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13 September 2006

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

Dear Ms. Rhéaume:

Subject: *Review of price cap framework, Telecom Public Notice CRTC 2006-5 – Requests for Further Responses to Interrogatories and for Public Disclosure*

1. In accordance with the procedures set out by the Commission in *Review of price cap framework, Telecom Public Notice CRTC 2006-5* (“PN 2006-5”), TELUS Communications Company (“TELUS”) hereby files the following requests for further responses to interrogatories and public disclosure of information for which confidentiality has been claimed. TELUS’ requests concern MTS Allstream’s response to interrogatory MTS Allstream(TELUS)8Aug06-1.
2. As a preliminary matter, TELUS notes that it has yet to receive responses to interrogatories posed to the Manitoba Branch of the Consumers Association of Canada (“CAC Manitoba”). Accordingly, TELUS reserves the right to request public disclosure and further responses concerning interrogatory responses filed by CAC Manitoba.

Requests for Further Response to Interrogatory and for Public Disclosure

MTS Allstream(TELUS)8Aug06-1

3. In this interrogatory, TELUS asked MTS Allstream to provide the percentage of residential households in the city of Winnipeg and in the province of Manitoba that currently have access to each of cable telephone service, VOIP service, cellular telephone service, high-speed Internet access service and other telephone services which compete with MTS' local telephone service. MTS first stated that the "penetration rate in Manitoba is approximately 91%."¹ MTS Allstream then stated that it does not have the "actual percentages of households in Winnipeg and Manitoba with access to cable, VoIP, cellular, high speed internet and other competing telephony services," and that any estimates of these percentages that MTS Allstream has developed would be confidential.²

4. TELUS' request for further response to its interrogatory concerns the statement regarding the 91% penetration rate. MTS Allstream's response is deficient given that the 91% figure it has provided is undefined. TELUS has asked for the percentage households in Winnipeg and Manitoba that have access to five separate services, but MTS Allstream has not indicated to which service (or services) the 91% penetration rate is related, nor has it indicated to which area the penetration rate pertains. A service penetration rate is relevant to the interrogatory as it provides details as to the access to a particular service in a particular area. Clarification of the response by MTS Allstream is necessary because the 91% penetration rate is meaningless without reference to the specific services and the particular service area, and thus provides no answer to the interrogatory posed. Therefore, MTS Allstream has failed to provide a "full and adequate response" as required by Rule 18 of the *CRTC Telecommunications Rules of Procedure*. As such, TELUS requests that the Commission order MTS Allstream to provide a further response that clarifies to which service and geographic area the 91% penetration rate is referring.

¹ Interrogatory response MTS Allstream(TELUS)8Aug06-1.

² Interrogatory response MTS Allstream(TELUS)8Aug06-1.

5. TELUS' request for public disclosure relates to MTS Allstream's claim for confidentiality over estimates that MTS Allstream has developed regarding the percentage of households that have access to the services listed in the interrogatory. TELUS infers from MTS Allstream's response that it has developed estimates of the percentages of residential households in the city of Winnipeg and the province of Manitoba that have access to each of the services listed.
6. TELUS submits that MTS Allstream should be required to disclose on the public record any estimates that it has developed regarding the information requested. First, the information is directly relevant to the issues in question in PN 2006-5 because the estimates would speak to the access to possible substitutes for local voice telephony services in MTS Allstream's serving area, and discussion of the availability of substitutes figures prominently in MTS Allstream's proposal in this proceeding. Second, because the information requested concerns market size and not MTS Allstream's share of the market, any estimates that MTS Allstream may have do not appear to be commercially sensitive.
7. Moreover, though it has asserted that the release of its estimates on market size would cause it "specific direct harm," MTS has not provided sufficient reasons as to the nature and the extent of the specific direct harm that would ensue. Rule 19(2) of the *CRTC Telecommunications Rules of Procedure* provides as follows:

Any claim for confidentiality made in connection with a document filed with the Commission or requested by the Commission or any party shall be accompanied by the reasons therefore, and, where it is asserted that specific direct harm would be caused to the party claiming confidentiality, *sufficient details shall be provided as to the nature and extent of such harm.* (emphasis added)

8. In its letter dated 10 March 1994, the Commission outlined the procedures governing confidentiality claims. The Commission expressed the concern that "too often, parties making claims for confidentiality have been providing only brief, vague, standardized reasons for the request." In particular, the Commission noted that

...many such claims are supported only by language such as 'This information is submitted in confidence, since its release to competitors

would result in specific direct harm to the company.’ The Commission does not find such reasons to be particularly helpful and notes that parties that do not provide adequate support for their claims (or requests) risk having them denied.

9. The example cited by the Commission in its 10 March 1994 letter is precisely the situation here. The onus of establishing the confidentiality of the information requested falls on MTS Allstream. This onus has not been discharged because MTS Allstream has merely recited that specific harm will ensue but has not explained the specific direct harm that will result. As a result, TELUS respectfully asks that the Commission order that the estimates referred to by MTS Allstream in its response to interrogatory MTS Allstream(TELUS)8Aug06-1 be disclosed for the public record.

Yours truly,

{original signed by Willie Grieve}

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cc: Interested Parties to PN 2006-5

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