Response to Requests for Further Response to Interrogatories

1. Pursuant to the procedures set out in a Commission staff letter dated 8 December 2009, Bell Aliant Regional Communications, Limited Partnership (Bell Aliant) and Bell Canada (Bell) (collectively, the Companies) are filing their response to the requests for public disclosure of information filed in confidence on 4 December 2009 by the Companies in response to Commission interrogatories dated 2 December 2009. The Companies are in receipt of requests (the Requests) from:

- Acanac Inc. and Managed Network Systems Inc. (Acanac and MNSI);
- Canadian Association of Internet Providers (CAIP) on behalf of Accelerated Connections Inc., AOL Canada, Cybersurf, EGATE Networks, Execulink Telecom, Telnet Communications and Yak Communications (Canada) Corp.;
- Coalition of Internet Service Providers (CISP);
- MTS Allstream Inc. (MTS Allstream); and
- TekSavvy Solutions Inc. (TekSavvy or TSI).

2. These Parties are requesting, as summarized by MTS Allstream:

- in response to The Companies(CRTC)2Dec09 TN 242 & 7181, Bell be required to quantify, in percentage terms, the amount by which the usage of the end-users of residential GAS customers would be over-estimated (due to, for example, dropped packets) and to provide the methods and assumptions used to derive this amount; and
- in response to The Companies(CRTC)2Dec09-2 TN 242 & 7181, Bell should be required to respond in full to the interrogatory, identifying all of the retail and wholesale services that make use of the same underlying network facilities as GAS, not just those that share the DPI equipment, and quantifying the percentage that each such service makes of these facilities.¹

3. In making its determination, the Commission must consider the test for confidentiality set out in section 39(1) of the Telecommunications Act (the Act):

¹ MTS Allstream 8 December 2009 request for further responses, paragraph 5.
39.(1) For the purposes of this section, a person who submits any of the following information to the Commission may designate it as confidential:

(a) information that is a trade secret;

(b) financial, commercial, scientific or technical information that is confidential and that is treated consistently in a confidential manner by the person who submitted it; or

(c) information the disclosure of which could reasonably be expected

(i) to result in material financial loss or gain to any person,
(ii) to prejudice the competitive position of any person, or
(iii) to affect contractual or other negotiations of any person.

4. Where information that has been designated as confidential meets these criteria, the Commission may only disclose or require its disclosure, pursuant to section 39(4) of the Act, where it determines, after considering any representations from interested persons that the disclosure is in the public interest. The Companies have met this test. The Companies further submit that no party has demonstrated how the requested information could be used for the public interest or how the public interest in the disclosure of such information outweighs the harm to the Companies or the Companies' DPI Vendor.

5. Finally, the Companies note that certain parties have also requested that the Commission modify the schedule for the filing of comments by interested parties and the Companies' reply. The Companies have limited to the maximum extent possible the amount of information submitted confidentially as per the guidelines established in the Commission's Practice note respecting claims of confidentiality and requests for disclosure in the course of a proceeding of 8 October 1998 (the 1998 Practice Note). Indeed, in anticipation of such requests due to certain parties' clear interest in any procedural delays, the Companies have paid particular attention to their confidentiality claims and clearly explained what the redacted information was and how the disclosure of the redacted information would harm the Companies and/or the Companies' DPI vendor.

6. The Companies submit that the Commission should deny the Requests. Given the de facto stay granted by the Requests due to their filing the day before the 9 December 2009 comment deadline, the Companies further submit that comments should be delayed until
11 December 2009 and the Companies’ reply comments delayed until 16 December 2009. In no case should the Companies reply comments be delayed further than 18 December 2009.

7. Certain retail traffic information contained in this reply is being provided in confidence to the Commission pursuant to section 39 of the Act. Release of such information would provide existing or potential competitors with information on the Companies’ traffic usage levels, thus enabling them to develop more effective marketing and business strategies. The release of such information could prejudice the Companies’ competitive position, result in material financial loss and cause specific direct harm to the Companies. An abridged version of the reply is provided for the public record.

The Companies(CRTC)2Dec09-1 TN 242 & 7181

8. The Companies were asked to confirm that, for billing purposes, they propose to measure the usage of the end-users of their residential Gateway Access Service (GAS) customers after they perform the traffic throttling function; if not, (a) explain why not and (b) quantify, in percentage terms, the amount by which the usage of the end-users of residential GAS customers would be over-estimated (due to, for example, dropped packets) and provide the methods and assumptions used to derive this amount.

9. The only information the Companies submitted in confidence were four lines which described, as stated in the opening paragraph of the Companies response to this interrogatory:

...the functioning of the Companies’ DPI devices and could be used by end-users to develop means to circumvent the Companies’ technical Internet traffic management practices. The information could also be used by competitors of the Companies as well as the Companies’ DPI vendor to develop more effective technical and business strategies. Release of such information would prejudice their respective competitive positions, result in material financial loss and cause specific direct harm to the Companies and the Companies’ DPI vendor. An abridged version of this response is provided for the public record.

10. The Companies note that the Commission has access to this information and there is absolutely no need for the public disclosure of this information regarding the functioning of the Companies’ DPI devices. As further noted in the Companies’ response, due to the functioning of the DPI appropriately described in confidence, some initial packets (not all packets) in a P2P upload could be double counted. This means that:
- Non-P2P transmissions cannot be double counted;
- Downloads of all types cannot be double counted;
- Traffic that does not transit through the Companies’ DPI devices cannot be double counted;
- Traffic that occurs outside of peak periods cannot be double counted; and
- P2P downloads cannot be double counted.

11. Given the combination of various types of traffic by users it is impossible to provide a set margin of error in percentages. However, the Companies submit that discrepancies would be immaterial in the context of the Companies’ UBB proposal and would not lead, as stated by TekSavvy, to "inflated traffic measurements that would artificially increase the payments made by GAS customers for traffic that is never carried."² The Companies’ pre-deployment testing has not revealed material discrepancies for the companies’ UBB proposal. The Companies have also further investigated this issue since the Commission interrogatory. The collection of such data on a per-user basis is an extensive manual process and cannot be done on a large scale. As the Companies’ DPI devices cannot distinguish between individual wholesale users, the Companies sampled the traffic data over a 45 day period (the period since the last time the DPI’s "counter" was reset) of four Bell Internet users transiting through one of the Companies’ DPI devices. The Companies selected the top two users, a medium user and a light user:

<table>
<thead>
<tr>
<th>Table 1</th>
<th>Usage over a 45 day period</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>User 1</td>
</tr>
<tr>
<td>Total download</td>
<td>#</td>
</tr>
<tr>
<td>Total upload</td>
<td>#</td>
</tr>
<tr>
<td>Total traffic dropped</td>
<td>#</td>
</tr>
<tr>
<td>% of dropped traffic over total traffic</td>
<td>0.004%</td>
</tr>
</tbody>
</table>

# Filed in confidence with the CRTC.
12. The numbers in Table 1 are not averages, these are real-world scenarios. User 1 represents the top P2P downloader of the past 7 days whose traffic transited through the DPI device whereas User 2 represents the top P2P uploader of the past 7 days whose traffic transited through the DPI device. As can be seen, in all of the sample scenarios above the margin of error would be less than 0.4%. In any event, the Companies submit that the margin of error is very low even for a top P2P uploader on the Companies’ network. The Companies maintain that any such instances will not materially impact UBB charges based on the Companies’ current UBB proposal.

13. The Companies note TSI’s claim that “in any event, preview billing was only provided by Bell to TSI for one month and Bell admitted that the information contained therein was wrong.” The Companies are not sure of the basis of this comment. GAS customers were not simply provided with a preview bill for one month and at no time did the Companies state that TSI’s preview billing information was inaccurate. The Companies provided their GAS customers access to a preview billing platform in December 2008. GAS customers have had the ability to access this platform on an ongoing basis for the past year. As noted in the Companies response, the Companies will continue to work with it's customers to resolve any potential discrepancies that are brought to their attention.

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14. The Commission asked the Companies to identify each; (i) retail service and (ii) wholesale service other than residential GAS that the Bell companies provide using the same network facilities they use to provision residential GAS (these network facilities are referred to below as "underlying facilities"). The Commission further asked the Companies to provide for each service category the proportion, in percentage terms, of the network peak period traffic for the underlying facilities relative to total network peak period traffic for the underlying facilities. The Commission specifically asked this question with regards to:

   i) residential GAS;
   ii) business GAS;

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2 TSI Request, paragraph 6.
3 Although the DPI sample is over a 45 day period, due to current device configurations, it was not possible to determine the top users over the past 45 day period.
iii) High-Speed Access (HSA);  
iv) retail residential Internet;  
v) retail business Internet; and  
vi) other retail services, identifying each major residential and business service.

15. Given the categories identified by the Commission, the Companies saw no need to provide a breakdown by various speeds as requested by certain parties (in any case, the Companies' DPI devices cannot provide this breakdown by speed for wholesale services). As stated by the Companies in their interrogatory response, the Commission correctly identified all services that transit through a shared network (i.e., residential GAS, business GAS, HSA, retail residential Internet and retail business Internet.) The Companies IPTV services are provided through FTTN or FTTP.

16. The Companies further note that the Commission has asked for information regarding peak period traffic. This information can only be obtained through the Companies' DPI devices. The Companies' DPI devices are incapable of segregating wholesale traffic by type of service or per customer, unlike the Companies' Broadband Access Server (BAS) which collects usage information for billing purposes on a monthly basis but cannot analyze peak period traffic. The Companies provided as much information as they could to comply with the Commission's interrogatory. Requests for further responses should accordingly be denied.

17. The Companies only redacted information pertaining to the proportion of traffic consumed by the Companies retail residential Internet services vs. the Companies' retail business Internet services. No party has demonstrated how the distinction between these two retail services is relevant to the issues at hand and warrants disclosure. Given that the Companies provided the proportion of all network traffic consumed by wholesale GAS services during peak periods in a percentage (28%), parties can assume that the Companies' retail services for the same period constituted the rest. There is absolutely no need for them to know what percentage of the Companies' retail traffic is business traffic versus residential traffic. As noted in the Companies' interrogatory response, this information is highly disaggregated and the Companies consistently treat such information as highly confidential. Release of this information on the public record would provide existing or potential competitors with invaluable

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4 TSI Request, paragraph 6.
competitively-sensitive information that would not otherwise be available to them, and which would enable them to develop more effective business strategies. Release of such information could prejudice the Companies' competitive position, result in material financial loss and cause specific direct harm to the Companies.

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