



THE CITY OF  
**CALGARY**

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Telecommunications Policy Branch  
Industry Canada  
16<sup>th</sup> Floor, 300 Slater Street  
Ottawa, ON K1A 0C8

**Attention: Leonard St.-Aubin**  
**Director General**

Dear Sir:

**RE: CANADA GAZETTE – PART I, DECEMBER 16, 2006**  
**ORDER VARYING TELECOM DECISION CRTC2006-15**

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The City of Calgary ("the City") wishes to respond to the proposed Order to vary Telecom Decision CRTC2006-15, *Forbearance from the regulation of retail local exchange service*.

The City has participated in the CRTC price cap proceedings, including the hearing held in October of last year pursuant to Public Notice 2006-5, Review of Price Cap Framework. It is noteworthy that in that proceeding several proposals were put forward, notably by Telus Communications Inc. and Bell Canada, urging the CRTC to allow local exchange service to be taken out of price cap regulation when a "competitive presence" test was met.

This "competitive presence" test is strikingly similar to the variation proposed to Decision 2006-15 in that it is based primarily on the presence of competitors rather than demonstrated effective competitive rivalry in the relevant market. The Commission has yet to issue a decision on those carrier proposals in the Review of Price Cap proceeding and the proposed Order would effectively eviscerate its adjudicative role.

In fact the proposed Order goes beyond what was put before the Commission by the carriers in that the "competitive presence" test was posited as a mechanism to lift price

cap but the proposed Order leads to forbearance. The difference is of enormous significance to consumers in that, if a service is removed from price cap it still is subject to s. 27 of the *Telecommunications Act*, which requires just and reasonable rates for service. Forbearance lifts that last line of defence for local service customers.

This is particularly important for consumers of local residential exchange service. Even if competitors exist this does not mean that rivalrous behavior exists uniformly in all market segments. New entrants are targeting customers interested in bundles of service, telephone, television, internet and high margin calling features that are optional with incumbent suppliers of telephone service. In a forbearance situation customers of basic local service will be particularly vulnerable and market forces are unlikely to benefit this segment of customers. In actual application, forbearance may put these customers at significant risk of market abuse.

As a specific example, submitted to the Commission in the review of Price Cap proceeding by The City of Calgary, the local cable company in Calgary is offering a telephone service package. Its least expensive service is more than double the cost of monthly basic residential service from the ILEC. Whether it is good value as a package is not the relevant issue. What is relevant is that basic service prices could double before the consumer has a competitive option. Under forbearance there need be no cost justification for this increase and no regulatory recourse for the customer.

It is submitted that the proposed Order is not a reasonable response to a policy initiative of encouraging market forces in order to create a competitive market for local telephone service. It significantly increases the vulnerability of customers, particularly those who are least able to find market alternatives and give the ILEC's, who still control the overwhelming majority of the market, to exploit that market power, acquired through historical monopolies, at the expense of customers. This is without any assurance that market entry will be accelerated.

Yours truly,



**Brand R. Inlow, Q.C.**  
**Manager, Regulatory Affairs &**  
**Bylaw Services**

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