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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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Ms. Magalie Roman Salas
 Secretary
 Federal Communications Commission
 445 Twelfth Street, SW, Room 204
 Washington, DC 20554

Dear Ms. Roman Salas:

David C. Kidd
 Vice-President
 Regulatory Law

Re: **Bell Canada Petition for Declaratory Ruling to Remove Bell Canada
 from FCC List of Foreign Carriers Having Market Power
 IB Docket No. 98-148**

Bell Canada acknowledges receipt of AT&T's letter of October 26, 2000, commenting on Bell Canada's letter of September 1, 2000, in the above noted file.

Over the past year, Bell Canada's request to be removed from the FCC's dominant carrier list has been thoroughly debated. It is not Bell Canada's intention to repeat any of these arguments here. Bell Canada does, however, wish to bring certain misquotes or mischaracterizations by AT&T on the record of this proceeding to the attention of the FCC as they unfairly cast a dim light on the competency and credibility of the Canadian regulatory system and the Canadian Radio-television and Telecommunications Commission ("CRTC"), which are tangentially at issue in this proceeding.

Regarding the CRTC's decision to forbear from rate regulation in the domestic long distance market (Decision 97-19), AT&T states in its March 3, 2000, submission at page 5:

"...the Canadian regulator, the CRTC, granted Bell Canada and all the former regional monopolies regulatory forbearance in domestic long-distance services in 1997, notwithstanding the ... 'absence of ubiquitous, competitor-owned transmission facilities across Canada'."

The selective manner in which AT&T extracted the above quote from Decision 97-19 has allowed AT&T to leave exactly the opposite impression from the

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point that the CRTC was making with respect to the availability of long distance facilities to alternate providers of long distance services (APLDS). A complete extract of the relevant passage, in fact, shows the following:

- “41. The record indicates that APLDS have opted to construct facilities in the high use Windsor to Québec City and Calgary/Edmonton to Vancouver corridors.
42. In the Commission’s view, the absence of ubiquitous competitor-owned transmission facilities across Canada does not necessarily demonstrate there is a shortage of transmission facilities. The Commission notes that although APLDS have not yet constructed facilities in all corridors, service providers may lease additional capacity from the Stentor companies in areas where they do not own transmission facilities.
43. In the Commission’s view, the fact that many APLDS have experienced steadily increasing annual long distance traffic volumes, with a network configuration which has blended leased and self-owned facilities, demonstrates that such a blended approach is not inconsistent with workable competition.” (emphasis added)

Another example of the mischaracterization by AT&T of one of the CRTC’s decisions arose in AT&T’s most recent submission on the subject of contribution revenues for the period of 1999 to 2001. As the FCC is aware, AT&T Canada has stridently opposed the CRTC’s determinations on this point, having lost its original application, a subsequent review of the CRTC’s decision and an appeal to the Government of Canada. In its October 26, 2000 letter, AT&T nevertheless attempts to mislead the FCC as to what the CRTC actually found as fact regarding excess contribution revenues for this period. In particular, AT&T attributes the following finding to the Commission at page 7 of its letter:

“The CRTC itself estimates excess contribution revenues of \$CAN 540 million for the 1999-2001 period.”

As the FCC can appreciate, a refusal to change Canada’s contribution regime in light of a finding of excess contribution revenues in the magnitude of \$540M would leave the impression that the CRTC was cavalier with the facts and arbitrary in its findings. Bell Canada notes that AT&T did not provide a citation for this statement which it attributed to the CRTC. In fact, the figure would appear to be one that AT&T itself has derived, based on its own view of

the issues, a view which the CRTC has repeatedly rejected. In any event, Bell Canada has been unable to find any statement that even remotely compares to such a finding by the CRTC.¹

What the record in Decision 99-20 does show is that, for a variety of reasons, the CRTC estimated contribution revenues to be only 1%, or approximately \$25M, over the original three year forecast,² a substantial difference from the figure of \$540M alleged by AT&T.

In Bell Canada's submission, the CRTC's findings show the CRTC to be a responsible regulator that has carefully considered all of the evidence and has subsequently arrived at a conclusion which is entirely reasonable. It is clear that AT&T Canada and AT&T do not always agree with the CRTC. However, it is quite another matter for AT&T to put the CRTC's regulatory competence at issue in this proceeding and then to distort the CRTC's findings for AT&T's own competitive advantage.

Yours truly,



David C. Kidd
Vice-President - Regulatory Law

Attachment

c.c.: Mr. James J.R. Talbot - AT&T

¹ It may be helpful to the FCC (and to the CRTC as well) to reiterate what the Commission actually determined in Decision 99-20. An extract of the relevant passage is attached as Appendix A.

² Decision 99-20, paragraph 20.

Appendix A
Extract from Decision 99-20, Review of Frozen Contribution Policy

14. The Commission notes that some parties advocating unfreezing contribution rates suggested there was phenomenal growth in long distance minutes from flat-rate calling plans in the third quarter of 1998 and that this growth would be sustained in 1999 and beyond.
15. The Commission finds that the claims were overstated regarding significant growth in minutes following the introduction of flat-rate calling. For example, the total conversation minutes reported by the [Central Fund Administrator (CFA)] for the third quarter of 1998 reflect a 7.4% growth over the second quarter of 1998, and not 21.9% as submitted by Call-Net.
16. Moreover, the Commission finds that initial growth rates have not been sustained and will not likely be sustained in the future. In this respect, the Commission notes that, based on CFA reports, the quarterly growth started to level off in 1999. The conversation minutes in the first quarter of 1999 were 4.0% higher than in the fourth quarter of 1998. The second quarter 1999 minutes declined by 2.4% compared to the first quarter. Recently-available CFA reports for the third quarter indicate that conversation minutes increased by 2.1%. The Commission notes that quarterly growth is returning to historical levels.
17. The Commission also notes that the increase in minutes from flat-rate calling plans has not resulted in a proportionate increase in contribution revenues. This is because most new minutes occurred during off-peak hours when the contribution rates payable are half of that payable on peak minutes.
18. Based on the above and on the international contribution regime that was in place prior to Decision 98-17, the Commission estimates that contribution revenues would be approximately \$2.56 billion on a total ILEC basis over the period 1999 to 2001. This would be approximately 5% higher than the \$2.43 billion level that could have been expected at the time of Decision 98-2.
19. However, this estimate does not factor in the impacts of the changes to the international contribution regime made after Decision 98-2. First of all, as a result of Decision 98-17, the contribution rate applicable to the international end of a call is now the rate in effect at the physical location of the cross-border facility or international gateway switch. Further, in a separate decision issued today, the Commission determined that, effective 1 January 2000, the contribution rates for each ILEC territory will be set at the Bell contribution rates for the international end of a call. The Commission notes that Bell's contribution rates are much lower than those applicable in other ILEC territories.

20. Accordingly, the Commission expects that contribution revenues from international traffic for the period 1999 to 2001 will be less than the levels expected at the time of Decision 98-2. Therefore, the Commission estimates that the contribution revenues over the remaining price cap period, adjusted to reflect the reduced contribution rates applicable to international minutes, would be approximately \$2.45 billion. This is approximately 1% over the level that would have been expected at the time of Telecom Decision 98-2.
21. Based on the above, the Commission finds that, over the remaining price cap period, contribution revenues will not be significantly in excess of what could reasonably have been anticipated at the time of Telecom Decision 98-2. This finding takes into account the materiality of any differences in the level of contribution revenues now expected to be realized on both a total ILEC basis and by individual ILEC territory.
22. The Commission considers that deviations would have to be of a material nature and impact unfavourably on the competitive environment in order to substantiate changing any of the price cap parameters at this point in time. In light of the above, the Commission considers it important to maintain the fundamental principles of the price cap regime. Therefore, the Commission concludes that there is no need to adjust domestic contribution rates.