



## Telecom Notice of Consultation CRTC 2015-225

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*File number: 8661-C12-201504829*

### Call for comments

## Review of costing inputs and application process for wholesale high-speed access services

**Deadline for submission of interventions: 6 July 2015**

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*The Commission will examine certain issues associated with wholesale high-speed access services, for both the large cable and telephone companies. The Commission will gather information from the industry to better understand whether certain costing assumptions, determined in Telecom Regulatory Policy 2011-703, remain appropriate, as well as consider whether a streamlined tariff application process should be established to lessen the regulatory burden.*

### Background

1. The Commission regulates wholesale high-speed access (HSA) services provided by large cable carriers and large telephone companies (collectively, the wholesale HSA service providers). Competitors<sup>1</sup> can use these services to provide their own retail Internet and other services.
2. In Telecom Regulatory Policy 2011-703, the Commission determined, among other things, certain costing assumptions common to all network providers that are reflected in the approved rates. However, concern has recently been expressed that some of these determinations may no longer be appropriate.

### Summary of issues

3. In recent years, the wholesale HSA service providers have introduced a significant number of Internet service speeds for their respective retail customers. In order to be compliant with the speed-matching policy,<sup>2</sup> the wholesale HSA service providers are

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<sup>1</sup> For the purposes of this notice, “Competitors” are providers of telecommunications services operating in a given territory that are not mandated to provide wholesale HSA services.

<sup>2</sup> Retail speed-matching requirements for wholesale HSA services are set out in Telecom Decision 2006-77 and maintained in Telecom Regulatory Policy 2010-632. The speed-matching principle requires that when a wholesale HSA service provider introduces a new retail Internet service speed, it must also offer that speed to Competitors by filing, at the same time, a tariff for a wholesale HSA service that matches the new speed offering, with a supporting cost study.

required to, and have filed, corresponding wholesale HSA service applications for Commission approval.

4. The frequent changes in retail Internet speeds have led to the filing of an increasing number of applications, which has increased the regulatory burden for both the industry and the Commission. For the industry, the main work stems from the fact that each wholesale HSA tariff application generally needs to be supported by a cost study. For the Commission, the main work concerns the examination of the cost study to determine whether the underlying costs are reasonable for the purpose of establishing just and reasonable rates.
5. Given that absent approval of wholesale HSA tariff applications, the Competitors are not in a position to begin to offer the new speeds provided by wholesale HSA service providers on the retail side, the time taken to dispose of the applications is critical. Generally, pending a full review of the associated cost study and consideration of intervenor comments, if any, the Commission disposes of the applications on an interim basis shortly after they have been filed. In a further effort to expedite the availability of the new wholesale HSA service speeds, the Commission has approved applications filed without cost studies on an interim basis, based on the nearest lower-approved speed.<sup>3</sup>
6. The Commission has before it tariff applications that were filed some time ago and that have interim approval, but are not supported by cost studies for the reasons previously stated. There are also applications for wholesale HSA service speeds that have been approved on an interim basis, based on the nearest lower-approved speed rate, and that have now been destandardized.<sup>4</sup>
7. Certain wholesale HSA service providers and Competitors have expressed concern that the time between disposition of the applications on an interim and final basis creates uncertainty for the industry.
8. On 20 January 2014, the Commission received an application from Bell Aliant Regional Communications, Limited Partnership and Bell Canada (collectively, the Bell companies) which dealt with wholesale HSA service rates<sup>5</sup> when provisioned

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<sup>3</sup> In Telecom Decision 2013-36, the Commission determined that where a cost study has not been provided, rates for wholesale HSA services at an existing lower speed would provide an appropriate interim rate for the new service speed. The Commission had also applied this rating principle in Telecom Order 2012-706.

<sup>4</sup> When a service is destandardized or grandfathered, the company ceases to offer the service to new customers – customers subscribing to the service in question can opt to continue receiving the service under the terms and conditions that exist at the time of destandardization or migrate to another service. When a service is withdrawn, the company ceases offering the service to all customers and the service is removed from the company's tariffs.

<sup>5</sup> The Bell companies' new wholesale HSA services are offered using fibre-to-the-node (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 higher-speed access services provided over FTTN technology are referred to as FTTN-based services.

using fibre-to-the-node (FTTN) technology in their Ontario and Quebec serving areas. Specifically, the Bell companies requested approval for adopting an alternative approach to setting the cost-based rate for their wholesale residential and business FTTN 50 services, and proposed that the same rate apply to all of their other FTTN services, which are also under the same tariff.

9. Further, Competitors have expressed concerns in recent submissions to the Commission that the cost parameters set out in Telecom Regulatory Policy 2011-703 may no longer be appropriate, submitting that there have been significant cost reductions for certain pieces of equipment, and that the capital increase factors (CIFs)<sup>6</sup> used to forecast costs may need to be updated.
10. Specific to transport rates, various Competitors have expressed concern over what they consider to be unduly high rates associated with the wholesale HSA service billing models, specifically with the capacity-based billing (CBB)<sup>7</sup> model which requires that a Competitor determine in advance the amount of usage capacity it will need to provision Internet and other services to its customers.
11. With respect to transport usage, various industry representatives have asserted that customer usage growth trends (usage growth) have increased beyond the growth percentage<sup>8</sup> found to be appropriate by the Commission in Telecom Regulatory Policy 2011-703.

### **Call for comments**

12. The Commission invites submissions on the six issues identified below. In their interventions, parties to this proceeding should provide supporting rationale and all evidence on which they rely to formulate their position. Parties should structure their submissions according to the topics and questions identified in this notice.

### **Should the cost and rate structure of wholesale HSA services (whether based on the flat-rate billing or CBB model) be simplified?**

13. One goal of this proceeding is to develop a simplified and coherent cost-based rate-setting process for the wholesale HSA service providers, whether using the flat-rate billing<sup>9</sup> or CBB model.

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<sup>6</sup> CIFs are parameters applied to capital costs in order to forecast year-over-year price level changes for capital equipment.

<sup>7</sup> Rates determined using the CBB approach have two components: a monthly rate per speed tier for access to the network and a separate rate for usage in capacity increments of 100 megabits per second (Mbps).

<sup>8</sup> In Telecom Regulatory Policy 2011-703, the Commission determined that for all wholesale HSA service providers, other than MTS Allstream Inc., the first two years of traffic growth rates per retail customer would be set consistent with historical levels, followed by a constant growth rate of 20% for each of the remaining eight years of the study period.

<sup>9</sup> The flat-rate billing model provides a flat fee per month for access and unlimited usage.

14. The Commission invites comments on the rate-setting approaches proposed below. Parties are requested to identify their preferred approach, with supporting rationale. In the alternative, parties may propose the adoption of a different access rate-setting approach, with a view to reducing administrative burden and expediting final disposition of wholesale HSA applications; any such proposals are to be accompanied by detailed supporting rationale.
- Approach 1: This approach would be based on a speed-independent, fixed, weighted-average access rate expressed on a dollar-per-access basis. This fixed access rate would be the same for all available wholesale HSA speeds up to a maximum determined by the wholesale HSA service provider. Once a single rate for all wholesale HSA speeds is determined, the introduction of new speeds thereafter would be subject to a streamlined tariff application that would contain a simplified cost study.
  - Approach 2: This approach has two rate components. The first component would be a speed-independent, fixed, weighted-average access rate similar to Approach 1, but of a lower magnitude. The second component would be a speed-dependent access rate (\$ per megabits per second (Mbps) or \$ per band). Parties would identify specific speed bands for which costs vary slightly (e.g. 6 to 20 Mbps, 21 to 50 Mbps). The access rate for each speed band would thereby be determined based on the sum of a fixed rate per access component and a speed-dependent access rate. This approach would simplify the rate-setting process since the introduction of new speeds would only require a streamlined tariff application that would contain a simplified cost study.
  - Approach 3: Maintain the current cost and rate structure of wholesale HSA services (status quo).

**Should the Commission's 20% annual traffic growth assumption be modified to more accurately reflect current usage growth trends?**

15. In recent proceedings, several parties have argued that Internet data usage has increased significantly in the past few years ranging from 40 to 60% per year. The Commission seeks comments on whether current traffic growth trends vary from the 20% growth assumption adopted in Telecom Regulatory Policy 2011-703, and whether costing models should reflect new growth trends identified by parties.
16. In order to assist the Commission in its evaluation of annual traffic growth, all wholesale HSA service providers are to file, with their comments, the following information:
- actual end-user peak period traffic for each of the last five historical years (2010-2014) and the associated annual growth rate percentage; and
  - forecasted end-user peak period traffic for each of the years 2015 to 2019 and the associated annual growth rate percentage.

**Should the annual unit cost reduction assumption of minus 10% be modified to more accurately reflect current equipment cost trends?**

17. The Commission will examine whether equipment cost trends exceed the 10% annual decline determined by the Commission in Telecom Regulatory Policy 2011-703. Parties are invited to comment on this in light of the Commission's perspective set out below:

- Based on submissions received in recent proceedings, the Commission's preliminary analysis identifies a cost reduction for the Cable Modem Termination System (CMTS) costs of Third-Party Internet Access (TPIA) service exceeding the 10% annual decline determined by the Commission in Telecom Regulatory Policy 2011-703.
- The cost of other equipment, such as routers and switches, may have declined at an annual rate exceeding the 10% annual decline determined by the Commission in Telecom Regulatory Policy 2011-703.

**Should the study period be changed from the current ten years to a shorter period? If so, would a five-year study period be appropriate?**

18. In Telecom Regulatory Policy 2011-703, the Commission determined that a ten-year study period was appropriate for wholesale HSA services. In light of the growth of Internet-based applications, as well as the changes in technology and the resultant changes in wholesale HSA service speeds, the Commission is contemplating whether using a shorter study period, such as a five-year period, would be more appropriate.

**Should the usage-sensitive equipment (e.g. CMTS, Optical Node) be assigned to the traffic-driven portion of cost models? If so, to what extent (e.g. 100%)?**

19. With the objective of simplifying the calculation of access rates, and therefore minimizing regulatory burden and uncertainty, the Commission is assessing whether usage-sensitive equipment should be assigned to the traffic-driven, as distinct from the access, portion of costing models. If so, the Commission requests that parties identify the elements that should be moved from the access portion of the cost models to the traffic-driven portion.

**How should the Commission determine final rates for destandardized services?**

20. Since the publication of Telecom Regulatory Policy 2011-703, many tariff applications for wholesale HSA service speeds are currently before the Commission with interim approval but some of the associated services have been destandardized. The Commission is assessing how to best deal with the final disposition of these applications, whether retroactive rate adjustments should apply, and, if so, to what extent.

## Procedure

21. The *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Rules of Procedure) apply to this proceeding. The Rules of Procedure set out, among other things, the rules for the content, format, filing, and service of interventions, replies, and requests for information; the procedure for filing confidential information and requesting its disclosure; and the conduct of public hearings, where applicable. Accordingly, the procedure set out below must be read in conjunction with the Rules of Procedure and their accompanying documents, which can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca), under "Statutes and Regulations." The *Guidelines on the CRTC Rules of Practice and Procedure*, as set out in Broadcasting and Telecom Information Bulletin 2010-959, provide information to help interested persons and parties understand the Rules of Procedure so that they can more effectively participate in Commission proceedings.
22. All wholesale HSA service providers are made parties to this proceeding and may file interventions with the Commission by **6 July 2015**.
23. Interested persons who wish to become parties to this proceeding must file an intervention with the Commission regarding the above-noted issues by **6 July 2015**. The interventions must be filed in accordance with section 26 of the Rules of Procedure.
24. All parties may file replies to interventions with the Commission by **16 July 2015**.
25. The Commission encourages interested persons and parties to monitor the record of this proceeding, available on the Commission's website, for additional information that they may find useful when preparing their submissions.
26. Submissions longer than five pages should include a summary. Each paragraph of all submissions should be numbered, and the line **\*\*\*End of document\*\*\*** should follow the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.
27. Submissions must be filed by sending them to the Secretary General of the Commission using **only one** of the following means:

**by completing the**  
[\[Intervention form\]](#)

or

**by mail to**  
CRTC, Ottawa, Ontario K1A 0N2

or

**by fax to**  
819-994-0218

28. Parties who send documents electronically must ensure that they will be able to prove, upon Commission request, that filing of a particular document was completed. Accordingly, parties must keep proof of the sending and receipt of each document for 180 days after the date on which the document is filed. The Commission advises parties who file documents by electronic means to exercise caution when using email for the service of documents, as it may be difficult to establish that service has occurred.
29. In accordance with the Rules of Procedure, a document must be received by the Commission and all relevant parties by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due. Parties are responsible for ensuring the timely delivery of their submissions and will not be notified if their submissions are received after the deadline. Late submissions, including those due to postal delays, will not be considered by the Commission and will not be made part of the public record.
30. The Commission will not formally acknowledge submissions. It will, however, fully consider all submissions, which will form part of the public record of the proceeding, provided that the procedure for filing set out above has been followed.
31. The Commission expects to publish a decision on the issues raised in this notice within four months of the close of record.

### **Important notice**

32. All information that parties provide as part of this public process, except information designated confidential, whether sent by postal mail, facsimile, email, or through the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca), becomes part of a publicly accessible file and will be posted on the Commission's website. This includes all personal information, such as full names, email addresses, postal/street addresses, and telephone and facsimile numbers.
33. The personal information that parties provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.
34. Documents received electronically or otherwise will be posted on the Commission's website in their entirety exactly as received, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.
35. The information that parties provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission's website with the help of either its search engine or a third-party search engine will not provide access to the information that was provided as part of this public process.

## **Availability of documents**

36. Electronic versions of the interventions and other documents referred to in this notice are available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) by using the file number provided at the beginning of this notice or by visiting the "Participate" section of the Commission's website, selecting "Submit Ideas and Comments," then selecting "our open processes." Documents can then be accessed by clicking on the links in the "Subject" and "Related Documents" columns associated with this particular notice.
37. Documents are also available from Commission offices, upon request, during normal business hours.

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Secretary General

**Related documents**

- *Canadian Network Operators Consortium Inc. – Application requesting enforcement of matching speed requirements with respect to third-party Internet access services provided by Rogers Communications Partnership*, Telecom Decision CRTC 2013-36, 31 January 2013
- *Rogers Communications Partnership – Introduction of four new wholesale Third Party Internet Access service speeds*, Telecom Order CRTC 2012-706, 21 December 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
- *Filing of joint supporting interventions*, Telecom Information Bulletin CRTC 2011-693, 8 November 2011
- *Guidelines on the CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010

- *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