



Keith Stevens  
CEO  
Box 130, Burgessville  
Ontario N0J 1C0

**January 18, 2007**

Leonard St. Aubin  
Director General  
Telecommunications Policy Branch  
Industry Canada,  
16th Floor, 300 Slater Street  
Ottawa, Ontario K1A 0C8

RE: *Canada Gazette*, Part I, notice dated December 16, 2006 listed in *Canada Gazette* as Vol. 140, No. 50

**Order Varying Telecom Decision CRTC 2006-15**

Dear Director General,

Attached are Execulink Telecom's representations with respect to the proposed Order. Execulink has reviewed and supports the submissions made by Wightman Communications and WTC Communications.

If you require clarification or wish further input please feel free to contact me.

Execulink Telecom appreciates the opportunity to submit its comments in relation to the Proposed Order and thanks Industry Canada for that opportunity.

Yours truly,

A handwritten signature in black ink, appearing to read "K Stevens", followed by a long horizontal line extending to the right.

Keith Stevens

tel 519 . 456 . 7890  
fax 519 . 456 . 7278  
kstevens@execulink.com  
www.execulink.com

**Representations submitted by Execulink Telecom with respect to *Canada Gazette*, Part I, Notice dated December 16, 2006**

**Order Varying Telecom Decision CRTC 2006-15**

**Background**

1. Execulink Telecom is a small telecommunication service provider operating primarily in south-western Ontario. Execulink offers local telephone, cable TV, long distance and Internet access services. Our roots as a Small Incumbent Local Exchange Carrier are over 100 years old.
2. Execulink owns and operates its own facilities including twisted copper telephone cables, co-axial TV cables, fiber optics cables, wireless equipment and radios, telephone switching equipment, cable TV distribution equipment and Internet routers and servers. Execulink also uses essential services and wholesale facilities from other telecommunication providers to deliver services in areas where it is uneconomical or impossible to use our own facilities.
3. In Telecom Decision CRTC 2006-15 (Forbearance from the regulation of retail local exchange services), the CRTC laid out its criteria for determining when it would forbear, or refrain, from regulating local telephone service provided by the former monopoly telephone companies.

**General Comments**

3. Execulink agrees that competition is essential for a vibrant, healthy telecommunications sector.
4. Execulink also agrees with the Telecommunications Policy Review Panel (TPRP) which recommended Canada modernize its telecommunications policy framework to allow market forces and competition to guide the growth of the industry.
5. Execulink supports using smaller, more appropriate geographic areas when deregulating the retail telephone prices of the traditional telephone companies.
6. Execulink does however have significant concerns with four aspects of the proposed order.
7. The first concern is the use of a test of the presence of competitive infrastructure as a proxy for vibrant and healthy competition.

8. The second concern is the removal of “winback” rules before there is vibrant and healthy competition in the market.
9. The third is the removal of the ‘trailer’ Quality of Service Indicators.
10. The fourth is forbearance of all exchanges within a LIR before some exchanges satisfy the criteria.

## **Specifics about Concerns**

### Competitive Infrastructure Test

11. The presence of competitive infrastructure in a market does not necessarily mean there is competition, and particularly not vibrant and healthy competition.
12. The proposed test for forbearance of residential local exchange services is three facilities-based telecommunications services providers, including providers of mobile wireless services. In virtually all locations in Canada there is the incumbent and a wireless provider. Thus all that is required for is one additional provider to register in a particular market whether they have any customers or not. This is not healthy and vibrant competition.
13. Some facilities based telecommunication providers register as a CLEC to obtain more cost effective interconnection to the ILECs with no intention of competing for customers. The result is not competition.
14. Some facilities based telecommunication providers register as a CLEC to serve only one or two large corporations who have insisted the provider has service where all their branches are before they will award an account. The result is a competitive infrastructure but not ‘universally available’ competition within the market.
15. Presently it takes approximately one year after a telecommunication provider files to become a CLEC before they can offer service. The competitive facilities are in place many months before the new entrant can offer service and even longer before there is competition.

### Removal of “Winback” Rules

16. The traditional telephone companies not only provide local service to the consumers but also provide essential services to the competitors. The CRTC

requires special groups be established (CSG) for the competitors to ensure confidentiality. The results have been less than satisfactory. Even though the “Winback” rules are often ignored, breaches can at least be proven.

17. The name “Winback” implies the customer has switched and then the traditional telephone companies tries to convince the customer to switch back. The reality is the traditional telephone companies regularly contact customer before they have switched using information that should be confidential.
18. If the traditional telephone companies are allowed to “Winback” customer before a new entrant in a market has connected any customers there will never be healthy and vibrant competition.

#### Quality of Service Indicators

19. “Trailer” indicators that reflect how quickly the ILEC deals with a “missed” main Quality of Service Indicator. Elimination of these “trailer” indicators will effectively remove any sense of urgency of the traditional telephone companies to clear a missed function.

#### Relevant Geographic Market

20. Proposed paragraph 528.1 invites ILECs to file applications for forbearance with respect to any exchange or LIR which, in whole or in part, contains any of the top 10 Canadian Census Metropolitan Areas.
21. LIRs often encompass a large number of exchanges, some of which are very rural which only have the traditional telephone company and mobile wireless.
22. To forbear these rural exchanges prematurely means those Canadians living there will never receive the benefits of healthy and vibrant competition

#### **Recommendations**

23. Execulink strongly encourages the Minister to reconsider ordering changes to Telecom Decision CRTC 2006-15.
24. If the Minister determines that changes are required, Execulink recommends the criteria for forbearance should test for vibrant and healthy competition in the market which utilizes competitive infrastructure rather than just the existence a competitive infrastructure in place.

25. Execulink strongly encourages the Minister to maintain “Winback” rules even after forbearance. As a minimum the traditional telephone companies should not be allowed to contact the customer for a least 1 week after the transfer has taken place to ensure the traditional telephone companies don’t abuse the information they possess as the ‘essential services’ provider.
26. In addition to achieving quality of service standards for each competitor for 6 months prior to deregulation, there should be a mechanism for re-regulation if quality of service standards are not maintained.
27. Include ‘trailer’ Quality of Service Indicators.
28. Forbearance should be done on an exchanged basis and not by LIR to ensure there is competition before forbearance.

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