Telecom Decision CRTC 2013-77

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Ottawa, 21 February 2013

Shaw Cablesystems G.P. – Application to review and vary certain aspects of Telecom Regulatory Policy 2011-703

File number: 8662-S9-201201342

In this decision, the Commission considers the requests made by Shaw Cablesystems G.P. (Shaw) to review and vary certain elements of Telecom Regulatory Policy 2011-703 related to cost inclusions used in the development of rates for wholesale high-speed access (HSA) services. The Commission varies Shaw's wholesale HSA services rates by removing the cost adjustment associated with changing the cost study start date and ***denies*** *all other requests made by Shaw.*

The Commission notes that Telecom Regulatory Policy 2013-70, which frames a series of decisions in regard to wholesale HSA services, is a companion document to this decision.

The application

1. The Commission received an application from Shaw Cablesystems G.P. (Shaw), dated 3 February 2012, in which Shaw requested that the Commission review and vary certain elements of Telecom Regulatory Policy 2011-703 related to the monthly flat rates of Shaw's wholesale high-speed access (HSA) services.[1]

2. Shaw submitted that there is substantial doubt as to the correctness of the rate decisions in question due to errors in fact and in law related to i) cost adjustments the Commission made in Telecom Regulatory Policy 2011-703, and ii) the decision not to grant an additional 10 percent markup for the cable carriers' non-legacy wholesale HSA services. Shaw requested that the flat rates for its wholesale HSA service be varied to reflect the cost adjustments requested and additional markup.

3. The Commission received comments regarding Shaw's application from the Canadian Network Operators Consortium Inc. (CNOC), Cogeco Cable Inc. (Cogeco), Rogers Communications Partnership (RCP), Quebecor Media Inc., on behalf of itself and its affiliate Videotron G.P. (Videotron) (collectively, Quebecor Media), and Vaxination Informatique (Vaxination). The public record of this proceeding, which closed on 13 April 2012, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.

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[1] The cable carriers' wholesale HSA services are also called wholesale third-party Internet access services.

4. In Telecom Information Bulletin 2011-214, the Commission outlined the criteria it would use to assess review and vary applications that are filed pursuant to section 62 of the *Telecommunications Act* (the Act). Specifically, the Commission stated that applicants must demonstrate that there is substantial doubt as to the correctness of the original decision, due to, for example, one or more of the following: i) an error in law or in fact, ii) a fundamental change in circumstances or facts since the decision, iii) a failure to consider a basic principle which had been raised in the original proceeding, or iv) a new principle which has arisen as a result of the decision.

5. The Commission identified the following issues raised by Shaw to be addressed in this decision:

    I. Did the Commission err in setting Shaw's wholesale HSA service annual long-term traffic growth rate?

    II. Did the Commission err in setting Shaw's wholesale HSA service access demand forecast growth rate?

    III. Did the Commission err in setting Shaw's retail high-speed Internet access demand forecast annual growth rate?

    IV. Did the Commission err in setting Shaw's wholesale HSA service Carrier Service Group (CSG) expenses?

    V. Did the Commission err in setting Shaw's wholesale HSA service bad debt percentage?

    VI. Did the Commission err in adjusting Shaw's wholesale HSA service costs as a result of changing the study start date?

    VII. Did the Commission err in not granting Shaw the same additional 10 percent markup as ILECs for cable carriers' non-legacy wholesale HSA services?

    VIII. Should the revised Shaw's wholesale HSA monthly flat rates be applied retroactively?

I. Did the Commission err in setting Shaw's wholesale HSA service annual long-term traffic growth rate?

6. Shaw submitted that the Commission has erred as it disregarded the evidence on the record and revised Shaw's proposed wholesale HSA service annual traffic growth rate projections to a level of 20 percent for years three to ten of the study period. Shaw requested that the Commission undo these revisions. Shaw further submitted that the traffic growth projections used by the Commission are low and not supported by industry expert forecasts, and this adversely affects Shaw's ability to recover its costs of providing the wholesale HSA service. Shaw also submitted that

its wholesale HSA service annual traffic growth rate forecasts were based on Shaw’s experience of providing Internet services and were used by Shaw for its own internal network planning and provisioning purposes.

7. Cogeco, Quebecor Media, and RCP supported Shaw’s request.

8. CNOC submitted that changes to traffic growth should have no effect on the wholesale HSA service rates if the cost study is done correctly using the Phase II costing[2] methodology.

9. Vaxination submitted that Shaw’s traffic growth predictions are likely skewed by one-time events, such as the launch of Netflix and the upgrade to DOCSIS-3.0.[3] Vaxination further submitted that Shaw could adopt a capacity-based model in order to remove the risk associated with traffic growth predictions.

10. In its reply comments, Shaw submitted that it could adopt a capacity-based billing model; however the changes in traffic growth have an effect on the current approved monthly flat rates because Shaw’s costs are recovered on a per end-user basis, and not on a separate usage basis. Shaw further submitted that there is no evidence that the traffic growth experienced by network providers over the past two years is an aberration brought on by the launch of Netflix or the introduction of DOCSIS-3.0.

Commission’s analysis and decisions

11. In Telecom Regulatory Policy 2011-703, the Commission decided that it was appropriate to revise the proposed wholesale HSA service annual traffic growth rates to a level of 20 percent for years three to ten in all of the incumbent carriers’ cost studies to reflect long-term Internet traffic growth patterns.

12. The Commission notes that Shaw’s traffic growth projections of 50 percent for the first two years, 35 percent for the third year, 30 percent for the fourth year, and 25 percent in years five to ten represent a significant increase from the annual long-term traffic growth projections for wholesale HSA service proposed in the cable carriers’ previous wholesale HSA service proceeding leading to Telecom Decision 2006-77.

13. The Commission also notes that, in the proceeding leading to Telecom Regulatory Policy 2011-703, other incumbent carriers, namely Bell Aliant Regional Communications, Limited Partnership, Bell Canada, and Saskatchewan Telecommunications estimated that Internet traffic would experience an annual growth rate of 12 percent.

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[2] Phase II costing is an incremental costing approach used by the Commission to assess the incumbent carrier’s costs of providing wholesale service to competitors.

[3] Data over Cable Service Interface Specification (DOCSIS) is an international telecommunications standard that permits the addition of high-speed data transfer to an existing cable TV system.

14. The Commission further notes that the cost study reflects the annual traffic growth rate projections for the next 10 years. The Commission considered it appropriate to use Shaw and other cable carriers' own short-term proposed growth projections (i.e. for the first two years of the cost study). For the long-term growth projections (i.e. third to tenth years of the study period), the Commission considered all network providers in the wholesale HSA market to be subject to similar conditions and similar traffic growth rates and accordingly decided that it would be most appropriate to apply a single growth rate consistently for all ILECs and cable carriers. Based on the various growth rates on the record of the proceeding, the Commission derived an annual traffic growth rate of 20 percent for years three to ten as its best estimate of long-term Internet traffic growth. The record of the proceeding does not demonstrate that this growth rate is unreasonable.

15. In light of the above, the Commission finds that that it did not err in fact or in law in setting Shaw's long-term wholesale HSA service annual traffic growth rate at 20 percent for years three to ten. The Commission concludes that Shaw failed to demonstrate substantial doubt as to the correctness of this decision.

II. Did the Commission err in setting Shaw's wholesale HSA service access demand forecast growth rate?

16. Shaw submitted that it agrees with the Commission that independent service providers have additional flexibility under the aggregated point of interconnection (POI) arrangement[4] and will likely increase the wholesale HSA service access demand; but argued that the scale of the increase proposed by the Commission[5] is unrealistic. Shaw also submitted that the Commission adjustment to its wholesale HSA service access demand forecast growth rate of 1.13 percent, which was based on its actual experience, is not based on evidence and will have a dramatic impact on Shaw's ability to recover its costs. Shaw requested that the Commission undo the adjustment it made to Shaw's wholesale HSA service access demand forecast growth rate.

17. Cogeco, Quebecor Media, and RCP supported Shaw's request.

18. CNOC opposed Shaw's request and submitted that Shaw's proposed wholesale HSA service access demand forecast growth rate is much too low, given the ease of interconnection due to the new POI aggregation arrangement. CNOC also submitted that any increase in wholesale HSA service access demand forecast would be offset by a corresponding increase in costs, and the overall rate impact should be neutral.

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4 A POI is a location at which an independent service provider connects its network to a cable carrier's network in order to gain access to its own retail customers through high-speed access paths on the cable carrier's network. POI aggregation allows an independent service provider to support retail customers within an authorized serving area.

5 In Telecom Regulatory Policy 2011-703, the Commission decided that each cable carrier's wholesale HSA service access demand would reach a level of five percent of that carrier's retail high-speed Internet access by year 10 of the 10-year study period.

19. In its reply comments, Shaw submitted that it has operated aggregated wholesale HSA service for several years within its territory, and its proposed wholesale HSA service demand forecast took into consideration the ease of interconnection, and reflected a tenfold increase over Shaw's current wholesale HSA service access demand.

Commission's analysis and decisions

20. In Telecom Regulatory Policy 2011-703, the Commission noted that the cable carriers' wholesale HSA service access demand growth forecasts were much lower than historical experience and decided, in light of the new aggregated POIs, that it was appropriate to revise each cable carrier's wholesale HSA service access demand such that it would be expected to reach five percent of that cable carrier's retail high-speed Internet access by year 10 of the study period (i.e. year 2020).

21. While Shaw submitted that it has operated aggregated wholesale HSA service for several years, and that the Commission's adjustment of Shaw's third-party Internet access services demand forecast growth is unrealistic, the Commission notes that the current market share of independent service providers in the retail Internet market for companies such as Bell Canada are well in excess of five percent. The Commission therefore considers it reasonable to expect wholesale HSA service demand to reach five percent of retail subscribers by year 10 of the study period for all cable carriers.

22. Accordingly, the Commission finds that it did not err in setting wholesale HSA service access demand forecast growth to a level of five percent of retail Internet access demand by year 10. The Commission concludes that Shaw has failed to demonstrate substantial doubt as to the correctness of this decision.

III. Did the Commission err in setting Shaw's retail high-speed Internet access demand forecast annual growth rate?

23. Shaw, supported by Cogeco and Quebecor Media, submitted that the Commission's unreasonable inflation of Shaw's retail high-speed Internet demand forecasts (i.e. use of an annual growth rate of four percent) is not supported by the current Internet market growth forecast, and will not materialize, resulting in Shaw being unable to recover its costs. Shaw requested that the Commission undo the adjustment it made to Shaw's retail high-speed Internet demand forecasts.

24. Shaw, supported by Cogeco and Quebecor Media, further submitted that the growth rate in retail high-speed Internet is expected to decline over the next decade and the Commission's use of an annual growth rate of four percent is not realistic.

25. CNOC submitted that any increase in retail high-speed Internet demand forecasts would be offset by a corresponding increase in costs and the overall rate impact should be neutral.

26. In its reply comments, Shaw submitted that CNOC's argument is without merit because retail high-speed Internet demand forecasts do impact the monthly per unit cost.

Commission's analysis and decisions

27. In Telecom Regulatory Policy 2011-703, the Commission found that the cable carriers' projections of annual growth rates for retail high-speed Internet demand were low, and decided that it was appropriate to apply an annual growth rate of four percent for all cable carriers.

28. In Telecom Regulatory Policy 2011-703, the Commission rejected Shaw's retail high-speed Internet demand growth forecasts because they were significantly lower than Shaw's historical demand growth rates. The Commission revised the retail high-speed Internet demand growth forecasts for Shaw and other cable carriers to levels that were more in line with the cable carriers' recent historical Internet demand growth rates. Therefore, the Commission finds that the record of this proceeding does not establish that the Commission's adjustment to Shaw's annual demand growth rates for retail high-speed Internet services is unreasonable.

29. The Commission finds that it did not err in its decision to apply an annual growth rate of four percent to the demand projections for retail high-speed Internet access services for all cable carriers. The Commission concludes that Shaw has failed to demonstrate substantial doubt as to the correctness of this decision.

IV. Did the Commission err in setting Shaw's wholesale HSA service CSG expenses?

30. Shaw submitted that the Commission overlooked evidence regarding Shaw's wholesale HSA service CSG[6] expenses and imposed the costs estimated by other cable carriers that operate in different markets. Shaw further submitted that the proposed wholesale HSA service CSG cost information was based on actual current staffing levels and the Commission's adjustments preclude Shaw from recovering its costs. Shaw requested that the Commission undo the adjustment it made to Shaw's CSG expenses (i.e. undo the reduction of Shaw's CSG expenses to levels comparable to RCP and Videotron).

31. CNOC submitted that Shaw is entitled to recover costs prudently incurred to provide the CSG function related to the provision of the wholesale HSA service and not any costs that Shaw incurs or wishes to incur. CNOC further submitted the Commission has the discretion to make changes and can use benchmarking in order to make adjustments.

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[6] The CSG supports the wholesale HSA service and interfaces with the wholesale HSA customer. It is a direct link between the cable carrier and the wholesale HSA customer.

Commission's analysis and decisions

32. In Telecom Regulatory Policy 2011-703, the Commission adjusted Shaw's proposed wholesale HSA service CSG expenses per end-user because they were significantly higher than other cable carriers' and adjusted them such that the CSG expense levels relative to the number of wholesale end-users would be similar to those proposed and approved for RCP and Videotron.

33. While Shaw submitted that its CSG expenses for wholesale HSA service are currently higher than other cable carriers, the Commission notes that since CSG expenses of each cable carrier are incurred to provide service to independent service providers' end-users, it is reasonable to expect CSG expenses per end-user to be comparable across all cable carriers. Accordingly, the Commission expects Shaw to achieve efficiencies going forward in the provision of CSG activities in a manner comparable to other carriers as it gains experience in providing the wholesale service.

34. In light the above, the Commission finds that it did not err in setting Shaw's wholesale HSA service CSG expenses. The Commission concludes that Shaw has failed to demonstrate substantial doubt as to the correctness of this decision.

V. Did the Commission err in setting Shaw's wholesale HSA service bad debt percentage?

35. Shaw, supported by Quebecor Media, submitted that the wholesale HSA service bad debt percentage proposed in the proceeding leading to Telecom Regulatory Policy 2011-703 was estimated using past experience of being unable to collect receivables, and that there had been a failure of at least one independent service provider on which to base its new estimate. Shaw further submitted that the Commission inappropriately imposed an outdated and unsubstantiated bad debt percentage approved in Telecom Decision 2006-77 when there was no actual historical data available on the record. Shaw requested that the Commission undo the adjustment it made to Shaw's bad debt percentage.

36. CNOC opposed Shaw's request, submitting that the bad debt percentage rate approved in Telecom Decision 2006-77 remains appropriate because the percentage was based on benchmarking. CNOC further stated that Shaw's proposed wholesale HSA service bad debt percentage is skewed by a few examples (e.g. failure of at least one large independent service provider) and that benchmarking of rates is reasonable.

Commission's analysis and decisions

37. In Shaw's wholesale HSA service cost study, Shaw indicated that it relied on a bad debt percentage to estimate its bad debt expenses associated with the service. The Commission notes that in the proceeding leading to Telecom Regulatory Policy 2011-703, Shaw proposed a wholesale HSA service bad debt percentage that

was higher than the one approved in Telecom Decision 2006-77. In Telecom Regulatory Policy 2011-703, the Commission decided it appropriate to reduce Shaw's bad debt percentage to the level approved in Telecom Decision 2006-77.

38. The Commission agrees with CNOC and considers that Shaw's example of the failure of one large independent service provider is not sufficient to justify modifying the bad debt percentage and using it in the cost study to estimate wholesale HSA service bad debt expenses for the next 10 years. The Commission further considers that the best reliable bad debt percentage is from Telecom Decision 2006-77.

39. Accordingly, the Commission finds that it did not err in setting Shaw's wholesale HSA service bad debt percentage. The Commission concludes that Shaw has failed to demonstrate substantial doubt as to the correctness of this decision.

VI. Did the Commission err in adjusting Shaw's wholesale HSA service costs as a result of changing the study start date?

40. In Telecom Regulatory Policy 2011-703, the Commission decided that the appropriate start date for Shaw's wholesale HSA cost study, as well as for other network providers, was 1 July 2011, rather than Shaw's proposed cost study start date. This start date was chosen because it was in line with the month the service was introduced. As a result, the Commission adjusted costs included in the cost study of each cable carrier to reflect the anticipated equipment unit cost reductions over the 6-month delay period. This adjustment was referred to as the study start date adjustment.

41. Shaw submitted that limiting the wholesale HSA service study start date adjustment to only equipment unit costs and not other variables, including peak traffic per end-user at the start of the study period, constitutes a fundamental error in fact. Shaw further submitted that the most efficient and practical approach is to undo the Commission adjustment to reflect the change in wholesale HSA service study period start date.

42. Cogeco and RCP supported Shaw's request and submitted that that the revised decision should be applied to all cable carriers.

43. CNOC submitted that Shaw's request be denied because the increase in traffic demand is already reflected by the declining unit costs.

Commission's analysis and decisions

44. The Commission notes that the cost decreases applied by the Commission to reflect anticipated cost changes over the six-month delay period in introducing the new wholesale HSA service did not reflect cost changes due to increased traffic volumes.

45. The Commission considers that all cost changes should be reflected in a cost study. The Commission agrees with Shaw that traffic volumes would increase over the six-month delay period and would cause monthly usage costs per end-user to increase. As Shaw's monthly flat rates are set to recover both monthly access and average usage costs on a per end-user basis, the Commission considers it appropriate to include the cost changes associated with increased traffic volumes in Shaw's cost study.

46. The Commission further notes that the impact of including the cost increases due to increased traffic volumes over the six-month delay period would approximately offset the cost decreases that have been made by the Commission to reflect the cost study start date of 1 July 2011.

47. In view of the above, the Commission agrees with Shaw's submission that the most efficient and practical approach to rectify this issue is to undo the Commission's study start date adjustment made in Telecom Regulatory Policy 2011-703, and to adjust Shaw's approved monthly flat rates accordingly.

48. Accordingly, the Commission finds that Shaw demonstrated substantial doubt as to the correctness of its decisions regarding study start date adjustment, and Shaw's monthly flat rates must be varied accordingly.[7]

VII. Did the Commission err in not granting Shaw the same additional 10 percent markup as ILECs for cable carriers' non-legacy wholesale HSA services?

49. Shaw requested that the Commission grant cable carriers an additional 10 percent markup on their non-legacy wholesale HSA services as it did for the ILECs' higher speed wholesale HSA services.

50. Shaw submitted that in denying the cable carriers' request for an additional 10 percent markup, the Commission discriminated in favour of ILECs with respect to new investments and failed to recognize that new investments by the cable carriers face the same risks as new investments by the ILECs. Hence, according to Shaw, the decision violated the Policy Direction's[8] requirement that regulatory measures be implemented in a symmetrical and competitively neutral manner.

51. Further, according to Shaw, the Commission based its denial on the fact that the cable carriers used a higher cost of capital than the ILECs, and therefore had erroneously concluded that the use of a higher cost of capital by cable carriers meant that the cable carriers' wholesale HSA rates already appropriately captured their

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7 The Commission notes that the issue of the study start date adjustment was also raised by RCP in its application, dated 1 March 2012, to review and vary Telecom Regulatory Policy 2011-703. In Telecom Decision 2013-76, the Commission decided that it did not err in Telecom Regulatory Policy 2011-703 in calculating the study start date adjustment for Cogeco, RCP, and Videotron, given their use of the CBB model rather than the flat rate approach.

8 *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives,* P.C. 2006-1534, 14 December 2006.

risks. Shaw further submitted that this decision is incorrect because the difference in the cost of capital between the ILECs and cable carriers results in a smaller increase in revenue for the cable carriers than would be obtained from an increase in the markup of 10 percent.

52. Cogeco, RCP, and Quebecor Media supported Shaw's request.

53. CNOC submitted that Shaw's application for an additional markup should be dismissed, submitting that ILECs were granted an additional 10 percent markup because the requirement that ILECs are to provide wholesale service speeds that match the speeds of their retail services provided on their fibre-to-the-node (FTTN)[9] facilities was a new regulatory requirement. In CNOC's view, the cable carriers had always been subject to a speed-matching requirement, and the cable carriers' cost of capital had been set at a rate that provided for an appropriate level of cost recovery in view of its regulatory obligations.

54. Vaxination submitted that an additional 10 percent markup should not be extended to the cable carriers and should also be removed from Bell Canada's rates because it ensures incumbents are fairly compensated.

Commission's analysis and decisions

55. In Telecom Regulatory Policy 2010-632, the Commission required incumbents to provide new wholesale HSA services that match service speeds offered in the retail Internet markets. In that decision, the Commission found that, unlike the cable carriers, the ILECs had provided evidence[10] to demonstrate that matching speed would increase the risk associated with their new FTTN investments, and create disincentives to invest in these new facilities, warranting an additional 10 percent markup for their higher speed FTTN-based wholesale HSA services.

56. Further, in Telecom Regulatory Policy 2011-703, the Commission denied the cable carriers' request for an additional 10 percent markup because: i) the cable carriers did not provide evidence to demonstrate that the wholesale speed matching requirement would increase the risk factors associated with their new infrastructure investments, ii) the cable carriers' cost of capital used to establish rates was higher than the ILECs, and iii) the approved rates appropriately recognized the cable carriers' risk. Further, in response to the cable carriers' request that, for symmetry, they be allowed to apply the same additional 10 percent markup, the Commission indicated that the cable carriers did not provide any evidence to demonstrate that circumstances had changed since Telecom Regulatory Policy 2010-632.

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[9] The large ILECs' new wholesale HSA services are offered using FTTN technology, which upgrades the access network by extending fibre facilities closer to the customer's premises in order to provide increasingly higher speed access services. The high-speed access services provided over FTTN technology are referred to as FTTN-based services.

[10] The Commission considered Bell Canada's investment studies, which indicated that FTTN investments would not be economically viable without additional compensation if wholesale HSA services were mandated for higher speeds.

57. Contrary to the submissions of Shaw in this proceeding, the Commission notes that its decision in Telecom Regulatory Policy 2011-703 to deny the cable carriers the additional 10 percent markup was not based on a view that the cable carriers' higher cost of capital resulted in additional revenue equal to the addition in revenue from a 10 percent higher markup.

58. The Commission notes that, in the course of this proceeding, the cable carriers were provided with an opportunity to provide evidence demonstrating that they faced higher risk factors for new infrastructure investment as a result of wholesale obligations imposed on them. In response, the Commission finds that while the cable carriers submitted that their investments in new fibre infrastructure would face higher risks as a result of the wholesale obligations, they failed to provide any factual evidence to support this position. The Commission therefore finds that the cable carriers have not demonstrated that circumstances have changed since Telecom Regulatory Policy 2010-632 such that there has been an increase in the risk factors they face that requires additional compensation.

59. Based on the above considerations, the Commission finds that it did not err in Telecom Regulatory Policy 2011-703 by not allowing an additional 10 percent markup for cable carriers' non-legacy wholesale HSA services as it did for the ILECs' FTTN-based wholesale HSA services. The Commission therefore concludes that the cable carriers failed to demonstrate substantial doubt as to the correctness of this decision.

VIII. Should the revised Shaw's wholesale HSA monthly flat rates be applied retroactively?

60. Shaw submitted that Telecom Regulatory Policy 2011-703 contained several errors in fact and law that resulted in the approval of artificially-low rates that do not permit the company to recover the costs of providing the wholesale HSA service. Shaw accordingly requested that the Commission make the currently-approved monthly flat rates interim to allow for retroactivity.

61. Vaxination submitted that it is impossible to estimate the impact of Shaw's review and vary application requests on its bills and it cannot prepare for the threat of retroactive billing. Vaxination also stated that the situation is complicated by the fact that there are multiple concurrent review and vary applications that risk changing Shaw's wholesale HSA monthly flat rates.

Commission's analysis and decisions

62. Shaw's wholesale HSA monthly flat rates were approved on a final basis in Telecom Regulatory Policy 2011-703, effective 15 November 2011.

63. The Commission notes that in the course of this proceeding, it has found an error in Shaw's service costs upon which the original rates were based. The Commission finds that to the extent they are based on incorrect costs, the rates are not just and reasonable and that rate adjustments are required in order to bring these rates into

compliance with the Act. Further, the Commission finds that it is necessary and appropriate to apply these rate adjustments retroactively to the date of service implementation, i.e., 15 November 2011, to ensure that the rates are at all times just and reasonable and in furtherance of the policy objectives set out in the Act.

Wholesale HSA service rates and implementation

64. In light of the above, the Commission finds that Shaw's wholesale HSA monthly flat rates set out in the Appendix to this decision, which reflect the decisions made above, are just and reasonable. The Commission approves these rates on a final basis, effective15 November 2011, which was the date the wholesale HSA flat rates were approved in Telecom Regulatory Policy 2011-703.

65. The Commission directs Shaw to issue, by **25 March 2013**, tariff pages that reflect this decision and the rates listed in the Appendix.

Policy Direction

66. The Policy Direction states that the Commission, in exercising its powers and performing its duties under the Act, shall implement the policy objectives set out in section 7 of the Act, in accordance with paragraphs 1(*a*), (*b*), and (*c*) of the Policy Direction.

67. The Commission considers that its findings in this decision advance the policy objectives set out in section 7 of the Act, including paragraphs 7(*a*), 7(*b*), 7(*c*), 7(*f*) and 7(*h*).[11] The Commission considers that the flat rates approved in this decision are established with a view to ensuring that competitors pay rates constituting Phase II costs plus a reasonable markup, while the incumbent provider legitimately recovers the costs that are incurred. The Commission therefore considers that in accordance with subparagraphs 1(*a*)(ii) and 1(*b*)(ii) of the Policy Direction, the rates for this service (a) are efficient and proportionate to their purpose and interfere with competitive market forces to the minimum extent necessary to meet the policy objectives noted above, and (b) neither deter economically efficient competitive entry into the market nor promote economically inefficient entry.

Secretary General

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[11] The cited policy objectives of the Act are

7(*a*) to facilitate the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions;
7(*b*) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada;
7(*c*) to enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications;
7(*f*) to foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective; and
7(*h*) to respond to the economic and social requirements of users of telecommunications services.

Related documents

- *Rogers Communications Partnership – Application to review and vary Telecom Regulatory Policy 2011-703,* Telecom Decision CRTC 2013-76, 21 February 2013

- *Disposition of review and vary applications with respect to wholesale high-speed access services: Introductory statement*, Telecom Regulatory Policy CRTC 2013-70, 21 February 2013

- *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

- *Revised guidelines for review and vary applications*, Telecom Information Bulletin CRTC 2011-214, 25 March 2011

- *Wholesale high-speed access services proceeding*, Telecom Regulatory Policy CRTC 2010-632, 30 August 2010

- *Cogeco, Rogers, Shaw, and Videotron - Third-party Internet access service rates,* Telecom Decision CRTC 2006-77, 21 December 2006

Appendix

Approved wholesale HSA monthly flat rates for Shaw's wholesale HSA services

Speed	**Monthly Flat Rate** (combined access and usage)
1 Mbps	$11.07
7.5 Mbps	$18.79
25 Mbps	$22.45
50 Mbps	$54.24
100 Mbps	$91.25