



2006 08 18

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

David J. Hennessey
Manager,
Regulatory Matters

Dear Ms. Rhéaume:

Subject: Telecom Public Notice CRTC 2006-10, Continued need for the regulatory constraints applicable to toll and toll-free services

1. As per the process set out by the Commission in Telecom Public Notice CRTC 2006-10 (PN 2006-10), following are the comments of Bell Aliant Regional Communications, Limited Partnership ("Bell Aliant" or "the Company"). Bell Aliant notes that on 2006 06 07, Aliant Telecom Inc., now Bell Aliant, submitted a letter in support of the Bell Canada Part VII application to remove the regulatory constraints applicable to toll and toll-free service (the "Basic Toll Constraints"). That letter is also part of the record in this proceeding.
2. In PN 2006-10, the Commission invited comments on:
 - the appropriateness of granting the relief sought in Bell Canada's Part VII application, in whole or in part; and
 - the appropriateness of granting similar relief to the Companies.

The appropriateness of granting the relief sought in Bell Canada's Part VII application, in whole or in part

3. PN 2006-10 was issued in response to a Part VII application from Bell Canada dated 2006 05 09 seeking the following relief from the Basic Toll Constraints:

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- immediately discontinuing the application of the Basic Toll Constraints to the company in their entirety; or
- in the alternative, immediately discontinuing the application of the Basic Toll Constraints to the company in their entirety, except for the requirement to retain the 50 percent discount currently applicable to calls which originate from, and are billed to, the residence service of a registered certified hearing or speech-impaired TDD user, provided this condition applies to all long distance service providers in respect of long distance services offered or provided within the company's traditional Ontario and Quebec serving territories;
- irrespective of whether the Commission granted the above-noted relief, an order that credit card surcharges should no longer continue to be included in the calculation of the average basic toll schedule rate; and
- such other relief as the Commission considered appropriate in the circumstances.

4. In its Part VII application, Bell Canada stated that in Telecom Decision CRTC 97-19 (Decision 97-19), *Forbearance - Regulation of toll services provided by incumbent telephone companies*, the Commission generally forbore from regulating certain incumbent telephone companies' 1+ toll and toll-free services, but made the offering and provision of toll services subject to what is now referred to as the Basic Toll Constraints. These constraints are:

- these telephone companies were to provide to the Commission, and make publicly available, rate schedules setting out the rates for basic toll service. These schedules were to include the 50 percent discount applicable to calls which originated from, and were billed to, the residence service of a registered certified hearing or speech-impaired Telecommunications Devices for the Deaf (TDD) user. The telephone companies were to update their respective schedules within 14 days of any change to the rates for basic toll service;
- these telephone companies were to provide reasonable direct notice in writing to subscribers in advance of any increases to the basic toll rates;
- these telephone companies were not to route de-average basic toll rates;
- the cap on overall North American basic toll rates implemented by the Commission in Review of regulatory framework, Telecom Decision CRTC 94-19, 16 September 1994, was to continue to apply in modified form. Changes within any of the North American basic toll schedules were permissible, provided any rate increases within a schedule were offset by corresponding decreases within the same schedule such that there was no change to that schedule's weighted average rate; and
- these telephone companies were to ensure that all toll customers and applicants for toll services in their respective serving territories could choose basic toll service at the rates set out in the rate schedules noted in Decision 97-19.

5. Bell Canada noted that the Commission maintained the Basic Toll Constraints in Telecom Decision CRTC 2002-34 (Decision 2002-24), *Regulatory*

framework for second price cap period, but that fundamental changes had occurred since the release of that decision which increased the level of protection afforded to all toll subscribers in its serving territories. These changes included the ubiquitous roll-out of equal access capable switches in Bell Canada territory, and the presence of numerous competing service providers offering stand-alone and bundled long distance services. Another change identified by Bell Canada was the availability of many substitute services for traditional wireline long distance service such as voice over Internet protocol (VoIP) services, peer-to-peer (P2P) services, wireless services, dial-around long distance services, and prepaid phone cards.

6. In addition to the fundamental market changes which have occurred since the issuance of Decision 2002-24, Bell Canada also noted that the Commission retained the Basic Toll Constraints in CRTC Decision 2002-34 based in part on erroneous data about the revenue that could be attributed exclusively to the message toll schedule.
7. Bell Aliant identifies that service provided under the North American Message Toll Schedule is part of the long distance market and that the long distance market was demonstrated to be sufficiently competitive to warrant forbearance nine years ago. As a result of the fundamental changes which have occurred in the market since that time, as identified above and further described in Aliant Telecom's letter of 2006 06 07, and which further enhance competitive alternatives available to customers, the Basic Toll Constraints are no longer needed to protect consumers. Therefore, Bell Canada's request to have the Basic Toll Constraints removed should be granted in full.

The appropriateness of granting similar relief to the Companies

8. In response to the Commission's question whether the relief sought should be extended to all incumbent telephone companies subject to the Basic Toll Constraints, Bell Aliant submits that the Message Toll Schedule is a part of the long distance suite of services which is subject to sufficient competition to protect end users. As described below, the Basic Toll Constraints are not needed to protect customers in Bell Aliant's territory and should be removed. The Company submits that the relief sought by Bell Canada should be extended in full to Bell Aliant across its operating territory.
9. The Basic Toll Constraints were designed to restrict upward price movement in the North American Message Toll Schedule because the Commission believed at the time that there was insufficient rivalry to rely on competitive forces. Bell Aliant does not believe that this was ever the case and submits that, in any event, fundamental changes have occurred in the long distance market that ensure it is not the case today. Customers who place long distance calls using basic message toll rates have numerous choices, in the form of alternate service providers, discount long distance plans, prepaid long distance and various long distance substitutes.
10. With the advent of competition in the long distance market, new entrants and the incumbents introduced many new long distance calling plans. Initially, these plans provided a percentage discount on the message toll schedule

based on the customer's call volume. Because the message toll rate schedule is mileage based and is not user friendly, long distance plans evolved to specific per minute rate plans and/or plans based on blocks of time for definable geographic areas. To meet customer demands, many discount long distance plans no longer require the customer to achieve a threshold of minutes or spend. These new plans, whether provided by Bell Aliant, competitive long distance providers, competitive access providers or other service providers such as VoIP providers, compete directly with the message toll schedule. As a result, there is no customer in Bell Aliant's territory that lacks an alternative to the message toll schedule. Most long distance customers have abandoned the message toll schedule in favor of long distance plans or service alternatives that match their calling patterns and telecommunications needs.

11. Foremost among the more recent changes to the long distance market is the availability of Voice over Internet Protocol (VoIP) which removes the distinction between local and long distance service. In a few short years, VoIP has increased significantly the number of alternative suppliers of telephony in both the local service and long distance segments.
12. Today, alternatives to long distance calling are readily available and increasingly popular. These include Peer-to-Peer VoIP services, Instant Messaging, email, Text Messaging and wireless long distance. These alternatives are substitutes for telephone calls, including North American message toll rated long distance calling. All of these services are provided in a highly competitive environment and are generally forborne or unregulated.
13. In addition to VoIP and other alternatives to long distance service described above, when customers choose to use long distance, they can select discount plans from the ILECs or Alternate Providers of Long Distance Service (APLDS). Customers may also access Dial-Around Long Distance services or place long distance calls using pre-paid Phone Cards. The ready availability of these services provides alternatives to customers who may use or have used the North American Message Toll Schedule for their entire long distance calling. The increasing popularity of these services provides practical and viable alternatives to the basic message toll schedules.
14. The availability of additional suppliers of long distance and the many available substitutes for long distance makes it highly unlikely that Bell Aliant could raise prices in the message toll segment to recoup potential losses in the discount toll segment. The market can regulate itself, making the Basic Toll Constraints redundant.
15. Long distance users are also important consumers of various communications services and many toll users choose to bundle their toll service in order to achieve additional savings. For example, the cable companies leverage their dominant position in broadcast distribution and internet markets to bundle their telephony services which include long distance services. Similarly, VoIP service providers bundle their telecommunication services, including local and long distance substitute services, with their internet services. Business VoIP customers bundle IP equipment and/or services with voice and data

networking. These service providers are not dependent on long distance for revenue and therefore are not vulnerable to even prolonged discounting in competitive long distance services should it be attempted.

16. In Decision 2002-34, the Commission retained the Basic Toll Constraints at least in part because it concluded that the Message Toll Schedule represented a significant portion of ILEC long distance revenue. In arriving at this conclusion, the Commission incorrectly included ILEC long distance that would be billed to customers in discount toll packages at a lower rate.
17. The Commission also includes credit card surcharges in the North American Message Toll Schedule. As discussed above, customers who choose to place calls rated on the Message Toll Schedule have other alternatives available to them. Equally, customers who chose to use a credit card to place these calls have alternative methods of payment available to them including ILEC alternate billing options, cash and pre-paid cards. Continued regulation of credit card surcharges is unnecessary regulation.
18. Another reason cited in 2002 for retention of the Basic Toll Constraints was the incomplete rollout of Equal Access in the incumbents' territories. Bell Aliant notes that more than 99% of access provided by Bell Aliant is Equal Access compliant. The Company further notes that customers in the small pockets that remain non Equal Access would not rely on the North American Message Toll Schedule any more than customers in areas where Equal Access is provided, due to the many options and alternatives available to them, as described herein.
19. In conclusion, Bell Aliant submits that the company should be relieved of the constraints on the message toll schedule in full in all areas served by the Company. Bell Aliant believes that the constraints on the North American Message Toll Schedule represent redundant regulation and the Commission has an obligation under section 34 of the *Telecommunications Act* to forbear. Removal of the Basic Toll Constraints is also consistent with the Telecom Policy Review Final report and the Proposed Policy Direction tabled by the Minister of Industry on June 13, 2006.

Sincerely,



cc: Parties to Public Notice CRTC 2006-10

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