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2005 06 10

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

Dear Ms. Rhéaume:

RE: Telecom Public Notice CRTC 2004-1, Review and Disposition of deferral accounts for the second price cap period, 24 March 2004

1. Pursuant to the procedures established in Telecom Public Notice CRTC 2004-1, Review and Disposition of deferral accounts for the second price cap period, 2004 03 24, as amended ("PN 2004-1"), Aliant Telecom Inc. ("Aliant" or "the Company") submits its comments with respect to proposals made by parties to clear the deferral accounts of the ILECs. Aliant's comments are submitted as the Attachment.
2. Aliant limits its comments to discussing the underlying principles that should guide the Commission in determining which proposals are the most appropriate use of the funds in the ILECs' deferral accounts, as well as to its own proposals as submitted 2005 01 28.
3. Failure on the part of Aliant to address any specific proposal, comment or argument made on the record of the proceeding of PN 2004-1, which are not in the interests of Aliant, should not be interpreted as agreement, acceptance or concurrence by Aliant, where such interpretation would be inconsistent with the interests of Aliant.

4. Any questions may be directed to Wendy Ellis at 506-694-2466.

Sincerely,

A handwritten signature in cursive script that reads "David Hennessey". The signature is written in black ink and is positioned below the word "Sincerely,".

Attachment

cc: Parties to PN 2004-1

## Background

1. In Telecom Decision CRTC 2002-34, Regulatory Framework for Second Price Cap, 2002 05 30, ("Decision 2002-34"), the Canadian Radio-television and Telecommunications Commission ("CRTC" or the "Commission") set out its goals for telecommunications regulation for the large incumbent telephone companies ("ILECs"), as well as its determinations on the form of regulation to be used to help achieve those goals.
2. Specifically, in paragraph 99 of Decision 2002-34, the Commission stated that the regulatory framework was designed to achieve the following objectives:
  - a. To render reliable and affordable services of high quality, accessible to both urban and rural 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.
3. The objectives set out by the Commission in Decision 2002-34 are set in order to assist the Commission in meeting its statutory requirements; that is, to foster a regulatory climate that will fulfil the objectives of the Commission as defined by the *Telecommunications Act* (the "Act"), notably:
  - a. to facilitate the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions;
  - b. to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada;
  - c. to enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications;
  - d. to promote the ownership and control of Canadian carriers by Canadians;
  - e. to promote the use of Canadian transmission facilities for telecommunications within Canada and between Canada and points outside Canada;
  - f. to foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective;

- g. to stimulate research and development in Canada in the field of telecommunications and to encourage innovation in the provision of telecommunications services;
  - h. to respond to the economic and social requirements of users of telecommunications services; and
  - i. to contribute to the protection of the privacy of persons.
- 4. The deferral account mechanism was introduced in the second price cap period as a tool to assist the Commission in meeting its objectives for the second price cap period.
- 5. The deferral account was described in paragraph 408 of Decision 2002-34 as "an efficient means of addressing regulatory adjustments." Further, in paragraph 412, the Commission notes that it "anticipates that an adjustment to the deferral account would be made whenever the Commission approves rate reductions for residential local services that are proposed by the ILECs as a result of competitive pressures." Finally, the Commission notes that "other draw downs could occur, for example, through subscriber rebates or the funding of initiatives that would benefit residential customers in other ways."
- 6. The deferral account, then, should be seen in its proper context;
  - a. as a mechanism to deal with regulatory adjustments;
  - b. as a mechanism to reflect the effects of competitive markets on the ILECs; and
  - c. as a fund to be used for the overall benefit of residential customers.
- 7. The Commission clarifies in paragraph 413 of Decision 2002-34 that the fund would be cleared in a "manner that contributes to achieving the Commission's objectives for the next price cap framework, including balancing the interests of the three main stakeholders in the telecommunications markets."
- 8. To date, the Commission has approved a number of activities that are to be funded from the ILECs' deferral accounts. These include the reduction in mark-up on Category I Competitor services from Phase II costs plus 25% to Phase II costs plus 15%, the introduction of Competitor Digital Network Services, and the approval of Service Improvement Plans ("SIP") for affected ILECs.

### Aliant's Deferral Account

- 9. As filed in the attachment to Aliant's letter of 2005 04 08, Aliant's Estimated Schedule of Balances for its deferral account, up to 2006 05 31, shows Aliant's deferral account balance as follows:

Balance as of May 31	(\$M)
2003	3.8
2004	8.9
2005	7.2
2006	3.7

10. The updated schedule of balances reflects updates to Aliant's transfers, draw downs and deferral account balance as a result of the Commission's determinations in Telecom Decision CRTC 2004-42 – *Annual price cap filings deferral account – related issues*, 2004 06 22; Telecom Decision CRTC 2004-74, *Aliant Telecom Inc. – Application to increase the capital cost of its service improvement plan and related matters*, 2004 11 16; Telecom Decision CRTC 2005-6, *Competitor Digital Network Services*, 2005 02 03; and Telecom Decision CRTC 2005-11, *Aliant Telecom Part VII application to review and vary Annual price cap filings deferral account – related issues, Telecom Decision CRTC 2004-42*, 2005 03 07. Aliant's updated schedule of balances also reflects the transfers and incremental draw downs, as well as the estimated balance, for the final year in the current price cap period, as that data is now available, and as filed in Aliant's Annual Price Cap Filing, Aliant Telecom Tariff Notice 166, filed 2005 06 01.

## Principles

11. Aliant submits that there are two principles that should guide the Commission in assessing the merits of the various proposals for use of deferral account funds for any given project.
  - a. Does the proposal contribute to the stated objectives of the Commission for the second price cap period; and further, does the proposal contribute to the overall statutory goals outlined in the Act?
  - b. Does the proposal reflect the unique realities of the serving territory to which it applies, and the needs of residential customers in that region?
12. Aliant opposes, as it has in its submission of 2005 01 28, as well as in responses to interrogatories, the formation by fact or by default of any form of a "national" deferral account. Aliant submits, as outlined in its response to Aliant(CRTC)11Mar05-1 PN2004-1, that there is no legal basis for the formation of a "national" deferral account, nor is there a legal support to requiring deferral account funds to be transferred to other agencies.
13. Notwithstanding the legal implications of such activities, moves to make the deferral accounts into a universally applied fund do a disservice to customers. National programs may be appropriate to address issues with a national scope. No one issue has emerged on the record of PN 2004-1 that would indicate that there is one prevailing national issue that needs to be, or even should be, addressed. In fact, it is clear that approaching the clearing of the ILEC deferral accounts with a "one-size-fits-all" approach will not serve the best interests of customers.
14. Each ILEC has submitted different proposals applicable to their respective territory. The Company suggests that the reason that each ILEC has proposed different uses for its deferral account is due to the different underlying conditions and the unique needs of customers in each region. While it may be tempting to try to find a "universal" proposal to clear the ILEC deferral accounts, the Commission must look for solutions that recognize both the specific needs of customers and the underlying competitive conditions across the country. To do otherwise would be inconsistent with the objectives of the second price cap period and the Act.

15. In developing its proposals, Aliant used these principles, as well as the stated objectives of the Commission, to evaluate various options for use of funds within the Company's deferral account. Furthermore, the Company also assessed initiatives already approved by the Commission when developing its proposals, with the aim to ensuring that the interests of all stakeholders are balanced overall with respect to the benefits accrued from the deferral account.

### Aliant's Proposals

16. In its submission of 2005 01 28, Aliant proposed a number of activities that are consistent with its understanding of the purpose of the deferral account within the larger context of the price cap regime for the second price cap period. Overall, these proposals, in conjunction with previously approved activities to be funded from the deferral account noted in paragraph 8, serve to balance the interests of all stakeholders and specifically, provide meaningful benefits to residential customers.
17. In its filing of 2005 01 28, Aliant proposed that the following activities are appropriately funded from Aliant's deferral account:

Item	Estimated Draw Down (\$M)
Competitive rate reductions, annually	5.0
Recovery of HRM EAS expansion, annually for 3 years	0.9
TTY deployment per Decision 2004-47, annually for 4 years	3.4
Universal wireline and wireless E9-1-1 service, annually for 4 years	2.3
Message Relay Service Upgrades, annually for 4 years	0.4
Recovery activities, one-time only	3.1
Recovery activities, annually	1.1

18. Details of Aliant's specific proposals are provided in its submission of 2005 01 28, and in its responses to interrogatories issued 2005 03 11.

#### *Price Reductions for Local Residential Services due to Competitive Pressure*

19. In paragraph 412 of Decision 2002-34, the Commission makes it clear that whenever the Commission approves rate reductions for residential local services proposed by an ILEC in response to competitive pressure, that an adjustment; that is, a draw down, to that ILEC's deferral account would be made. Aliant has placed considerable information on the public record of this proceeding, as well as in its *Forbearance Application for Residential Wireline Local Services in specified Exchanges*, 2004 04 07, and in its updates to that Application in the course of Telecom Public Notice CRTC 2005-2, *Forbearance from regulation of local exchange services*, 2005 04 28, regarding the status of competition in Atlantic Canada.
20. In its filings associated with its local forbearance application, as set out in paragraph 17 above, Aliant has outlined the intense competitive pressures it is facing in the local residential markets, particularly in markets served by EastLink in NS and PE. As such, it is imperative that Aliant respond to the changing market and the needs of its customers. Aliant proposes certain price reductions on residential local services in response to competitive pressures in Atlantic Canada.

21. Aliant submits that competitive price decreases, including the recovery of foregone toll associated with the expansion of the local calling area within the Halifax Regional Municipality, as foreseen by the Commission in paragraph 412 of Decision 2002-34, should be the primary vehicle to clear the ILEC's deferral accounts where local service competition exists. Where a competitive market is demonstrated to have emerged, and the ILEC reduces prices due to competitive conditions, as is the case in Atlantic Canada, the price cap mechanism must acknowledge and affirm these conditions as a desired outcome of the competitive market, for the benefit of residential customers.
22. Further, Aliant submits that the proposal to draw down its deferral account for amounts equal to the price reductions proposed due to competitive pressures also addresses the two principles outlined in paragraph 11 above; namely, the proposal clearly addresses the stated goals of not only the second price cap regime, but the CRTC's mandate under the Act, and it addresses the unique nature of the market in Atlantic Canada, addressing the regional needs of customers.

*TTY Deployment to Payphones Pursuant to Telecom Decision CRTC 2004-47*

23. In addition to the draw downs associated with price reductions due to competitive pressures in Atlantic Canada, Aliant also proposed a number of other initiatives that, in the Commission's words in paragraph 412, "benefit residential customers in other ways." Aliant notes that by letter 2005 05 05, Commission staff notified Aliant that its application to recover costs associated with the deployment of TTY devices to payphones pursuant to Telecom Decision CRTC 2004-47 would be considered in a separate process, rather than under PN 2004-1 as originally filed by Aliant. Aliant is therefore not filing any further comments on the TTY deployment to payphones on the record of PN 2004-1, but will rely on its evidence filed under the process set out in the Commission staff letter of 2005 05 05.

*Universal E9-1-1 Service for Atlantic Canada*

24. Aliant proposed, in its submission of 2005 01 28 that it was appropriate to fund a program to provide universal wireline and wireless E9-1-1 service across Atlantic Canada. The details of Aliant's proposal are shown in its submission of 2005 01 28, as well as in Aliant's response to interrogatory Aliant(CRTC)11Mar05-6 PN2004-1.
25. Universal access to E9-1-1 service across the Atlantic region, for both wireline and wireless customers of all local carriers, is an explicit benefit that enhances public safety, service consistency and equitability across Atlantic Canada. Aliant acknowledges that there are other mechanisms that have been used to fund E9-1-1 systems in this and other operating territories. However, Aliant notes that the Commission directed ILECs to propose initiatives that would benefit residential customers in other ways as part of PN 2004-1. Aliant submits that the funding of access to emergency services in Atlantic Canada is entirely consistent with the Commission's stated goal of providing high-quality, reliable and affordable services to all customers, both rural and urban. Furthermore, the proposal addresses specific conditions in Atlantic Canada, for the benefit of all customers in the region, as well as the travelling public.
26. In summary, Aliant's proposal to provide a universal E9-1-1 service across Atlantic Canada is entirely consistent with the objectives of the Commission for the second price cap period, flows from the mandate of the Commission as outlined in the Act, and is an appropriate use of funds within Aliant's deferral account. The proposal provides a

tangible and meaningful benefit to all customers in Atlantic Canada, as well as the travelling public, irrespective of the customer's local or wireless carrier. Furthermore, the proposal does not in any way confer any competitive advantage to Aliant within the market, as all other carriers have equal access to the E9-1-1 network.

27. Aliant submits that the competitive neutrality of the universal E9-1-1 proposal, in concert with the tangible benefit of enhanced public safety that would be extended to all customers, demonstrates that Aliant's proposal is consistent with the Commission's objectives and mandate and is appropriately funded by Aliant's deferral account.

#### *Upgrades to Message Relay Service*

28. Aliant has proposed to fund the upgrade of the Message Relay Service ("MRS") from its deferral account. Details of Aliant's proposal are found in the Company's submission of 2005 01 28, as well as in its response to interrogatory Aliant(CCTA)11March06-6 PN2004-1.
29. Aliant is the sole provider of MRS to customers of all local exchange providers in the Atlantic region. Aliant submits that there is no advantage or preference granted to it by the funding of this initiative via Aliant's deferral account. In turn, customers who rely on MRS to communicate with or to other customers with speech or hearing impairments will benefit from the enhancement and upgrade of the MRS network and equipment.
30. The Company submits that given the competitive neutrality of the proposal, along with its tangible benefits to customers, and noting that it addresses a specific need in Atlantic Canada and is consistent with the Commission's objectives for the second price cap period, as well as with its obligations under the Act, it is therefore appropriate to fund the upgrade of MRS from Aliant's deferral account.

#### *Recovery of Costs*

31. Finally, Aliant has proposed to recover the costs of:
- Recovery from Hurricane Juan (one-time);
  - Recovery of subsidy related to Telecom Order CRTC 2003-159 (one-time);
  - Recovery of lost revenues associated with Telecom Decision CRTC 2003-24 (annually); and
  - Recovery of lost revenues associated with Telecom Decision CRTC 2004-49 (annually).
32. The Commission determined in paragraph 408 of Decision 2002-34 that the use of a deferral account is "an efficient means of addressing regulatory adjustments." Aliant submits that the costs and/or lost revenues associated with Telecom Order CRTC 2003-159, Telecom Decision CRTC 2003-24, and Telecom Decision CRTC 2004-49, are all results of Commission determinations that have adversely affected Aliant, and which are properly dealt with within the context of an adjustment to Aliant's deferral account. Aliant notes that customers have already received benefits from the noted activities, and there is no advantage conferred on Aliant in the competitive market by permitting draw downs to Aliant's deferral account to reflect the impacts to Aliant's revenues.



33. Aliant submits that as the recovery of these elements do not confer any undue advantage upon Aliant, nor do they prejudice any other carrier in the market, that it is consistent with the Commission's objectives to permit Aliant to draw down its deferral account by the amounts submitted in the Company's submission of 2005 01 28.
34. With respect to the recovery of costs associated with Hurricane Juan, Aliant notes that both customers and competitors using Aliant's outside plant (i.e., poles and strand), have already benefited from the replacement of plant damaged by Hurricane Juan, with new plant, before the natural lifetime of that plant. Aliant submits that there is no undue competitive advantage in permitting Aliant to recover the costs associated with this one-time, aberrant and destructive event from Aliant's deferral account, and submits that it is appropriate to permit Aliant to draw down its deferral account to recover the costs associated with Hurricane Juan.

### Balancing the Interests of Stakeholders

35. In its submission of 2005 01 28, Aliant notes, in paragraph 52, that no proposal put forward by Aliant will harm any competitor; indeed, many may benefit from certain proposals. This being the case, Aliant also contends that the balance of all stakeholder interests must be considered not on a proposal by proposal basis; but as a net result of all activities funded by the deferral account.
36. In previous initiatives approved by the Commission, funds from the deferral account have been used to mitigate losses due to the reduction in prices for wholesale services used by competitors. As a result of these initiatives, competitors have already benefited, in Aliant's operating area alone, from a reduction in their costs for Competitor I and CDN services by \$2.1M annually, which is a net benefit as of 2005 05 31 of at least \$6.3M. These cost savings will grow as a result of the determinations in Telecom Decision CRTC 2005-6, with an additional \$6.2M annually in cost savings passed on to the competitors within Aliant's operating territory. By the end of the current four-year price cap period, competitors in Aliant's region will have accrued at least \$14.6M in cost savings that have been funded from Aliant's deferral account.
37. Competitors in Aliant's serving territory have already benefited from initiatives funded by Aliant's deferral account. Aliant's submission of 2005 01 28 proposes initiatives that meet the Commission's criteria and provide for tangible benefits to residential customers in Atlantic Canada. Furthermore, some proposals, such as universal E9-1-1 and upgrades to MRS, are broad enough in scope to provide benefits to residential customers, competitors and customers of competitors as well.

### Conclusion

38. When considering the proposals brought forward during the course of this proceeding, the Commission should ensure that any proposal for funding from the ILEC deferral accounts should contribute to the attainment of the Commission's objectives for the second price cap regime; they should reflect the Commission's mandate in the Act; and they should be specifically targeted to the unique needs, market, and competitive climate of each ILEC's territory.

39. Aliant has submitted a range of proposals that each contribute to the Commission's objectives for the second price cap period. Of primary importance is the fact that Aliant's market is materially different from any other region in Canada, in that there exists today, and has existed for some time, vigorous local residential competition. As Aliant is proposing to reduce prices for local service, as outlined in its interrogatory response Aliant(CRTC)11Mar05-4 PN2004-1, this proposal ultimately, by its very nature, is the most appropriate means of clearing the deferral account that aligns with the Commission's objectives and mandate.
40. Furthermore, the other proposals submitted by Aliant are also entirely consistent with the Commission's objectives, and also address the unique conditions and needs of customers in Atlantic Canada. While Aliant believes its proposals are in the best interest of customers and are sufficient to clear any balance in its deferral account, if there were any residual amounts remaining in Aliant's deferral account, the Company would put forward any additional proposals to clear such balances at that time.
41. The range of proposals submitted by Aliant on the record of this proceeding addresses the real needs of customers. Aliant's proposals specifically address situations that the Commission itself outlined in Decision 2002-34 as preferred uses of the funds within the deferral accounts; namely, the reduction of rates in response to competitive pressures, the efficient disposition of regulatory adjustments, and other proposals that benefit residential customers while respecting the needs of competitors.