

**Before the Canadian Radio-television
and Telecommunications Commission**

**Application for Forbearance
from the Regulation of
Residential Local Exchange Services
in the Winnipeg, Manitoba Exchange**

MTS Allstream Inc.

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Table of Contents

Table of Contents	1
Introduction	1
Part A – Relevant Market	2
Part B – Competition Presence Test	3
Shaw Communications	4
Rogers Wireless	5
TELUS Mobility	6
Part C -- Customer Communications Plan	6
Conclusion	7

Introduction

1. In accordance with section 34 of the *Telecommunications Act* (the Act) and Telecom Decision CRTC 2006-15, *Forbearance from the regulation of retail local exchange services*, as amended by *Order Varying Telecom Decision CRTC 2006-15*, P.C. 2007-0532 (Decision 2006-15, as amended) as well as the rules of procedure and informational requirements outlined in the Commission's 7 May 2007 letter (the Letter), MTS Allstream is hereby filing evidence that it has met the competitor presence test as set out in paragraph 242 a) ii) of the amended decision. Accordingly, MTS Allstream requests forbearance from the regulation of local residential exchange services in the Winnipeg exchange conditional upon meeting the competitor quality of service criteria enunciated at paragraph 242 b) of the amended decision.
2. Decision 2006-15, as amended, established a set of criteria that ILECs must satisfy prior to being granted forbearance from regulation in the residential local exchange market, specifically:
 - a) the ILEC demonstrates that one of the following circumstances exists in the relevant market:
 - i. that the ILEC does not have market power, based on the criteria set out in paragraph 213,
 - ii. that, if the ILEC offers residential local exchange services, there are, in addition to the ILEC, at least 2 independent facilities-based telecommunications service providers, including providers of mobile wireless services, each of which offers local exchange services in the market and is capable of serving at least 75% of the number of residential local exchange service lines that the ILEC is capable of serving, and at least one of which, in addition to the ILEC, is a facilities-based, fixed-line telecommunications service provider; and
 - b) the ILEC demonstrates that, a during the six-month period, beginning no earlier than eight months before its application for local forbearance and ending at any time before the Commission's decision respecting the application,

- i. it met, on average, the quality of service standard for each indicator set out in Appendix B, as defined in Telecom Decision CRTC 2005-20, *Finalization of quality of service rate rebate plan for competitors*, with respect to the services provided to competitors in its territory, and
 - ii. it did not consistently provide any of those competitors with services that were below those quality of service standards.¹
3. MTS Allstream recognizes that, consistent with Decision 2006-15, as amended, the Commission intends to retain its powers under section 24 of the Act post forbearance, thus maintaining its ability impose certain ongoing obligations on MTS Allstream. Further, MTS Allstream notes that the Commission is also intending to retain its powers under subsection 27(1) of the Act to impose a price ceiling on stand-alone residential Primary Exchange Service (PES). These Commission powers were reaffirmed recently in Telecom Decision CRTC 2007-27 (Decision 2007-27), *Price cap framework for large incumbent local exchange carriers*, which also indicated that residential local line rates would be capped at the approved tariff rate when forbearance was granted.²

Part A – Relevant Market

4. MTS Allstream is seeking forbearance from regulation of the residential local exchange services listed in Attachment 1 to this application in the Winnipeg exchange. MTS Allstream also requests forbearance for any future residential local exchange services offered in the Winnipeg exchange.
5. As identified in the Winnipeg exchange map provided in Attachment 2, this exchange includes the boundaries of the City of Winnipeg, as well as a few of the small surrounding communities. According to Statistics Canada, the 2006 Census reported

¹ Telecom Decision CRTC 2006-15 as amended by Order Varying Telecom Decision CRTC 2006-15 P.C. 2007-0532, 4 April 2007.

² Decision 2007-27, paragraphs 245 and 246.

the total population of the City of Winnipeg at 633,451 residents with the total number of dwellings at 269,586.³

Part B – Competition Presence Test

6. To meet the 242 a)ii) criteria MTS Allstream is relying on the presence of Shaw Communications (Shaw) as a facilities-based wireline or fixed-line carrier within Winnipeg as well as Roger Wireless and TELUS Mobility which are all independent facilities-based telecommunications service providers with coverage throughout the Winnipeg exchange.
7. Shaw entered the residential local exchange market in Winnipeg in July of 2005. Prior to that time, MTS Allstream had experienced minimal competition in this market and had an estimated NAS of approximately 263,000. Attachment 3 provides the number of NAS capable of being served from each of MTS Allstream's wire centres and remotes in the Winnipeg exchange. Attachment 4 provides a list of the forward sortation areas (FSAs) assigned to each wire centre and an estimate of the households served within that wire centre.
8. In addition to Shaw, Rogers Wireless and TELUS Mobility, residential service providers operating in the Winnipeg exchange include Globility Communications, access-independent Voice Over IP providers, such as Vonage and Primus, as well as numerous resellers.⁴ Attachment 3 also provides an indication of the competitors that have co-located in some of the MTS Allstream Winnipeg wire centres. Pursuant to section 39 of the Act and in accordance with the Letter, MTS Allstream has provided competitor co-locate locations identified in Attachment 3 to this Application in confidence to the Commission and to Globility Communications. An abridged version is provided for the public record.

³ Statistics Canada website, *Population and dwelling counts, for census subdivisions, urban areas and designated places, 2006 Census*.
<http://www12.statcan.ca/english/census06/data/popdwell/Table.cfm?T=305&SR=1&S=0&O=A&RPP=9999&PR=46&CMA=0>

⁴ See Attachment 5 for full listing of competitors in the residential Winnipeg market.

9. This increased competition has resulted in an increase in the number of offers available that are aimed at residential customers and that advertise service packages/bundles and promotions⁵. Generally, the local exchange services offered by Shaw and other competitors are bundled with one or more of cable, internet, long distance and/or wireless for one monthly price.

Shaw Communications

10. Shaw, “a diversified Canadian communications company whose core business is providing broadband cable television, High-Speed Internet, Digital Phone, telecommunications services (through Shaw Business Solutions) and satellite direct-to-home services (through Star Choice Communications Inc.) to more than three million customers”⁶, is the incumbent cable television operator in the Winnipeg area. Shaw expanded its service offering in Winnipeg to include an offering of residential local exchange services using its existing cable network on 26 July 2005⁷. Shaw offers a wide variety of services and bundles at competitive prices.⁸ Digital Phone, Digital Phone Lite, Basic Cable, Classic Cable, Digital TV, HDTV, Shaw on Demand, High Speed Lite, High Speed Xtreme, and High Speed Nitro are just a few of the service offering available to customers either individually, or in bundled packages at a discounted rate.
11. As outlined in Attachment 7 the Shaw Digital Phone packages offer many of the same features as the local exchange service offered by MTS Allstream. For example, the Shaw Digital Phone Lite offer includes: Local phone service, plus four (4) calling features (Call Forward, Call Display, 3-Way Calling, Call Return); \$0.04/minute long distance calling to Canada, the U.S., and to fifty (50) countries in the U.K, Europe, Asia-Pacific and South America.

⁵ See Attachment 6 for a comparison of local exchange services and bundles pricing and the features offered by various service providers in the Winnipeg exchange.

⁶ <http://www.shaw.ca/en-ca/AboutShaw/ShawCompanies/ShawCommunicationsInc.htm>

⁷ Information obtained from Shaw website

<http://www.shaw.ca/en-ca/AboutShaw/Media/ShawDigitalPhoneMedia.htm>

⁸ See Attachment 7 for Shaw product offerings in the Winnipeg exchange

12. In this application MTS Allstream has demonstrated that Shaw is able to serve roughly 98% of the postal codes in the Winnipeg local exchange using its own facilities. MTS Allstream used Shaw's website tool to assist in determining the extent of Shaw's coverage within the Winnipeg local exchange. This website tool enables potential customers to input their postal code to determine whether Shaw offers local service in his/her area of Winnipeg. There are currently 17,133 postal codes serving approximately 260,000 residences or households within the Winnipeg exchange. By inputting these postal codes into Shaw's system MTS Allstream determined that Shaw is capable of serving households in 16,885 postal codes within the Winnipeg exchange, with service "coming soon" to another 264 postal codes.⁹ The 14 postal codes in which Shaw currently does not offer residential local exchange service account for approximately 300 residences or households. Based on this analysis it is clear that Shaw is capable of serving close to 100% of the households in the Winnipeg exchange.
13. It is also worth noting that the fact that Shaw currently does not offer residential services to the households within these 14 postal codes does not necessarily mean that Shaw does not have the facilities or capability to offer local exchange service in these areas.
14. MTS Allstream submits that without a doubt, Shaw is capable of serving well over 75% of the Winnipeg exchange, which is one of the criteria that MTS Allstream is mandated to meet at paragraph 242 (a) (ii) of Decision 2006-15 as amended.

Rogers Wireless

15. Rogers Wireless is the largest Canadian wireless communications service provider, serving nearly 6.8 million wireless voice and data subscribers at December 31, 2006.¹⁰ Rogers Wireless' world standard GSM/GPRS/EDGE technology platform has coverage to approximately 94% of Canada's population, including 100% coverage of the City of Winnipeg.¹¹

⁹ Attachment 8 provides an excel spreadsheet with the results of the postal code analysis.

¹⁰ "Innovating for Life", Rogers Communications Inc. 2006 Annual Report, Page 2

¹¹ Attachment 9 provides the Rogers Wireless coverage map for Manitoba.

16. While no service start date in the Winnipeg area is readily available, Rogers Wireless claims that on 15 May 1997 it was the first wireless phone company in Canada to launch Digital PCS from coast-to-coast.¹² Rogers Wireless offers a variety of postpaid and prepaid wireless service plans to Winnipeg consumers.

TELUS Mobility

17. TELUS Mobility is a national wireless provider of integrated digital wireless voice, data and Internet services, with 5.1 million consumer and business subscribers and extensive digital coverage to 95% of Canada's population.¹³
18. On 27 August 2001 when it launched its services in Winnipeg and surrounding areas, TELUS Mobility claimed to be providing digital service to an area covering approximately 650,000 residents and analogue service throughout the rest of the province.¹⁴ Coverage maps available for TELUS Mobility show that it currently has digital coverage and is capable of offering service over most of southern Manitoba, including 100% coverage of the City of Winnipeg and the surrounding area.¹⁵

Part C -- Customer Communications Plan

19. Paragraph 514 of Decision 2006-15, as amended, indicates that applications for forbearance must be accompanied by a draft communications plan. To this end MTS Allstream provides a draft bill insert (Attachment 11) which describes how MTS Allstream will explain local forbearance to customers in Winnipeg, including the ongoing availability of stand-alone Primary Exchange Services (PES) in the Winnipeg residential market. Contact information for customers who have questions has been provided. MTS Allstream will have information regarding local service forbearance and the implications of this posted on its website.

¹² <http://www.shoprogers.com/aboutrogers/newsroom/wirelessmediainfo/overview.asp?shopperID=WCSB6G3BD5JF8JXQKGP2US29WJ3C00RC>

¹³ "Growing Together" Business Review, TELUS Annual Report 2006, pages 4 and 5.

¹⁴ http://about.telus.com/cgi-bin/media_news_viewer.cgi?news_id=273&mode=2&news_year=2001

Conclusion

20. As is clear from the foregoing, MTS Allstream has provided all the requisite evidence and information necessary to demonstrate that it has met the competitor presence test outlined in the paragraph 242 a) ii) of the Decision as amended. The postal code analysis provided regarding Shaw's coverage as well as the detail provided regarding the coverage of Rogers Wireless and TELUS Mobility shows that there are at least two independent facilities-based telecommunications service providers offering residential service in the Winnipeg exchange and one of these is a fixed or wireline service provider. Accordingly, MTS Allstream requests that the Commission grant it forbearance for the residential local exchange services (as listed in Attachment 1) in the Winnipeg exchange conditional on MTS Allstream achieving its competitor quality of service criteria pursuant to paragraph 242 b). MTS Allstream anticipates that it will file the information required to demonstrate it has met the paragraph 242 b) criteria by the end of June.

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¹⁵ See Attachment 10 for TELUS Wireless Coverage Map of Manitoba.