



## Telecom Order CRTC 2018-442

PDF version

Ottawa, 29 November 2018

*Public record: Tariff Notice 26B*

### **Shaw Cablesystems G.P. – Introduction of a new third-party Internet access speed band and the Internet 300 access speed tier**

*The Commission **approves, on an interim basis**, a rate for third-party Internet access Speed Band 7 and the Internet 300 access speed tier provided by Shaw.*

*The Commission **denies** CNOC's requests associated with modems.*

#### **Background**

1. The Commission regulates aggregated wholesale high-speed access (HSA) services provided by the large cable and telephone companies (collectively, the wholesale HSA service providers).
2. In Telecom Decision 2016-117, the Commission, among other things, directed all wholesale HSA service providers to file new tariff applications for banded non-legacy aggregated wholesale HSA service speeds, reflecting the Commission's determinations set out in that decision. The Commission also made interim, effective the date of the decision, all non-legacy aggregated wholesale HSA service rates that had been approved on a final basis, including the monthly capacity rates per 100 megabits per second (Mbps).
3. Then, in Telecom Order 2016-396, the Commission set revised interim rates for aggregated HSA services for a number of wholesale HSA service providers, namely, Bell Canada; Cogeco Communications Inc.; MTS Inc.; Rogers Communications Canada Inc.; Saskatchewan Telecommunications; Shaw Cablesystems G.P. (Shaw); TELUS Communications Company; and Videotron G.P.<sup>1</sup> In addition, revised interim rates for aggregated HSA services were set for Bragg Communications Incorporated, carrying on business as Eastlink (Eastlink), in Telecom Order 2016-448 (the companies referenced in this paragraph are collectively referred to in this order as the aggregated HSA service providers).<sup>2</sup>

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<sup>1</sup> In Telecom Order 2016-396, the Commission expressed concern that certain wholesale HSA service providers did not conduct their cost studies in accordance with Phase II costing principles, and had not justified departures from the principles and methodologies set out in their Regulatory Economic Studies Manuals.

<sup>2</sup> In Telecom Order 2016-448, the Commission expressed concern that Eastlink had not conducted its cost study in accordance with established Phase II costing principles and methodologies set out in previous

4. Subsequent to the issuance of Telecom Orders 2016-396 and 2016-448, the aggregated HSA service providers filed revised tariff applications and the associated cost studies for their respective aggregated wholesale HSA services; their estimated costs and proposed rates are currently under review.

## **Application**

5. The Commission received an application from Shaw (Tariff Notice 26B), dated 10 July 2018, in which the company requested that the Commission approve a revision to item 26300 – Third Party Internet Access (TPIA) Service of its General Tariff to support the introduction of a new access speed tier (Internet 300) with download speeds up to 300 Mbps and upload speeds up to 20 Mbps. As the new Internet 300 access speed tier exceeds the download and upload range of existing speed bands within Shaw’s TPIA tariff, the company also introduced a new Speed Band 7, with access download speeds ranging from 251 to 500 Mbps and upload speeds up to 50 Mbps for aggregated wholesale HSA service.<sup>3</sup> Shaw proposed an interim monthly access rate per end-user of \$100.84 for services within Speed Band 7.<sup>4</sup>
6. In light of the ongoing review of the wholesale HSA service final rates, and in order to reduce the regulatory burden on intervenors and the Commission, Shaw elected to file Tariff Notice 26B as an update to the cost study for its existing six speed bands currently under review.
7. The Commission received an intervention from the Canadian Network Operators Consortium Inc. (CNOc). CNOc welcomed the introduction of Shaw’s new Speed Band 7, but argued that the proposed access rate for Speed Band 7 was greatly inflated. CNOc requested that the Commission set the interim rate for Shaw’s new Speed Band 7 based on either (i) the same approach utilized in Telecom Order 2016-396 to establish and approve Shaw’s interim rates for Bands 1 through 6, or (ii) the next lowest speed tier - namely Shaw’s Speed Band 6 - until a review of Shaw’s cost study has been completed.
8. CNOc also requested that the Commission direct Shaw to

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Commission decisions and documented by the large telephone companies in their respective Regulatory Economic Studies Manuals.

<sup>3</sup> Shaw’s aggregated wholesale HSA service tariff includes two rate components: (i) a monthly per end-user access charge for each speed band, and (ii) a capacity based billing (CBB) charge for each 100 Mbps of network capacity required by a competitor.

<sup>4</sup> See Appendix 1 of Telecom Order 2016-396, CBB model – Interim approved banded access rates for Shaw, for the current interim rates for Shaw’s Speed Bands 1 through 6. Shaw filed Tariff Notices 26 and 26A as part of the proceeding that resulted in the setting of these interim rates.

- offer its retail DOCSIS<sup>5</sup> 3.1 modems to its TPIA customers as no DOCSIS 3.1 modem has been certified to be used on Shaw’s network; and
  - allow the TPIA customers to use DOCSIS 3.0 modems in place of DOCSIS 3.1 modems in order to offer the Internet 300 service.
9. Shaw submitted that its proposed interim rate for the new Speed Band 7 was based on, and supported by, the revised cost study which it submitted on 18 May 2018 in the context of the ongoing tariff proceedings for aggregated HSA services. As such, Shaw submitted that its proposed interim rate was appropriate for approval by the Commission.
10. With respect to the issue of certification and availability of DOCSIS 3.1 modems, Shaw identified three DOCSIS 3.1 modems that are certified on Shaw’s network and can be obtained and put into service by TPIA customers. Shaw noted that it is restricted through its vendor agreements from providing these modems to its TPIA customers.
11. With respect to the issue of allowing TPIA customers to use DOCSIS 3.0 modems in place of DOCSIS 3.1 modems, Shaw submitted that though it may be technically possible to provision a DOCSIS 3.0 modem to access the Internet 300, it is requiring TPIA customers to offer the Internet 300 service by only using DOCSIS 3.1 modems in order to ensure the most efficient use of capacity and avoid congestion in its network.

## **Issues**

12. The Commission has identified the following issues to be addressed in this order:
- Is Shaw’s proposed interim rate for Speed Band 7 and the Internet 300 access speed tier reasonable?
  - Should the Commission grant CNOC’s requests with respect to (i) requiring Shaw to offer its retail DOCSIS 3.1 modems to its TPIA customers, and (ii) usage of DOCSIS 3.0 modems?

## **Commission’s analysis and determinations**

### **Is Shaw’s proposed interim rate for Speed Band 7 and the Internet 300 access speed tier reasonable?**

13. As noted earlier in this order, Shaw has developed its proposed interim rate for its new Speed Band 7 in an update of the cost study it filed on 18 May 2018 for Speed Bands 1 through 6. On the basis that speed bands have been recently introduced and are still under review for final rate setting, the Commission considers that Shaw’s

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<sup>5</sup> Data Over Cable Service Interface Specification (DOCSIS) is a telecommunications standard used to provide Internet access via a cable modem.

proposed approach for costing the new Speed Band 7 is more appropriate than setting the monthly access rate equal to the rate for the next-lowest speed band.

14. However, the Commission has reviewed the reasonableness of Shaw's proposed monthly access rate per end-user of \$100.84 for the new Speed Band 7, and notes that this rate, as it pertains to the estimation of coaxial access plant,<sup>6</sup> is based on a methodology and assumptions that differ from those used to establish the existing interim rates and that have not yet been approved by the Commission.
15. The Commission considers that until its review of the tariff applications and the associated cost studies filed by the aggregated HSA service providers is complete, the rate for Speed Band 7 and the Internet 300 access speed tier should be set, on an interim basis, using the same methodology and assumptions as those used to set Shaw's interim rates for Speed Bands 1 to 6 in Telecom Order 2016-396.
16. Accordingly, the Commission **approves, on an interim basis**, a monthly access rate for Speed Band 7 and the Internet 300 access speed tier of \$50.84, consistent with the rate-setting approach used to set interim rates for Shaw's Speed Bands 1 to 6 in Telecom Order 2016-396 and the resulting adjustment to Shaw's estimated coaxial access plant costs.

**Should the Commission grant CNOC's requests with respect to (i) requiring Shaw to offer its retail DOCSIS 3.1 modems to its TPIA customers, and (ii) usage of DOCSIS 3.0 modems?**

17. With respect to CNOC's concern regarding certification and availability of certified DOCSIS 3.1 modems, the Commission notes that there is no current obligation for Shaw to provide modems to TPIA customers. Shaw's identification of certified DOCSIS 3.1 modems should allow TPIA customers to purchase these modems directly from the vendors and make them available to their end-users. The Commission considers that no further regulatory action is required in this regard.
18. Regarding CNOC's request that TPIA customers be allowed to use DOCSIS 3.0 modems in place of DOCSIS 3.1 modems to offer the Internet 300 service, Shaw has identified three certified DOCSIS 3.1 modems, which should alleviate CNOC's concerns in regards to the availability of certified DOCSIS 3.1 modems, awaiting the certification process for new modems by CNOC's members. Further, though it may be technically possible for the Internet 300 service to be provisioned using DOCSIS 3.0 modems, the Commission considers that it is appropriate for Shaw to require TPIA customers to use DOCSIS 3.1 modems for the Internet 300 service in order to ensure the most efficient use of network capacity.
19. In light of the above, the Commission **denies** (i) CNOC's request for Shaw to provide DOCSIS 3.1 modems to TPIA customers, and (ii) CNOC's request that

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<sup>6</sup> Shaw calculated this cost by multiplying the following three variables: (a) the cost to install coaxial facilities to a home; (b) the anticipated number of homes that will be connected; and, (c) the percentage of the coaxial access plant bandwidth used by Internet service.

TPIA customers be allowed to use DOCSIS 3.0 modems to offer the Internet 300 service.

## **Implementation**

20. Shaw is to issue revised tariff pages,<sup>7</sup> within **10 days** of the date of this order, reflecting the determinations set out herein.

Secretary General

## **Related documents**

- *Bragg Communications Incorporated, operating as Eastlink – Revised interim rates for aggregated wholesale high-speed access service*, Telecom Decision CRTC 2016-448, 10 November 2016
- *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

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<sup>7</sup> Revised tariff pages can be submitted to the Commission without a description page or a request for approval; a tariff application is not required.