



Telecom Decision CRTC 2017-459

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Ottawa, 20 December 2017

Public record: 8662-B2-201612391 and Bell Canada Tariff Notice 7524

Bell Canada – Application to review and vary Telecom Decision 2016-379 regarding the implementation of an outside meet-me point for disaggregated wholesale high-speed access service

*The Commission **denies** a request from Bell Canada to review and vary the requirement set out in Telecom Decision 2016-379 for the company to implement an outside meet-me point to support competitor interconnection to the disaggregated wholesale high-speed access service. The Commission concludes that it did not err in fact or in law.*

Introduction

1. In Telecom Regulatory Policy 2015-326, the Commission mandated the large incumbent carriers to provide disaggregated wholesale high-speed access (HSA) service, including over fibre-to-the-premises (FTTP) access facilities. The disaggregated wholesale HSA service was to be implemented in phases, starting in the provinces of Ontario and Quebec, and applies to Cogeco Connexion Inc.,¹ Rogers Communications Canada Inc.,² and Videotron G.P. (collectively, the Cablecos), as well as to Bell Canada. This determination was made with a view to provide Canadians with more choice of services, such as broadband Internet access service, which in turn is expected to drive competition, resulting in further investment in telecommunications facilities.
2. In Telecom Decision 2016-379, the Commission reviewed the configurations proposed by Bell Canada and the Cablecos for their respective disaggregated wholesale HSA services. Among its various determinations, the Commission considered that an outside meet-me point³ was the appropriate location for the interconnection of competitors' transport facilities to the Cablecos' service, which is their existing method of interconnection for their aggregated wholesale HSA service. For Bell Canada, although its current method of interconnection is co-location within its central offices, the Commission considered that the company should also provide an outside meet-me point, similar to that of the Cablecos.

¹ Cogeco Connexion Inc. holds all the business activities, including assets and liabilities, of the former Cogeco Cable Inc., which ceased to exist on 1 September 2016.

² Rogers Communications Canada Inc. holds all the business activities, including assets and liabilities, of the former Rogers Communications Partnership, which ceased to exist on 1 January 2016.

³ An outside meet-me point provides competitors with an external interconnection point to connect with the disaggregated wholesale HSA service through a fibre termination at a pedestal or a splicing enclosure located outside the central office or cable head-end.

3. Consequently, the Commission directed Bell Canada to provide an outside meet-me point in addition to its existing tariffed co-location option for competitor interconnection.⁴
4. Bell Canada filed Tariff Notice 7524, dated 31 January 2017 and amended on 14 February 2017, in which the company submitted proposed outside meet-me point rates. The Commission made these proposed rates interim on 29 August 2017 in Telecom Order 2017-312.

Application

5. The Commission received an application from Bell Canada, dated 2 December 2016 and amended on 9 December 2016 and on 19 May 2017, in which the company requested that the Commission review and vary and stay certain determinations set out in Telecom Decision 2016-379. Specifically, Bell Canada requested that the Commission eliminate the requirement for the company to implement an outside meet-me point for its disaggregated wholesale HSA service in addition to co-location. Bell Canada also requested a stay of proceedings regarding this requirement, which the Commission denied in a [letter](#) dated 22 December 2016.
6. Bell Canada submitted that the Commission erred in fact in Telecom Decision 2016-379 by requiring it to provide an outside meet-me point for its disaggregated wholesale HSA service on the basis that the high cost of co-location would constrain competitors' ability to compete in downstream markets.
7. Bell Canada argued that the Commission made two errors in law in Telecom Decision 2016-379. Specifically, Bell Canada indicated that the Commission's determination to mandate an outside meet-me point violated the Policy Direction⁵ requirements that the Commission's regulatory measures
 - be implemented in a symmetrical and competitively neutral manner, and
 - be efficient and proportionate to their purpose, and rely on market forces to the maximum extent possible.
8. The Commission received interventions regarding Bell Canada's application from the British Columbia Broadband Association (BCBA), the Canadian Network Operators Consortium Inc. (CNOC), TELUS Communications Inc. (TCI),⁶

⁴ Although the co-location service is provided pursuant to a tariff, specific charges are not included for all tariff elements. Certain co-location tariff element charges are based on the number of units required (e.g. the number of hours for project management or the number of square metres of floor space required) multiplied by the rate per unit (e.g. the rate per hour or the rate per square metre). Thus, the charges vary based on the requirements of the request.

⁵ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

⁶ In this proceeding, submissions were received from TELUS Communications Company (TCC). However, effective 1 October 2017, TCC's assets were legally transferred to TCI and TCC ceased to exist. For ease of reference, "TCI" is used in this decision.

Vaxination Informatique (Vaxination), and Zayo Canada Inc. (Zayo, formerly Allstream Inc.).

Review and vary criteria

9. In Telecom Information Bulletin 2011-214, the Commission outlined the criteria it would use to assess review and vary applications filed pursuant to section 62 of the *Telecommunications Act*. Specifically, the Commission stated that applicants must demonstrate that there is substantial doubt as to the correctness of the original decision, for example due to (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.

Issues

10. The Commission has identified the following issues to be addressed in this decision:

- Did the Commission err in fact by requiring Bell Canada, in Telecom Decision 2016-379, to implement an outside meet-me point on the basis that a meet-me point would be less costly than co-location?
- Does the Commission's determination in Telecom Decision 2016-379 for Bell Canada to implement an outside meet-me point violate the Policy Direction requirement that regulatory measures be implemented in a symmetrical and competitively neutral manner?
- Does the Commission's determination in Telecom Decision 2016-379 for Bell Canada to implement an outside meet-me point violate the Policy Direction requirements that regulatory measures be efficient and proportionate to their purpose and interfere with market forces to the minimum extent necessary?

Did the Commission err in fact by requiring Bell Canada, in Telecom Decision 2016-379, to implement an outside meet-me point on the basis that a meet-me point would be less costly than co-location?

Positions of parties

11. Bell Canada provided evidence regarding charges for the four different types of co-location options it currently offers, which often have lower charges. Bell Canada added that competitors do not need to co-locate and have the option of making arrangements with a co-located party in the central office where the disaggregated wholesale HSA service can be offered.
12. Bell Canada submitted that based on a review of all of its co-location charges compiled since 2009, the average start-up and monthly recurring charges for co-location were \$54,455 and \$1,603 respectively, and the lowest start-up charges and monthly recurring charges were \$25,281.56 and \$762 respectively, far below the

hundreds of thousands of dollars alleged by Zayo in its submission in the proceeding that led to Telecom Decision 2016-379.

13. TCI provided recent examples of amounts it had charged its wholesale customers for co-location that, in its view, demonstrated that claims of high co-location costs made by CNOC and Zayo in that proceeding were not reasonable.
14. Bell Canada added that since co-location costs constitute a small portion of transport costs, based on an example in Toronto, the need for introducing an outside meet-me point, representing a fifth option for interconnection, is not justified.
15. Bell Canada submitted that in most instances, co-location start-up charges for supporting the disaggregated wholesale HSA service were expected to be between \$8,356 and \$24,943, and monthly charges were expected to be between \$505 and \$1,050, depending on the equipment required. Bell Canada provided the assumptions it used to come up with its estimates. Bell Canada added that project management fees were included in these estimates but that the installation of an interconnecting carrier cable is not included because since 2009, service providers pay contractors to pull their fibre into Bell Canada's central offices.
16. Bell Canada, supported by TCI, submitted that co-location charges for the disaggregated wholesale HSA service were, in most cases, likely to be lower than historical co-location charges as a result of minimal space and power requirements, as well as simplified interconnection link arrangements that have no monthly recurring fees. Bell Canada added that a comparison of its co-location charges for the disaggregated wholesale HSA service with the outside meet-me point charges it proposed in Tariff Notice 7524 indicates that the two charges are similar and do not justify the requirement for the additional outside meet-me point interconnection option.
17. CNOC indicated that if co-location were Bell Canada's only interconnection option for the disaggregated wholesale HSA service, the associated high cost would affect a competitor's ability to roll out competitive services over fibre and would impose an additional cost burden because of the need to interconnect at multiple points to get the desired service coverage.
18. CNOC submitted that, based on the existing co-location charges paid to Bell Canada by CNOC members, the minimum combined "project management fees" and "space preparation" charges were approximately \$20,000. Additionally, CNOC submitted that the cost to bring fibre from the manhole to the central office transmission equipment was dependent on several factors and was typically around \$10,000. CNOC added that in the vast majority of cases, entry costs associated with any of the co-location options can exceed \$50,000 and sometimes reach over \$100,000, with monthly recurring costs ranging between \$1,000 and \$2,500.
19. CNOC submitted that based on its members' experience with co-location charges, Bell Canada's estimated charges for the disaggregated wholesale HSA service were

not reasonable. CNOC requested that the Commission compare Bell Canada's estimated charges for the disaggregated wholesale HSA service with the company's actual co-location charges provided in this proceeding. Further, CNOC objected to the comparison of the outside meet-me point charges proposed in Bell Canada's Tariff Notice 7524 with the company's co-location charges for the disaggregated wholesale HSA service on the basis that the latter charges are currently under Commission review; hence, the Commission has not determined whether they are just and reasonable.

Commission's analysis and determinations

20. The Commission has compared the charges that competitors interconnecting to the disaggregated wholesale HSA service would incur under the co-location option and the meet-me point option. For the co-location option, the Commission has estimated the charges to competitors based on the lower and upper values of the range of co-location charges for interconnection to the disaggregated wholesale HSA service that Bell Canada provided on the record of this proceeding, as stated in paragraph 15. The Commission considers that Bell Canada's estimated charges are acceptable for the purpose of comparison, since they reflect the simplified requirements for space, power, and interconnecting links for supporting the disaggregated wholesale HSA service. The Commission also considers it reasonable to use the charge to bring fibre from the manhole to the central office transmission equipment (i.e. the charge for installing an interconnecting carrier cable) that CNOC provided on the record of this proceeding, as stated in paragraph 18. For the outside meet-me point option, the Commission has assumed that a competitor would pay the one-time charges that Bell Canada proposed in Tariff Notice 7524.⁷
21. Specifically, the Commission has examined the charges that competitors would incur for co-location and outside meet-me point interconnection over one, three, and five years,⁸ since interconnection with Bell Canada by a competitor for the disaggregated wholesale HSA service at a specific central office would be a long-term commitment. As well, competitors would incur separate costs to build or lease transport facilities in addition to either co-location charges or outside meet-me point charges.
22. The comparison over time indicates that the outside meet-me point option is cheaper for competitors than the co-location option over one-, three-, and five-year periods, even considering the lower charges in the range provided by Bell Canada. The overall charges for the co-location option increase over time because this option includes both a one-time charge and monthly charges, while the outside meet-me point option includes only a one-time charge. The comparison also indicates that the longer the interconnection period, the greater the savings under the outside meet-me point option. Further, the costs to competitors will increase based on the number of central offices to which they interconnect.

⁷ These calculations are represented in the Appendix to this decision.

⁸ Bell Canada used these study periods in Tariff Notice 7524.

23. The Commission therefore considers that the evidence provided by Bell Canada and CNOC in this proceeding, in conjunction with the rates proposed for Bell Canada's outside meet-me point option in Tariff Notice 7524, support the Commission's finding in Telecom Decision 2016-379 regarding the high costs of co-location compared to meet-me point interconnection.
24. Accordingly, the Commission finds that it did not err in fact by requiring Bell Canada, in Telecom Decision 2016-379, to implement an outside meet-me point on the basis that a meet-me point would be less costly than co-location.

Does the Commission's determination in Telecom Decision 2016-379 for Bell Canada to implement an outside meet-me point violate the Policy Direction requirement that regulatory measures be implemented in a symmetrical and competitively neutral manner?

Positions of parties

25. Bell Canada, supported by TCI, submitted that requiring the incumbent local exchange carriers (ILECs) to provide a fifth interconnection option for the disaggregated wholesale HSA service and not requiring the Cablecos to offer any additional interconnection option is inconsistent with the Policy Direction requirement that the Commission's non-economic determinations be implemented in a symmetrical and competitively neutral manner. Bell Canada added that this treatment favours the Cablecos over the ILECs and could distort the competitive marketplace between them.
26. TCI, supported by Bell Canada, submitted that despite inherent technical issues, the Commission mandated the outside meet-me point for Cablecos because space limitations made it the only alternative to co-location. TCI argued that in implementing this requirement, the Commission respected the Cablecos' network architecture, and that it should also respect the ILECs' network architecture, which incorporates interconnection through co-location.
27. CNOC submitted that under the Policy Direction, the Commission has the discretion to require ILECs to introduce a new means of interconnection if the existing options are not sufficient for the disaggregated wholesale HSA service. CNOC added that the Policy Direction's objectives regarding symmetrical and competitively neutral regulation are not absolute. However, according to CNOC, the Commission's requirement for the ILECs to provide an interconnection solution that is functionally equivalent to what the Cablecos are already providing actually steers the ILECs and Cablecos towards greater symmetry and competitive neutrality in the provision of the disaggregated wholesale HSA service.
28. CNOC indicated that the Cablecos' external interconnection options meet its member companies' cost and timeliness needs. Similarly, an outside meet-me point option provided by Bell Canada would also meet the member companies' needs.

Commission's analysis and determinations

29. The Policy Direction states that the Commission should use measures that are implemented in a symmetrical and competitively neutral manner, to the greatest extent possible. Therefore, symmetry and competitive neutrality are not absolutes, but are objectives towards which the Commission should strive, to the greatest extent possible, to fulfill its statutory mandate.
30. In Telecom Decision 2016-379, the Commission required Bell Canada to implement an outside meet-me point to further its goal of rapid implementation of the disaggregated wholesale HSA service. The Commission considered interconnection options using co-location to be barriers to competitor use of the disaggregated wholesale HSA service because of the associated costs. Although the requirement for an outside meet-me point does not create symmetry between the ILECs and Cablecos with respect to the number of interconnection methods, it makes essentially equivalent options available to competitors to the greatest extent permitted by the technologies and network architectures at play.
31. Symmetry between the ILECs and Cablecos could also have been attained by requiring the Cablecos to offer co-location, as well as an outside meet-me point. However, as indicated by Bell Canada and TCI, the Cablecos are not able to offer co-location due to space limitations at their head-ends.
32. In light of the above, the Commission finds that its determination in Telecom Decision 2016-379 for Bell Canada to implement an outside meet-me point was consistent with the Policy Direction requirement to ensure that regulatory measures, to the greatest extent possible, be implemented in a symmetrical and competitively neutral manner.

Does the Commission's determination in Telecom Decision 2016-379 for Bell Canada to implement an outside meet-me point violate the Policy Direction requirements that regulatory measures be efficient and proportionate to their purpose and interfere with market forces to the minimum extent necessary?

Positions of parties

33. Bell Canada submitted that requiring it to implement an additional means of interconnection (the outside meet-me point) is not consistent with the Policy Direction, which requires the Commission to implement regulatory measures in a way that is efficient and proportionate to its purpose, and relies on market forces to the maximum extent possible.
34. Bell Canada, supported by TCI, argued that requiring it to implement an outside meet-me point is not the least-intrusive option since it complicates its operations and would be costly to develop and manage. Further, Bell Canada indicated that contrary to the co-location option, the outside meet-me point option creates service assurance issues that would directly harm end-users. Accordingly, the company did not see the

requirement to implement an outside meet-me point as being efficient and proportionate regulation.

35. Bell Canada added that (i) competitive market forces are already in effect, since it offers competitors four co-location options for interconnection at multiple price points; and (ii) any further regulation in this area violates the Policy Direction.
36. CNOC disagreed with Bell Canada's position that the use of an outside meet-me point interconnection creates quality issues. Further CNOC members have indicated that outside meet-me point interconnection is straightforward, timely, and cost-effective, and that it has proven to be effective for the Cablecos' wholesale HSA services. As such, CNOC argued that requiring Bell Canada to provide such a solution represents regulation that is efficient and proportionate to its purpose of advancing the policy objective of increased competition in retail broadband services.

Commission's analysis and determinations

37. As a new requirement, implementation of the outside meet-me point will involve developments and changes in Bell Canada's operations. However, Bell Canada has the technical capabilities and experience in provisioning competitor interconnection services to implement this requirement. Further, to address the costs associated with the implementation of the outside meet-me point, Bell Canada will be able to recover such costs through the rates it will charge competitors for interconnection.
38. Although Bell Canada cited service assurance issues resulting from the Cablecos' outside meet-me point, CNOC members characterized the outside meet-me point interconnection provided by the Cablecos as a straightforward, timely, and cost-effective option. Since the functionality of Bell Canada's outside meet-me point will be essentially the same as that of the Cablecos, its performance, based on competitors' experience, should be acceptable.
39. Accordingly, the Commission considers that the requirement for Bell Canada to implement an outside meet-me point is not an excessive burden and provides a cost-effective interconnection option for competitors. As such, this requirement is an efficient regulatory measure that is proportionate to its purpose to achieve the Commission's policy objectives.
40. With respect to Bell Canada's contention that competitive market forces are in effect due to its four co-location options, the Commission has examined each of these options. It found that the co-location option with minimal space and power requirements and simplified interconnecting link arrangements proposed by Bell Canada for the disaggregated wholesale HSA service is likely the only one that competitors might use for interconnection, being the most cost-effective option. Since competitive markets require that different suppliers offer products or services based on market conditions, Bell Canada's offering of four co-location options on a mandated basis (i.e. since the Commission has found that Bell Canada has market power), with only one of them realistically being an option for competitors, does not

constitute a competitive marketplace. Therefore, the Commission did not fail to interfere with market forces to the minimum extent necessary in Telecom Decision 2016-379, since market forces cannot be relied upon in the circumstances.

41. In light of the above, the Commission finds that its determination in Telecom Decision 2016-379 for Bell Canada to implement an outside meet-me point is consistent with the Policy Direction requirements that regulatory measures be efficient and proportionate to their purpose and interfere with market forces to the minimum extent necessary.

Other issues

Should the Commission consider TCI's alleged additional error in law in this proceeding?

Positions of parties

42. TCI submitted that in the proceeding that led to Telecom Decision 2016-379, neither CNOC nor Zayo provided evidence to support their claims regarding co-location costs. TCI indicated that the Commission did not request additional information from the parties, nor did it seek information from Bell Canada to verify the claims. The company alleged that as a result, the Commission erred in law by accepting arguments in that proceeding that were not supported by evidence.

Commission's analysis and determinations

43. TCI's alleged additional error in law was not included in Bell Canada's application. As such, other parties did not have an opportunity to comment on it and it is technically out of scope. However, even if the issue were in scope, any procedural defect identified by TCI would be cured by the fact that such evidence has been filed and fully considered in the present proceeding, since Bell Canada and CNOC provided the assumptions and evidence to support the co-location charges for the disaggregated wholesale HSA service.
44. Accordingly, the Commission finds that TCI's alleged additional error in law is out of the scope of this proceeding. In the alternative, any procedural defect identified by TCI would have been cured by the current proceeding.

Should the Commission consider the BCBA's and Vaxination's alternative interconnection models in this proceeding?

Positions of parties

45. The BCBA proposed (for smaller central offices) that interested Internet service providers implement meet-me points at their fibre-connected premises, with fibre connectivity to ILECs' central offices purchased from the ILEC. Vaxination proposed an approach that would make the ILEC responsible for bringing a competitor's fibre into the ILEC's central office and connecting it to the disaggregated wholesale HSA service interface.

Commission's analysis and determinations

46. Although the proposed interconnection models could potentially have value to competitors, the Commission finds that they are out of the scope of the present proceeding.

Conclusion

47. In light of all the above, the Commission **denies** Bell Canada's request to review and vary Telecom Decision 2016-379 based on alleged errors in fact and in law regarding the Commission's requirement for Bell Canada to implement an outside meet-me point for the disaggregated wholesale HSA service.

Related documents

- *Interim rates for disaggregated wholesale high-speed access services in Ontario and Quebec*, Telecom Order CRTC 2017-312, 29 August 2017; as amended by Telecom Order CRTC 2017-312-1, 12 September 2017
- *Follow-up to TRP 2015-326 – Implementation of a disaggregated wholesale HSA service, including over FTTP*, Telecom Decision CRTC 2016-379, 20 September 2016
- *Review of wholesale wireline services and associated policies*, Telecom Regulatory Policy CRTC 2015-326, 22 July 2015; as amended by Telecom Regulatory Policy CRTC 2015-326-1, 9 October 2015
- *Revised guidelines for review and vary applications*, Telecom Information Bulletin CRTC 2011-214, 25 March 2011

Appendix to Telecom Decision CRTC 2017-459

Comparison of co-location and outside meet-me point interconnection charges

Charges to a competitor for a new request	Co-location minimum charge for disaggregated wholesale HSA service per central office	Co-location maximum charge for disaggregated wholesale HSA service per central office	Outside meet-me point charges proposed in Tariff Notice 7524 (interim rates)
a) Bell Canada one-time charge	\$8,356	\$24,943	\$16,660
b) Third-party one-time charge to install interconnecting carrier cable	\$10,000	\$10,000	\$0
c) Bell Canada present worth ⁹ of monthly charges: 1 year of interconnection	\$5,848	\$12,160	\$0
d) Bell Canada present worth of monthly charges: 3 years of interconnection	\$16,361	\$34,017	\$0
e) Bell Canada present worth of monthly charges: 5 years of interconnection	\$25,471	\$52,959	\$0
<i>f) Subtotal for Bell Canada's charges: 1 year of interconnection (items a+c)</i>	\$14,204	\$37,103	\$16,660
<i>g) Subtotal for Bell Canada's charges: 3 years of interconnection (items a+d)</i>	\$24,717	\$58,960	\$16,660
<i>h) Subtotal for Bell Canada's charges: 5 years of interconnection (items a+e)</i>	\$33,827	\$77,902	\$16,660
i) Total charges to competitor: 1 year of interconnection (items b+f)	\$24,204	\$47,103	\$16,660
j) Total charges to competitor: 3 years of interconnection (items b+g)	\$34,717	\$68,960	\$16,660
k) Total charges to competitor: 5 years of interconnection (items b+h)	\$43,827	\$87,902	\$16,660

⁹ The estimated present worth of monthly charges is based on the cost of capital used by Bell Canada in Tariff Notice 7524.