Canadian Radio-television and Telecommunications Commission | Conseil de la radiodiffusion et des télécommunications canadiennes

Telecom Decision CRTC 2012-60

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Ottawa, 27 January 2012

Implementation date for the wholesale high-speed access services capacity model approved in Telecom Regulatory Policy 2011-703

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In this decision, the Commission maintains the implementation date of 1 February 2012 for the capacity model approved in Telecom Regulatory Policy 2011-703 (the approved capacity model) for the Bell companies, MTS Allstream, and the affected cable carriers. The Commission considers that it is important to provide independent Internet service providers (ISPs) with the wholesale residential high-speed access services that are available through the approved capacity model as soon as possible to create sufficient competition to meet consumers' needs. In order to reduce customer impacts pending the resolution of the issues raised by CNOC's Part 1 application, the Commission also modifies the approved capacity model for the Bell companies for an interim period so that independent ISPs are not required to make modifications to separate the traffic of their business and residential end-customers. However, the Commission makes all terms and conditions of the approved capacity model interim, pending the Commission's decision regarding the issues raised in CNOC's application.

Introduction

1. On 19 December 2011, Bell Aliant Regional Communications, Limited Partnership and Bell Canada in Ontario and Quebec (collectively, the Bell companies), Cogeco Cable Inc., Rogers Communications Partnership, and Videotron Ltd. (collectively the Cable carriers), and MTS Allstream Inc. (MTS Allstream) issued tariff pages for their implementations of the capacity model approved by the Commission in Telecom Regulatory Policy 2011-703 (referred to hereafter as the approved capacity model), with an effective date of 1 February 2012. Telephone and cable companies can use the approved capacity model for billing independent Internet service providers (ISPs) for the use of wholesale high-speed access services.

2. The Commission received a Part 1 application from the Canadian Network Operators Consortium Inc. (CNOC), dated 4 January 2012, in which CNOC requested that the Commission address certain issues associated with these implementations. CNOC's application was directed to the following respondents: the Bell companies, the Cable carriers, MTS Allstream, and Shaw Cablesystems G.P.

3. CNOC requested that the Commission address its application on an expedited basis to ensure that the approved capacity model is implemented as quickly as possible. By letter dated 6 January 2012, this request was denied since the proposed expedited process would not allow sufficient time for the Commission to collect a full record

on the substantive issues before 1 February 2012, the implementation date for the approved capacity model. However, the process for consideration of CNOC's application is underway pursuant to standard timelines.

4. In that same letter, a process was initiated to enable CNOC, the respondents, and other interested persons to provide comments by 12 January 2012 on the following options regarding the implementation date for the approved capacity model:

   i. maintain the terms and conditions of the respondents' tariffs as final with implementation on 1 February 2012;
   ii. make these terms and conditions interim as of 1 February 2012; or
   iii. delay the implementation date for the capacity model until the Commission has resolved CNOC's application.

5. The Commission received comments from the Bell companies, the Cable carriers, the Canadian Association of Internet Providers (CAIP), CNOC, Electronic Box Inc. (Electronic Box), MTS Allstream, Primus Telecommunications Canada Inc., and Vaxination Informatique (Vaxination).

6. The public record of this proceeding is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.

Should the 1 February 2012 implementation date for the approved capacity model be delayed?

7. The Bell companies and the Cable carriers submitted that since CNOC's application could not be resolved by 1 February 2012, delaying the implementation of the capacity model until the Commission has resolved CNOC's application was the only viable option. They argued that an interim implementation would be costly and inefficient, and would be open to disputes and multiple proceedings. The Cable carriers also submitted that an interim implementation would make it difficult to track services for any potential retroactive adjustments. CAIP supported delaying the implementation.

8. MTS Allstream and Electronic Box submitted that the approved capacity model should be implemented on an interim basis starting 1 February 2012. Electronic Box submitted that it had made changes to comply with the implementation and had modified its service rates. Electronic Box also submitted that a delay in the implementation would create a large amount of work for the company to undo the changes it had made and would harm independent ISPs.

9. CNOC submitted that if the Commission maintains final approval of the approved capacity model, CNOC's application would become moot, and the Commission would be denying fair process and prejudicing CNOC's interests. CNOC also submitted that a delay in the implementation of the capacity model would be prejudicial to its members and consumers.

10. CNOC proposed a modified capacity model to be implemented on an interim basis starting 1 February 2012. CNOC's proposed model included changes to address the issues raised in its application, such as realm splitting[1] and the costs of establishing redundancy and enabling load balancing.[2] CNOC also proposed that realm splitting be made optional for independent ISPs that purchase the Bell companies' services, and that the Bell companies and the Cable carriers charge for the total peak capacity used by an independent ISP each month in 100 megabits per second increments.

11. Vaxination supported an interim implementation of the capacity model, and proposed short-term measures related to the Bell companies' realm splitting. Vaxination proposed that realm splitting be made optional and that business and residential traffic be carried together on a common realm, with capacity charges adjusted to accommodate the business traffic.

Commission's analysis and determinations

12. The Commission notes the concerns expressed by the Bell companies and the Cable carriers that proceeding with implementation, even on an interim basis, could create extra costs and inefficiencies.

13. However, the Commission considers that the process that ultimately resulted in the establishment of the approved capacity model spanned a number of years and proceedings. The Commission is not prepared to further delay the implementation of that model beyond 1 February 2012 in the absence of compelling reasons.

14. The Commission considers, as noted in previous Commission determinations, that it is important to provide independent ISPs with access to higher-speed services and increased point of interconnection aggregation services available through the approved capacity model as soon as possible in order to create sufficient competition to meet the needs of consumers. These benefits, available through the approved capacity model, outweigh the concerns expressed by the Bell companies and the Cable carriers. As such, the Commission will not delay the implementation of the approved capacity model.

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1 Realm splitting is the method used by the Bell companies to segregate the residential and business traffic of an independent ISP into two separate data flows. Each of the independent ISP's end-users is provided an identifier that enables the Bell companies to direct end-user traffic to the appropriate realm (either business or residential). This mechanism separates the traffic, thus enabling the Bell companies to limit the residential traffic carried by its network to the capacity that the independent ISP has purchased in accordance with the approved capacity model.

2 Independent ISPs implement extra links or connections between their networks and the telephone and cable company networks to ensure that their traffic is carried in the event of link failures. The extra links provide redundancy. Typically, independent ISPs' traffic load is balanced or uniformly distributed over all links. In the event of a link failure, mechanisms can redistribute the traffic over the remaining links. By providing the appropriate number of extra links, independent ISPs can ensure that traffic is not lost when a link failure occurs.

15. The Commission considers, however, that it would be prudent to make all the terms and conditions of the approved capacity model interim as of 1 February 2012 so that the Commission can make any retroactive adjustments it may consider necessary as a consequence of its decision on CNOC's application.

16. The Commission notes that both CNOC and Vaxination submitted that the approved capacity model be modified on an interim basis to address the costs of establishing redundancy and enabling load balancing, and realm splitting.

17. The Commission notes CNOC's claims that in order for the independent ISPs to have the ability to establish redundancy and enable load balancing, the implementation of the approved capacity model by the Bell companies, MTS Allstream, and the Cable carriers would require the independent ISPs to pay for capacity that will never be used.

18. The Commission notes that these incumbent companies' implementations of the approved capacity model do not prevent the independent ISPs from meeting their own specific redundancy requirements, but require the independent ISPs to bear the costs of any extra interfaces and capacity associated with these interfaces on the incumbent companies' networks. The Commission notes that this is primarily a financial issue that independent ISPs can manage by ordering the appropriate level of capacity and number of interfaces. Accordingly, the Commission finds no compelling reason to modify the approved capacity model on an interim basis in the manner requested by CNOC.

19. With respect to the issue of realm splitting, the Commission notes that the Bell companies are the only ones to have proposed realm splitting. The Commission considers that the implementation of realm splitting has direct end-user impacts requiring log-in procedures to be modified either by the end-user or the independent ISP to include information on whether the end-user is a business or residential subscriber. In addition, the implementation has financial impacts on the independent ISP since it has to obtain additional realms from the Bell companies and make any necessary network changes.

20. The Commission notes that the requirement for realm splitting in the Bell companies' implementation of the capacity model requires significant disruptions to both end-users and independent ISPs. In addition, the resolution of CNOC's application may result in changes to the implementation and further disruption. The Commission intends to deal with CNOC's application within as short a timeframe as possible. During the interim period, the Commission considers that independent ISPs should not be required to separate their traffic and incur additional costs.

21. Accordingly, the Commission considers it appropriate to modify the approved capacity model for the Bell companies to address the issue of realm splitting.

22. The Commission notes, however, the submission by Electronic Box about the costs and resources that it has expended in order to adjust to the approved capacity model and the additional costs that would be imposed on it and other independent ISPs by changes to the implementation of that model.

23. The Commission therefore considers that it is appropriate to require the Bell companies to provide independent ISPs with a choice as to how they wish to be billed for their wholesale residential high-speed access services during the interim period. Independent ISPs can choose to be billed in accordance with the implementation of the approved capacity model proposed by the Bell companies, as set out in their tariff pages issued on 19 December 2011, or to be billed in accordance with the modified approved capacity model set out below.

24. The Commission modifies the approved capacity model for the Bell companies for the interim period as follows:

    a. Allow independent ISPs to use a single realm to support both residential and business traffic. Independent ISPs would be required to purchase the appropriate capacity in 100 megabits per second increments to carry their combined residential and business traffic using the rates for the approved capacity model.

    b. Allow independent ISPs an initial order for the capacity to carry the combined residential and business traffic required on the implementation date at no charge.

    c. Provide compensation to independent ISPs to recognize the potential double-counting for business usage through a reduction set at 10 percent of the monthly business rate access charges for independent ISPs.

25. In light of the above, the Commission directs the Cable carriers and MTS Allstream to implement the approved capacity model, as set out in their issued tariff pages, on 1 February 2012. The Commission also directs the Bell companies to implement the approved capacity model, with the modifications set out above, on 1 February 2012. Finally, the Commission directs the Bell companies to issue revised tariff pages reflecting the modifications set out above by 8 February 2012.

26. Given that the resolution of CNOC's application could result in changes to how the approved capacity model is implemented, the Commission makes all the terms and conditions of the approved capacity model interim, effective 1 February 2012.

27. The Commission notes that today it also issued Telecom Order 2012-56, which deals with penalty charges, and Telecom Orders 2012-55, 2012-57, and 2012-58, which deal with various service order charges.

Secretary General

Related documents

- *Videotron Ltd. – Introduction of interconnection speed change charge for third-party Internet access service network capacity increments*, Telecom Order CRTC 2012-58, 27 January 2012

- *Cogeco Cable Inc. – Introduction of service charge for changes in third-party Internet access service network capacity*, Telecom Order CRTC 2012-57, 27 January 2012

- *Bell Aliant Regional Communications, Limited Partnership and Bell Canada – Proposed wholesale penalty charge*, Telecom Order CRTC 2012-56, 27 January 2012

- Telecom Order CRTC 2012-55, 27 January 2012

- *Billing practices for wholesale residential high-speed access services*, Telecom Regulatory Policy CRTC 2011-703, 15 November 2011, as amended by Telecom Regulatory Policy CRTC 2011-703-1, 22 December 2011