Telecom Order CRTC 2016-448

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File number: Tariff Notice 37

Bragg Communications Incorporated, operating as Eastlink – Revised interim rates for aggregated wholesale high-speed access service

The Commission sets revised interim rates for Eastlink's aggregated wholesale high-speed access service. The Commission's revisions to the company's proposed rates are required to ensure that the interim rates are not based on overstated costs.

The Commission is concerned that Eastlink has not conducted its cost study in accordance with established Phase II costing principles and methodologies set out in previous Commission decisions and documented by the large telephone companies in their respective Regulatory Economic Studies Manuals.

Background

1. In Telecom Order 2016-201, the Commission approved on an interim basis the rates for third-party Internet access (TPIA)[1] service speeds offered by Bragg Communications Incorporated, operating as Eastlink (Eastlink). Eastlink had proposed to use Shaw Cablesystems G.P.'s (Shaw) rates for equivalent service speeds as a proxy.[2] At the time that Eastlink proposed its rates, the company employed a flat-rate billing model to use Shaw's rates. The Commission also determined in Telecom Order 2016-201 that it would consider final rates for the proposed TPIA service speeds once Eastlink filed supporting cost studies pursuant to Telecom Decision 2016-117.[3]

2. On 9 September 2016, pursuant to Telecom Decision 2016-117, the Commission received a tariff application and a supporting cost study from Eastlink for its wholesale high-speed access (HSA) services. In its application, Eastlink proposed the following:

[1] TPIA services are wholesale high-speed access (HSA) services offered by large cable companies that enable independent service providers to offer retail Internet services to their own end-users.
[2] The Commission also determined in that order that in the absence of equivalent service speeds, Shaw's rates for the nearest lower-speed, non-destandardized service would be used.
[3] In Telecom Decision 2016-117, the Commission directed all wholesale HSA service providers to file new tariff applications for certain non-legacy aggregated wholesale HSA service speeds, reflecting the Commission's determinations set out in that decision. The Commission also directed wholesale HSA service providers that use the capacity-based billing model to file their updated monthly capacity rate per 100 megabits per second (Mbps).

- to move from the flat-rate billing model to the capacity-based billing (CBB)[4] model, and to have a minimum of 30 days to transition to the new billing model;
- banded[5] non-legacy aggregated wholesale HSA service speed rates; and
- a monthly capacity rate per 100 megabits per second (Mbps) service and associated service charges.

3. The Commission received an intervention from the Canadian Network Operators Consortium Inc. (CNOC). CNOC requested that the Commission deny interim approval of Eastlink's application and suspend the deadline for the filing of interventions. CNOC further requested the Commission treat Eastlink's application the same way that it has treated the other tariff applications[6] filed by wholesale HSA service providers in response to Telecom Decision 2016-117.
4. The public record of this proceeding is available on the Commission's website at www.crtc.gc.ca or by using the file number provided above.

Issues

5. The Commission has identified the following issues to be addressed in this order:
   - Is Eastlink's proposed timeline for the transition from the flat-rate billing model to the CBB model appropriate?
   - On a *prima facie* basis, are Eastlink's proposed rates reasonable?
   - Should Eastlink's current interim aggregated wholesale HSA service rates be revised and approved on an interim basis?

Is Eastlink's proposed timeline for the transition from the flat-rate billing model to the CBB model appropriate?

6. Eastlink proposed a minimum of 30 days to transition from the flat-rate billing model to the CBB model.
7. The Commission considers that Eastlink should be subject to a defined transition period, and that 90 days is an appropriate time frame for Eastlink's aggregated wholesale HSA customers to make the transition.

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[4] Rates determined using the CBB model have two components: (i) a monthly rate per speed band for access to the network, and (ii) a separate rate for capacity in increments of 100 Mbps. The CBB model requires that a competitor determine in advance the amount of capacity it will need to provision Internet and other services to its end-users.
[5] Under this rate-setting approach, various service speeds with similar costs are grouped in a band. A single access rate applies for services within each band, and this rate is established on the basis of the weighted-average costs of all service speeds within the band.
[6] See Bell Canada Tariff Notice 7504, Cogeco Cable Inc. (Cogeco) Tariff Notices 52 and 52A, MTS Inc. Tariff Notices 778 and 778A, Rogers Communications Canada Inc. Tariff Notice 45, Saskatchewan Telecommunications Tariff Notices 329 and 329A, Shaw Tariff Notices 26 and 26A, TELUS Communications Company Tariff Notice 512, and Videotron G.P. (Videotron)Tariff Notice 52.

8. Accordingly, the Commission **approves** Eastlink's timeline for the transition of its aggregated wholesale HSA service offerings from the flat-rate billing model to the CBB model. This transition is to occur within **30 to 90 days** after the date of this order.

On a prima facie basis, are Eastlink's proposed rates reasonable?

9. In order to set wholesale HSA service rates, the Commission generally relies on the costing methodologies defined in the Regulatory Economic Studies Manuals (the Manual), whereby service rates are set based on Phase II costs[7] plus a specified markup.

10. The Manual is clear that regulatory economic studies are to be developed in accordance with generally accepted economic concepts and methods and are to incorporate the prospective incremental costing principles and methodologies set out in Telecom Decision 79-16, as amended in subsequent Commission determinations.

11. Preliminary review by the Commission shows that Eastlink's proposed rates do not comply with the Commission's determinations in Telecom Decision 2016-117 or with established Phase II costing principles.

12. More specifically, the Commission finds that Eastlink has deviated from the established Phase II capacity costing methodology. This methodology requires dividing the total cost of a shared facility, for which growth technology[8] is used, by its maximum capacity and then dividing this result by the working fill factor.[9] Any deviation from this approach is not in accordance with the Phase II costing principles, and may result in an overstatement of costs.

13. The Commission further identifies the lack of pertinent costing details, including descriptions of input data variables, and modelling assumptions without supporting rationale. Accordingly, the Commission concludes that Eastlink's proposed monthly rates are, on a *prima facie* basis, not reasonable.

Should Eastlink's current interim aggregated wholesale HSA service rates be revised and approved on an interim basis?

14. Consistent with the conclusion for the other wholesale HSA service providers established in Telecom Order 2016-396, the Commission considers that the current interim monthly rates for Eastlink should be revised to more accurately reflect the

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[7] Phase II costing principles reflect the costs of the prospective incremental resources used to provide the service, consistent with the costing methodologies and assumptions set out in the approved Manual.
[8] Growth technology refers to the technology the company will deploy going forward. The existing technology in place during the study period, which is being gradually replaced by the growth technology, should not be considered growth technology.
[9] Working fill factor is a measure of the ultimate utilization of a shared facility and is used to recognize the non-working capacity (spare units, units required for maintenance, administrative functions, etc.) of the shared facility, regardless of its current level of utilization, and to apportion the cost of non-working capacity to the per-unit cost of the working capacity. A lower working fill factor will result in higher costs.

Commission's costing principles. Accordingly, the Commission has made a number of adjustments to Eastlink's proposed costs to set revised interim rates.

15. With respect to the proposed one-time capacity rate service charges that result from the implementation of the CBB model, the Commission finds that these are comparable to the existing Commission-approved rates charged by other wholesale HSA service providers that use the CBB model. However, the one-time capacity rate service charges, along with the remaining rates proposed by Eastlink, require further scrutiny based on the full record, as part of the process underway to set wholesale HSA service rates on a final basis for all incumbent wholesale HSA service providers.

16. In light of the above, the Commission **approves on an interim basis** Eastlink's revised monthly capacity rate per 100 Mbps service, capacity rate service charges, and revised banded access rates, as set out in Appendix 1 to this order, effective the date of this order. The cost adjustments, with rationale, are provided in Appendix 2.

Implementation

17. The Commission **directs** Eastlink to issue tariff pages[10] and update its website, by **12 December 2016**, to reflect the determinations in this order.

18. The Commission will assess the extent to which, if at all, retroactivity will apply when Eastlink's wholesale HSA service rates are set on a final basis.

Related documents

- *Tariff notice applications concerning aggregated wholesale high-speed access services – Revised interim rates*, Telecom Order CRTC 2016-396, 6 October 2016

- *Review of costing inputs and the application process for wholesale high-speed access services*, Telecom Decision CRTC 2016-117, 31 March 2016

- *Bragg Communications Incorporated and Persona Communications Inc., both operating as Eastlink – Introduction of third-party Internet access services and destandardization of certain third-party Internet access service speeds*, Telecom Order CRTC 2016-201, 26 May 2016

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

- *Inquiry into Telecommunications Carriers' Costing and Accounting Procedures – Phase II: Information Requirements for New Service Tariff Filings*, Telecom Decision CRTC 79-16, 28 August 1979

[10] Revised tariff pages can be submitted to the Commission without a description page or a request for approval; a tariff application is not required.

Appendix 1 to Telecom Order CRTC 2016-448

Rates for Eastlink

Item	Rate
Monthly capacity rate per 100 Mbps	$353.35

Banded access service speeds	Monthly rate per end-user (excluding usage)
Up to 5 Mbps	$11.40
6 to 30 Mbps	$16.23
31 to 50 Mbps	$18.57
51 to 100 Mbps	$25.47
101 to 150 Mbps	$31.32
151 to 300 Mbps	$34.14
301 to 400 Mbps	$44.09
401 to 940 Mbps	$55.51

Capacity rate service charges	One-time charge
Per-order rate	$122.07
Per-interface rate	$119.22

Appendix 2 to Telecom Order 2016-448

Cost adjustments for Eastlink

Item	Commission adjustment	Rationale for adjustment
Transmission facilities costs (CBB)	Estimated transmission facilities' capital cash flows based on the proxy of the other three cable companies'[11] backhaul costs.	These costs were calculated without consideration of the capacity of the equipment in the development of the respective unit costs and are therefore not in accordance with methodology documented in the Manual. The Commission adopted the average of the other three cable companies as a proxy since Eastlink's cash flows could not be modified as filed.
Node segmentation,[12] router, and cable modem termination system (CMTS) capital costs (Access and CBB)	Adjusted costs to reflect the appropriate working fill factors to calculate the banded access rates and the monthly capacity rate per 100 Mbps.	Eastlink provided no evidence to deviate from the determination made in Telecom Decision 2006-77, and Appendix V, Table 9 of the Manual.
Node fibre and related costs (Access)	Estimated an allocation for new fibre construction[13] (launch) and for optical node costs to co-locate at existing node locations (co-locate) using an average of comparable proxies of the other three cable companies.	Eastlink's proposal assumed full allocation for launch relative to co-locate.
Channel capacity costs (Access)	Estimated channel capacities based on Shaw's channel capacities[14] as a proxy.	Eastlink proposed channel capacity costs per access speed that do not consistently account for the capacity utilization of each access speed. This method results in inaccurate costs.

[11] Cogeco, Shaw, and Videotron

[12] "Node segmentation" refers to the increased rollout of optical fibre nodes in the local network plant to permit splitting of coaxial cable segments, thus increasing the bandwidth available to customers.

[13] New fibre construction requires fibre deployed from the head-end to the node.

[14] Shaw's channel capacities were chosen as a proxy due to Eastlink's previous reliance on Shaw's costs for rate-setting purposes.