



## Telecom Decision CRTC 2013-78

PDF version

Ottawa, 21 February 2013

### **Telesave Communications Ltd. – Application to review and vary certain elements of Telecom Regulatory Policies 2011-703 and 2011-704 related to the wholesale access services of TELUS Communications Company**

File number: 8662-T143-201202309

*In this decision, the Commission **denies** a request from Telesave Communications Ltd. (Telesave) to review and vary certain elements of Telecom Regulatory Policies 2011-703 and 2011-704, in which the Commission approved, among other things, TELUS Communications Company's (TCC) speed amalgamation approach and rates for its residential and business wholesale high-speed access (HSA) services. In addition, the Commission finds that its decision in Telecom Decision 2013-73 (also issued today), where the approved rate for a given speed of TCC's business wholesale HSA services equals the approved rate for TCC's residential wholesale HSA services, adequately addresses Telesave's concerns regarding TCC's business wholesale rates.*

*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 Telesave Communications Ltd. (Telesave), dated 2 March 2012, in which it requested that the Commission review and vary certain decisions made in Telecom Regulatory Policies 2011-703 and 2011-704 with respect to TELUS Communications Company's (TCC)'s residential and business wholesale high-speed access (HSA) service rates.<sup>1</sup> Telesave submitted that the Commission failed to consider the basic principle of just and reasonable rates and made an error in fact in Telecom Regulatory Policy 2011-704.
2. Specifically, Telesave requested that the Commission review and vary its decision in Telecom Regulatory Policies 2011-703 and 2011-704, which approved TCC's proposal to amalgamate its lower speed legacy rates<sup>2</sup> into one wholesale HSA service rate for residential access speeds ranging from 1.5 to 6 megabits per second (Mbps) and one wholesale HSA service rate for business access speeds ranging from 1.5 to 6 Mbps. Telesave requested that the Commission vary these decisions, i.e., keep

---

<sup>1</sup> Telesave's application referred to TCC's rates in Alberta and British Columbia.

<sup>2</sup> Previously, TCC had separate wholesale access rates for legacy service speeds of 1.5, 2.5, 3, 4, and 6 Mbps that applied to both residential and business services.

the previous rate structure in place, and limit the business wholesale HSA service rate increase to \$0.25. In the alternative, Telesave proposed that the previously-approved business wholesale HSA service rate increase be limited to a maximum of 10 percent.

3. The Commission received comments regarding Telesave's application from the Canadian Network Operators Consortium Inc. (CNOC), MTS Inc. and Allstream Inc. (MTS Allstream),<sup>3</sup> and TCC. The public record of this proceeding, which closed on 5 April 2012, is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings" or by using the file number provided above.
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.

### **Is there substantial doubt as to the Commission's decision to approve TCC's proposal to amalgamate speeds?**

5. Telesave submitted that the 60 percent business wholesale HSA service rate increase approved in Telecom Regulatory Policy 2011-704, for speeds previously available on an individual basis and now available at an amalgamated rate, involves no improvement in service and is not a reasonable increase. Telesave also submitted that this increase is unfair to independent service providers that use business wholesale HSA service to compete at the retail service level.
6. Telesave further submitted that if the new rate for business end-users was equal to \$19.25, the rate approved in Telecom Regulatory Policy 2011-703 for TCC's residential wholesale HSA amalgamated service, this would simplify the structure of the offerings and the rate would be reasonable.
7. CNOC and MTS Allstream supported, and TCC opposed, Telesave's application.
8. CNOC and MTS Allstream noted that the 60 percent rate increase results from the decision in Telecom Regulatory Policy 2011-704 to apply greater markups to TCC's business wholesale HSA services than residential wholesale HSA services in a situation where both have the same costs.

---

<sup>3</sup> MTS Allstream Inc. was the entity that participated in the proceedings that led to Telecom Regulatory Policies 2011-703 and 2011-704. However, as of early January 2012, MTS Allstream Inc. became known as two separate entities, namely, MTS Inc. and Allstream Inc.

9. TCC submitted that this decision was justified on the basis that business services provide a higher value of service, regulatory rules do not require equal markups for business and residential services, and conditional mandated non-essential services are not subject to an approved markup.
10. CNOC, MTS Allstream, and TCC noted that they made similar arguments with respect to CNOC's review and vary application<sup>4</sup> regarding the markup level included in the business wholesale HSA service rates approved for Bell Aliant Regional Communications, Limited Partnership in its Atlantic Canada territory (Bell Aliant in Atlantic Canada), Bell Aliant Regional Communications, Limited Partnership in its territories in Ontario and Quebec, and Bell Canada (collectively, the Bell companies in Ontario and Quebec), and TCC. The Commission's decisions with respect to that application are set out in Telecom Decision 2013-73, which is also being issued today.

### **Commission's analysis and decisions**

11. The Commission notes that although Telesave did not object to TCC's speed amalgamation proposal and the approved rate for its residential wholesale HSA 1.5 to 6 Mbps service, Telesave did object to TCC's amalgamated business wholesale HSA approved rates based on the significant increase in the rates relative to the residential wholesale HSA approved rates.
12. In Telecom Regulatory Policies 2011-703 and 2011-704, the Commission accepted TCC's speed amalgamation proposal, noting that the amalgamated rate structure was consistent with its existing retail service. In that decision, the Commission further noted that MTS Allstream and Saskatchewan Telecommunications similarly applied an amalgamated rate structure for their wholesale HSA services.
13. The Commission considers that Telesave has not provided evidence demonstrating that the Commission erred in approving TCC's proposal to amalgamate speeds.
14. In light of the above, the Commission finds that there is no substantial doubt as to the correctness of the Commission's decision to accept TCC's amalgamation proposal.
15. With respect to Telesave's objection to the approved rates for TCC's amalgamated business wholesale HSA service, the Commission notes that its decision in Telecom Decision 2013-73 approves a decrease in the mark-up for business wholesale HSA service speeds to a level where the rates for these services are equal to each company's approved rates for its comparable residential wholesale HSA service speeds. In the Commission's view, the decisions made in Telecom Decision 2013-73

---

<sup>4</sup> The Commission received an application from CNOC, dated 2 March 2012, in which it requested that the Commission review and vary certain decisions made in Telecom Regulatory Policies 2011-703 and 2011-704. The public record of this proceeding is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) and using the file number 8662-C182-201202324.

adequately address Telesave's concerns regarding TCC's business wholesale HSA services. Accordingly, the Commission finds that no further relief is required in response to Telesave's application.

16. In light of the above, the Commission **denies** Telesave's application.

### **Policy Direction**

17. 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.
18. For the reasons set out in Telecom Decision 2013-73, the Commission considers that its decision to decrease the markup for TCC's business wholesale HSA services so that the rates are equal to its comparable residential wholesale HSA services advances the policy objectives set out in section 7 of the Act, including paragraphs 7(a), 7(b), 7(c), 7(f) and 7(h),<sup>5</sup> and is consistent with the Policy Direction.<sup>6</sup> The Commission considers that the rates approved in that decision for TCC's wholesale HSA services were established with a view to ensuring that competitors pay rates constituting Phase II costs<sup>7</sup> plus a reasonable markup, while TCC legitimately recovers the costs that are incurred. The Commission considers that in accordance with subparagraphs 1(a)(ii) and 1(b)(ii) of the Policy Direction, the rates for those services (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

---

<sup>5</sup> 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.

<sup>6</sup> *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

<sup>7</sup> 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

## Related documents

- *Canadian Network Operators Consortium Inc. – Application to review and vary Telecom Regulatory Policies 2011-703 and 2011-704*, Telecom Decision CRTC 2013-73, 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
- *Implementation date for the wholesale high-speed access services capacity model approved in Telecom Regulatory Policy 2011-703*, Telecom Decision CRTC 2012-60, 27 January 2012
- *Billing practices for wholesale business high-speed access services*, Telecom Regulatory Policy CRTC 2011-704, 15 November 2011
- *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