



Richard A. Stephen
Director - Regulatory Matters
Saint John Brunswick Sq., Flr. 10
Saint John, NB
Canada E2L 4K2
Bus: (506) 694-6512
Fax: (506) 694-2473
E-mail regulatory.matters@aliant.ca

2005 08 22

Diane Rhéaume
Secretary general
Canadian Radio-television and
Telecommunications Commission
Ottawa ON

Dear Ms Rhéaume:

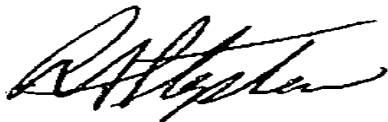
Subject: Telecom Public Notice 2005-2 – Local Forbearance
Interrogatory Deficiency Requests

1. In accordance with the procedural directions in the Public Notice, Aliant requests in the attached further and better answers from EastLink to various interrogatories posed by Aliant, and requests disclosure of certain information provided by EastLink in confidence. In addition, a request is made with respect to one interrogatory posed to Rogers (Cable).
2. The requests with respect to EastLink are presented in three parts:
 - Part A – interrogatories seeking information about EastLink's telephone businesses and EastLink's ability to provide service in a competitive market.
 - Part B – interrogatories seeking information about EastLink's non-telephone businesses, their regulation, and their relationship to EastLink's ability to provide telephone services in a competitive market.
 - Part C – information provided in confidence to the Commission. In many cases, Aliant has filed similar information in confidence. However, in case any party applies to have any of Aliant's confidential information placed on the public record, Aliant seeks fair and equal treatment of the information filed in confidence by its competitor.
3. Note that EastLink has not properly claimed confidentiality for the various answers which it has failed to place on the public record. Rule 19 of the *CRTC Telecommunications Rules of Procedure* provides that where a party contends that the information sought by a question is of a confidential nature, it must provide a

response that sets out the reasons for this claim in accordance with s. 39 of the *Telecommunications Act*. Further, a party is to provide an abridged version of the answer providing as much information as possible. The abridged version will in many cases provide information about the structure of the information provided to the Commission in confidence. The parties are thus better able to respond to the claim of confidentiality to formulate a deficiency request, and to suggest alternate degrees of abridgement which might suit the needs of both parties. Because of EastLink's failure to comply with the rule parties do not have this information and can only speculate what aspect of the information sought is claimed to be confidential, and how the harm of disclosure might outweigh the public interest in provision of a full answer.

4. Aliant submits that, as the procedure adopted for this matter does not permit cross examination of other parties, the Commission requires more of parties in their responses to non-data questions. While interrogatories are no substitute for cross-examination, requiring answers on the record to questions about positions taken and assertions made will assist the Commission and parties in evaluating the submissions of the various parties.

Yours truly,

A handwritten signature in black ink, appearing to be 'R. H. H. H.', written in a cursive style.

cc: Interested Parties to PN 2005-2

Requests for further responses to interrogatories from EastLink and for public disclosure of Information for which confidentiality has been claimed

Part A: Information about EastLink's telephone businesses

EastLink(Aliant)20July05 – 102 c¹
EastLink(Aliant)20July05 – 106 a,b,c,d & h and
EastLink(Aliant)20July05 – 122

In these interrogatories Aliant sought to obtain an explanation and justification of EastLink's assertions with respect to its incremental costs of providing telephone service. In its evidence it had made various statements about its costs, incremental to the costs of its existing broadcast distribution network, of providing telephone service. Further, EastLink claimed that it incurs "an additional cost in the range of \$700 to \$1,000 for each customer and when that customer is lost a large portion of that capital and incremental acquisition costs are also lost." Aliant sought an explanation of the nature of the costs referred to, an identification whether they are customer specific or if they include general customer service and marketing costs, a breakout between incremental costs and embedded costs, and between fungible equipment (i.e., the "cornerstone" box) and sunk cost, and whether any of these costs relate to the provision of broadcast distribution or high speed internet service. EastLink's responses refer to the response given in EastLink (Competition Bureau) 20 July 05 – 9 (for which confidentiality was claimed to the Commission and not the Competition Bureau) or provided deficient answers.

In **EastLink(Aliant)20July05 – 102 c** Aliant requested information regarding the incremental costs associated with the equipment necessary to bring telephony to the home over cable. In its response EastLink provided an incomplete description of the cost, merely stating that it "includes voice ports, cornerstone units (as EastLink calls its wall boxes) and subscriber drop, and referred to EastLink (Competition Bureau)20July05–9 (for which confidentiality was claimed).

In **EastLink(Aliant)20July05 – 106 a,b,c,d & h** EastLink was asked to provide a breakdown of the additional \$700 to \$1,000 it says it incurs for each customer. In responses to a, b and d Aliant is referred to EastLink(Competition Bureau)20July05 – 9 (which was filed in confidence) while in responses c and h EastLink claims confidentiality and provides no answer. It is not clear if EastLink has provided an answer in confidence to the Commission. EastLink provides no indication of the nature of the answer or why it is confidential. In this, EastLink fails to comply with Rule 18 (2) (c) of the Telecommunications Rules of Procedure.

In **EastLink(Aliant)20July05 - 122**, Aliant challenged EastLink's assertion that it was "common industry knowledge that costs of providing circuit switched telephony range from \$700 to \$1000 per household". It is not clear if this is the same \$700 to \$1,000 which EastLink identified as its incremental cost in the passage which is the subject of EastLink(Aliant)20July05 – 106. Aliant asked for the evidence EastLink used to make

¹ For ease of reading, the extension PN 05-2 has been excluded from all of the references to specific interrogatories.

this statement. EastLink simply responded that companies in the circuit-switched telephony business would understand the nature and general extent of those costs, without providing the evidence required. There is no such “rule of thumb” in the industry of which Aliant is aware, and it is notable that in Call-Net’s March 31, 2005 Management Discussion and Analysis, Call-Net’s Cost of Acquisition per line was \$288.00, down from \$359.00 the previous period.

Aliant requires proper answers to these questions. As EastLink has asserted that the information about the “\$700 to \$1,000” is well known in the industry, it cannot claim confidentiality with respect to it. As EastLink has raised the assertions itself and relies on them, it cannot now claim that the information is irrelevant or out of scope. It is incumbent on EastLink, having made the assertions, to answer reasonable questions to clarify what its assertions meant, and provide evidence to back them up. Without a full and proper explanation of these costs, the parties are left with a potentially erroneous impression of the costs offered by EastLink, and, to the extent that EastLink submits that its cost structure makes it not viable in a competitive market, with a mistaken assessment of this assertion. Aliant submits provision of a full explanation, and disclosure of the responses to the questions in the above noted interrogatories is appropriate in the circumstances.

EastLink(Aliant)20July05-117

In this interrogatory Aliant asked EastLink to provide the number of residential lines and share of the total number of residential lines for (a) the 32 exchanges and (b) the Halifax Metropolitan Area referred to in Aliant’s May 18, 2005 update. Aliant had already provided its estimate of this information on the public record.

In its response, EastLink referred to EastLink(CRTC)20July05 – 803 with respect to the information about the 32 exchanges and EastLink(CRTC)20July05 – 802 with respect to information about the Halifax Metro Area.

With respect to Aliant’s request that EastLink provide the number and share of residential lines with respect to the 32 exchanges subject to this proceeding and for the exchanges included in the Halifax Metro Area, the response is confusing. In EastLink(CRTC)20July05 – 802 a) i), EastLink states,

EastLink does not track customer numbers by exchange, and to provide information in this format would be extremely difficult. We do track by cable system or operating branch, and have attached the requested information in that format.

The information referred to was not provided, and EastLink has not even explained what it refers to as an “operating branch”. EastLink provided a spread sheet to the Commission in confidence. No abridged version was filed, so parties have no information about the information provided by “system” or by “operating branch”. Without information about the structure of the answer, Aliant is unable to comment specifically about how EastLink could translate this information into exchange information.

EastLink's assertion that it does not record customers on an exchange basis is implausible, and, if true, would appear to be a violation of its obligations as a CLEC.

With respect to the response that EastLink does not track customer numbers by exchange and to provide it would be extremely difficult, Aliant notes at paragraphs 18 to 24 in Telecom Decision 97-8, *Local Competition*, 1 May 1997 the Commission stated that the exchange is the fundamental unit of interconnection. From that Decision,

B. CLEC Serving Areas

18. The issue of serving area boundaries was raised by several parties who submitted that CLECs should be able to provide services in serving areas that do not coincide with ILEC exchange areas. Those parties submitted that flexibility in defining respective serving areas is an important element to enable CLECs to differentiate themselves from ILECs in marketing their services. Such parties noted, for example, that an important marketing strategy might be to offer customers flat-rated local services over areas wider than those currently provided by the ILECs.

19. With respect to existing serving areas, an exchange is defined as the basic unit for the administration and provision of telephone service by an ILEC and it normally encompasses a city, town or village and adjacent areas. Within an exchange and to other exchanges that have extended area service (EAS) or similar services with that exchange, all subscribers may place an unlimited number of calls of any duration to all other subscribers without incurring long distance toll charges. Exchanges for which EAS or similar services have been established continue, nevertheless, to be separate and distinct exchanges.

20. The exchange system is both integral and necessary to the general functioning of the network. For example, the three digit telephone number prefix (NXX) or Central Office (CO) code is unique to an exchange within a given Numbering Plan Area (NPA). NXXs identify the exchanges in which a call originates and terminates and are thus used to rate and route calls. The Commission notes that both Stentor and CCTA proposed that each CLEC acquire at least one NXX in each ILEC's exchange in which it is providing service. (*emphasis added*)

21. The Commission notes that several parties, including Stentor and AT&T Canada LDS, did not object, in principle, to variances in serving areas in a competitive environment, but indicated that the basis for toll contribution must be maintained as it is if the contribution system is to remain viable. CCTA, while arguing that CLECs should be free to set their own serving areas, acknowledged the importance of the toll contribution framework and agreed that, for the purposes of calculating contribution, the ILECs' exchange boundaries should continue to be used.

22. In the Commission's view, permitting CLECs to define serving areas that encompass more than one ILEC's exchange, without making provision for toll contribution for CLEC calls that cross an ILEC's exchange boundary, would mean that many CLEC calls would avoid contribution while ILEC calls with the

same routing would be subject to it.

23. In light of the above, the Commission concludes that CLECs should be permitted to establish their own continuous local serving areas for the purpose of setting rates for retail services. **The Commission also concludes that a CLEC must obtain at least one NXX for each ILEC's exchange area in which it provides services.** Further, any CLEC-generated call between ILECs' exchanges where ILECs' toll charges are applicable is to be treated as a toll call for contribution payment purposes, regardless of the structure or extent of the CLEC's serving area. (*emphasis added*)

24. The effect of these conclusions is that the present ILECs' exchanges will be maintained as the elementary unit for the purposes of interconnection and calculation of contribution in a competitive environment. (*emphasis added*)

Although toll-based contribution has been abolished, the exchange remains the elementary unit for the purposes of interconnection and for the subsidy regime for high cost serving areas. The newly established local interconnection regions (LIRs) consist of the aggregation of exchanges; LIR are just a collection of exchanges. Each CLEC continues to be required to have at least one NXX assigned to it for each exchange in which it is to provide service, and those numbers are assigned to customers in that exchange. The assignment of a NXX to a particular exchange is not subject to change. The Central Office Code (NXX) Assignment Guidelines issued by the Canadian Steering Committee on Numbering state:

Typically, the Exchange Area for an In-Service CO Code cannot be changed to another Exchange Area as such changes could negatively impact customers, users, and other telecommunications service providers, and may be contrary to the relevant regulatory framework.

This information is relied on by long distance providers in rating toll calls. EastLink, too, must define its local service areas within which it provides non-toll calling. If EastLink is not following the Exchange Area structure it should explain on the record the structure that it is following, and how it proposes to comply with its obligations under Decision 97-8 and the Guidelines. In EastLink (Bureau) 20July05-17(h-j), EastLink states it uses the same local calling areas as Aliant; which again utilizes the exchange as the base.

Each EastLink customer, therefore, must be designated by exchange, and this information should be readily available to EastLink. Aliant notes that EastLink uses circuit switched telephony over its cable network. It is Aliant's experience with standard circuit switched technology that ascertaining the number of NXXs associated with an exchange is straightforward and is simply a matter of formulating the appropriate query to the switch. All major switch manufacturers provide similar functionality. One simply has to query the NXX numbers to ascertain how many accesses are associated with the exchange to which the NXX is assigned.

Aliant further notes that Local Number Portability does not pose a problem for the above calculations as all NXXs assigned to Aliant are available at the Canadian Numbering Administrator's website and EastLink would likewise be able to query these.

<http://www.cnac.ca/mapcodes.htm>

Conversely, it seems likely that each of the serving areas or branches is entirely within an exchange because they are centered on towns and population centers, and our exchanges are centered on the same population centers.

On the basis of the forgoing, Aliant submits that EastLink is deficient in its responses to both Aliant and the Commission. Aliant further submits that the perceived inability of EastLink to provide exchange based competitive numbers should not be used to contradict the Commission's assertion that the "ILECs' exchanges will be maintained as the elementary unit for the purposes of interconnection ... in a competitive environment."

Part B – Information about EastLink's non-telephone businesses

EastLink's answers to several interrogatories are being addressed as a group because EastLink uses the same rationale in each as to why it is not providing a response. Additional comments are then provided which are specific to each of the interrogatories in this part.

EastLink's rationale as to why it is not providing a response to these interrogatories is provided at the beginning of its answer to EastLink(Aliant)20July05-100. In brief, EastLink contends that anything to do with cable regulation and EastLink's non-telephony businesses is outside of the scope of PN 2005-2 and is irrelevant to a determination in this proceeding. More specifically, EastLink states:

"EastLink has not provided a response to the portions of this interrogatory related to cable regulation and the rules associated with the regulation over its cable systems, as it is outside the scope of this proceeding. The information sought in this interrogatory is irrelevant to determining forbearance criteria for local exchange services; broadcasting distribution services and the regulation of same are governed by the *Broadcasting Act* and are founded on different objectives and policy considerations than local exchange services, which are governed by the *Telecommunications Act*."

In many of the responses to the interrogatories referred to in this part, EastLink does not provide an answer but instead refers to EastLink(Aliant)20July05-100.

In Aliant's view, the regulatory framework that guided the broadcast industry's transition from monopoly to competition is directly relevant to the issues before the Commission in this proceeding for several reasons. Until the Commission opened the broadcast distribution industry to competition in the late 1990s, each cable system had a Commission-sanctioned monopoly in its operating territory. These monopolies had existed for decades. As monopolies, the cable companies were subject to economic regulation. With the decision to allow competition in the industry, the Commission needed to address the question of when and how to remove economic regulation of the cable companies.

Concurrently with the opening of the broadcast distribution industry to competition, the Commission was putting in place the framework for competition in the local telephony segment of the telecommunications industry. One of the issues that the Commission considered at that time, at the behest of the cable industry, was whether telephone companies should be allowed into the broadcast distribution industry before the local telephony market was opened to competition. In Public Notice CRTC 1997-49, the Commission agreed with the cable industry that telephone companies should not be granted broadcast distribution licences until the local telephony industry was opened to competition. In short, not only did competition in the two sectors start at essentially the same time, the Commission explicitly created a regulatory link between cable broadcast distribution and local telephony.

Both industries have historically been capital intensive with expensive, and typically immovable, physical assets deployed over large local areas. The networks created by both industries have been continuously upgraded to provide more services. Cable networks and telephone company networks both provide high-speed Internet access. Cable networks are in the process of being quickly converted to provide virtually ubiquitous telephony services, while telephone companies, at a much slower pace, are moving to add subscription TV as a service delivered over their networks. With such close connections, the regulatory rules that guided the transition of the broadcast distribution industry from monopoly to competition cannot help but be relevant in this proceeding.

One of the issues identified for comment in the Public Notice is the process for future forbearance applications for ILEC local exchange services. The Commission turned its attention to a similar question for the Class 1 cable companies – how they should be granted economic deregulation - when it was developing a framework for competition in the broadcast distribution sector. In 1997, the Commission decided on a deregulation test based on objective criteria for Class 1 cable systems, which was incorporated as section 47 of the *Broadcast Distribution Regulations*. From an economic policy perspective, it is a relevant and insightful case study to consider how the Class 1 cable systems behaved and how the broadcast industry developed under this deregulatory regime.

In deciding on a deregulatory framework for the Class 1 cable systems, the Commission had to make a determination on the relevant geographic market that would be employed in the deregulation test. It chose the serving area of the Class 1 system. The question of the relevant geographic market for ILEC local exchange forbearance is one of the important issues for the Commission to resolve in this proceeding. With the similarities between the cable networks and the ILEC local exchange networks, the rationale for, and the experience with, the geographic market established for the deregulation test for Class 1 cable systems are valuable considerations for the Commission to review in its decision-making process.

In addition, the Commission asks for comment in the Public Notice on what post-forbearance criteria should be established that could, for example, trigger re-regulation of an ILEC's local exchange services. The Commission did not establish any post-forbearance criteria to accompany the deregulation test for Class 1 cable systems. As competition has unfolded, the Commission's decision not to impose such criteria has proven correct. They were not required. Given the parallels between the industries, it is

logical that the Commission consider in this proceeding the experience of the broadcast distribution industry where no post-forbearance criteria were imposed.

In this proceeding, the Commission is investigating the appropriate standard for forbearance for ILEC local exchange services. This will depend in part on an assessment of the ability of entrants to survive in a competitive market. Aliant and various other parties have pointed out that the cable television companies, which now describe themselves as “cable telecommunications companies”, have established state-of-the-art networks throughout most of Canada. In addition to subscription TV, these networks provide high-speed Internet access, which is a key transmission platform used by the numerous VoIP telephony suppliers, and are now being used to supply telephony services directly by the cable companies themselves.

Aliant and other interested parties have also pointed out that the cable LECs have substantial advantages in that they are able to leverage their continuing dominance in broadcast distribution in support of their entry into telephony. This combination of having already incurred the substantial costs of building their multi-service networks and the ability to bundle services in which they are dominant, gives the cable companies an important competitive advantage in the market. The telephone companies seeking to establish themselves in the broadcast distribution market have no such advantage.

In order to fairly reach a decision with respect to the framework for local exchange forbearance and also on Aliant’s application for forbearance in certain exchanges, the Commission must investigate and weigh the competitive strengths of the Cable LECs as well as the weaknesses that EastLink and its supporters allege. These are directly relevant to the Commission’s analysis under s. 34(3) of the *Act* in considering whether EastLink is capable of sustaining itself in the face of competition or if forbearance would be likely to unduly impair the establishment or continuance of a competitive market

Accordingly, questions with respect to the transition of the broadcast distribution industry from monopoly to competition, the nature of EastLink’s broadcast operations and licenses, and any regulatory constraints on its ability to leverage its dominance in broadcast distribution are directly relevant to a full and fair assessment of the issues in this proceeding.

For all of the above reasons, EastLink should be directed to provide full and complete responses to the Aliant interrogatories identified here.

EastLink(Aliant)20July05-100

EastLink provides responses to few of the many questions in this multi-part interrogatory. The questions were motivated by EastLink’s statement at the start of its June 22nd comments that: “EastLink’s experiences as an incumbent, entrant and competitor give us insight into various aspect of regulation”. Since these insights would be of interest to parties and the Commission in this proceeding, Aliant asked questions about EastLink’s experiences as an incumbent cable company that participated in the transition from monopoly to competition in the broadcast distribution industry. However, EastLink refuses to answer any such questions on the grounds that cable regulation and rules are outside of the scope of this proceeding.

Aliant notes that Rogers responded to a similar interrogatory, Rogers(EastLink)20July05-100, with a complete, with one exception, response.

EastLink(Aliant)20July05-106(e), (f)

In these two parts of the interrogatory, Aliant requested that Aliant provide the “capital and incremental cost” that EastLink incurs for each new cable customer and for each new high-speed Internet customer. The reason for the questions can be found in the comments from EastLink that were quoted in the interrogatory. EastLink asserts an additional cost of \$700 to \$1000 for each new local telephony customer. EastLink’s network, however, supplies multiple services: subscription TV, high-speed Internet access and local telephony. Many of the costs of operating that network are no doubt related to providing all three services. It is therefore within the scope of this proceeding to investigate how these costs relate to the costs of the other two services being provided over the same network.

EastLink(Aliant)20July05-107(c), (d)

In these two parts of the interrogatory, EastLink is asked whether its cable systems were ever subject to regulatory restrictions on the prices charged for discretionary and pay services, and whether in the regulations in effect prior to January 1, 1998 discretionary and pay services were ever used to offset the costs of providing basic cable service. The questions were prompted by EastLink’s statements in its June 22nd submission that it needed regulatory protection while it entered and expanded in the local telephony business because the former regulatory framework for the telephone companies allowed them to recover their investments in local telephony through cross subsidies from long distance services. Similarly, under the former regulatory framework for the cable companies, revenues from discretionary and pay services, whose prices were never regulated, were used to offset the cost of cable infrastructure. However, new entrants to the broadcast distribution industry were never given regulatory protection from the cable incumbents because of this. Hearing EastLink’s views on why it believes that the two different approaches to the same economic policy question are appropriate would be enlightening for all parties.

EastLink(Aliant)20July05-108

In this interrogatory, Aliant asked EastLink whether new entrants to the broadcast distribution industry were given what EastLink refers to in its June 22nd comments a “chance of recovering their investments” before regulatory constraints on the incumbent were removed. This is an interesting and novel public policy prescription that EastLink has proposed. It warrants exploring whether EastLink supports this approach in its core cable business or whether it believes that this policy should be followed in the local telephony business only. If it believes that this policy should be followed in local telephony only, then EastLink should be directed to explain why.

EastLink(Aliant)20July05-118

Aliant asks in this interrogatory for EastLink’s view on whether the relevant geographic market which the Commission adopted for the deregulation of Class 1 cable systems,

namely the area served by the Class 1 system, was appropriate in light of EastLink's comments that the relevant geographic market for Aliant local exchange forbearance should be the province. Since both industries have historically been capital intensive with expensive, and typically unmovable, physical assets deployed over large local areas, the question of why the relevant geographic market for cable should be so different from that EastLink has proposed for local telephony merits comment.

EastLink(Aliant)20July05-119

In this interrogatory, given EastLink's concern about possible targeted pricing behaviour by Aliant, EastLink is asked whether it was ever subjected to constraints by the Commission that limited its behaviour to engage in targeted pricing towards new entrants when its cable monopoly was opened to competition. The cable companies argue that their strong positions of incumbency did not in any way hinder the rapid development of competition in the broadcast distribution industry. Tellingly, the Commission never put in place any restrictions that limited the ability of cable companies to engage in the type of targeted pricing to thwart competitive entry that the cable companies are arguing will be carried out by telephone companies if the Commission does not put in place various regulatory mechanisms. In Aliant's view, the Commission should hear directly from EastLink why it is afraid of being on the receiving end of targeted pricing, but why new entrants to EastLink's core cable business have nothing to fear in this regard.

EastLink(Aliant)20July05-132

In light of EastLink's claim in its June 22nd comments that "all competitors should be entitled to enter a market and operate within the regulatory regime for a sufficient period of time in order to recover some of their initial investment", EastLink was asked whether its policy prescription should have been followed in the broadcast distribution industry when it was opened to competition. EastLink is certainly entitled to express its views as to what economic policy in Canada should be, but when it makes such a statement in attempt to win a regulatory guarantee to allow it to recover its investment in local telephony, it is a fair question to ask whether it supports this policy approach in all industries and more specifically in the broadcast distribution industry where it remains the dominant supplier.

EastLink(Aliant)20July05-137(b)

In this part of the interrogatory EastLink is asked whether its proposal to protect new entrants with higher costs than incumbents should also be applied in the broadcast distribution industry. EastLink proposes that the Commission adopt a regulatory policy which would see the Commission preventing the ILECs from lowering prices to levels that would still be above cost, but lower than the prices that could be charged by new entrants with higher costs than the ILECs. Aliant's understands that this proposed regulatory policy has not been adopted by any regulatory authority in Canada, nor does the Competition Bureau support it. It is therefore a valid question as to whether EastLink would see this policy extended to the industry where it had its beginnings and where it remains the dominant supplier.

EastLink(Aliant)20July05-138

Aliant asked EastLink in this interrogatory whether there are significant barriers to entering the broadcast distribution industry. In its June 22nd comments, EastLink argues that there are significant barriers to entering local telephony, but “satellite competitors have no significant barriers” to entering the broadcast distribution industry. The context is that cable companies need regulatory protection while they enter and expand within the local telephone market segment because the barriers to entry are high, whereas entering their core business is straightforward because there are no significant barriers to entry. Aliant therefore asked EastLink why there are only two DTH companies operating in Canada, one of which is owned by Shaw Cable with whom it can share operating costs, why there are few wireline competitors to cable and why they collectively serve less than 1% of all BDU customers in Canada.

EastLink(Aliant)20July05-139(b)-(d)

In these parts of the interrogatory, EastLink was asked to provide information on how its revenues have changed since it first faced competition from the launch of Canadian DTH in 1997. This interrogatory stems from EastLink’s assertion that “when cable companies enter the telephone business their existing revenue base is already under attack from competition”. The context is that cable companies need regulatory protection while they enter and expand within the local telephone market segment because their traditional business is “under attack”. These questions are intended to discover whether EastLink can provide evidence to support its assertion in the way of declining revenues or in terms of losing customers.

EastLink(Aliant)20July05-140(c)

In this part of the interrogatory, Aliant requested that EastLink provide the actual rates of return earned by the cable industry generally and for EastLink specifically in each of the last ten years. In its June 22nd comments, EastLink alleges that one of the reasons that new entrants need a regulatory-mandated period of time in which to recover some of the investment that they have to make to enter the telephony business is that the ILECs were guaranteed a rate of return on their investments in local telephony. The cable companies were for many years subject to a similar form of rate base rate-of-return regulation, with one major difference that they had no cap on the rate of return they could earn, whereas the telephone companies were not allowed to earn more than a specified reasonable return. Since the cable companies had a similar, but more generous, rate-of-return regulatory regime as the telephone companies, it is legitimate to ask why new entrants to cable were not given regulatory protection to allow them to recover their investments when EastLink argues that this should happen for its entry into local telephony.

Part C - Confidentiality

In EastLink(CRTC)20July05 –802, EastLink was asked to provide the Residential Network Access lines (NAS) or NAS equivalents based upon the Halifax Census Metropolitan Area. The information requested was submitted in confidence to the Commission, without providing the reason for such confidentiality as required by the Rule 18. Aliant's response to the similar question by the CRTC was also submitted in confidence, in compliance with Rule 18. There are many other interrogatories asked of the two companies which have been responded to in confidence.

Aliant notes that, if any party should apply for disclosure of Aliant's confidential information provided to the Commission in confidence in response to this or any other interrogatory, the considerations with respect to the claims of confidentiality are identical and they should be decided in the same way. EastLink and Aliant are competitors in the same market. Accordingly, with respect to any such disclosure request against it, Aliant requests disclosure of EastLink's equivalent information.

Requests for further responses to interrogatories from Rogers (Cable) and for public disclosure of Information for which confidentiality has been claimed

Rogers(Aliant)20July05-100 (a)(iv)

In this part of the question Rogers was asked to provide for each of its Class 1 cable systems in New Brunswick and in Newfoundland the rate for basic cable service just prior to deregulation pursuant to section 47 of the *Broadcast Distribution Regulations* and the current rate for basic cable service. Rogers answered by stating that the question is irrelevant to this proceeding.

Aliant submits that the information is relevant for the following reason. The cable companies, including Rogers, are claiming that the fact that Aliant has not lowered the price for its residential local service in response to EastLink's entry is indicative of a lack of effective competition. Given that the cable companies are making this argument and given the many parallels between the cable industry and local telephony, it would be helpful to the parties and to the Commission to know how rates for basic cable have responded to competitive entry.