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June 10, 2005

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

Dear Ms. Rhéaume:

**Re: Telecom Public Notice 2004-1, Review and disposition of deferral accounts for the second price cap period**

1. These Comments are filed by the Canadian Cable Telecommunications Association (CCTA) pursuant to the procedures established in Telecom Public Notice 2004-1, *Review and disposition of deferral accounts for the second price cap period* (PN 2004-1) and the Commission's letter dated February 2, 2005.
2. An electronic copy of this submission is provided to the Commission by email.

Yours truly,

Michael Hennessy,  
President

Attachment

c.c.: Registered Interested Parties, Telecom Public Notice 2004-1



**CCTA • ACTC**

**Telecom Public Notice 2004-1**

**Review and disposition of deferral accounts  
For the second price cap period**

**COMMENTS OF THE  
CANADIAN CABLE TELECOMMUNICATIONS  
ASSOCIATION**

## **1.0 OVERVIEW**

1. These Comments are filed by the Canadian Cable Telecommunications Association (CCTA) pursuant to the procedures established in Telecom Public Notice 2004-1, *Review and disposition of deferral accounts for the second price cap period* (PN 2004-1) and the Commission's letter dated February 2, 2005.
2. In its letter dated February 2, 2005, the Commission invited parties to file comments on any matters within the scope of the proceeding and further indicated that parties that had submitted comments on October 15, 2004 may submit revised comments, clearly specifying revisions to the comments previously submitted.
3. In its October 15, 2004 comments, CCTA provided a summary and clarification of CCTA's broadband initiative proposal and addresses proposals made by parties for the disposition of deferral accounts. The current comments do not revise the October 15, 2004 comments but rather supplement them to address proposals made by Aliant, which were not available at the time of the October 15, 2004 comments.
4. CCTA maintains its proposal that the amounts in the ILECs' deferral accounts should be used to fund the construction and maintenance of transport facilities needed to extend broadband services from the internet backbone to unserved rural and remote communities. Under the CCTA proposal, funds would not be allocated to construction of facilities within a community. CCTA submits it is possible to stimulate facilities-based competition in a rural and remote community if the high cost of long distance access to the internet can be overcome. Subject to eligibility requirements, selected communities will be those where a supplier of higher speed access service<sup>1</sup> commits to making available high-speed internet services upon completion of the transport facility. CCTA

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<sup>1</sup> Defined by the Commission in Telecom Decision 98-9, as services above 64 Kbps.

submits its proposal best meets the objectives of the proceeding as well as those set out in section 7 of the *Telecommunications Act*.

## **2.0 ALIAN T PROPOSAL**

5. CCTA has reviewed the proposals filed by Aliant regarding the disposition of the deferral account balances. Consistent with its approach in its October 15, 2004 comments, CCTA will refrain from reviewing all proposals in detail.

6. CCTA notes that Aliant's proposals generally fall within two of the four categories identified by CCTA at paragraph 113 of its October 15, 2004 comments: rate reductions and ILEC cost recovery. CCTA submits that these proposals are flawed in many respects and, more generally, do not meet important objectives established by the Commission. It would not be appropriate to approve proposals that unduly benefit one stakeholder group to the detriment or in disregard of the others. Funds derived from residential customer overpayment should not be put to purposes that unduly benefit the ILECs.

7. CCTA further submits that the Commission has determined that deferral funds are appropriately used to fund initiatives or events that qualify as exogenous adjustments under the current Price Cap regime. CCTA submits that the Commission did not intend for the ILECs to seek compensation for events or initiatives that would not classify as exogenous factors. The Commission specifically intended that approved exogenous factor adjustments would be funded through the deferral account:

With regard to the ILECs' concern that a deferral account could increase regulation, the Commission is of the view that use of a deferral account would be an efficient means of addressing regulatory adjustments. For example, during the initial price cap period there were several significant proceedings that dealt with adjustments to the price cap indices, such as changes arising from approval of exogenous factors. In the Commission's view, the deferral account will provide an appropriate mechanism to deal with such situations.<sup>2</sup>

8. The Aliant proposals do not qualify for deferral account funding under this criteria.

9. Indeed, with regards to Aliant's proposal to recover lost revenue relating to Late Payment Charges, Aliant acknowledges that it was denied treatment of this item as an exogenous factor adjustment by the Commission. Furthermore, the Commission previously identified its view that the approved levels of Late Payment Charges provide Aliant with adequate compensation for late payments.<sup>3</sup> Providing Aliant with additional compensation through a draw down on the deferral funds would clearly over-compensate Aliant for late payments, something that would benefit no other group of stakeholders other than the ILEC.

10. In another instance, Aliant is seeking funds to upgrade its Message Relay System, noting that the current equipment is at the end of its useful life and at risk of failure. CCTA submits that Aliant is currently fully compensated for the costs associated with its MRS through existing retail rates, including the funding of capital costs. Aliant should fund any replacement of capital equipment associated with MRS from its ongoing revenue in the same manner that it funds the replacement of any other network or systems equipment that has reached the end of its useful life. Permitting Aliant to recover additional funds from the

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<sup>2</sup> Decision 2002-34, paragraph 408.

<sup>3</sup> Order 2002-201, paragraph 8.

deferral account would result in Aliant recovering the costs of MRS twice: once from approved rates and once from the deferral account.

11. Aliant has also proposed the funding of ubiquitous E9-1-1 service to Atlantic Canada, including three components (i) E9-1-1 for Newfoundland and Labrador; (ii) Phase I wireless for Newfoundland and Labrador; and (iii) Phase II wireless for Atlantic Canada. CCTA submits that there are a number of shortcomings with Aliant's proposal. Firstly, while Aliant is seeking funding from the deferral account for the costs associated with E9-1-1 in Newfoundland and Labrador, Aliant has not incorporated any revenue streams into its proposal.<sup>4</sup> The ILECs, including Aliant in areas other than Newfoundland and Labrador, charge end users and other service providers tariff rates for recovering the costs of its E9-1-1 platform. CCTA submits that this is the more appropriate method of recovering costs associated with E9-1-1, ensuring that all those that benefit from the E9-1-1 system contribute to its costs.

12. Secondly, Aliant has noted that it proposes to hold the funds for E9-1-1 in Newfoundland and Labrador for up to four years as the deployment may present a financial obligation to the government of Newfoundland and Labrador that it may or may not be able to fund.<sup>5</sup> Aliant further notes that it has only held preliminary discussions with the government of Newfoundland and Labrador. CCTA submits that other proposals with more immediate deployment plans and realization of benefits should be considered prior to entertaining potential uses that have not been appropriately developed nor committed to by external parties as is the case with Aliant's E9-1-1 proposal in Newfoundland and Labrador.

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<sup>4</sup> Aliant(CRTC)11Mar05-6.

<sup>5</sup> Aliant(CRTC)11Mar05-5.

13. Finally, CCTA notes that Aliant's proposal to fund Phase II wireless in Atlantic Canada is based on unproven and untried technologies. In response to the Commission, Aliant notes "that the technology used in its estimate is only just now being tested, and final costs for Phase II wireless E9-1-1 can only be finalized after such time as the technology trial is complete and the final architecture known."<sup>6</sup> Bell Canada further indicates that Phase II wireless technology has not been deployed in Canada. It also states that:

"... full deployment of Phase II wireless E9-1-1 cannot be achieved by the Company alone, but rather, would require the involvement of all wireless carriers and municipalities. Unlike wireless Phase I technology which was implemented with minimal cost and technology impact on PSAPs, the Phase II technology required to provide caller location coordinates represents a significant cost to all participants: the wireless carriers, the affected municipality's emergency service answering points, and the Company."<sup>7</sup>

14. CCTA submits that any proposal to fund Phase II wireless is premature at this stage as the detailed plan supporting Aliant's implementation is not yet available, nor has a preferred technology solution been agreed upon. CCTA submits that other proposals with more immediate deployment schedules and realizable benefits should receive priority.

15. CCTA notes that Aliant has identified the recovery of funds used to deploy TTY devices to payphones pursuant to Decision 2004-47. The Commission is currently assessing Aliant's proposal. In Decision 2005-23, the Commission approved an annual draw down from the deferral accounts over a seven year period for Bell, TELUS and MTS Allstream associated with the recovery of certain costs associated with upgrading their payphones with TTY devices.

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<sup>6</sup> Aliant(CRTC)11Mar05-6, Attachment 3, page 1.

<sup>7</sup> Bell(CRTC)11Mar05-102, page 5.

16. CCTA submits that with the exception of Aliant's recovery of funds used to deploy TTY devices to payphones Aliant's proposals fail to address the objectives established by the Commission including fostering facilities-based competition, increasing efficiencies, encouraging innovation, contributing broadly to affordability of services. Nor do they strike an appropriate balance among the interests of customers, competitors and the incumbent telephone company.

\*\*\*\*\*End of Document\*\*\*\*\*