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July 14, 2006

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

Dear Ms. Rhéaume:

RE: Rate ranges for services other than voice over Internet protocol services, Telecom Public Notice CRTC 2006-8

1. These Comments are filed in response to *Rate ranges for services other than voice over Internet protocol services*, Telecom Public Notice CRTC 2006-8 (“Public Notice 2006-8”). In Public Notice 2006-8, the Commission seeks comments on the appropriate guidelines for the filing of applications involving rate ranges for services other voice over Internet protocol (“VoIP”) services and the circumstances under which rates ranges would be appropriate.
2. In initiating this proceeding, the Commission acknowledged the need for greater clarity and regulatory certainty for the industry and, in addition, expressed the view that the use of rate ranges by incumbent local exchange carriers would afford them greater flexibility to respond to an environment characterized by rapidly-increasing competition. Indeed, the Commission acknowledged the need for greater flexibility in *Bell Digital Voice Service*, Telecom Decision CRTC 2006-11 (“Decision CRTC 2006-11”). In that decision, the Commission approved a rate range for Bell Canada’s Bell Digital Voice service in order that it could more effectively respond to the increasing competitive intensity in the provision of VoIP services in Bell Canada’s traditional operating territories. As

the Commission is aware, with cable entry into the business of providing local exchange services, the competitive intensity in the provision of those and other services has dramatically increased. TELUS agrees with both the need for greater clarity and regulatory certainty and with the need for greater flexibility for incumbent local exchange carriers in order to respond to competition. TELUS also notes that a further benefit of rate ranges lies in the notification mechanism for rate movement within a range, which provides an opportunity for reducing the regulatory and administrative burdens for both incumbent carriers and the Commission.

3. In TELUS' view, virtually all tariffed services should be permitted to be offered with rate ranges. This should be the general rule and not the exception. As the Commission noted in Public Notice 2006-8, the *Telecommunications Act* specifically provides for rate ranges. Subsection 25(1) of the Act states that no Canadian carrier shall provide a telecommunications service except in accordance with a tariff filed with and approved by the Commission that specifies the rate or the maximum or minimum rate, or both, to be charged for the service.
4. In TELUS' view rate ranges should be permitted and approved for all services facing any degree of competition. All such services should be permitted to be offered with rate ranges specifying a minimum or maximum rate or both. For services included in the price cap, the maximum rate would be constrained by the treatment afforded the service in the price cap framework. For example, Business Services can increase 10% per year and thus the maximum price applicable could increase accordingly. All proposals for rate ranges would need to conform to the rate treatment afforded to that service under the basket structure imposed by the price cap mechanism. For services not included in the price cap, there need be no upward pricing constraint, as these services would be new, or discretionary, and there is no concern about an abuse of market power. Furthermore, subsection 25(1) of the Act does not require an upward pricing constraint, as long as a minimum rate is specified.

5. The minimum pricing constraint for all services should be short-run incremental cost plus any tariffed rates that must be imputed. In other words, if the service in question requires the use of a Category I Competitor Service, then the minimum pricing constraint would be the sum of the tariffed rate for the Category I Competitor Service(s) required to provide the service plus the short-run incremental cost for other inputs required to provide the service. This is consistent with pricing behavior in competitive markets and with the general competition law approach to price floors.
6. Applications for rate ranges for services would be filed by incumbent local exchange carriers with the Commission in confidence, along with supporting economic studies, and the ranges would not be disclosed for the competitive reasons cited by the Commission in Decision 2006-11.¹ These rate ranges would be approved by the Commission in the same manner that individual rates are approved today and, indeed, in the same manner that the Commission approved rate ranges for Bell Canada's Digital Voice service. The Commission should approve or deny applications for rate ranges expeditiously because, by definition, rate ranges are sought in order to respond to competition.
7. Once a rate range has been established, the carrier should be permitted to respond to its competitors with prices within the approved range with only a requirement to notify the Commission in writing of the new rate within 24 hours of making the rate change. As the rate range has been given prior Commission approval, and all rates within the range are by definition just and reasonable, movement within the range should only require notification to the Commission and not approval. This would significantly reduce the regulatory lag and burden on both the Commission and incumbents that would be occasioned by any requirement for pre-approval,² and it would ensure that consumers benefit promptly from competition.

¹ Decision 2006-11 at paragraph 21.

² TELUS notes that recommendation 3-17 of the Final Report of the Telecommunications Policy Review Panel called for more far-reaching reforms than TELUS is recommending in this proceeding, including a negative disallowance process. TELUS considers its 24 hour notification proposal to be a small but necessary immediate step towards reducing regulatory lag and administrative burden.

8. Moreover, TELUS notes the Commission's acknowledgement of the rapidly-increasing competitive conditions under which services are being provided. Competitors who are not required to file tariffs, who do not fall under the price cap mechanism, and who are not subject to detailed economic regulation at all are free to move their prices up and down in order to respond to customer demand and competitive circumstances. In this environment, the approval of rate ranges, where subsequent rate movements are subject only to a notification requirement for incumbent providers, will permit incumbent providers some flexibility to respond to competition.

Yours truly,

{original signed by Willie Grieve}

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TW/sa

c.c.: Interested Parties to Public Notice 2006-8

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