with disabilities are appropriate uses of funds in the deferral accounts.

The Commission considers that expanding broadband services into rural and remote communities will enhance their social and economic development, and is an effective way to reduce the disparity that exists with urban communities.

The Commission considers that accessibility to telecommunications services for persons with disabilities is an important public policy objective and that using funds from the deferral accounts will help provide telecommunications services to these Canadians without discrimination.

The Commission directs the ILECs (except Télébec) to file their proposals for these initiatives by 30 June 2006.

The Commission considers that to ensure that funds do not continue to accumulate in the deferral accounts, the ILECs (except Télébec) will be required to implement rate reductions. The Commission directs these ILECs to file, by 15 May 2006, proposed rate changes to monthly primary exchange services and optional services for residential subscribers in non-high-cost serving areas.

The Commission anticipates that Télébec will have a recurring shortfall in its deferral account and sets out directions to address this shortfall.

Finally, the Commission determines the methodology to calculate the balances in the deferral accounts and provides preliminary estimates of the ILECs' deferral account balances. The Commission directs each ILEC to file, by 15 May 2006, an updated deferral account schedule.

A dissenting opinion of Commissioner Cram is attached.

Background

1. In *Regulatory framework for second price cap period*, Telecom Decision CRTC 2002-34, 30 May 2002 (Decision 2002-34) and *Implementation of price regulation for Télébec and TELUS Québec*, Telecom Decision CRTC 2002-43, 31 July 2002 (Decision 2002-43) (collectively, the price cap decisions), the Commission set out the price regulation frameworks that apply to the following incumbent local exchange carriers (ILECs): Aliant Telecom Inc. (Aliant Telecom), Bell Canada, MTS Communications Inc. (MTS Allstream),¹

¹ MTS Communications Inc. became known as MTS Allstream Inc. during the course of this proceeding and will be referred to as MTS Allstream throughout this Decision.

Saskatchewan Telecommunications (SaskTel), TELUS Communications Inc. (TCI), Société en commandite Télébec (Télébec), and TELUS Communications (Québec) Inc. (TELUS Québec)² (collectively, the ILECs).

2. In the price cap decisions, the ILECs' services were grouped into baskets and sub-baskets, and pricing constraints were placed on the baskets of services as well as certain individual services. The pricing constraints applied to a basket or sub-basket and were based, in large part, on an assessment of the extent to which competition was sufficient to discipline prices. These price cap decisions were intended to cover a four-year period.
3. At the time the price cap decisions were issued, the Commission stated that, among other things, it anticipated that competition would be insufficient to discipline the ILECs' rates for residential local services in non-high-cost serving areas (non-HCSAs) during the price cap period. Accordingly, the Commission considered it appropriate to subject these services to a productivity offset (X). The Commission established a basket constraint equal to inflation (I) less this productivity offset and applied it to revenues in the basket of Residential Local Services in non-HCSAs. When I was less than X, rate reductions generally would have been required to satisfy this constraint.
4. However, the Commission was concerned that these mandated rate reductions could have had an adverse effect on competition. The Commission considered that residential local rate reductions that flowed from market forces would generally be preferable to mandated rate reductions. Therefore, it introduced a mechanism in the price cap decisions that required each ILEC to establish a deferral account. The ILECs were directed to assign to that account, in each year of the price cap period, an amount equal to any revenue reduction that would otherwise be required under the I-X constraint for the basket of Residential Local Services in non-HCSAs. The Commission also directed the ILECs to include certain other amounts in the deferral accounts.
5. The Commission considered that the creation of a deferral account for residential local services would assist in achieving the price cap objective of balancing the interests of customers, competitors, and ILECs - the three main stakeholders in telecommunications markets.
6. In the price cap decisions, the Commission stated that an adjustment to the deferral accounts could be made whenever the Commission approved rate reductions for residential local services proposed by the ILECs as a result of competitive pressures. The Commission also stated that the deferral accounts could be drawn down to mitigate rate increases for residential service that could result from the Commission's approval of exogenous factors or when inflation exceeded productivity improvements. The Commission further stated that other draw-downs could occur, for example, through subscriber rebates or funding initiatives that would benefit residential customers in other ways.

² Effective 1 July 2004, TCI assumed all rights, entitlements, liabilities, and obligations relating to the provision of telecommunications services in the territory previously served by TELUS Communications (Québec) Inc. All references to TELUS Québec in this Decision refer to TCI's operations in Quebec.

7. In addition, the Commission stated that it would review the amount in each ILEC's deferral account on an annual basis, no later than the second year of the price cap period, at the time of the ILECs' annual price cap filings. The Commission further indicated that it intended to dispose of amounts outstanding in the deferral accounts that had accrued during the previous year, beginning in the second year of the price cap period.³ The Commission indicated that it intended to clear these amounts in a manner that contributed to achieving its objectives for the price regulation frameworks.
8. The Commission initiated a proceeding to address the outstanding amounts in the deferral accounts in *Review and disposition of deferral accounts for the second price cap period*, Telecom Public Notice CRTC 2004-1, 24 March 2004 (Public Notice 2004-1). In Public Notice 2004-1, the Commission stated that it would direct specific uses for amounts from the first two years of the price cap period and that it might direct uses for future amounts in each ILEC's deferral account.

Process

9. The Commission received submissions from each of the ILECs; ARCH: A Legal Resource Centre for Persons with Disabilities (ARCH); the British Columbia Public Interest Advocacy Centre (BCOAPO et al.); Call-Net Enterprises Inc. (Call-Net);⁴ the Canadian Association of the Deaf (CAD); the Canadian Cable Television Association (the CCTA);⁵ the Public Interest Advocacy Centre, the Consumers' Association of Canada, the National Anti-Poverty Organization, and l'Union des consommateurs (collectively, the Consumer Groups); Microcell Telecommunications Inc., on behalf of Microcell Solutions Inc.⁶ and Inukshuk Internet Inc. (Microcell); Rothschild & Co. on behalf of RipNET Limited (RipNET); and Xit telecom inc., on behalf of itself and Xittel telecommunications inc. (Xit telecom).
10. Other parties that participated in the proceeding, by providing comments and/or responding to interrogatories, included: Barrett Xplore Inc. (BXI); Bragg Communications Inc., carrying on business as EastLink (EastLink); Industry Canada; the Ministry of Economic Development and Trade on behalf of the Government of Ontario (the Government of Ontario); NetWork B.C.;⁷ and Telesat Canada (Telesat).

³ The first two years of the current price cap period were from 1 June 2002 to 31 May 2004 for Aliant Telecom, Bell Canada, MTS Allstream, SaskTel, and TCI, and from 1 August 2002 to 31 July 2004 for Télébec and TELUS Québec.

⁴ Following the close of the record in this proceeding, Rogers Communications completed its acquisition of Call-Net Enterprises Inc. Effective 7 July 2005, Call-Net's legal name was changed to Rogers Telecom Holdings Inc.

⁵ During the course of this proceeding, the Canadian Cable Television Association changed its name to the Canadian Cable Telecommunications Association.

⁶ On 8 November 2004, Rogers Wireless Inc. acquired Microcell Telecommunications Inc. Subsequently, Microcell Solutions Inc. became known as Fido Solutions Inc. (Fido). Responses to interrogatories dated 8 April 2005 and final comments dated 10 June 2005 were submitted by Fido (as successor to Microcell). All references to Microcell in this Decision refer to submissions made by Microcell and subsequently Fido.

⁷ NetWork B.C. is a project of the Government of British Columbia that was mandated to develop and execute a strategy to address issues related to British Columbia's "digital divide" as identified by the Premier's Technology Council in 2002.

11. The Commission also received comments from Anishinabek First Nations in Ontario/the Union of Ontario Indians; the Canadian Centre for Emergency Preparedness; the Canadian Red Cross; Elginconnects, a subsidiary of the Elgin Community Futures Development Corporation; Raymond Mailhot; the Ontario Chamber of Commerce; Public Safety and Emergency Preparedness Canada; and Chris and Marie Stark.
12. Parties filed comments at various stages of this proceeding, with final reply comments being filed on 27 June 2005.
13. In an application dated 2 December 2003, Bell Canada requested approval to use funds in its deferral account to expand its digital subscriber line (DSL) footprint. The Commission suspended Bell Canada's application pending the commencement of this proceeding.

Overview of parties' proposals

14. The Commission received more than 50 proposals from 16 parties regarding the disposition of the funds in the deferral accounts. It has assigned the proposals to seven broad categories: broadband service expansion, proposals to improve accessibility to telecommunications services, price reductions, proposals primarily benefiting competitive local exchange carriers (CLECs), network improvements, cost recovery, and miscellaneous proposals.
15. A significant number of proposals focused on the expansion of broadband services to areas that did not have access to high-speed Internet service. Bell Canada, TCI, the CCTA, Microcell, and RipNET submitted proposals that fit within this category. Several other parties expressed support for using the funds in the deferral accounts in this manner.
16. Despite the widespread support for broadband expansion, opinions differed regarding how this should be achieved. Some parties suggested using the deferral accounts to fund only backbone facilities, while others advocated using them to fund both backbone and access facilities. Bell Canada and TCI proposed to recover from the deferral accounts only the uneconomic portion of the initiative to expand broadband services. The CCTA proposed that the deferral accounts cover all costs to build a backbone network and that service providers that committed to providing broadband access services in unserved communities be allowed to use the network without additional charge. Some parties favoured employing a competitive bidding process to determine who should build the facilities.
17. With respect to submissions assigned to the category of proposals to improve accessibility to telecommunications services, ARCH proposed to create a fund to eliminate discrimination faced by persons with disabilities, while CAD proposed a variety of accessibility programs for deaf users, which it noted included hard-of-hearing consumers and those with serious speech disabilities who could not use, or had difficulty using, a standard telephone. TCI proposed to create a bill payment assistance program and to provide public telephone cards for people without phones. BCOAPO et al. proposed that voicemail be offered free to several economically disadvantaged groups of consumers. Several parties suggested that Call Screen service be offered free of charge.

18. Proposals assigned to the price reductions category included, for example, Aliant Telecom's request for compensation for rate reductions due to competitive pressure; Bell Canada's request for price reductions to a number of its residential optional local services; and the Consumer Groups' and BCOAPO et al.'s proposals for consumer refunds.
19. With respect to submissions assigned to the category of proposals that would primarily benefit CLECs, Call-Net proposed funding activities such as implementing on-line access to ILEC operational support systems (OSS), implementing revisions to the Canadian Local Ordering Guidelines (C-LOG), and upgrading the electronic file transfer system. MTS Allstream proposed that the costs of new initiatives involving system and infrastructure changes that directly supported competitive entry and greater consumer choice be recovered as draw-downs from its deferral account. TCI proposed to develop or improve systems that would enhance competitors' interface with TCI's delivery systems and to develop the interface required to provide CLECs with access to TCI's OSS.
20. Proposals assigned to the network improvement category included, among other things, several suggestions to upgrade enhanced 9-1-1 (E9-1-1) service and message relay service (MRS); Bell Canada's suggestion to recover a portion of the costs associated with upgrades to support the High Probability of Call Completion feature in its network; and TCI's proposed network modernization initiative.
21. The following proposals, among others, were included in the cost recovery category: Aliant Telecom's requests to recover costs associated with damage caused by Hurricane Juan and to mitigate losses stemming from several of the Commission's decisions; Call-Net's proposal to fund operating costs associated with various industry consortia; and MTS Allstream's request for compensation for revenue loss associated with deferred rate increases.
22. Proposals assigned to the miscellaneous category included, for example, Call-Net's proposal to implement a national voice information system and TCI's proposal to fund the replacement of fuel storage systems that did not meet appropriate industry standards.

Objectives and criteria for the disposition of funds in the deferral accounts

23. The *Telecommunications Act* (the Act) seeks to ensure, among other things, that Canadians have access to reliable telephone and other telecommunications services at reasonable prices. The Commission notes that section 7 of the Act sets out the Canadian telecommunications policy objectives and that in this proceeding, as in others, the Commission is obliged to exercise its powers with a view to implementing those objectives. The Commission notes, further, that the objectives set out in the price cap decisions are derived from the objectives set out in section 7 of the Act.
24. In the price cap decisions, the Commission stated that the deferral accounts were to be cleared in a manner that contributed to achieving the Commission's objectives for the current price cap period, namely:
 - (a) to render reliable and affordable services of high quality, accessible to both urban and rural area customers;

- (b) to balance the interests of the three main stakeholders in telecommunications markets (i.e. customers, competitors and incumbent telephone companies);
- (c) to foster facilities-based competition in Canadian telecommunications markets;
- (d) to provide incumbents with incentives to increase efficiencies and to be more innovative; and
- (e) to adopt regulatory approaches that impose the minimum regulatory burden compatible with the achievement of the previous four objectives.

In Public Notice 2004-1, the Commission indicated that parties should use these objectives as a guide when preparing their submissions.

25. In filing their proposals, many parties addressed these objectives. With respect to the objective of balancing the interests of the stakeholders, most parties emphasized two issues for consideration: the requirement for competitive neutrality between ILECs and competitors, and who should benefit from the disposition of funds that remained in the deferral accounts.

Competitive neutrality

Positions of parties

26. Some parties raised the principle of competitive neutrality in relation to the objectives set out above and the disposition of funds in the deferral accounts.
27. The CCTA submitted that the competitive neutrality concept was a logical and necessary extension of the objectives of the Act and the Canadian telecommunications policy objective "to enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications."
28. The CCTA submitted that the funds in the ILECs' deferral accounts should be used in a manner that was competitively neutral. It argued that a competitor or group of competitors should not benefit from an artificial advantage created through the use or distribution of the funds in the deferral account. The CCTA also submitted that the use of the deferral accounts should be competitively neutral, even though this was not one of the objectives explicitly identified in Public Notice 2004-1 as a factor to consider when developing proposals.
29. Aliant Telecom submitted that the Commission had not stated anywhere in Public Notice 2004-1 that any proposal to be funded from the ILEC deferral accounts must be "competitively neutral." Aliant Telecom also submitted that even though the Commission had not made competitive neutrality a requirement for deferral account funding, one of the objectives of the second price regulation regime was to balance the interests of the various stakeholders.

30. The principle of competitive neutrality was also raised by many other parties when presenting their proposals to dispose of the funds in the deferral accounts or when providing comments regarding the evaluation and implementation of specific proposals. While the principle of competitive neutrality was raised in the discussion of various submissions regarding rebates and price reductions, most parties considered this principle to be very important with respect to the proposals for the expansion of broadband services. Parties' specific comments on the various proposals are summarized later in this Decision.

Commission's analysis and determinations

31. The Commission notes that, based on parties' comments in this proceeding, the principle of competitive neutrality was an important factor in guiding the preparation of their respective proposals, as well as their evaluations of the other parties' proposals – in particular, proposals for the expansion of broadband services.
32. The Commission considers that competitive neutrality is a principal part of the objectives set out in the price cap decisions and should be balanced against all relevant factors when applying these objectives to the evaluation of the proposals.

Who should benefit from the remaining funds in the deferral accounts?

Positions of parties

33. The ILECs submitted that the majority of the funds disbursed to date from the deferral accounts had benefited competitors. In general, they submitted that a balanced approach would require that residential customers also derive certain direct immediate benefits from these funds.
34. ARCH submitted that any funds spent must be applied to meet the interests of all customers, including persons with disabilities. BCOAPO et al. and CAD were of the view that it would be inappropriate to use funds in the deferral accounts to provide further benefit to CLECs. BCOAPO et al. and the Consumer Groups were of the view that funds accumulating in the deferral accounts should be restored to residential subscribers.
35. Call-Net submitted that the greatest portion of the funds should be disbursed to provide benefits to subscribers in non-HCSAs that had contributed the greatest portion to the deferral accounts through forgone rate reductions. Call-Net argued that proposals that extended the benefits of competition to these same subscribers should be implemented. It submitted that the ILECs had already reaped significant benefits since the deferral accounts had been used to fully compensate them for mandated rate reductions to Competitor Services.
36. The CCTA submitted that the Commission's treatment of the funds in the deferral accounts to date supported the view that neither the ILECs nor consumers had a predetermined claim on them.

Commission's analysis and determinations

37. The Commission notes that almost all of the draw-downs from the deferral accounts to date have been applied to reduce rates for Competitor Services, which has resulted in lower costs for competitors. The Commission also notes that the ILECs that reduced these rates were compensated by draw-downs from the deferral accounts, in accordance with Decision 2002-34. The Commission considers that funding proposals that primarily provide further reductions to Competitor Services rates or other benefits to competitors would fail to appropriately balance the interests of all stakeholders.
38. Accordingly, the Commission considers that, based on an overall balanced approach among the three main stakeholders, residential customers should primarily benefit from the funds remaining in the deferral accounts.

Conclusions

39. In light of the above, the Commission, in its evaluation of the proposals in the following sections, has used the objectives set out in the price cap decisions and reiterated in Public Notice 2004-1. The Commission has placed more emphasis on the principle of competitive neutrality in the evaluation of the various proposals, where applicable, and on proposals that primarily provide benefits to residential subscribers in order to achieve an overall balance among stakeholders.

Other considerations

40. In addition to their comments on the objectives for the disposition of funds in the deferral accounts, parties raised two other related matters: 1) whether funds from the deferral accounts should be allocated to national programs or applied only within each ILEC territory, and 2) the need to clear the balances and eliminate the deferral accounts. These matters are addressed below.

Funding of national programs

Positions of parties

41. While some parties suggested that the Commission could allocate funds in the deferral accounts to activities that were national in scope, the majority of parties, including the ILECs, disagreed with this approach.
42. In general, the ILECs argued that funds in their deferral accounts were paid by their customers and should benefit those same customers. They further argued that section 46.5 of the Act only provided the Commission with the statutory authority to create a fund to support continuing access by Canadians to "basic" telecommunications services.
43. Call-Net submitted that it was reasonable that subscribers who funded the deferral account in a particular ILEC territory should receive most of the benefit from the disposition of that account. It submitted, however, that the Commission could contemplate national projects that would benefit subscribers throughout the country and suggested that it would be appropriate to draw down proportionately from each of the ILECs' deferral accounts for these projects.

44. Microcell supported allocating a portion of each ILEC's deferral account directly to Industry Canada's Broadband for Rural and Northern Development (BRAND) program and/or the National Satellite Initiative (NSI), since it considered that accumulated surpluses in the deferral accounts should be dedicated to a competitively neutral national subsidy program to promote deployment of broadband facilities in unserved and underserved regions.
45. The CCTA submitted that there was merit to distributing the benefits of its broadband proposal nationally since this would ensure that communities selected were not constrained by the availability of funds in the deferral account in a specific ILEC territory. The CCTA acknowledged, however, that there might be constraints on the Commission's statutory authority to dispose of funds on a national basis.
46. BCOAPO et al., the Consumer Groups, and RipNET objected to using funds in the deferral accounts as a revenue source for projects that were national in scope. They submitted that deferral account monies should be used to benefit consumers residing in the ILECs' territories since these consumers had contributed to create the deferral accounts.

Commission's analysis and determinations

47. Section 46.5 of the Act states:

The Commission may require any telecommunications service provider to contribute, subject to any conditions that the Commission may set, to a fund to support continuing access by Canadians to basic telecommunications services.

48. The Commission notes that the price cap decisions did not establish a collective or single national deferral account to which all ILECs would contribute, nor did the price cap decisions contemplate applying funds outside of the ILEC territory in which each account was created.
49. The Commission considers that since most of the funds in each ILEC's deferral account flow from the fact that residential subscribers in that ILEC's territory did not benefit from lower local service rates, it would be inappropriate to have these funds benefit customers outside of that ILEC's territory. The Commission also considers that the ILECs' deferral accounts are not funds that would fall within the scope of section 46.5 of the Act since they were not created to support continued access to basic telecommunications services and cannot be re-characterized as such. Rather, they are an integral part of the Commission's framework for ensuring that rates charged by Canadian carriers for telecommunications services are just and reasonable.
50. In light of the foregoing, the Commission determines that draw-downs from each ILEC's deferral account must be applied within its own territory.

Clearing balances and closing the deferral accounts

Positions of parties

51. Several of the ILECs were of the view that continuing to add funds to the deferral accounts would not be appropriate and that the Commission should eliminate the deferral accounts.

52. MTS Allstream submitted that the Commission should consider closing out each ILEC's deferral account as of the end of the fourth year of the current price cap period. The company suggested that the deferral account mechanism had failed as an efficient means of addressing regulatory adjustments and that the length and complexity of the current proceeding was testament to that fact. It also suggested that the deferral account mechanism had failed to mitigate any regulatory or financial market uncertainty.
53. Bell Canada indicated that it supported MTS Allstream's view that, in essence, the deferral account mechanism should be eliminated. It submitted that should the Commission determine that this proposal had merit, it would not object to the current proceeding addressing the balances in the ILECs' deferral accounts at the end of the third and fourth price cap years, as MTS Allstream had suggested. Bell Canada submitted that adding to the current amounts in the deferral accounts could only exacerbate the situation. In Bell Canada's view, there was already sufficient information on the record of the proceeding to allow the Commission to render a determination on what initiatives should be put in place to address the balances at the end of the third and fourth price cap years.
54. SaskTel also supported MTS Allstream's proposal to close the deferral accounts. It submitted that having potentially large sums of money with no specific stated purpose accumulating in the accounts resulted in inefficiencies and uncertainties that were not consistent with the minimum regulatory burden objective of the current price regulation framework.
55. The CCTA submitted that MTS Allstream's proposal was self-serving and benefited only the ILECs, to the detriment of consumers and competitors. The CCTA further submitted that the deferral account mechanism was a fundamental component of the current price regulation regime and the pricing of non-HCSA residential local services, and that changing these elements of the current price regulation regime, as proposed by MTS Allstream, would fundamentally alter the existing price regulation regime and the balance achieved by the Commission in establishing that regime.

Commission's analysis and determinations

56. The Commission indicated in the price cap decisions that it intended to dispose of amounts outstanding in the deferral accounts. Further, the Commission indicated in Public Notice 2004-1 that it would direct specific uses for amounts from the first two years of the price cap period and might direct uses for future amounts in each ILEC's deferral account.
57. The Commission notes that the current price regulation regimes were scheduled to end for Aliant Telecom, Bell Canada, MTS Allstream, SaskTel, and TCI on 31 May 2006, and for Télébec and TELUS Québec on 31 July 2006. In *Extension of the price regulation regime for Aliant Telecom Inc., Bell Canada, MTS Allstream Inc., Saskatchewan Telecommunications and TELUS Communications Inc.*, Telecom Decision CRTC 2005-69, 16 December 2005, and *Extension of the price regulation regime for Société en commandite Télébec and TELUS Communications (Québec) Inc.*, Telecom Decision CRTC 2005-70, 16 December 2005, the price regulation regimes were extended without changes for one year.

58. The attachment to this Decision provides preliminary estimates of the deferral account balances as of the end of the fourth year of the current price cap period in 2006. The Commission notes that the deferral account balances are expected to be very large for some ILECs. It also notes the concern that allowing funds to continue to accumulate in the accounts would create inefficiencies and uncertainties.
59. In light of the above, the Commission considers that the continued accumulation of funds in the deferral accounts during the one-year extension period, without further disposition, would result in unnecessary uncertainty for stakeholders.
60. Accordingly, the Commission considers it appropriate not only to provide directions on the disposition of all the funds that will have accumulated in the ILECs' deferral accounts by the end of the fourth year of the price cap period in 2006, but also to provide directions to address amounts recurring beyond this period in order to prevent further accumulation of funds in the deferral accounts. The Commission will provide directions and guidelines for disposing of these amounts later in this Decision.
61. The Commission considers that the issue raised by parties regarding eliminating the deferral account mechanism is beyond the scope of this proceeding.

Evaluation of proposal categories

62. The Commission's evaluation of the various categories of proposals is set out in the following sections.

Broadband service expansion

Positions of parties

63. Bell Canada submitted that broadband services had been identified in various studies and policy analyses as a critical component of infrastructure development for the future. In this regard, the company cited a recent report by the National Selection Committee (NSC) for the BRAND program, in which the NSC expressed the view that both developed and developing countries saw broadband as essential infrastructure for achieving goals such as creating jobs, enhancing productivity and competitiveness, building stronger societies, achieving long-term sustainable economic development, maintaining cultural diversity, and improving national security.
64. Bell Canada also submitted that broadband connections in a community would enable households, businesses, educational institutions, hospitals, and governments at all levels to leverage the power of information technologies to achieve numerous goals.
65. Bell Canada suggested that households could use broadband services for educational, informational, transactional, and other purposes, and that for remote households these connections became a powerful tool for overcoming the disadvantages normally associated with remoteness. It noted that educational institutions could draw upon the vast array of information available on the Internet for research and other purposes as well as to develop distance learning applications, and that health organizations had developed tele-health

applications whereby consultations, diagnostics, and other information could be made available – saving time and travel for all participants. The company noted, further, that governments could provide many basic services over the Internet and facilitate communications to the public about other government services by providing this information on websites. Bell Canada submitted that for each of these sectors, access to broadband services had demonstrated a powerful capacity to allow organizations and households to attain objectives more effectively and efficiently.

66. Bell Canada submitted that while broadband had quickly become pervasive in urban areas, its deployment in rural areas faced significant challenges arising from the dispersion of rural residents over a very large geographic area. Bell Canada noted that using the funds in the deferral accounts to extend the availability of broadband services to areas where such services were not currently available, and would not be made available in the longer term without economic incentives, had been the theme of many parties' submissions.
67. TCI proposed to extend higher-speed backbone facilities to rural and remote areas of British Columbia that did not currently have the capability to access high-speed services. The company submitted that this broadband initiative would assist the Government of British Columbia in meeting its goal of bridging the digital divide within the province and the federal government in meeting its objective to expand broadband access in rural and remote communities in Canada. TCI further submitted that this initiative also directly addressed and furthered Parliament's telecommunications policy objectives as found in subsections 7(a), 7(b), and 7(h) of the Act.
68. The CCTA submitted that customers, competitors, and ILECs would benefit from the use of the funds in the deferral accounts to finance the roll-out of broadband services, since these services would bring Canadians closer together, strengthen rural communities, help reduce the isolation of rural and remote communities and enhance their economic and social development, and enable all service providers to share facilities while engaging in facilities-based competition.
69. Microcell submitted that ready access to broadband Internet services was widely recognized across Canada and around the world as a vital enabler of economic and community development in the new century. RipNET submitted that it was in the public interest to build the facilities needed to provide high-speed broadband and other telephony services to low-density rural and remote communities. Telesat submitted that broadband expansion to all regions of Canada was a laudable public policy objective, and that using funds from the deferral accounts for this purpose was appropriate and beneficial.
70. SaskTel noted that Internet protocol (IP)-based technologies had the potential to greatly enhance the ability of persons with disabilities to use existing and new telecommunications services. However, SaskTel submitted that the expansion of broadband services into non-economic areas was not an industry obligation, and that the federal government should continue to take a leadership role in the success of this national endeavour. Bell Canada acknowledged SaskTel's comments regarding the potential of IP-based technologies to assist persons with disabilities and submitted that implementation of its broadband proposal would facilitate the development of such applications.

71. The Consumer Groups were of the view that, while some benefits of broadband services had the character of a public good and might benefit the user community at large, the overlap between those who financed the deferral accounts and those who would benefit from them was likely very limited.
72. MTS Allstream indicated that it was generally opposed to the subsidization of broadband services through the use of funds in the ILECs' deferral accounts. The company submitted that if funding were to be allocated to the subsidization of broadband services in rural and remote areas, it was not clear where the Commission's role and responsibility would start and stop, especially given the many existing federal and provincial programs that were designed for the same purpose.

Commission's analysis and determinations

73. Canada's vast geography and relatively dispersed population makes telecommunications an essential link, both socially and economically, in the everyday life of Canadians. It provides the foundation for Canada's participation in the global information market and greater opportunities for Canadians to participate in the "new economy."
74. There has been a significant shift towards high-speed Internet and broadband access over the past several years. Although Canada is a global leader in the deployment of broadband infrastructure, it ranked sixth in June 2005 in terms of broadband penetration rate per 100 inhabitants when compared to the more than 30 member countries of the Organization for Economic Co-operation and Development (OECD), slipping from its second-place standing in December 2003.
75. Broadband service is available to most Canadians living in urban areas; however, the same cannot be said of those living in rural and remote communities. The Commission notes that one of the objectives set out in the price cap decisions was to "render reliable and affordable services of high quality, accessible to both urban and rural area customers," an objective that was, in turn, derived directly from section 7(b) of the Act. The Commission considers that expansion of broadband services is an initiative that would meet this objective since it would improve the quality of telecommunications services to customers, particularly in those communities.
76. The Commission further considers that the social and economic development of rural and remote communities would be enhanced through the establishment of broadband services. In addition, the Commission considers that committing funds in the deferral accounts to assist in the expansion of broadband services would be an effective way to reduce the disparity that exists between urban communities and most rural and remote communities.
77. The Commission notes that some parties have indicated that IP-based technologies, accessed via broadband, could enable persons with disabilities to use existing and new telecommunications services. The Commission considers that increased broadband service availability would also promote community development by providing access to the same services and products for all subscribers, including persons with disabilities and those living in isolated areas.

78. The Commission agrees that considerable benefits would accrue to subscribers from the greater availability of broadband services, such as expanding Canadians' capacity to access, create, communicate, and share information, knowledge, and entertainment. Other benefits to subscribers could include improved access to health care, education, and electronic services, and the potential for enriched relationships between individuals and among communities.
79. The Commission notes that the federal and provincial governments have initiated or participated in several broadband expansion projects over the past few years. The Commission considers that subsidizing broadband expansion through the funds in the deferral accounts would provide an important complement to existing government initiatives to extend broadband services to a greater percentage of the population.
80. In light of the above, the Commission concludes that enabling Canadians to have access to broadband services, wherever they live, is an important goal. The Commission therefore concludes that expansion of broadband services is an appropriate use of the funds remaining in the deferral accounts. Guidelines for the implementation of this initiative are provided later in this Decision.

Proposals to improve accessibility to telecommunications services

Positions of parties

81. Parties' submissions in this category included proposals to improve accessibility to telecommunications services for persons with disabilities, including those with hearing, speech, and vision disabilities, as well as economically disadvantaged subscribers.
82. ARCH and CAD submitted that the funds in the deferral accounts should be used to fund initiatives to remedy and prevent discrimination against persons with disabilities in their use of telecommunications products and services. They submitted that Canadian law required that telecommunications services be provided in a non-discriminatory manner and that this obligation was based on the Act, the *Canadian Human Rights Act* (the CHRA), and the *Canadian Charter of Rights and Freedoms* (the Charter).
83. ARCH submitted that there had been a lack of attention to the barriers faced by persons with disabilities such as speech, mobility, agility, pain, learning, memory, and intellectual disabilities. In ARCH's view, it was essential that the Commission provide direction that all barriers in telecommunications services should be removed.
84. CAD submitted that the funds in the deferral accounts should be used to correct a wide range of discriminatory situations and that this could be done with minimal, if any, hardship to everyone involved.
85. Chris and Marie Stark requested that the Commission direct that part or all of the money in question be used to enhance equipment and service usability for persons with disabilities in general, and for persons who were blind in particular.

86. Bell Canada submitted that ARCH and CAD had overstated the Commission's legal obligation to address discrimination, to the exclusion of all other priorities. TCI argued that the invocation of the Charter and the CHRA by ARCH and CAD did not extend the Commission's jurisdiction to deal with the funds currently in the deferral accounts.
87. Bell Canada acknowledged that promoting accessibility was an important public policy objective and indicated that it was committed to working with consumers with disabilities to improve access both within and outside of the deferral account process. The company noted that it had already initiated and been party to a number of projects that focused on improving the accessibility of telecommunications products and services for consumers with disabilities. Bell Canada submitted that when balancing ARCH's and CAD's proposals against the full range of other proposals, the Commission should consider the activities the company had already undertaken to ensure that persons with disabilities had equal and full access to telecommunications products and services.
88. MTS Allstream submitted that, while it thought the objectives of ARCH's and CAD's proposals to be laudable, they were too ill-defined to be considered as feasible deferral account draw-downs. It also submitted that to the extent that further study and consultation was required to determine what measures might be necessary and feasible in order to alleviate existing barriers faced by persons with disabilities, funding for such activities should come from sources other than the ILECs' deferral accounts.
89. SaskTel indicated that it had a special needs program that offered a wide variety of telephone equipment for customers with sight, hearing, motion, or speech limitations. The company also referred to the ongoing relationship it had with the disabled community in Saskatchewan to address their specific needs and provide them with the most advanced communications services available. However, the company was of the view that issues of public good or social policy associated with ARCH's and CAD's requests were best left to the government for evaluation in consultation with the general public, and thus suggested that it was premature to allocate funds from the deferral accounts to these initiatives.
90. TCI noted that it had undertaken a number of initiatives to provide services for persons with disabilities and that it strived to continually improve all of its products and services, including services for deaf subscribers. The company submitted that should the Commission determine that there was a requirement to further address access for subscribers with disabilities, it would be willing to examine alternative sources of funding other than the deferral accounts. In TCI's view, such funding initiatives would be required of all telecommunications service providers, not just the ILECs.
91. The Consumer Groups submitted that while the public policy objectives of ARCH's proposals were praiseworthy, they were concerned about the assumption that funds contributed by residential subscribers from over-collection of rates were available for purposes independent of contributor benefit.
92. TCI submitted three proposals to enhance affordability and universal service: a bill payment assistance program to help low-income customers; public telephone cards for the homeless and people without telephone service in their homes; and free Call Screen service. TELUS Québec

also proposed free Call Screen service. Under TCI's proposal, the draw-down from its deferral account for Call Screen service would be calculated based on forgone revenue for the service plus the Phase II cost for customers who chose to add Call Screen to their local service.

93. BCOAPO et al. proposed that all residential customers, regardless of geographic location, should be provided with Call Screen service and that recipients of certain government assistance benefits should be provided with free voicemail service. BCOAPO et al. considered that the deferral accounts should be drawn down by the marginal cost to the ILEC for providing these services.
94. BCOAPO et al. submitted that the Commission should give conditional approval to TCI's bill payment assistance program and public telephone card proposals, but that it should require TCI to file and receive approval for a proposed mechanism to administer the programs. However, BCOAPO et al. was of the view that it was inappropriate to permit TCI to draw down its deferral account by the amount of forgone revenue attributable to the company's free Call Screen service program. CAD agreed with BCOAPO et al.'s position. The Consumer Groups suggested that it was uncertain whether public demand required TCI's proposed free Call Screen service program. Microcell submitted that the provision of Call Screen services had been a long-standing demand on the part of numerous social agencies and nothing in this proceeding had changed that demand in any way, nor had any issue been raised in the proceeding that would merit such a proposal on the part of TCI.
95. Call-Net indicated that TCI's three initiatives had merit, but raised concerns about competitive neutrality. The CCTA submitted that TCI's and TELUS Québec's proposals to offset lost revenues by giving away services would largely result in the funds being returned to the ILECs as revenue replacement, would not be competitively neutral, and would provide the ILECs with the added benefit of increased consumer and general public goodwill. Microcell argued that TCI's three proposals would provide it with a significant competitive advantage, in that it would allow the company to access funds it would not normally have in order to continue to provide service to customers with doubtful payment records.
96. Bell Canada questioned whether it was appropriate to assume that all residential subscribers, or a subset identified by BCOAPO et al., were interested in the free services proposed by BCOAPO et al. The company submitted that, as with exogenous adjustments, if the Commission were to mandate the ILECs to implement an initiative that met the criteria for exogenous treatment, then the ILECs should be permitted to recover the entire loss of revenue associated with those initiatives.

Commission's analysis and determinations

97. The Commission considers that insufficient evidence was provided in this proceeding to warrant the provision of discretionary services, such as Call Screen and voicemail services, at no charge. The Commission also considers that these types of proposals could provide the ILECs with an undue competitive advantage. Accordingly, the Commission determines that proposals to fund discretionary services at no charge should not be funded from the deferral accounts.

98. The Commission notes that in *Bill management tools – Debt repayment plans*, Telecom Decision CRTC 2005-38, 29 June 2005, the Commission directed most ILECs to conduct an 18-month pilot program regarding bad debt repayment. Since these pilot programs are just starting, the Commission determines that it would not be reasonable to fund bill payment assistance proposals at this time.
99. The Commission notes that the ILECs generally supported the public policy objective of improvement of accessibility to telecommunications services for persons with disabilities and referred to their past activities and/or commitment to working with customers with disabilities to address their needs. However, most of the ILECs submitted that the deferral accounts should not be used to fund such initiatives.
100. The Commission considers that funding programs aimed at improving accessibility to telecommunications services for persons with disabilities would be consistent with section 7 of the Act, and particularly sections 7(b) and 7(h). The Commission further considers that these programs would provide direct benefits to residential subscribers.
101. In light of the above, the Commission concludes that proposals that focus on improving accessibility to telecommunications services for persons with disabilities are an appropriate use of the funds remaining in the deferral accounts. Guidelines for the implementation of this initiative will be provided later in this Decision.

Price reductions

102. The Commission notes that while parties may not have distinguished between "rebates" and "rate reductions" in their comments, it has subdivided the category of "price reductions" into these categories since they would require different treatments from the deferral accounts, as explained below.

Rebates

Positions of parties

103. According to the Consumer Groups, the best way to draw down the deferral account balances was via consumer refunds. They submitted that the disposition of the funds must benefit the customers who had created the deferral accounts by paying rates that were in excess of the Commission's determination of what was just and reasonable. In support of their position, the Consumer Groups presented evidence prepared by Dr. Johannes Bauer.
104. BCOAPO et al. submitted that the funds accumulating in the deferral accounts were contributed by overcharging residential consumers for local service. It proposed that the balance of funds in the deferral accounts, after funding certain initiatives, should be rebated to residential customers in non-HCSAs via a lump-sum credit or rate reduction.

105. Bell Canada, Télébec, TCI, Call-Net, and the CCTA expressed concerns that rebates could be complex to implement and administer due to changes to the customer base and customer information over time. However, TCI also submitted that it would not be difficult to administer a rebate in the form of a one-time bill credit as long as the rebate was given to the current customer base rather than one that had existed at some time in the past.
106. Bell Canada and MTS Allstream submitted that a one-time credit could be misunderstood by customers as a significant rate reduction, when it was only a one-time rebate. MTS Allstream argued that to order that deferral account balances be disposed of through consumer rebates would be, in essence, to retroactively amend final rates that the Commission had previously confirmed as being just and reasonable.
107. TCI submitted that the Commission had made a determination concerning just and reasonable rates for residential local exchange service in non-HCSAs and, as such, had determined that the rate charged was fair both to the company and the customers. TCI further submitted that because rates for residential local exchange services had been finalized by the Commission and subscribers had not been overcharged, there was no scope for the argument that subscribers should receive funds in the form of consumer refunds or reduced prices.
108. Call-Net submitted that a rebate would defeat the policy objectives that had led the Commission to suspend the application of the basket constraint in the first place, and that it would be administratively difficult to implement. It submitted that fairness among subscribers would require that the refund to a subscriber be proportionate to the extent to which that subscriber had contributed to the deferral accounts. Call-Net argued that consumer refunds did not balance all stakeholder interests, in that Call-Net and other competitors would suffer irreparable harm if consumer prices were reduced prematurely. The company also argued that for any refund to be competitively neutral, it should apply to both ILEC and CLEC subscribers, making it even more difficult to manage.
109. CAD was of the view that subscriber rebates would be equivalent to lowering the price of the ILECs' primary exchange service, and, therefore, would defeat the original purpose of establishing the deferral accounts.
110. The CCTA submitted that it did not support the Consumer Groups' proposal to refund deferral account balances to residential local service customers, since they had not demonstrated how this would serve the objectives identified by the Commission.
111. Microcell argued that a one-time rate reduction was unlikely to foster facilities-based competition in Canadian telecommunications markets, and that it was unlikely to provide the ILECs with incentives to increase efficiencies and to be more innovative.

Commission's analysis and determinations

112. The Commission notes that in the price cap decisions, rebates to consumers in non-HCSAs were identified as a possible use for the funds in the deferral accounts. The Commission considers that subscriber rebates would be consistent with section 7 of the Act and the objectives set out in the price cap decisions.

113. The Commission does not consider that providing one-time rebates to subscribers would be equivalent to lowering the ILECs' primary local exchange service rates or that it would defeat the purpose of establishing the deferral accounts. The Commission considers that a one-time rebate will not have a sustained impact on the development of competition in the residential local services market.
114. However, the Commission has concerns with respect to the implementation of any rebates and the potential inter-generational inequity issues associated with the disposition of the funds in the deferral accounts. The Commission considers that it would be overly complex and not cost-effective to try to estimate a rebate amount proportionate to the amount contributed by an individual subscriber to the deferral accounts. The Commission also considers that the cost of attempting to locate those residential subscribers who were customers during the current price cap period but are no longer customers would likely outweigh any benefits that might be derived from such an exercise.
115. As indicated earlier in this Decision, the Commission intends to clear the funds in the deferral accounts in a manner that contributes to achieving the objectives of the current price regulation framework, including balancing the interests of the three main stakeholders in the telecommunications markets. The Commission considers that initiatives to expand broadband services and to improve accessibility to telecommunications services for persons with disabilities will provide longer-term and more permanent benefits than a one-time rebate.
116. Accordingly, the Commission concludes that each ILEC should, to the greatest extent possible, use funds in their deferral accounts for initiatives to expand broadband services to rural and remote communities and to improve accessibility to telecommunications services for persons with disabilities. The Commission also concludes that should any accumulated balance remain in the ILEC's deferral account after these initiatives have been approved by the Commission, this amount will be rebated to the ILEC's residential local subscribers in non-HCSAs.

Rate reductions

Positions of parties

117. Aliant Telecom argued that a permanent rate reduction was preferable to a one-time credit in that a rate reduction provided a simple-to-administer, fair, easily understood, and ongoing benefit to customers; better reflected market conditions in Atlantic Canada; and provided the benefits of a competitive market to customers.
118. Aliant Telecom submitted that competitive price decreases should be the primary vehicle to clear the ILECs' deferral accounts where local service competition existed, for the benefit of residential customers. The company indicated that it faced intense competition in its territory from EastLink, and submitted that it was necessary for it to reduce prices in order to be competitive in the marketplace.
119. Bell Canada was of the view that price changes were more equitable than rebates since they provided greater benefits to the customers who spent more on telecommunications services, while rebates provided the same benefit to all customers.

120. Télébec submitted that the amounts that had accumulated in the deferral accounts had resulted from the application of the I-X constraint and represented possible rate reductions from which the ILECs' customers should benefit. In Télébec's view, using the amounts that had accumulated in the deferral accounts for purposes other than rate reduction kept rates artificially high.
121. Call-Net submitted that since the objective of the deferral accounts was to prevent premature retail price reductions, the Commission should not consider any proposals that reduced prices since they would negate the potential benefits of the deferral accounts to the telecommunications industry and all its stakeholders combined.
122. The CCTA disagreed with the proposals put forward for rate reductions. It viewed rate reductions as offering only small and temporary benefits to customers, at no cost to the ILECs. The CCTA submitted that nothing about these proposals would foster facilities-based competition, increase efficiencies, encourage innovation, contribute broadly to the affordability of services, or strike an appropriate balance among the interests of customers, competitors, and incumbent telephone companies.
123. Microcell submitted that rate reductions would direct significant funds away from other initiatives, such as the expansion of broadband deployment, and would provide less benefit to consumers in the long run. It also submitted that providing rate reductions to consumers was merely a short-term benefit, and was not in the spirit of the objectives enunciated by the Commission at the outset of this proceeding.

Commission's analysis and determinations

124. As stated earlier in this Decision, the Commission considers that the continued accumulation of funds in the deferral accounts would result in unnecessary uncertainty for stakeholders.
125. The Commission notes that, based on the methodology for calculating the deferral account balances approved later in this Decision, funds will continue to accumulate in the deferral accounts beyond the current price cap period in the absence of rate reductions to eliminate the net recurring amounts. The Commission also notes that several parties recommended that deferral account balances should be eliminated as of the end of the fourth year of the current price cap period. The Commission considers that eliminating the recurring amounts in the accounts would address the concerns pertaining to the continued growth of funds in the deferral accounts.
126. The Commission considers that rate reductions for residential subscribers meet the established criteria for use of the funds in the deferral accounts by providing an immediate, direct, and ongoing benefit to residential subscribers in the ILECs' territories. In addition, the Commission considers that these rate reductions will not be a deterrent to the development of competition in the residential local market.
127. Accordingly, the Commission concludes that rate reductions are an appropriate initiative to clear recurring amounts in the ILECs' deferral accounts. Guidelines for the implementation of this initiative will be provided later in this Decision.

Proposals that primarily benefit CLECs

Positions of parties

128. MTS Allstream submitted that its proposed system and infrastructure changes would support competitive entry and greater consumer choice. It also submitted that offering consumers more competitive choice would safeguard and respond to the social requirements of consumers and telecommunications users throughout Manitoba.
129. TCI submitted that developing the interface required to provide CLECs with access to its OSS would, among other things, eliminate manual interfaces with ILEC service representatives, thereby increasing efficiency and eliminating errors.
130. Call-Net submitted that its proposed system improvements would increase the efficiency of both the ILECs and CLECs, thereby benefiting subscribers and making their competitive choices quicker and more transparent to implement. It suggested that in achieving these system improvements, facilities-based competition would also be enhanced. Call-Net also submitted that its proposal to fund certain common elements was designed to promote competition in general, and specifically to promote competition beyond the urban cores of major Canadian cities.
131. The ILECs submitted that the majority of the funds used to date from the deferral accounts had benefited competitors and, in general, they submitted that a balanced approach would require that residential customers also derive certain direct immediate benefits from these funds. In addition, BCOAPO et al. and CAD submitted that it would be inappropriate to use funds in the deferral accounts to provide further benefits to CLECs.

Commission's analysis and determinations

132. The Commission notes that in *Competitive local exchange carrier access to incumbent local exchange carrier operational support systems*, Telecom Decision CRTC 2005-14, 16 March 2005, it considered that requiring each party to pay its own costs for implementing CLEC access to an ILEC's OSS would focus parties on implementing only what was necessary to provide CLECs with the required functionality and, therefore, the development and implementation process would be less costly and time consuming. Accordingly, the Commission did not consider that recovery of these costs from the ILECs' deferral accounts would be appropriate.
133. In addition, as discussed earlier in this Decision, the Commission notes that almost all of the funds drawn down from the deferral accounts to date have been allocated to reduce rates for Competitor Services, which has resulted in lower costs for competitors. Accordingly, the Commission considered that, based on an overall balanced approach among the three main stakeholders, residential customers should primarily benefit from the funds remaining in the deferral accounts. Therefore, the Commission concludes that proposals that primarily benefit CLECs are not an appropriate use of the funds remaining in the deferral accounts.

Network improvements

Positions of parties

134. The Commission notes that Aliant Telecom and Call-Net proposed to fund upgrades to E9-1-1 service, while Bell Canada submitted that its proposal to fund a portion of the cost of the upgrades required to support the High Probability of Call Completion feature would provide a significant improvement in the network's state of emergency preparedness.
135. TCI submitted that its network modernization initiatives would provide customers in rural and remote areas of British Columbia and Alberta with access to the full range of call management services and higher-speed Internet access, and would give them a level of service comparable to that of most urban customers.
136. MTS Allstream submitted that using the deferral accounts to fund ILEC capital costs and operating expenditures that would otherwise likely be incurred in the normal course of business would not provide ILECs with incentives to increase efficiencies and be more innovative, and would potentially provide them with a competitive advantage rather than fostering competition. The company suggested that asking whether the proposed investment or expenditure initiative would otherwise satisfy the criteria for treatment as an exogenous factor adjustment should provide clear indication as to whether it should qualify as a draw-down.
137. SaskTel submitted that it had no objections to Aliant Telecom's proposal to fund upgrades to wireline E9-1-1 services in Atlantic Canada, but that it did not support using revenues received from wireline customers to fund wireless E9-1-1 initiatives. SaskTel suggested that the industry's wireless sector should assume responsibility for funding such service improvements. The CCTA noted that the ILECs, including Aliant Telecom in areas other than Newfoundland and Labrador, charged end-users and other service providers tariffed rates for recovering the costs of their E9-1-1 platforms and submitted that this was the more appropriate method of recovering associated costs.
138. BCOAPO et al. submitted that network modernization proposals would be unrelated to the reasons for the creation of the deferral accounts. The Consumer Groups submitted that network modernization proposals raised competitive concerns and that they would improve an ILEC's network and likely make it more difficult for competitors to enter these markets.

Commission's analysis and determinations

139. The Commission considers that network improvement initiatives, for the most part, would be considered as part of the normal cost of doing business. Accordingly, the Commission concludes that initiatives related to network improvements are not an appropriate use of the funds remaining in the deferral accounts.

Cost recovery and miscellaneous proposals

Positions of parties

140. Proposals in these categories included, among others, Aliant Telecom's proposals to recover costs related to damage by Hurricane Juan and to recover costs and/or losses associated with a number of Commission decisions and orders; MTS Allstream's proposal to offset the revenue loss it had incurred as a result of a deferred rate increase; TCI's proposal to replace approximately 200 fuel tanks that did not meet new environmental standards; and Call-Net's proposals to fund operating costs associated with the Canadian Local Number Portability Consortium Inc., the Canadian Portable Contribution Consortium Inc., and the Canadian Numbering Administration Consortium Inc., and to fund a national voice-based information system.
141. With respect to TCI's proposal, BCOAPO et al. and NetWork B.C. submitted that the fuel tank Code of Practice applied to all businesses within federal jurisdiction, not just those in the telecommunications industry, and therefore this did not qualify as an exogenous adjustment. BCOAPO et al. and Call-Net submitted that upgrading fuel storage facilities was part of the cost of doing business and not a legitimate use of funds in the deferral accounts. However, the Consumer Groups suggested that this proposal might qualify as an exogenous adjustment and that potential adverse rate consequences could be buffered by funds from the deferral accounts.
142. Bell Canada submitted that using deferral account monies to fund consortia, as Call-Net had proposed, would place a disproportionate burden on the ILECs and their residential subscribers, and would be inequitable and contrary to existing approved funding mechanisms. It also submitted that joint funding gave all parties incentive to ensure that the consortia conducted operations in a cost-effective manner.
143. Bell Canada also submitted that in the absence of a valid funding model, Call-Net's national voice information system was unlikely to have any application beyond providing access to the types of databases that were currently available on a toll-free basis. It submitted that since users could already access this content free of charge, the new system would provide little, if any, additional functionality and would be a waste of time and money.

Commission's analysis and determinations

144. The Commission concludes that proposals in the cost recovery and miscellaneous categories, similar to those in the network improvement category, would generally be considered as part of the normal cost of doing business. Accordingly, the Commission concludes that proposals assigned to the cost recovery and miscellaneous categories are not an appropriate use of the funds remaining in the deferral accounts.

Conclusions

145. The Commission concludes that it is appropriate to use funds in the deferral accounts to fund the expansion of broadband services, initiatives to improve accessibility to telecommunications services for persons with disabilities, and rate reductions.

Guidelines for the disposition of funds in the deferral accounts

146. The Commission outlines below parties' positions regarding the implementation of broadband service expansion, proposals to improve accessibility to telecommunications services for persons with disabilities, and rate reductions. The Commission then provides its conclusions and guidelines for the disposition of funds from the deferral accounts for these initiatives. Based on the preliminary estimates of the ILECs' deferral account balances set out in the attachment to this Decision, the Commission considers that these conclusions and guidelines will likely apply to all ILECs except Télébec. Disposition of Télébec's deferral account will be dealt with later in this Decision.

Broadband service expansion

147. The Commission notes that parties' submissions and views varied widely regarding how broadband service expansion should be implemented. Some parties suggested using the deferral accounts to fund only backbone facilities, while others submitted that both backbone and access facilities should be funded. Some were in favour of recovering from the deferral accounts only the uneconomic portion of the initiative to expand broadband services, while others proposed funding all costs to build a backbone network and permitting service providers to use it free of charge. Some parties proposed that a competitive bidding process be used to determine who should build the facilities. Parties' views on these issues are summarized below.

Bell Canada's submission

148. Bell Canada proposed to expand the availability of its broadband services to areas where it was uneconomic to provide such services, provided that it was able to recover the costs incurred for this expansion in a competitively neutral fashion by means of a draw-down from its deferral account. The company submitted that broadband deployment in those areas would be based on the least-cost technology that would provide the same quality of service that it currently provides via its commercial broadband expansion program based on DSL technology. Bell Canada indicated that its proposal would complement existing government-funded programs in that it would only cover areas where high-speed broadband capability was not available and where communities had not been successful in obtaining funding for the deployment of broadband services through those programs.
149. Bell Canada indicated that it would consider expansion to those areas where the average estimated capital cost per DSL-eligible line ranged from \$300 to \$2,500. The company proposed to recover from its deferral account all costs incurred to provide wholesale DSL service to the areas included in the program, less the revenue it anticipated from the provision of wholesale DSL to Internet service providers (ISPs) in those regions, including the imputed revenue generated from its retail ISP business as a user of the facilities. In the company's view, funds in the deferral accounts should only be used to finance the uneconomic portion of the initiative to extend broadband services to areas that qualified.
150. Bell Canada proposed that once the Commission had approved the company's roll-out plan for the first year of the program, Bell Canada's Carrier Services Group (CSG) would send a list of suggested areas, along with maps showing geographic coverage of areas and associated

municipality boundaries, to all registered telecommunications carriers operating in its serving area. The company's CSG would request that these carriers identify any area where they already provided broadband service, or planned to provide such service over the next 12 months. Parties would have three weeks to respond; if an alternate provider were to indicate that it served or had a definite commitment to serve a particular area, then that area would be removed from Bell Canada's program.

151. BXI submitted that Bell Canada, by accessing its deferral account, would be able to enter markets that otherwise would not be commercially viable. In BXI's view, these were the same markets that competitive broadband providers, such as BXI, would target. BXI submitted that should Bell Canada be able to access these markets on a subsidized basis, it would become much more difficult or impossible for emerging providers to achieve the critical mass needed to establish a sustainable business. BXI also submitted that the administration of such a program would be difficult and would be an ongoing regulatory burden for the Commission and interested parties.
152. BXI submitted that many technologies employed by alternative broadband providers, such as fixed wireless, WiFi, and WiMAX, required a much lower investment in infrastructure than the DSL technology proposed by Bell Canada. BXI argued that if the funds in the deferral accounts were directed towards a program similar to the NSI or BRAND, the community would receive the benefit of determining the most efficient means of extending broadband coverage, and might qualify for funds to supplement investments by alternative providers.
153. Call-Net was of the view that Bell Canada's proposal would have merit if it were modified to allow any service provider the same option of recovering capital from the deferral accounts, and if facilities were then made available to all providers at rates without a capital recovery component. Xit telecom submitted that funds in Bell Canada's deferral account should also be made available to other competitors on the same terms and conditions as Bell Canada.
154. The CCTA considered that the administrative approach associated with Bell Canada's plan might have merit. However, it did not support Bell Canada's proposed manner of funding because, in the CCTA's view, it would give the company an undue advantage. The CCTA submitted that Bell Canada's proposal was not competitively neutral since the company would be able to draw on funds to finance investments in its own local networks. In the CCTA's view, this would provide Bell Canada with an immediate recovery of capital investments at zero risk, increasing the company's asset value and expanding its ability to generate new revenue streams.
155. In the CCTA's view, the fundamental flaw in Bell Canada's proposal was that it would impede facilities-based competition. The CCTA noted that since the cable companies used a technology that was entirely different from Bell Canada's DSL technology, there would be no opportunity for Bell Canada's access facilities to be used by other facilities-based competitors. In the CCTA's view, Bell Canada's proposal would effectively restrict entry to a single broadband service provider and/or serving technology, which would produce outcomes that were neither competitively nor technologically neutral.

156. The Consumer Groups also submitted that funding Bell Canada's broadband expansion proposal would have potential negative effects on the development of facilities-based competition in broadband markets. In the Consumer Groups' view, implementation of a bidding process for broadband expansion represented a minimum standard of competitive fairness that should be applied if Bell Canada's proposal were to be implemented.
157. Microcell argued that Bell Canada's proposal did not respect the principle of competitive neutrality, in that it did not involve all types of access technology, did not allow access to all ISPs and broadband operators, and was not independent of a particular access provider or class of providers.

TCI's submission

158. TCI proposed to use a portion of the funds in its deferral account for its digital divide initiative. This initiative would extend high-speed backbone facilities using a combination of fibre and digital radio facilities to 154 communities, or approximately 70,000 customers, in rural and remote areas of British Columbia that did not currently have the capability to access high-speed services. TCI indicated that all of these communities were in high-cost serving areas (HCSAs) and almost half of them were in very remote regions of the province, with limited accessibility. TCI indicated that it would consult with the Government of British Columbia to prioritize the routes to be served.
159. TCI submitted that funds from its deferral account should be used to fund the uneconomic portion of the capital investment so that the rates for access to broadband services in HCSAs would be the same as the rates in non-HCSAs. TCI also submitted that the construction costs for facilities should only be subsidized to a level that made the investment economic, that is, to the level where the balance of the investment could be recovered through rates over the useful life of the facilities. TCI proposed that the deferral account draw-down be determined by calculating the present worth of the uneconomic portion of these digital divide initiatives on an annual basis at the end of each construction season.
160. TCI noted that under its proposal any service provider would be able to connect to TCI's broadband backbone facilities to provide service on a competitively neutral basis.
161. BCOAPO et al. was strongly opposed to TCI's digital divide broadband expansion proposal since it viewed the proposal as a thinly disguised effort to fund provincial government initiatives that were incomplete or for which the government itself was not willing to pay.
162. Call-Net was of the view that, if the Commission were to consider TCI's proposal, all interested parties should have the opportunity to participate in the capital program and to gain access to completed backbone facilities at rates that did not include any capital recovery component.
163. The CCTA argued that if TCI's proposal to charge competitors for the use of backbone facilities financed from its deferral account were approved, the magnitude of the costs would continue to preclude competitors from providing broadband services in unserved markets. The CCTA submitted that TCI's proposal would require broadband access competitors to pay standard tariffed rates to use services for which the company would have been paid up front using funds from its deferral account.

164. The CCTA submitted that TCI's proposal to use funds to put in place improved backbone facilities did not include a commitment to actually provide broadband services to rural and remote communities. The CCTA also submitted that while TCI had suggested a tracking mechanism consisting of periodic reports to the Commission, it would not contain any details of specific projects or future plans to provide broadband services.
165. The Consumer Groups were of the view that TCI's proposal raised competitive concerns in that TCI's network would be improved, likely making it more difficult for other competitors to enter these markets.
166. NetWork B.C. indicated that it was prepared to work with TCI to identify unserved and underserved communities in British Columbia. NetWork B.C. requested that the Commission direct TCI to:
- prepare, with NetWork B.C., a plan to expend funds in TCI's deferral account in a manner that would provide broadband connectivity to all of the unserved communities in British Columbia and upgrade other underserved communities to broadband capacity standards;⁸
 - develop a plan and expend the necessary funds in TCI's deferral account to allow local entrepreneurs and other carriers to easily access open network points located within communities to provide local broadband; and
 - submit to the Commission evidence that TCI's proposed plan met the objectives of the Government of British Columbia to bridge the digital divide and foster affordable access to local entrepreneurs and other competitors.
167. NetWork B.C. submitted that installation of backbone facilities without local access, while perhaps technically "bridging the digital divide" to communities, did not address the fundamental issue of providing broadband access to remote residents, local businesses, schools, health care facilities, or government offices. NetWork B.C. requested that a reasonable portion of the funds in TCI's deferral account be allocated to provide actual broadband services in all of the underserved and unserved parts of the province.

The CCTA's submission

168. The CCTA proposed that draw-downs from the deferral accounts should be used to finance the installation of dark fibre backbone facilities to rural and remote communities that had no broadband service from any service provider. The CCTA submitted that the ILEC from whose deferral account the funds were drawn could be responsible for constructing and maintaining the backbone facilities. It also submitted that costs associated with local network, any upgrades, or equipment would be ineligible under its plan. The CCTA suggested that cable operators and other service providers that committed to provide broadband access services in the unserved community should be permitted to use these backbone facilities without additional charge.

⁸ NetWork B.C. defined "broadband connectivity" as a minimum of 1.5 megabits per second (Mbps) for residential and 10 Mbps for business services in order to support delivery of e-education, e-health, and e-commerce.

169. The CCTA submitted that under its proposal, it expected that the majority of funded backbone facilities would be developed by the ILECs and remain in their possession. In the CCTA's view, this would provide the ILECs with the opportunity to sell telecommunications services – including high-speed private line services – in areas they would not otherwise serve, without incurring the associated costs. The CCTA indicated, however, that the party selected to construct the facilities could be chosen through a competitive bidding process.
170. The CCTA submitted that the party constructing the backbone facilities should fully recover all capital costs and expenses. It also submitted that because there would be no unrecovered costs, no rates or charges for the use of the backbone facilities should be levied. The CCTA proposed that if services were leased from ILECs to supplement a service provider's local facilities, these services would be leased at tariffed rates.
171. The CCTA submitted that its proposal was competitively neutral and promoted facilities-based competition. It also submitted that its proposal was designed to maximize the benefit of funding broadband access from the deferral accounts by limiting the types of costs that were recoverable. This, in turn, would allow a greater number of unserved communities to benefit, minimize regulatory intervention, and help ensure competitive neutrality. The CCTA submitted that communities that were not served with broadband access by any service provider as of the date that the community's name was put forward for consideration should be eligible to have backbone facilities constructed and maintained using funds from the deferral accounts. It also submitted that communities that had been awarded provincial or federal funding under a broadband program, such as BRAND, should be excluded from any proposed facilities.
172. Bell Canada noted that under the CCTA's proposal, the subsidized facilities would be limited to backbone facilities, rather than covering all of the facilities and equipment necessary to provide broadband services. The company argued that under the CCTA's proposal, the broadband service provider would not be required to provide any assurances or commitments concerning the actual delivery of broadband services to end-customers. In Bell Canada's view, without such commitments and assurances, the CCTA's proposal could exhaust the funds in the deferral accounts without substantially affecting the availability of broadband services in rural areas.
173. MTS Allstream argued that the CCTA's proposal was not competitively neutral, given that the onus to build and maintain the backbone facilities fell on the ILECs. MTS Allstream also indicated that it would be difficult to determine when an ILEC should provide access to these facilities for free, as contemplated by the CCTA under its scheme, versus applying charges for the use of facilities and/or including these costs in the determination of rates for services relying on these same facilities.
174. TCI argued that the CCTA's broadband proposal was administratively complex, in that it involved a detailed process that relied heavily on the Commission to establish and manage the framework for the broadband expansion program.

175. The Consumer Groups submitted that the CCTA's proposal to fully fund backbone facilities and make them available for free to all service providers would not appear to distort competition. However, they suggested that the CCTA's proposal would use the funds in an uneconomic way, since wholesale users should contribute to the cost of the platform. The Consumer Groups submitted that if wholesale users were not willing to pay, it would not be a wise investment.
176. Telesat was of the view that the CCTA's proposal to limit funding to backbone facilities was neither competitively neutral nor likely to allow more communities or individuals to connect to broadband. Telesat argued that the CCTA's proposal showed bias against direct-to-user solutions now available with the company's Ka-band satellite service.
177. Xit telecom submitted that the Commission should reject the CCTA's proposal since it was not clear that it would improve access to the backbone facilities needed to extend broadband services.

Microcell's submission

178. Microcell proposed that the funds in the deferral accounts be used for a competitively neutral national subsidy program to promote the deployment of broadband Internet access services in unserved or underserved regions of Canada. The company indicated that it supported allocating a portion of each ILEC's deferral account directly to Industry Canada's BRAND program and/or the NSI. Microcell submitted that for the program to be competitively neutral, eligibility must be on a non-discriminatory basis to projects involving all types of Internet access providers using all types of broadband technologies. Microcell submitted that any subsidy program dedicated exclusively to funding ILEC broadband deployments, or which assigned decision-making authority over project selection to the ILECs, would fail the test of competitive neutrality. Microcell argued that decision-making authority for selecting winning projects must be independent of any one access provider or class of providers.
179. Bell Canada submitted that the particulars of Microcell's submission were not clear regarding a possible bidding process, selection criteria, amounts to be assigned from specific ILEC deferral accounts, or cost recovery mechanisms. Bell Canada argued that Microcell had not discussed how the success of its program would be monitored or mentioned the commitments, if any, that would have to be made by parties to ensure that these initiatives were delivering the benefit of broadband to customers in a timely fashion.
180. The CCTA submitted that Microcell had not provided the Commission or parties with an explanation as to how its proposal should be administered.

RipNET's submission

181. In RipNET's view, the public interest would be served best if funds in the deferral accounts were only available to non-ILECs, such as RipNET, to subsidize the cost of building facilities to provide high-speed broadband and competitive local telephony services in rural and remote communities. RipNET was of the view that these funds should be administered and managed by an independent agency that could establish the criteria for eligibility, invite proposals from companies, and select the companies that would receive subsidies.

182. Bell Canada submitted that the particulars of the competitive bidding process that RipNET supported were not clear in many respects, including selection criteria, cost estimates, implementation plans, and administration.
183. Bell Canada submitted that RipNET's premise of encouraging facilities-based competition as the reason to exclude the ILECs from being able to use funds from the deferral accounts for broadband expansion to unserved areas had no merit. The company argued that there was no market potential for facilities-based competitive high-speed broadband or telephony services in the rural and remote areas, which was why subsidies were required to provide such facilities in the first place. Bell Canada suggested that the policy issue was not how to get competing facilities in place, but how to get some facilities in place which could then be used to provide end-user broadband services, possibly by more than one retail service provider.

Other parties' comments

184. MTS Allstream argued that in-region programs were not competitively neutral, noting that what should be considered was the level of subsidy required, if any, to attract competitive entry in a currently unserved or underserved area. MTS Allstream submitted that any subsidy program should be left to the government to be administered on a national scale rather than on a piecemeal basis through the use of funds in the deferral accounts. However, MTS Allstream submitted that on the basis of the information on the record of this proceeding, there was no justification, legal or otherwise, for transferring funds in the ILECs' deferral accounts to BRAND or NSI.
185. SaskTel submitted that any use of funds in the deferral accounts should ensure that the roll-out of technology by industry participants was efficient and guided by market demand, not simply by the availability of an unused source of funds. SaskTel further submitted that broadband expansion to rural and remote locations using funds from the deferral accounts should be done on a competitively equitable basis, ensuring accessibility to all service providers that might wish to serve customers in those locations.
186. The CCTA argued that the Commission should consider the following factors when determining whether a broadband proposal, funded from the deferral accounts, was competitively neutral:
 - initiatives should be technologically neutral;
 - facilities to support broadband expansion should be equally available to all broadband service providers;
 - facilities should be chosen based on economic and technical efficiency;
 - facilities should provide sufficient capacity for potential providers;

- facilities that were required to provide broadband service access and which would not be commercially constructed were those that should be eligible; and
 - use of the deferral accounts should promote facilities-based competition.
187. The Consumer Groups argued that subsidizing DSL expansion was only an efficient strategy if it was the least-cost option. They noted that alternative technology platforms, especially terrestrial wireless networks and satellite-based services, might offer cheaper opportunities to serve rural areas than DSL. The Consumer Groups submitted that if it was determined that it was a goal to subsidize broadband expansion to uneconomic areas, there should be a proceeding to determine the nature of the requirement, the number of customers served, the revenue to be generated, the total cost, the company to supply such access, and who or what should contribute to its funding.
188. In Telesat's view, satellite technology could help provide least-cost solutions for broadband roll-out into rural and remote areas, either on its own, in tandem with, or as an adjunct to one or more of the broadband proposals put forward in this proceeding. Telesat noted that satellite had two major advantages over alternative technologies when it came to serving rural and remote regions: ubiquitous coverage and distance-insensitive costs. Telesat submitted that Ka-band service performance and monthly prices to all rural and remote areas of Canada would be comparable to that of terrestrial alternatives in urban areas, but the associated Ka-band equipment and installation prices could be higher. In Telesat's view, funding from the deferral accounts could be used to mitigate the higher equipment and installation costs, with no draw-down required for backbone facilities.

Commission's analysis and determinations

189. As indicated earlier, competitive neutrality is a principal part of the objectives to be considered when implementing the initiatives to be funded from the deferral accounts. Some parties suggested that a competitive bidding process would be required to give effect to this objective, so that other service providers, in addition to the ILECs, would have an opportunity to build broadband facilities to rural and remote communities. The Commission considers that a competitive bidding process, while assisting in the achievement of competitive neutrality, would add a significant layer of complexity, delay the implementation of broadband expansion, and result in substantial administrative and regulatory burden.
190. The Commission notes that some parties submitted that only backbone facilities should be funded from the deferral accounts and that these facilities should be made available to all broadband service providers. The Commission considers that an important aspect of competitive neutrality is that alternative providers of broadband services are able to use any backbone facilities constructed with funds from the deferral accounts on the same terms as the ILECs, so that end-customers have access to the widest possible choice of service providers.
191. However, the Commission considers that constructing only backbone facilities in rural and remote areas is not likely to provide sufficient economic incentive to broadband providers to offer broadband services in those communities. The Commission considers that proposals that would provide broadband services to the end-customer, similar to the one submitted by

Bell Canada, would be the most effective way to expand broadband services to those communities. The Commission generally agrees with the approach outlined in Bell Canada's submission, which is likely to be much less administratively burdensome than a competitive bidding process.

192. The Commission agrees with the view raised by parties that least-cost technology should be used in the expansion of broadband services. The Commission considers that this would be a more efficient use of funds in the deferral accounts, allowing a greater number of rural and remote communities to benefit from the availability of these services.
193. The Commission considers that only the uneconomic portion of the initiative to expand broadband services should be recovered using funds in the deferral accounts. The Commission considers that these funds should be used to recover the total cost to build the backbone and access facilities less all revenues generated from retail and wholesale services that will use these facilities. The Commission will require detailed cost studies to be filed to support the use of these funds for broadband expansion.
194. As indicated above, the Commission considers that any backbone facilities constructed with funds from the deferral accounts should be made available to alternative broadband service providers on the same terms as the ILECs. The Commission considers that allowing all providers to use backbone facilities on the same terms will encourage competition while also providing direct benefits to consumers. The Commission further considers that, since the ILECs would be compensated from the deferral accounts for the uneconomic portion of these initiatives, all service providers should have access to these backbone facilities at a minimal rate. The Commission considers that the maintenance rate applicable to dark fibre backbone facilities could be a reasonable proxy rate in these circumstances. This rate will be established when the Commission approves each ILEC's broadband expansion proposal.
195. The Commission considers that ILECs should ensure that communities selected for expansion of broadband services would be those communities that would be unlikely to receive such services from any service provider in the near future. The Commission also considers that this would be consistent with the principle of competitive neutrality. Accordingly, the Commission considers that the ILECs should expand broadband services to the customer premises in communities located primarily in Bands E and F in HCSA exchanges, where service is not available from any service provider and is not part of their existing commitments or planned roll-out. In addition, the Commission considers that all communities that have received funding, or that have been approved for funding, from any government broadband expansion programs are to be excluded.
196. The Commission notes that some ILECs offer bundled broadband services on a wholesale basis to alternative service providers - for example, Bell Canada's Gateway Access Service. The Commission considers that these services should also be offered in any community where broadband services are extended using funds from the deferral accounts.

197. In light of the above, the Commission directs those ILECs that pursue broadband expansion within their serving territory to file, by 30 June 2006, detailed proposals in compliance with the following conditions:
- the ILEC must submit a proposal to provide broadband service to the customer premises in communities located primarily in Bands E and F in HCSA exchanges, where:
 - (1) broadband service is not available from any service provider and is not part of their existing commitments or planned roll-out, and
 - (2) the community has not received funding, or approval for funding, from any government broadband expansion programs;
 - deployment must be based on least-cost technology;
 - proposals must include backbone and access facilities;
 - backbone facilities must be made available to alternative broadband service providers at a minimal rate that will be approved by the Commission when reviewing the broadband expansion proposals for approval;
 - any wholesale broadband service offered by the ILEC, such as Bell Canada's Gateway Access Service, must be made available in all funded communities; and
 - proposed funding must cover only the uneconomic portion of the project.
198. The Commission also directs the ILECs to consult with provincial government agencies responsible for broadband initiatives before submitting their proposals, to ensure that their expansion plans take into account identified provincial priorities.
199. The Commission will issue a letter shortly outlining the requirements for filing broadband expansion proposals. These requirements will include, among other things, the broadband expansion roll-out schedule, a detailed cost study including all assumptions, number of homes passed, expected take rate, and technology description.
200. The Commission notes that Bell Canada's submission in this proceeding included a proposal to expand its broadband coverage that was very similar to the proposal in its 2 December 2003 application. Accordingly, the Commission concludes that it is not necessary to rule on Bell Canada's 2 December 2003 application.

Proposals to improve accessibility to telecommunications services

201. With respect to programs that focus on accessibility to telecommunications services for persons with disabilities, advocacy groups proposed various activities that could be funded through draw-downs from the deferral accounts. Parties' submissions are summarized below.

Positions of parties

202. ARCH proposed to create a new fund to eliminate discrimination faced by persons with disabilities in their use of telecommunications products and services. ARCH outlined a number of suggestions for potential allocations from its proposed fund, including: conducting consultations with persons with disabilities to determine the barriers that needed to be addressed; providing rebates to persons with disabilities who encountered higher costs than persons without disabilities to access telecommunications products and services; and expanding telecommunications infrastructure to accommodate equipment for persons with disabilities.
203. ARCH indicated that under its proposal, a standing committee would be established to work in conjunction with Commission staff to make ongoing decisions regarding the distribution and uses of funds held in the deferral accounts.
204. CAD outlined a number of suggestions for the potential allocation of funds in the deferral accounts, including: using affirmative action hiring to place some deaf persons in positions of significance with the ILECs or the Commission; bringing MRS up to the standard provided in the United States; providing teletypewriters (TTYs) for deaf users at no charge; making services such as voicemail, call display, and call forwarding accessible to deaf users or providing parallel services for TTY users; and resolving the issue of access to 9-1-1 for deaf users.
205. CAD accepted ARCH's proposal to set up a fund administered by a standing committee as a possible way to start to address inequalities. CAD submitted that the funds could also simply be retained by the ILECs and that the Commission could then direct the use of these funds to focus on addressing access barriers experienced by the deaf and people with disabilities. CAD also submitted that the Commission could determine each application on a case-by-case basis.
206. Bell Canada, MTS Allstream, SaskTel, TCI, and Call-Net stated that many of ARCH's and CAD's suggestions lacked specific details, which made them difficult to evaluate or to implement.
207. Bell Canada indicated that, should the Commission deem it appropriate, the company would not be opposed to the establishment of a committee that would undertake to define activities and initiatives that would improve the accessibility to services for persons with disabilities in each ILEC's serving area.

Commission's analysis and determinations

208. The Commission agrees with parties' comments that there is insufficient evidence on the record of this proceeding to evaluate the appropriateness of ARCH's or CAD's proposals.

However, the Commission considers that consultations between the ILECs and advocacy organizations for persons with disabilities would allow these and other proposals to be examined in further detail and would allow the interests of all affected parties to be represented appropriately.

209. With respect to the amount of money from the deferral accounts that should be allocated to improve accessibility to telecommunications services, the Commission notes that this amount is difficult to estimate since requirements may vary by ILEC territory based on existing programs and/or the economic, social, and political environments in different provinces. In addition, the amount of funds in each ILEC's deferral account varies as shown by the preliminary estimates in the attachment to this Decision. The Commission also notes that the balance in an ILEC's deferral account could be drawn down substantially if the ILEC proposes to expand broadband services as previously discussed.
210. The Commission considers, however, that each ILEC that has a positive accumulated balance in its deferral account should allocate funds to improving accessibility to telecommunications services for persons with disabilities. The Commission considers that, at a minimum, five percent of each ILEC's accumulated deferral account balance should be allocated to this purpose before any of the other draw-downs in this Decision.
211. Accordingly, the Commission directs each ILEC, except Télébec, to allocate a minimum of five percent of the accumulated balance in its deferral account to fund programs to improve accessibility to telecommunications services for persons with disabilities. The Commission further directs these ILECs to consult and work with the appropriate advocacy organizations for persons with disabilities prior to submitting their proposals for approval. The Commission directs these ILECs to file their proposals by 30 June 2006.

Rate reductions

212. The Commission notes that the directions provided above are intended to eliminate the funds that will have accumulated in the deferral accounts by the end of the fourth year of the price cap period in 2006. However, based on the methodology approved later in this Decision for calculating the deferral account balances, it is estimated that the ILECs, except Télébec, will have recurring positive amounts in their deferral accounts, which will result in funds accumulating in the deferral accounts beyond the fourth year of the price cap period. To ensure that funds do not continue to accumulate in the deferral accounts in the future, these ILECs will be required to implement rate reductions to eliminate these recurring amounts.
213. The parties' positions summarized below do not specifically address the disposition of the recurring amounts in the deferral accounts. However, the Commission considers it appropriate to review their proposals to determine their feasibility in light of the required rate reductions.

Positions of parties

214. Aliant Telecom submitted that it needed to reduce prices in order to be competitive, given the extent of competition in its local residential wireline market and the gap between its residential service prices and its competitor's prices. The company also proposed to extend the local

calling area for the Halifax Regional Municipality and to draw down its deferral account by \$0.9 million per year for three years for this initiative. Aliant Telecom indicated that this amount represented the forgone toll estimated by it and its toll competitors.

215. SaskTel supported Aliant Telecom's proposal. It noted that using funds in Aliant Telecom's deferral account to offset rate reductions required by Aliant Telecom to provide it with a reasonable opportunity to compete against EastLink would be consistent with the Commission's determination in Decision 2002-34.
216. The Consumer Groups submitted that the proposal to pay Aliant Telecom for competitive rate reductions was, at best, a violation of the normal regulatory principles of generational equity in cost allocation and rate design and that, at worst, it was effectively an anti-competitive subsidy to Aliant Telecom that would further distort the market and compromise potential competition benefits to consumers.
217. Bell Canada proposed to reduce monthly prices for seven of its residential optional local services and to recover the resultant revenue loss from its deferral account. The company submitted that these reductions would yield direct benefits to over three million residential customers, representing more than 40 percent of Bell Canada's residential subscriber base.
218. Call-Net was of the view that Bell Canada's proposal was unnecessarily one-sided. It submitted that if the proposal were modified so that all local exchange carriers offering optional local services were also eligible to recover the discount from the deferral accounts, then Bell Canada's proposal would have merit. The CCTA submitted that the proposal appeared to be financing a competitive response by Bell Canada, rather than satisfying the objectives regarding affordable rates.
219. The Consumer Groups noted that while Bell Canada's proposed reductions for local optional services could permanently eliminate the need for a deferral account, the customers benefiting were not necessarily the same as those who had forgone rate reductions. The Consumer Groups also noted that Bell Canada's proposal provided greater benefits to customers that spent more on telecommunications services, which rewarded the large telecommunications users at the expense of the small.
220. MTS Allstream proposed that the remaining balance of its deferral account be used to eliminate or refund charges for residential installation service charges, Manitoba Relay Service, and province-wide E9-1-1 service for the remainder of the price cap period. It submitted that the benefits related to Manitoba Relay Service and E9-1-1 charges would also be extended to competitors since the tariffed rates would be reduced to zero for the period of the draw-down.
221. Call-Net submitted that MTS Allstream's proposal to waive local order service charges, 9-1-1, and Manitoba Relay Service fees might have merit as long as CLEC customers were also eligible to get credit from the deferral accounts. The CCTA submitted that, as with Bell Canada's proposal, MTS Allstream's proposal to eliminate or rebate charges to subscribers would largely result in funds being returned as revenue to the ILECs.

222. EastLink proposed that removing 9-1-1 fees charged by the ILECs to all telephone subscribers, including the fees charged to competitors, until the deferral accounts were depleted would be a competitively neutral use of funds that would achieve a balance among all parties.
223. Bell Canada, SaskTel, and TCI submitted that EastLink's proposal concerning 9-1-1 fees would be unfair to ILEC customers. More specifically, Bell Canada submitted that adoption of EastLink's proposal would place the entire burden of funding the 9-1-1 system on ILEC residential subscribers in non-HCSAs, even though the benefits of the system were much more broadly based.

Commission's analysis and determinations

224. The Commission agrees with the Consumer Groups' view that reducing rates on optional services alone would disproportionately reward customers that spent more on telecommunications services and would not benefit all non-HCSA subscribers.
225. With respect to 9-1-1 fees, the Commission considers that using the deferral accounts to eliminate 9-1-1 fees charged by the ILECs to all subscribers and competitors would place an unfair burden on ILEC residential subscribers in non-HCSAs who originally contributed to the deferral account balances, since the benefits of 9-1-1 service are enjoyed by the broader base of telephone subscribers – residential and business customers of both ILECs and CLECs in HCSAs and non-HCSAs.
226. The Commission is concerned that, in the absence of any specific guidelines, the ILECs may target rate reductions solely in specific geographic markets or subscriber segments where competition exists, or where competitors will soon be entering. Consequently, to prevent any such targeting by ILECs, and to distribute the benefits more evenly to all non-HCSA subscribers, the Commission concludes that the recurring amounts to be eliminated by rate reductions should be assigned to the Residential Local Services in non-HCSAs basket and proportionally allocated, based on revenues, to the Residential Local Exchange Services in non-HCSAs and the Residential Optional Local Services in non-HCSAs sub-baskets. The Commission further concludes that all residential subscribers in non-HCSA bands should benefit from these rate reductions.
227. Accordingly, the Commission directs all ILECs, with the exception of Télébec, to file, by 15 May 2006, proposed changes to monthly rates for primary exchange services and optional services in the Residential Local Services in non-HCSAs basket in order to eliminate the recurring amounts in their deferral accounts. These rate changes are to become effective 1 June 2006 for Aliant Telecom, Bell Canada, MTS Allstream, SaskTel, and TCI, and 1 August 2006 for TELUS Québec.
228. As noted earlier, the price cap period for the ILECs was extended by one year in Decisions 2005-69 and 2005-70. The Commission notes that during this period, the application of the I-X constraint will result in an additional recurring amount, either positive or negative, being added to the deferral accounts. The Commission considers that it may be appropriate to eliminate this recurring amount and that ILECs may propose to combine these two recurring amounts when filing the proposed rate reductions discussed above.

Télébec- and TELUS Québec-specific issues

Télébec's residual shortfall

229. In Decision 2002-43, the Commission determined that Télébec had a going-in revenue requirement of \$15.7 million. The Commission also determined that the company would receive funding of \$8.1 million from the National Contribution Fund (NCF) as a subsidy for its HCSAs, leaving the company with a going-in revenue requirement shortfall of \$7.6 million. In Decision 2002-43, the Commission decided not to permit Télébec to raise its local service rates to recover the residual going-in revenue requirement shortfall, but concluded that the \$7.6 million would be funded through a transitional subsidy from the NCF.
230. In Decision 2002-43, the Commission determined that until the transitional subsidy was eliminated, the application of the I-X constraint to the baskets of Residential Local Services in non-HCSAs and Other Capped Services would be suspended. The application of the I-X constraint to the rates of certain Competitor Services was also suspended.
231. In addition, the Commission directed that once the shortfall was fully eliminated, the I-X basket and rate element constraints were to be reinstated. Accordingly, Télébec was to contribute to its deferral account an amount equal to any revenue reduction that would be required by the application of the I-X constraint to the basket of Residential Local Services in non-HCSAs.
232. In *Implementation of competition in the local exchange and local payphone markets in the territories of Société en commandite Télébec and the former TELUS Communications (Québec) Inc.*, Telecom Decision CRTC 2005-4, 31 January 2005 (Decision 2005-4), the Commission determined the banding structure and related Phase II primary exchange service costs for Télébec and TELUS Québec. Based on these determinations, the Commission recalculated the funding that Télébec would receive from the NCF to be \$14.88 million. Since this amount was less than the going-in revenue requirement of \$15.7 million calculated in Decision 2002-43, this left the company with a shortfall of \$0.82 million. The Commission determined that this shortfall should be accounted for through the deferral account, similar to the treatment of exogenous factors in the price regulation regime established in Decision 2002-43.
233. In Decision 2005-4, the Commission also determined that Télébec should apply the I-X constraint to the revenues associated with its baskets of capped services, effective 1 August 2002. In addition, the Commission determined that it would be appropriate to transfer the I-X constraint revenue reductions for the period from 1 August 2002 to 31 July 2005 to the company's deferral account.

Télébec's and TELUS Québec's revenue deferral accounts

234. The Commission notes that Télébec's revenue deferral account resulted from two related Commission orders. First, in *Télébec ltée – Rate restructuring*, Order CRTC 2000-531, 9 June 2000 (Order 2000-531), the Commission approved, effective 1 July 2000, a residential rate restructuring proposal for Télébec. Then, in *CRTC approves an application*

to review and vary Order CRTC 2000-531 - *Télébec ltée - Rate restructuring*, Order CRTC 2001-216, 14 March 2001, the Commission directed that the rate restructuring approved in Order 2000-531 be maintained, and that as of 1 July 2000, funds generated by this residential rate restructuring be placed in a revenue deferral account to be used to benefit Télébec's residential subscribers to mitigate future rate increases that would otherwise have been approved by the Commission.

235. In *Implementation of regulatory framework for Québec-Telephone and Télébec ltée*, Telecom Decision CRTC 97-21, 18 December 1997, the Commission directed TELUS Québec to place excess earnings in a revenue deferral account, should the Utility segment achieve earnings above the upper limit of the allowed rate of return on its average equity during the split rate base regime. In the proceeding leading to *Québec-Telephone 1999 final contribution rate approved*, Order CRTC 2000-860, 19 September 2000, TELUS Québec reported excess earnings in 1998. The Commission directed TELUS Québec to place these earnings in a revenue deferral account to mitigate any future residential local rate increases during the transition period or at the start of the price regulation regime.
236. In Decision 2002-43, the Commission directed Télébec and TELUS Québec to amortize their revenue deferral accounts equally over the four-year price cap period for the purpose of establishing the going-in revenue requirement, in order to minimize fluctuations in local rates and maintain the integrity and uniformity of the price regulation regime.
237. The Commission notes that in its proposed price cap deferral account schedule, Télébec included the amounts that had accumulated in the revenue deferral account and the related annual amortization during the current price cap period, thus combining the two deferral accounts. The Commission notes that TELUS Québec did not include the impact of the revenue deferral account in its price cap deferral account.
238. The Commission considers that it is not appropriate to combine the revenue deferral account with the price cap deferral account since they were created for different purposes. However, the Commission considers that at the end of the fourth year of the current price cap period, when the revenue deferral accounts are fully amortized, the companies should be allowed to recover the revenue reduction resulting from the revenue deferral accounts being fully drawn-down.
239. The Commission notes that, pursuant to Decision 2005-4, TELUS Québec receives approximately \$3 million per year of additional contribution from the NCF, with no corresponding adjustment to its revenue requirement. The Commission concludes that this additional contribution more than adequately compensates TELUS Québec for the \$2.2 million revenue reduction associated with the expiration of the amortization of the revenue deferral account.
240. The Commission notes that the additional contribution that Télébec receives pursuant to Decision 2005-4 would not allow the company to be compensated adequately for the expiration of the amortization of its revenue deferral account. Accordingly, the Commission considers that Télébec should be allowed to recover the \$1.9 million associated with the

expiration of the amortization of the revenue deferral account. As a result, the Commission concludes that a draw-down of \$1.9 million should be included in Télébec's price cap deferral account starting on 1 August 2006.

Other issues

Recovery of local number portability and local competition start-up costs

241. The Commission notes that in its proposed price cap deferral account schedule for the price cap year ending 31 July 2006, Télébec proposed to draw down from the deferral account \$2.3 million per year for the recovery of local number portability (LNP) and local competition start-up costs. In *Follow-up to Decision 2002-43 - Société en commandite Télébec's request to recover the start-up costs for local competition and local number portability*, Telecom Decision CRTC 2005-76, 22 December 2005, the Commission determined that Télébec could recover \$1.6 million per year for its LNP and local competition start-up costs over a four-year period, starting on 1 August 2005. Télébec's deferral account schedule reflects the recovery of LNP and local competition start-up costs for the price cap year ending on 31 July 2006.

Recovery of the costs for teletypewriter upgrades to pay telephones

242. In *Follow-up to Access to pay telephone service, Telecom Decision CRTC 2004-47 - Société en commandite Télébec request to recover costs associated with upgrading pay telephones with teletypewriter units*, Telecom Decision CRTC 2005-75, 22 December 2005, the Commission determined that Télébec could draw down \$0.16 million per year over a seven-year period from its deferral account, starting with the price cap year ending on 31 July 2006, for the recovery of the costs for TTY upgrades to pay telephones.

SIPs in non-HCSAs

243. The Commission notes that in *Société en commandite Télébec – Follow-up to Decision 2002-43 – Service improvement plan*, Telecom Decision CRTC 2004-77, 18 November 2004 (Decision 2004-77), the Commission determined that Télébec would be able to recover costs related to its SIPs in non-HCSAs. In this proceeding, Télébec proposed to draw down from its deferral account \$276,285 for the first year of the price cap period and \$365,000 thereafter to recover its SIP in non-HCSAs. The Commission considers that these draw-downs are appropriate and has included them in the attachment to this Decision.

TELUS Québec - Residential optional service bundles

244. The Commission notes that in *TELUS Communications Inc. – COMM Residential Optional Service Bundles*, Telecom Order CRTC 2004-411, 8 December 2004 (Order 2004-411), it approved TELUS Québec's proposal to include the revenues resulting from the non-compliant rate increases in the company's deferral account. However, the Commission notes that TELUS Québec has not included these revenues in its deferral account schedules. Accordingly, the Commission directs TELUS Québec to reflect these revenues in its deferral account as per the directions set out in Order 2004-411.

Summary of considerations regarding Télébec- and TELUS Québec-specific issues

245. In light of the above, the Commission estimates that TELUS Québec will have a recurring amount of \$1.5 million and an accumulated balance of \$5.4 million in its deferral account at the end of the fourth year of the current price cap period.
246. In addition, the Commission estimates that Télébec will have a recurring shortfall of \$1.4 million and an accumulated balance of \$0.5 million in its deferral account at the end of the fourth year of the current price cap period. The Commission further notes that with the expiry of the amortization of the revenue deferral account discussed above, Télébec's recurring shortfall will increase to \$3.3 million by the end of the extension year of the current price cap period.
247. The Commission considers that Télébec should be allowed to recover the recurring shortfall in its deferral account through an exogenous adjustment since the shortfall results from Commission-mandated actions. Accordingly, the Commission directs Télébec to file an exogenous factor proposal for the recovery of the recurring shortfall in its deferral account coincident with its 2006 annual price cap filing.
248. The Commission notes that Télébec's subscribers already pay the highest rates for local exchange services in Canada. The Commission considers that it is important to minimize the potential rate increases to these subscribers. Accordingly, the Commission directs Télébec to suspend the application of the I-X constraint, if I is less than X, on its Competitor Services and on the Other Capped Services basket effective 1 August 2006. The Commission also directs Télébec to place the revenues associated with the suspension of these constraints in its deferral account effective 1 August 2006.

Calculation of deferral account balances

Positions of parties

249. Parties proposed two methodologies for calculating the deferral account balances. Under the first methodology (Methodology 1), the impact of annual cumulative additions and draw-downs would be treated as cash flows from company revenues in a given year if no action were taken to dispose of the funds in that year. Aliant Telecom, Bell Canada, and MTS Allstream proposed this methodology.
250. Under the second methodology (Methodology 2), the impact of annual additions and draw-downs would accumulate for the duration of the price cap period. SaskTel, TCI, TELUS Québec, and Télébec proposed this methodology. The Consumer Groups and the CCTA supported using Methodology 2.
251. Aliant Telecom submitted that Methodology 2 would be appropriate only if one considered that the initiatives used to clear the deferral accounts had no impact outside the price cap period. The company argued that Methodology 1 ensured that there was no impact outside the price cap period, as could be seen from the relationship of accruals to the deferral accounts, the normal working of the price regulation regime, and the permanent nature of draw-downs already approved.

252. Bell Canada submitted that its representation of its deferral account balance, and therefore the amount that should be addressed in this proceeding, reflected the Commission's description of the deferral accounts set out in Decision 2002-34. The company also submitted that its deferral account balance represented the cumulative annualized values of price changes that had been deferred as a result of not introducing mandated price changes to residential services in non-HCSAs. Bell Canada stated that, as such, the balance at the end of a given price cap year represented the annualized value of initiatives, beginning in the next price cap year, that would be required to eliminate the balance owed.
253. MTS Allstream noted that the deferral accounts had been established to offset rate reductions that might otherwise have been required for the ILECs' residential exchange services in non-HCSAs, given that the I-X price cap formula applied to those services. It also submitted that to clear the deferral account net balance, rate reductions, program expenditures, or other approved means with a total annual equivalent value equal to the net annualized value of these rate reductions would be required.
254. The Consumer Groups noted that Methodology 1 "zeroed out" annual reductions associated with the operation of the price regulation regime and started each year unencumbered by the rate reductions produced in the previous period. In the Consumer Groups' view, this approach was lucrative for the companies employing it.

Commission's analysis and determinations

255. The Commission notes that under the price regulation regimes set out in the price cap decisions, if rates are changed to account for the impact of the I-X component or for exogenous factors in a given year, the resultant rate changes and revenue impacts are reflected indefinitely for subsequent years. The Commission also notes that the pricing constraints on certain baskets – such as Other Capped Services and Competitor Services – operate in this manner. The Commission considers that, in the absence of the deferral accounts, the constraints for the Residential Local Services in non-HCSAs basket would have operated in a similar manner. Therefore, the Commission considers that accounting for the funds in the deferral accounts should follow these same principles.
256. On that basis, the Commission considers that the net additions/draw-downs from various factors, such as the I-X component and exogenous factors, not used in any given year should accrue in the deferral accounts. This would result in an accumulated balance and a net recurring amount at the end of each year in the deferral accounts for which an accounting would be required. The Commission considers that even if the balance that will have accumulated by the end of the price cap period were eliminated, funds would continue to accumulate in the deferral accounts beyond the price cap period due to the net annual recurring amount. Accordingly, the Commission considers that the deferral account schedules must show both an accumulated year-end balance as well as a net annual recurring amount for each year of the price regulation regime.
257. The Commission notes that Methodology 1 only accounts for the net recurring amounts and does not take into consideration the balance that would have accumulated in the deferral accounts at the end of any year during the price cap period. The Commission considers that

Methodology 1 does not follow the principles underlying the price regulation regimes noted above. Accordingly, the Commission rejects the use of Methodology 1 to account for funds in the deferral accounts.

258. The Commission considers that Methodology 2 follows the principles underlying the price regulation regimes noted above, and accounts for both the recurring and accumulated amounts in the deferral accounts. Accordingly, the Commission directs each ILEC to use Methodology 2 to determine the funds in its deferral account.
259. In the attachment to this Decision, the Commission estimates, on a preliminary basis, the ILECs' deferral account balances at the end of the fourth year of the current price cap period using this methodology. The Commission notes that the deferral account balances cannot be finalized at this time due to certain outstanding proceedings that may have an impact on these balances. For example, the Commission notes that the ILECs and competitors have not yet identified all of the circuits that qualify for Competitor Digital Network (CDN) rates from the determinations of *Competitor Digital Network Services*, Telecom Decision CRTC 2005-6, 3 February 2005 (Decision 2005-6). In addition, the Commission has received several applications related to the implementation of either Competitor Digital Network Access (CDNA) or CDN service that may affect the deferral accounts. In each case, the impact on the ILECs' deferral accounts will depend on the Commission's disposition of these applications. Therefore, the Commission is able to provide only preliminary estimates of the deferral account balances at this time.
260. Based on the methodology approved above, the Commission estimates, on a preliminary basis, that the ILECs' deferral account balances at the end of the fourth year of the current price cap period in 2006 will be as follows:

Deferral Account Summary by Company
Preliminary Balances
Price Cap Year Ending in 2006
(\$ millions)⁹

ILEC	Accumulated balance	Recurring amount
Aliant Telecom	21.8	2.2
Bell Canada	480.5	81.5
MTS Allstream	18.0	3.0
SaskTel	1.5	0.9
Télébec	0.5	-1.4
TCI	125.1	8.6
TELUS Québec	5.4	1.5
Total	652.7	96.3

Refer to the attachment for detailed preliminary schedules for each company.

⁹ Totals may not add due to rounding.

Updating schedules and submitting proposals

261. The Commission directs each ILEC to update its deferral account schedule in a format similar to the attachment of this Decision. The schedule should include the extension year of the price cap period and reflect all decisions that impact the balance in the company's deferral account. In addition, the Commission directs each ILEC to provide supporting calculations for any new or revised figures included in its schedule. The ILEC is to also provide any assumptions or rationale, including the rate of interest on accumulated balances, used to derive these figures.
262. The Commission directs each ILEC to file, by 15 May 2006, its updated deferral account schedule and its proposed rate reductions to eliminate the recurring amount in its deferral account. The Commission also directs each ILEC to file, by 30 June 2006, its initiatives to dispose of the funds that will have accumulated in its deferral account by the end of the fourth year of the price cap period. These submissions should take into consideration the determinations made in this Decision as well as any subsequent decisions that will impact the amounts in the company's deferral account. Once these proposals have been filed, the Commission will determine what process or processes will be required to consider these submissions.
263. The dissenting opinion of Commissioner Cram is attached.

Secretary General

This document is available in alternative format upon request, and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>

Deferral Account Schedules

Aliant Telecom - Deferral Account Preliminary Estimate (\$000)				
	May-03	May-04	May-05	May-06
Opening balance		3,800	12,690	18,879
Additions				
Inflation less productivity (1.243-3.5%)	4,539	4,539	4,539	4,539
Inflation less productivity (1.158-3.5%)		4,736	4,736	4,736
Inflation less productivity (3.397-3.5%)			200	200
Inflation less productivity (3.263-3.5%)				451
Local competition and LNP start-up costs recovered	1,130	1,130	1,130	1,130
Contribution revenue-percent charge (4.5%-1.3%)	3,685	3,685	3,685	3,685
Contribution revenue-percent charge (1.3%-1.1%) for the period 1 January to 31 May 2003	96			
Contribution revenue-percent charge (1.3%-1.1%)		230	230	230
Total additions	9,450	14,320	14,520	14,971
Draw-downs				
Competitor Services discounts	4,300	4,300	4,300	4,300
CDNA	700	700	700	700
CDNA as per Decision 2005-6			2,100	6,200
SIP in non-HCSAs	700	700	700	700
TTY			870	870
Total draw-downs	5,700	5,700	8,670	12,770
Recurring amount accruing in the account	3,750	8,620	5,850	2,201
Interest rate	2.65%	3.34%	2.17%	3.75%
Interest amount	50	271	339	749
Net annual additions	3,800	8,891	6,189	2,950
Accumulated balance	3,800	12,690	18,879	21,829

Bell Canada - Deferral Account Preliminary Estimate (\$000)				
	May-03	May-04	May-05	May-06
Opening balance	0	94,860	255,453	390,010
Additions				
Inflation less productivity (1.243-3.5%)	57,200	57,200	57,200	57,200
Inflation less productivity (1.158-3.5%)		58,000	58,000	58,000
Inflation less productivity (3.397-3.5%)			2,500	2,500
Inflation less productivity (3.263-3.5%)				5,582
Local competition and LNP start-up costs recovered	17,755	17,755	17,755	17,755
Contribution revenue-percent charge (4.5%-1.3%)	83,331	83,331	83,331	83,331
Contribution revenue-percent charge (1.3%-1.1%) for the period 1 January to 31 May 2003	2,170			
Contribution revenue percent charge (1.3%-1.1%)		5,270	5,270	5,270
Reduction – Ontario Gross Receipts Tax	11,700	11,700	11,700	11,700
Reduction – Telecommunications, Gas, Electric (TGE) tax Quebec	13,000	13,000	13,000	13,000
Rebate for party line rental sets	16			
Total additions	185,172	246,256	248,756	254,338
Draw-downs				
Competitor Services discounts	35,100	35,100	35,100	35,100
CDNA	52,500	52,500	52,500	52,500
CDNA as per Decision 2005-6			25,600	76,800
SIP in non-HCSAs	3,800	3,800	3,800	3,800
TTY			3,906	4,687
Total draw-downs	91,400	91,400	120,906	172,887
Recurring amount accruing in the account	93,772	154,856	127,850	81,451
Interest rate	2.32%	3.33%	2.10%	2.10%
Interest amount	1,088	5,737	6,707	9,045
Net annual additions	94,860	160,593	134,557	90,496
Accumulated balance	94,860	255,453	390,010	480,506

MTS Allstream - Deferral Account Preliminary Estimate (\$000)				
	May-03	May-04	May-05	May-06
Opening balance	0	3,014	9,405	14,554
Additions				
Inflation less productivity (1.243-3.5%)	2,900	2,900	2,900	2,900
Inflation less productivity (1.158-3.5%)		3,000	3,000	3,000
Inflation less productivity (3.397-3.5%)			100	100
Inflation less productivity (3.263-3.5%)				295
Local competition and LNP start-up costs recovered	2,483	2,483	2,483	2,483
Contribution revenue-percent charge (4.5%-1.3%)	2,448	2,448	2,448	2,448
Contribution revenue-percent charge (1.3%-1.1%) for the period 1 January to 31 May 2003	140			
Contribution revenue-percent charge (1.3%-1.1%)		340	340	340
Total additions	7,971	11,171	11,271	11,566
Draw-downs				
Competitor Services discounts	1,100	1,100	1,100	1,100
CDNA	3,805	3,805	3,805	3,805
CDNA as per Decision 2005-6			1,067	3,200
SIP in non-HCSAs	88	88	88	88
TTY			329	329
Total draw-downs	4,993	4,993	6,389	8,522
Recurring amount accruing in the account	2,978	6,178	4,882	3,044
Interest rate	2.40%	3.50%	2.25%	2.25%
Interest amount	36	214	267	362
Net annual additions	3,014	6,392	5,149	3,406
Accumulated balance	3,014	9,405	14,554	17,960

SaskTel - Deferral Account Preliminary Estimate (\$000)				
	May-03	May-04	May-05	May-06
Opening balance	0	-1,035	-129	563
Additions				
Inflation less productivity (1.243-3.5%)	2,253	2,253	2,253	2,253
Inflation less productivity (1.158-3.5%)		1,947	1,947	1,947
Inflation less productivity (3.397-3.5%)			86	86
Inflation less productivity (3.263-3.5%)				197
Total additions	2,253	4,200	4,286	4,483
Draw-downs				
Competitor Services discounts	1,670	1,670	1,670	1,670
Local rate offset	1,606	1,606	1,606	1,606
TTY			327	327
Total draw-downs	3,275	3,275	3,602	3,602
Recurring amount accruing in the account	-1,022	925	684	881
Interest rate	2.60%	3.26%	3.26%	3.26%
Interest amount	-13	-19	7	33
Net annual additions	-1,035	907	691	914
Accumulated balance	-1,035	-129	563	1,477

Télébec - Deferral Account Preliminary Estimate (\$000)				
	Jul-03	Jul-04	Jul-05	Jul-06
Opening balance	0	-84	817	1,813
Additions				
Inflation less productivity (1.243-3.5%)	564	564	564	564
Inflation less productivity (1.158-3.5%)		582	582	582
Inflation less productivity (3.397-3.5%)			25	25
Inflation less productivity (3.263-3.5%)				58
Other Capped Services basket (I-X)	302	625	642	
Competitor Services basket (I-X)	147	299	305	
Telecom Order CRTC 2006-13				356
Total additions	1,014	2,070	2,119	1,585
Draw-downs				
SIP in non-HCSAs	276	365	365	365
Transitional subsidy	820	820	820	820
LNP and local competition start-up costs				1,636
TTY				160
Total draw downs	1,096	1,185	1,185	2,981
Recurring amount accruing in the account	-82	885	934	-1,396
Interest rate	4.69%	4.83%	4.83%	4.83%
Interest amount	-2	17	62	54
Net annual additions	-84	902	996	-1,342
Accumulated balance	-84	817	1,813	471

TCI - Deferral Account Preliminary Estimate (\$000)				
	May-03	May-04	May-05	May-06
Opening balance	0	25,961	75,536	112,211
Additions				
Inflation less productivity (1.243-3.5%)	22,500	22,500	22,500	22,500
Inflation less productivity (1.158-3.5%)		22,700	22,700	22,700
Inflation less productivity (3.397-3.5%)			900	900
Inflation less productivity (3.263-3.5%)				2,400
Local competition and LNP start-up costs recovered	11,758	11,758	11,758	11,758
Contribution revenue-percent charge (4.5%-1.3%)	38,577	38,577	38,577	38,577
Contribution revenue-percent charge (1.3%-1.1%) for the period 1 January to 31 May 2003	955			
Contribution revenue-percent charge (1.3%-1.1%)		2,276	2,276	2,276
Total additions	73,790	97,811	98,711	101,111
Draw-downs				
Competitor Services discounts	25,900	25,900	25,900	25,900
CDNA	22,500	22,500	22,500	22,500
CDNA as per Decision 2005-6			13,700	41,200
SIP in non-HCSAs		1,740	2,080	2,080
TTY		330	794	794
Total draw-downs	48,400	50,470	64,974	92,474
Recurring amount accruing in the account	25,390	47,341	33,737	8,637
Interest rate	4.50%	4.50%	3.18%	3.66%
Interest amount	571	2,233	2,938	4,265
Net annual additions	25,961	49,574	36,675	12,902
Accumulated balance	25,961	75,536	112,211	125,113

TELUS Québec - Deferral Account Preliminary Estimate (\$000)				
	Jul-03	Jul-04	Jul-05	Jul-06
Opening balance	0	708	2,176	3,687
Additions				
Inflation less productivity (1.243-3.5%)	692	692	692	692
Inflation less productivity (1.158-3.5%)		708	708	708
Inflation less productivity (3.397-3.5%)			30	30
Inflation less productivity (3.263-3.5%)				81
Total additions	692	1,400	1,430	1,511
Draw-downs				
TTY			58	58
Total draw-downs	0	0	58	58
Recurring amount accruing in the account	692	1,400	1,372	1,453
Interest rate	4.69%	4.83%	4.83%	4.83%
Interest amount	16	68	138	213
Net annual additions	708	1,468	1,510	1,666
Accumulated balance	708	2,176	3,687	5,353

Dissenting opinion of Commissioner Cram

I agree with my colleagues in the majority that this decision is one of balancing interests. I agree with the majority concerns regarding inter-generational inequity but believe their decision misses the point as regards the mismatch between donors and beneficiaries of the funds, resulting in a greater inequity. I also agree with the objects of the deferral account in paragraph 24 of the decision but do not agree that the majority decision achieves those objectives and indeed I have concerns that this decision is anticompetitive.

MISMATCH BETWEEN DONORS AND BENEFICIARIES

The source of these funds consist of reductions in rates that, but for the Price Cap decision, would have gone to residential subscribers in unsubsidized areas of Canada (non High Cost Serving Areas). The ultimate beneficiaries of the dispersal of this account will now go to residential subscribers in the subsidized areas or High Cost Serving Areas (HCSAs). There is no convergence of the donors and ultimate beneficiaries. My colleagues refuse consumer rebates on the basis of concerns with potential inter-generational inequity, a subset of matching between donors and beneficiaries. Even if rebates were given only to present incumbent local exchange carrier (incumbent) residential customers, given the state of minimal competition, the resulting inequity would be in all likelihood about 10 to 15%. In my view, the Commission would have authority to provide such rebates, because this is only an incremental step from the Bell Rebate case approved by the Supreme Court of Canada ([1989] S.C.R. 1722).

NOT OUR JOB

The CRTC is a statutory creation of Parliament. We do that which the *Telecommunications Act* (the Act) empowers us to do. While one may be sympathetic or even enthusiastic about the federal government's stated priority of broadband expansion, we are not mandated by the Act or any other directive to expand broadband across the country.

I agree with SaskTel, MTS Allstream and the Consumer Groups that broadband expansion is the bailiwick of governments and taxpayers. As a result of the majority decision and the fact that the funds are incumbent specific, inequities will result. For example Alberta residential subscribers, who as taxpayers have already paid for Supernet in Alberta, will now be sending their deferral monies to British Columbia which has not yet invested the taxpayers' monies in broadband expansion to the same extent. Bell Canada has manyfold the non HCSA subscribers as MTS Allstream and therefore its expansion will be concomitant. If federal funds become forthcoming to fill the gaps will the taxpayers of Ontario and Quebec now complain they are not reaping any benefits because their money will go elsewhere?

The majority refers to section 7(b) of the Act stating that broadband expansion would improve the quality of telecommunications services in rural areas. The problem with this analysis is that the Commission, after lengthy process and consultations, in *Telephone Service to High-Cost Serving Areas*, Telecom Decision CRTC 99-16, 19 October 1999, has issued a policy decision defining the Basic Service Objective (basic service) for all Canada (i.e. the standard of reliable service). This did not include high speed connections or broadband, notwithstanding the many interventions to do so. Since this decision the Commission has proceeded with Service Improvement Plans in order that all

Canadians will have at least the basic service, again with many processes. Now without any consultation with the public or any process to review this regulatory bargain we struck with industry as to the basic service the majority decides that SOME and not all subscribers will receive more than the bargain and the rest who are left behind when the money runs out, will not. It is notable, that in other proceedings before the Commission, the major incumbents have submitted that the basic service should not be escalated to include broadband. Again given that the funds are incumbent-specific, greater inequities between the incumbents' service in HCSAs will result with some individual having no service and others having service exceeding the Basic Service Objective.

DO NO HARM

It seems without debate that the incumbents have been given a substantial gift. They will receive immediate recovery of capital investments at zero risk, increasing their asset value and expanding their ability to generate new revenue streams. But does it harm competition? I say it does.

First, the new business model is owning the customer with the triple play – video, phone, Internet and the ability to upsell new Internet applications. No broadcasting distribution undertaking (which the incumbent will then be), including cable company, is compelled to resell its video. No competition, notwithstanding even a resell rate of one cent, will be sustainable without the ability to offer the triple play especially in smaller towns and villages in Bands E and F.

If the majority had chosen instead to opt for a bidding process, with the bidding open to all interested parties, there was at least the possibility of parties other than the incumbents being able to provide these services to communities. And with a beach head in that community the competitor might have been able to expand on the margins of that territory to other areas perhaps leading to some competition. Competitors are not now given this opportunity and indeed are excluded.

Secondly, this building out process will take perhaps 5 to 7 years to complete. In the meantime, the smaller, more agile and innovative competitor who might have been able to make an economic case in these smaller communities will be stopped in his tracks. Who would even contemplate competing against an incumbent in a community of 4000, when the incumbent can provide the triple play, with two of three rates for services being unregulated? There will be chill on risk investment in facilities based construction and on innovation, both of these being part of our statutory mandate.

Finally and worse still, the majority has chosen to require expansion to primarily the lowest density population areas in HCSAs but to get there the backbone capacity has to be expanded through the higher population density area bands of B, C and D if they are not up to the required standard. This subsidized backbone now makes the incumbent's business case to expand its broadband footprint where it was previously not feasible to go. Some may believe this is a good thing however these are also the same areas in which facilities based competitors would be prone to expand or may already be operating. These facilities-based competitors have received or will receive no capital subsidy and this decision will have subsidized the incumbents to compete against them. We have given a leg up to an incumbent with close to 100% of telecom revenues in a particular region against a competitor who may have perhaps .3% of total telecom revenues or less.

DUTY OF CARE

Whilst I agree administrative simplicity is an admirable goal, I believe the Commission has a duty of care with these subscriber monies. I do not believe that a single proposal, perhaps subject to many interventions and process, is as good as a competitive process to test 'least cost technology', relative costs and cost studies and all of the other ancillary matters required. I believe we are simply not living up to a sufficient duty of care. As the Consumer Groups stated using a bidding process would represent a minimum standard of competitive fairness that should be applied if this proposal of broadband expansion were to be implemented.

The single proposal concept conjures up the ghost of Rate of Return monopoly regulation where the incumbent provided all the calculations and permutations and the Regulator presumably protected the public interest notwithstanding the many allegations of gold plating. The new *Telecommunications Act* was supposed to put Rate of Return out to pasture and to bring in competition. Surely it is counter intuitive to not have competitive bidding.

And if administrative simplicity is a goal, consumer rebates would by far be the most simple, particularly as it has been ordered in the past by the Commission.

THE BALANCE

All of the proposals are fraught with difficulties. The competitors have received their share of the fund. I believe the incumbents have also received their share, in that they were made whole as a result of the Commission reducing the profit margins on Competitive Services. In a competitive world, the incumbents would not have been able to maintain those margins for five years. Thus, both the incumbents and the Competitors have received the same monetary benefit from the fund. When I balance this along with the harm to competition which I believe will ensue versus a customer rebate with minimal inter-generational inequity and administrative simplicity, I would have given subscribers their money back.