



## Telecom Public Notice CRTC 2006-14-2

Ottawa, 15 February 2007

### Review of regulatory framework for wholesale services and definition of essential service

Reference: 8663-C12-200614439

1. In this Public Notice, the Commission further amends the list of companies that are made parties to the proceeding established in *Review of regulatory framework for wholesale services and definition of essential service*, Telecom Public Notice CRTC 2006-14, 9 November 2006, as amended by Telecom Public Notice CRTC 2006-14-1, 15 December 2006, (Public Notice 2006-14). The Commission also amends certain procedures and the associated schedule dates.
2. In Public Notice 2006-14 at paragraph 28, the Commission set out the list of those entities that were made parties to the proceeding as follows: Bell Aliant Regional Communications, Limited Partnership (Bell Aliant), Bell Canada, Bragg Communications Inc. operating as EastLink, Cogeco Cable Inc. (Cogeco), MTS Allstream Inc. (MTS Allstream), Rogers Communications Inc. (RCI), Saskatchewan Telecommunications (SaskTel), Shaw Cablesystems G. P. (Shaw), Société en commandite Télébec (Télébec), TELUS Communications Company (TCC) and Vidéotron Ltd. (Vidéotron).
3. By letter dated 22 December 2006, Bell Canada requested that the Commission amend the list of entities that were made parties to add, as parties, all municipal electrical utility companies (MEUs) that offered and/or provided wholesale telecommunications services.<sup>1</sup>
4. By letter dated 4 January 2007, TCC supported Bell Canada's request<sup>2</sup> and further submitted that all Canadian carriers should be made parties by the Commission.
5. On 12 January 2007, MTS Allstream filed comments to the Commission that opposed Bell Canada's and TCC's requests.

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<sup>1</sup> In its letter, Bell Canada identified the following MEUs that were represented by UTC Canada in *Framework for forbearance from regulation of high-speed intra-exchange digital services*, Telecom Public Notice CRTC 2005-8, 30 June 2005, as amended by Telecom Public Notice CRTC 2005-8-1, 22 July 2005 and Telecom Public Notice CRTC 2005-8-2, 28 October 2005 (Public Notice 2005-8 proceeding): Agilis Networks, Atria Networks LP, Enersource Telecom Inc., Halton Hills Fibre Optics Inc., Hamilton Hydro Services Inc., Hydro One Telecom Inc., Maxess Networx, Oakville Hydro Communications operating as Blink Communications Inc., SCBN Telecommunications Inc., Telecom Ottawa Limited and Toronto Hydro Telecom Inc.

<sup>2</sup> In its letter TCC named two MEUs based in western Canada, Enmax Corporation and EPCOR Utilities Inc.

6. By letter dated 16 January 2007, Commission staff invited any person or party to file submissions with regard to the requests made by Bell Canada and TCC to add MEUs and Canadian carriers as parties to this proceeding.<sup>3</sup>
7. The Canadian Cable Systems Alliance Inc. (CCSA), Primus Telecommunications Canada Inc. (Primus), SaskTel and UTC Canada each submitted comments dated 23 January 2007. Bell Canada and TCC replied on 24 and 26 January 2007, respectively. Access Communications Co-operative Limited (Access) submitted comments on 30 January 2007.
8. In support of their requests, Bell Canada and TCC both submitted that the availability of alternative sources of supply to incumbent local exchange carrier (ILEC) facilities from non-incumbent carriers would have a direct bearing on whether such facilities were essential and that this was a central consideration in this proceeding. In this regard, Bell Canada argued in its initial request that providing parties with the opportunity to address interrogatories to MEUs would provide the Commission with the most comprehensive record possible in order to make determinations on the issues raised in this proceeding.
9. SaskTel supported Bell Canada's and TCC's requests to add those MEUs that were engaged in the offering and/or the provision of wholesale services as parties. SaskTel further submitted that, while it would be unmanageable to add all Canadian carriers as parties, as requested by TCC, Access and Persona Communications Corp. (Persona) should be made parties.
10. Access, the CCSA, MTS Allstream, Primus and UTC Canada all opposed the requests to add parties. These entities generally argued that the financial and time commitments associated with being involved in the proceeding would be disproportionate with the limited information that would be gained from their participation. They also argued that because the telecommunications revenues and market share of MEUs and other non-dominant carriers were relatively small compared with ILECs and large cable carriers, their participation would not add much value. UTC Canada further submitted that by virtue of its members' participation in the Public Notice 2005-8 proceeding, the Commission already had a complete inventory of up-to-date information concerning the extent of competition in this sector of the telecommunications market, including the location of buildings served by UTC Canada's members, as well as facility routes, services, revenues and customers.
11. In its reply, Bell Canada supported SaskTel's request and further submitted that FCI Broadband and Globility Communications Corp. (Globility) be made parties. In its reply, TCC submitted that while it understood that adding all Canadian carriers as parties might be administratively burdensome, at minimum, all cable companies that provided high-speed Internet service should be added as parties.

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<sup>3</sup> Parties' submissions were to include the name of any Canadian carrier or MEU to be added, with supporting rationale as applicable. Parties were also invited to address adjustments to the Public Notice 2006-14 procedure dates, as well as the inclusion of provisions within Public Notice 2006-14 requiring the persons made party to the proceeding to identify wholesale services that they provide, and allowing parties to address interrogatories to any person that the Commission has made party to the proceeding.

12. The Commission considers that the existence and location of alternative sources of supply to wholesale facilities will be considerations in this proceeding and notes that information on these alternatives is distinct from information on revenues and market share determined on a national basis. To this end, the Commission considers that the record of this proceeding must include sufficient information regarding alternative sources of supply in relation to wholesale services. The Commission also considers that, while there may be some overlap with the evidence filed by MEUs in the Public Notice 2005-8 proceeding, updated information and new information not on the record of that proceeding may be required.
13. The Commission notes the comments of those opposing Bell Canada's and TCC's requests that their participation would involve a disproportionate level of resources and unnecessary burden compared with what would be gained from their participation. On balance, however, the Commission considers that the benefit to the public interest in ensuring that the Commission can render its decision based on as comprehensive a record as reasonably possible outweighs concerns raised with respect to resource commitments and levels of effort required to participate in the proceeding.
14. The Commission therefore considers it appropriate to add, as parties to this proceeding: Access, Agilis Networks, Atria Networks LP, Enersource Telecom Inc., Enmax Corporation, EPCOR Utilities Inc., FCI Broadband, Globility, Halton Hills Fibre Optics Inc., Hamilton Hydro Services Inc., Hydro One Telecom Inc., Maxess Networx, Oakville Hydro Communications operating as Blink Communications Inc., Persona, SCBN Telecommunications Inc., Telecom Ottawa Limited and Toronto Hydro Telecom Inc.
15. The Commission notes that Bell Canada's initial request indicated that it wished to address interrogatories to acquire information related to other service providers' wholesale service offerings. Accordingly, the Commission considers that, other than for Bell Aliant, Bell Canada, Cogeco, MTS Allstream, RCI, SaskTel, Shaw, TCC, Télébec and Vidéotron, the filing of initial evidence is to be optional for the service providers made party to this proceeding. The Commission notes, however, that if such a party chooses not to file evidence, it is required to respond to other parties' interrogatories, but only to those that seek factual information related to alternative sources of supply in relation to wholesale facilities.
16. Accordingly, the Commission further amends the procedures and timelines in Public Notice 2006-14 by replacing paragraphs 28, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45 of that Public Notice with the following:

28. Access Communications Co-operative Limited, Agilis Networks, Atria Networks LP, Bell Aliant, Bell Canada, Bragg Communications Inc. operating as EastLink, Cogeco, Enersource Telecom Inc., Enmax Corporation, EPCOR Utilities Inc., FCI Broadband, Globility Communications Corp., Halton Hills Fibre Optics Inc., Hamilton Hydro Services Inc., Hydro One Telecom Inc., Maxess Networx, MTS Allstream, Oakville Hydro Communications operating as Blink Communications Inc., Persona Communications Corp., RCI, SaskTel, SCBN Telecommunications Inc., Shaw, TCC, Télébec, Telecom Ottawa Limited, Toronto Hydro Telecom Inc. and Vidéotron are made parties to this proceeding.

33. Bell Aliant, Bell Canada, Cogeco, MTS Allstream, RCI, SaskTel, Shaw, TCC, Télébec and Vidéotron are to provide to the Commission, and serve on all parties, by **15 March 2007**, (a) a list that identifies, separately by sub-category, the interconnection and ancillary services it provides that in its view are either (i) interconnection services required to permit the interchange of traffic with the PSTN, (ii) other interconnection services, or (iii) services ancillary to interconnection services; and (b) a list of all other wholesale services it provides. Each list is to include for each service identified: a service description, tariff reference as appropriate, and current Competitor Service classification and category as appropriate.

34. Bell Aliant, Bell Canada, Cogeco, MTS Allstream, RCI, SaskTel, Shaw, TCC, Télébec and Vidéotron are to file, and other parties may file, evidence on matters within the scope of this proceeding. Each party's evidence must include an executive summary no longer than 10 pages in length. Parties filing evidence are to do so with the Commission, serving a copy on all parties, by **15 March 2007**.

35. Parties may address interrogatories to any party who files evidence pursuant to paragraph 34. Interrogatories seeking specific and factual information related to alternative sources of supply to wholesale facilities may be addressed to those parties listed in paragraph 28 who choose not to file evidence pursuant to paragraph 34. Any such interrogatories must be filed with the Commission and served on the relevant party or parties by **12 April 2007**.

36. Responses to interrogatories addressed pursuant to paragraph 35 are to be filed with the Commission and served on all parties by **10 May 2007**.

37. Requests by parties for further responses to their interrogatories, specifying in each case why a further response is both relevant and necessary, and requests for public disclosure of information for which confidentiality has been claimed, setting out in each case the reasons for disclosure, must be filed with the Commission and served on the relevant party or parties by **17 May 2007**.

38. Written responses to requests for further responses to interrogatories and for public disclosure must be filed with the Commission and served on the party or parties making the request by **24 May 2007**.

39. A determination will be issued with respect to requests for further information and public disclosure as soon as possible. Any information to be provided pursuant to that determination will be filed with the Commission and served on all interested parties by **21 June 2007**.

40. Parties who filed evidence pursuant to paragraph 34 may file supplementary material in response to other parties' evidence, responses to interrogatories and the other information filed pursuant to paragraphs 35, 36 and 39. Each party's supplementary material must include an executive summary no longer than 10 pages in length. Parties filing supplementary material are to do so with the Commission, serving a copy on all parties, by **12 July 2007**.

41. Parties may address additional interrogatories to any party who filed evidence pursuant to paragraph 34. Any such interrogatories must be filed with the Commission and served on the relevant party or parties by **9 August 2007**.

42. Responses to interrogatories addressed pursuant to paragraph 41 are to be filed with the Commission and served on all parties by **30 August 2007**.

43. Requests by parties for further responses to their interrogatories, specifying in each case why a further response is both relevant and necessary, and requests for public disclosure of information for which confidentiality has been claimed, setting out in each case the reasons for disclosure, must be filed with the Commission and served on the relevant party or parties by **6 September 2007**.

44. Written responses to requests for further responses to interrogatories and for public disclosure must be filed with the Commission and served on the party or parties making the request by **13 September 2007**.

45. A determination will be issued with respect to requests for further information and public disclosure as soon as possible. Any information to be provided pursuant to that determination will be filed with the Commission and served on all interested parties by **4 October 2007**.

Secretary General

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