Dear Mr. Morin:

Subject: Telecom Notice of Consultation CRTC 2009-194, Call for comments – Nomadic VoIP E9-1-1 service – Reply Comments

1. Primus Telecommunications Canada Inc. ("Primus") is in receipt of comments filed by Bell Aliant Regional Communications, Limited Partnership, Bell Canada and Télébec, Société en Commandite, Bragg Communications Inc., the Canadian Cable Systems Alliance Inc., the Canadian Independent Telephone Company Joint Task Force, the City of Calgary, the Coalition of Internet Service Providers Inc., Cogeco Cable Inc., Rogers Communications Inc., Shaw Communications Inc. and Quebecor Media Inc., Comwave Inc., Execulink Telecom Inc., MTS Allstream Inc., TELUS Communications Company, and VON Coalition. Pursuant to the procedures set out by the Commission in Telecom Notice of Consulation 2009-194, Call for comments – Nomadic VoIP E9-1-1 service, as amended by the Commission’s letter dated 12 May 2009, Primus hereby submits its reply comments.

2. Silence by Primus on any argument or position of any party to this proceeding should not be construed as support for that argument or position.
3. At the outset, Primus maintains its position that if the Commission remains committed to the implementation of Ci2, then the ILEC hosted LIS scenario continues to be the most viable option and that a viable cost recovery mechanism that does not place the burden of cost recovery solely upon nomadic VoIP service providers is necessary. It is also Primus' position that the most feasible and equitable cost recovery mechanism for Ci2 is an increase in the E9-1-1 rate, applied to all E9-1-1 end-users (the, "all E9-1-1 cost recovery mechanism").

4. Primus notes that there is little consensus regarding whether Access Service Providers (“ASPs”) should be required to bear the costs of implementing LDP functionality in their networks or be permitted to recover these costs through the all E9-1-1 cost recovery mechanism. Primus submits that the Commission must determine the appropriateness of permitting ASPs to recover the costs of implementing LDP functionality in their networks via the all E9-1-1 cost recovery mechanism and to what extent, if any, such cost recovery should be permitted.

5. Primus is also weary of alternative solutions that do not appear to provide significant benefits compared to the existing framework where VoIP service providers are required to provide basic 9-1-1 service to nomadic VoIP end-users. In Primus' view, the implementation of any of the alternatives on record would not fulfill the purpose of implementing Ci2, namely as an evolutionary step towards advanced 9-1-1 services.

6. In regards to the appropriate cost recovery mechanism, Primus notes that certain parties continue to maintain that VoIP service providers should be required to bear the costs of implementing and operating Ci2. For example, one party asserts that:

   …As the Commission directed VoIP carriers to fund an interim solution, The City argues that implementation costs again rightly fall upon carriers providing VoIP services as they are simply business cost that falls out of their obligation to provide end-users with 9-1-1 access. Further, VoIP carriers themselves are in the best position to determine, introduce and manage costs associated with implementation, can pass those costs onto their end users, and 9-1-1 tariffs continue to be in place to offset costs associated with the advancement of the 9-1-1 system.¹

¹ City of Calgary, 6 November 2009 Comments, at para. 3.3.
7. Primus disagrees. As a VoIP service provider, Primus does not own or operate the underlying networks that its end-users utilize to make use of Primus’ VoIP service. As evident from the record of this proceeding, only the ILECs, as 9-1-1 service providers, are able to determine the costs associated with the implementation of the LIS and only the ASPs are able to determine the costs associated with deploying LDP capability in their respective networks. Further, it is the ILECs, as 9-1-1 service providers, and the ASPs that will be responsible for implementing and operating each of these components. Therefore, Primus, as a VoIP service provider, is not in any position, let alone the best position, to determine, introduce or manage the costs associated with the implementation or ongoing operation of Ci2.

8. Primus also notes that certain parties point to the Commission’s decision to require wireless service providers (“WSPs”) to bear the costs of implementing wireless Phase II E9-1-1 in Telecom Regulatory Policy 2009-40, *Implementation of wireless Phase II E9-1-1* (“RP 2009-40”) as a precedent that supports the principle that VoIP providers should be responsible for the costs of implementing and operating Ci2.

9. Primus respectfully submits that when the whole of the Commission’s rationale in that proceeding is considered, it is clear that the circumstances in that proceeding substantially differ from those in the current proceeding. Specifically, when setting out its rational in paragraphs 27 to 30 of RP 2009-40, the Commission stated:

   The Commission notes that the wireless industry has been responsible for the recovery of its own costs for the implementation of wireless Phase I E9-1-1 service, as it was for the previous wireless 9-1-1 service. Consistent with this funding regime, WSPs have for years been charging their subscribers a 9-1-1 service fee which the Commission expects is generating revenues sufficient to fully recover the associated costs.

   The Commission notes that wireless carriers have deployed or are planning to deploy location determination technology in their networks for purposes of offering a number of revenue-generating services. The Commission notes that the same technology platforms and X,Y coordinate data can be used to provide both commercial location determination services and the wireless Phase II E9-1-1 information required by PSAPs.

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E.g. Canadian Independent Telephone Company Joint Task Force, 6 November 2009 Comments, at paras. 23-34.
The Commission further considers that the costs of providing wireless Phase II E9-1-1 service are appropriately considered to be incremental to the costs of providing commercial location determination services. The Commission considers that, either through revenue generation from new services or through the 9-1-1 fees charged to subscribers on their bills, wireless carriers have the means to recover such incremental costs.

In light of the above, the Commission is not persuaded that it would be appropriate to alter the current cost recovery regime. Accordingly, as is the case for all other wireless network and service costs, the Commission determines that WSPs are responsible for their own costs associated with implementing wireless Phase II E9-1-1 service. The Commission notes that this determination does not preclude WSPs from pursuing alternative funding sources that lie beyond the Commission's jurisdiction.

10. First, as required by Telecom Decision CRTC 2005-21, *Emergency service obligations for local VoIP service providers*, VoIP service providers are required to provide basic E9-1-1 service to their end-users. Therefore, the 9-1-1 fees applied by VoIP service providers are used to fund the provisioning of basic 9-1-1 service to their VoIP end-users. While Primus cannot speak for other VoIP service providers, the 9-1-1 fees applied to its VoIP end-users do not provide a windfall to Primus. Further, given the exorbitant fees that VoIP providers would be required to bear if the Commission deemed it appropriate to approve a VoIP service provider only cost recovery mechanism, it is not possible that VoIP service providers are currently generating sufficient revenues to bear the costs of implementation and operation of Ci2.

11. Second, unlike wireless carriers, VoIP providers are simply not able to leverage the implementation of location determination systems in ASP networks in order to generate other revenue streams. As a VoIP provider, Primus does not own or operate the underlying networks that its end-users utilize to make use of Primus’ VoIP service. While ASPs that implement LDP functionality may be able to leverage such functionality to generate other revenue streams, VoIP service do not enjoy this possibility.

12. Therefore, while the Commission deemed it appropriate to require WSPs to bear the costs of implementing wireless Phase II E-9-1-1, it is clear that the circumstances in that proceeding differ significantly from the circumstances under consideration in the current proceeding.
13. Accordingly, it is Primus’ position that VoIP service providers should not be required to bear the cost of the implementation and ongoing operation of Ci2 alone. If the Commission remains committed to the implementation of Ci2, then the all E9-1-1 cost recovery mechanism is most appropriate as it will correctly recognize that Ci2 is not intended to solely benefit VoIP end-users but to provide a foundation for the evolution and advancement of E9-1-1 service that will benefit all E9-1-1 end-users. Specifically, only the implementation of Ci2 and an all E9-1-1 cost recovery mechanism will fulfill the purpose of implementing Ci2, as outlined by the Commission in 2007-125:

The Commission considers that, as telecommunications networks in Canada evolve into all-IP networks, the implementation of a solution that will enable the provision of IP-based next generation E9-1-1 service to not only serve nomadic VoIP subscribers but all E9-1-1 users is necessary.

The Commission notes that NENA considers that the adoption of the i2 standard is the first major step toward the design of a robust IP-based next generation E9-1-1 service that can be adapted for present and future needs in order to support VoIP E9-1-1 and all types of 9-1-1 calling devices.

In light of the above and the public safety issues related to the limitations of 9-1-1/E9-1-1 service provided with local VoIP services, the Commission considers it necessary to give the industry direction and guidance on the proposed Canadian i2 solution in order to proceed with the development of an effective VoIP E9-1-1 service in Canada.

Yours truly,

[Signature]

Christopher K. Hickey

Cc: TNC 2009-194 Interested Parties List

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