



IN THE MATTER OF the *Pension Benefits Act*, R.S.O. 1990,
c. P.8, as amended (the “*PBA*”)

AND IN THE MATTER OF an Intended Decision of the Superintendent of
Financial Services to Refuse to Consent to a Transfer of Assets from the BCE Inc.
Pension Plan, Registration Number 908061, to the Pension Plan for Employees of
Progistix-Solutions Inc. and its Subsidiary and Affiliated Companies, Registration
Number 1086412, under sections 80 and 81 of the *PBA*

TO: **BCE Inc.**
1, Alexander Graham Bell Tour A 2
Verdun, QC H3E 3B3

Attention: Name: Mr. Stephan Cliche
Title: Consultant
Employer and Administrator of the BCE Inc. Pension Plan

NOTICE OF INTENDED DECISION

I INTEND TO MAKE A DECISION TO REFUSE TO CONSENT to a transfer of
assets from the BCE Inc. Pension Plan, Registration Number 908061 (the “BCE Plan”) to the
Pension Plan for Employees of Progistix-Solutions Inc. and its Subsidiary and Affiliated
Companies, Registration Number 1086412 (the “Progistix Plan”) effective June 30, 2001, under
sections 80 and 81 of the *PBA*.

REASONS:

- 1) BCE Inc. is the employer and administrator of the BCE Plan. The BCE Plan was established on April 28, 1983, as a single-employer defined benefit pension plan.
- 2) The Progistix Plan was established on July 14, 2001, as a single-employer defined benefit pension plan.
- 3) On January 18, 2008, BCE Inc. filed an application to transfer assets from the BCE Plan to the Progistix Plan effective June 30, 2001.

- 4) The BCE Plan Actuarial Report on the division of the Plan as at June 30, 2001, dated January 2008, (the “Report”) states that the application is for the transfer of an amount of assets equal to the going concern liabilities of the Transferred Members as at June 30, 2001, plus a portion of the going concern surplus of the BCE Plan to take into account the minimum requirements under section 195 of the Québec *Supplemental Pension Plans Act* with respect to the Québec Transferred Members.
- 5) The Report states that the BCE Plan had an actuarial surplus of \$101,674,000 and a funding ratio of 183.8% as at June 30, 2001.
- 6) Section 80(5) of the *PBA* states that on an asset transfer where an employer who contributes to a pension plan sells, assigns or otherwise disposes of all or part of the employer’s business or all or part of the assets of the employer’s business, the Superintendent shall refuse to consent to a transfer of assets that does not protect the pension benefits and the other benefits of the members and former members of the employer’s pension plan.
- 7) Section 81(5) of the *PBA* states that on an asset transfer where a pension plan is established by an employer to be a successor to an existing pension plan and the employer ceases to make contributions to the original pension plan, the Superintendent of Financial Services (the “Superintendent”) shall refuse to consent to a transfer of assets that does not protect the pension benefits and any other benefits of the members and former members of the original pension plan.
- 8) BCE Inc. completed the Checklist, “Trust Issues on Pension Plan Asset Transfers” (the “Checklist”) that the Superintendent has required to be completed on any asset transfer under section 80 or 81 of the *PBA* as a result of the decision of the Ontario Court of Appeal on July 8, 2004, in *Aegon Canada Inc. and Transamerica Canada v. ING Canada Inc.* However, BCE Inc. did not satisfy the requirement in the Checklist that, in the case of a transfer that is a spin-off (meaning a transfer to a stand-alone pension plan, as is the case with the Progistix Plan), a proportionate share of assets, including any surplus assets, is being transferred to the receiving plan. The Superintendent is therefore unable to determine whether this transfer of assets protects the pension benefits and other benefits of the Transferred Members, regardless of whether the transaction falls within sections 80 or 81 of the *PBA*.
- 9) In particular, question 4 on the Checklist requires an applicant to confirm whether, when the transfer involves a spin-off plan, a proportionate share of assets, including any surplus, is transferred to the receiving plan and the language concerning surplus entitlement is consistent in the transferring plan and the receiving plan. BCE Inc. has refused to transfer the proportionate surplus relating to the Ontario Transferred Members and has also refused to provide an analysis of surplus entitlement under the BCE Plan.

- 10) The Supreme Court of Canada held in a recent case called *Burke v. Hudson's Bay Co.*, [2010] SCC 34, [2010] 2 S.C.R. 273, that an employer is not obligated to transfer surplus on a pension plan asset transfer if the employer can demonstrate entitlement to the surplus. However, BCE Inc. has not demonstrated it is entitled to the surplus under the BCE Plan.
- 11) Such further and other reasons as may come to my attention.

YOU ARE ENTITLED TO A HEARING by the Financial Services Tribunal (the "Tribunal") pursuant to section 89(6) of the *PBA*. **To request a hearing, you must deliver to the Tribunal a written notice that you require a hearing, within thirty (30) days after this Notice of Intended Decision is served on you.**¹

YOUR WRITTEN NOTICE must be delivered to:

Financial Services Tribunal
5160 Yonge Street, 14th Floor
Toronto, Ontario
M2N 6L9

Attention: The Registrar

FOR FURTHER INFORMATION on a Form for the written notice, please see the Tribunal website at www.fstontario.ca or contact the Registrar of the Tribunal by phone at 416-590-7294, toll free at 1-800-668-0128, ext. 7294, or by fax at 416-226-7750.

IF YOU FAIL TO REQUEST A HEARING WITHIN THIRTY (30) DAYS, I MAY CARRY OUT THE INTENDED DECISION AS DESCRIBED IN THIS NOTICE.

DATED at Toronto, Ontario, this **28th** day of **April, 2011**

Brian Mills
Acting Deputy Superintendent, Pensions

¹ NOTE - Pursuant to section 112 of the PBA any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by regular mail and any document sent by regular mail shall be deemed to be given, served or delivered on the seventh day after the date of mailing.

Copy: Douglas Rienzo, Osler, Hoskin & Harcourt LLP
S. C. Phinney, SCI Group Inc.
Peggy McCallum, Fasken Martineau DuMoulin LLP