



Telecom Decision CRTC 2018-458

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Frontier Networks Inc. – Application regarding the refusal of Eastlink to allow Frontier to resell high-speed access services

In April 2018, Frontier Networks Inc. (Frontier) requested interim relief from the Commission, in the form of an order to Bragg Communications Incorporated, carrying on business as Eastlink (Eastlink), to cease the stop order that Eastlink had placed on Frontier high-speed access (HSA) service activations.

*In this decision, the Commission finds that Frontier’s interpretation of Eastlink’s Third-Party Internet Access General Tariff (the Tariff) is correct, and makes the interim relief granted to Frontier final. Further, the Commission **directs** Eastlink to file for approval revised Tariff pages that include a specific term permitting customers to resell HSA service on a wholesale basis and remove any terms that limit the services an HSA customer can offer to retail Internet and voice over Internet Protocol (VoIP) services.*

With the determinations set out in this decision, Canadians will continue to benefit from reasonable prices and innovative services of high quality that are responsive to their evolving social and economic requirements.

Background

1. The Commission regulates aggregated wholesale high-speed access (HSA) services provided by the large cable carriers¹ and incumbent local exchange carriers. Wholesale HSA services provide competitors with (i) an access component (i.e. service access to end-users) through a large cable carrier’s “last-mile” hybrid-fibre coaxial cable, and (ii) a backhaul transport component, which transmits end-user data to a regional or provincial interconnection point. Competitors can use HSA service to provide various services, including retail Internet access services, voice over Internet Protocol (VoIP) services, television services, and other services.
2. The Commission first required the large cable carriers to provide HSA service in Telecom Decisions 98-9 and 99-8. The Commission’s goal in requiring the cable carriers to provide competitors with access to their networks was to promote competition in the retail Internet services market. At that time, only the largest cable carriers² were required to offer HSA service.

¹ Large cable carriers’ HSA service is also known as third-party Internet access (TPIA) service.

² The largest cable carriers referenced in Telecom Decision 99-8 were Cogeco Câble Canada inc., Rogers Communications Inc., Shaw Communications Inc., and Vidéotron ltée.

Application

3. The Commission received an application from Frontier Networks Inc. (Frontier), dated 16 April 2018, in which the company requested expedited interim relief and final relief regarding the refusal of Bragg Communications Incorporated, carrying on business as Eastlink (Eastlink), to allow Frontier to continue to resell HSA service to its two reseller customers. Specifically, Frontier requested the following:
 - confirmation from the Commission that Frontier’s resale of Eastlink’s HSA service has been conducted in accordance with Eastlink’s TPIA General Tariff (the Tariff), the TPIA Service Agreement (the Agreement), and the Commission’s regulatory policies and rules;
 - an order from the Commission prohibiting Eastlink from any future attempts to prevent or limit Frontier’s resale of HSA services;
 - damages from Eastlink for the financial impacts resulting from its alleged breach of Telecom Decision 99-8; and
 - the imposition on Eastlink of such administrative monetary penalties (AMPs) as the Commission determines to be appropriate for Eastlink’s flagrant disregard of the current regulatory regime permitting resale of HSA.
4. Frontier also requested interim relief from the Commission, in the form of an order to Eastlink to cease, on an interim basis, the stop order that Eastlink had placed on Frontier HSA service activations until the Commission issues its determinations relating to the final relief sought by Frontier. On 17 May 2018, the Commission issued a letter granting Frontier’s request for interim relief.
5. The Commission received interventions regarding Frontier’s application from Bell Canada, the Canadian Network Operators Consortium Inc. (CNOC), Distributel Communications Limited (Distributel), Eastlink, Iristel Technologies Inc. (Iristel), the Public Interest Advocacy Centre (PIAC), TekSavvy Solutions Inc. (TekSavvy), and 18 individuals.

Context

6. Eastlink offers HSA service in its operating territory in New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, and Prince Edward Island. Frontier provides its clients with connectivity using Eastlink’s HSA services. Frontier, in turn, resells the HSA service to two other resellers.

Issues

7. The Commission has identified the following issues to be addressed in this decision:
 - Is Frontier permitted to resell Eastlink’s HSA service?
 - What determinations should be made concerning the remaining relief requested by Frontier?

Is Frontier permitted to resell Eastlink's HSA service?

Introduction

8. The Tariff sets out the rates, terms, and conditions on which Eastlink's HSA service³ is made available. The central issue in this proceeding is whether Frontier's resale to providers of Eastlink's HSA service is permitted under the Tariff. Parties' submissions on certain sections of the Tariff, as well as their positions on other relevant aspects of this proceeding, are set out below.

Section 1.2 of the Tariff

9. Section 1.2 of the Tariff deals with the use of HSA service for the provision of retail Internet and VoIP services, subject to a number of conditions.
10. Frontier argued that this section of the Tariff does not limit the services an HSA customer can offer to only retail Internet and VoIP services, rather that HSA can be used to deliver retail Internet and VoIP services, subject to certain conditions.
11. Eastlink submitted that section 1.2 of the Tariff makes it clear that HSA service can only be used by a customer to provide retail Internet to its own end-users, and cannot be used to resell HSA service to other providers who then sell it to their own retail customers.

Section 1.4 of the Tariff

12. Section 1.4 of the Tariff states that Eastlink's customers may resell or share HSA service in accordance with the terms of this tariff.
13. Frontier submitted that Eastlink's refusal to allow it to resell HSA services is contrary to the terms of section 1.4 of the Tariff. Frontier argued that this section of the Tariff explicitly gives Frontier the right to resell HSA service, and that there are no other terms in the Tariff which override, prohibit, limit, or qualify the plain and ordinary meaning of section 1.4 of the Tariff which provides that HSA service may be resold or shared.
14. Eastlink submitted that Frontier's entitlement to use Eastlink's HSA service derives only from the rights granted in the Tariff and the Agreement signed by Frontier. Eastlink argued that Frontier's position is based on a misinterpretation of section 1.4 of the Tariff, and that the Commission cannot disregard the clear and unambiguous language throughout the Tariff and the Agreement that the purpose of the HSA service is only to allow an HSA customer to sell the service to its own retail end-users, and does not permit the HSA customer to act as a wholesaler for other

³ The HSA service is a service offered to independent service providers by Eastlink pursuant to Telecom Decisions 98-9 and 99-8. The service allows customers to provide Internet access connectivity to their end-users through cable modems that are connected to and compatible with Eastlink's access and distribution network and systems for the purpose of providing retail Internet and VoIP services (see section 1.1 of the Tariff).

providers in the market. Eastlink argued that any other interpretation would be reading into the Tariff rights which do not exist.

15. Eastlink argued that the reference to resale in section 1.4 of the Tariff refers to Frontier's reselling (via an HSA arrangement) of Eastlink's service. Eastlink submitted that this interpretation is supported in the Tariff by the definition of a customer.⁴ Eastlink argued that Frontier is not a customer as defined in the Tariff if it is not selling to its own end-users, and is operating outside the scope of the Tariff.
16. CNOC, Distributel, and TekSavvy supported Frontier's position that section 1.4 of the Tariff explicitly permits resale of HSA. CNOC and Distributel submitted that if the Tariff was intended to restrict the resale of the HSA service only to end-users of the HSA customer, as argued by Eastlink, then section 1.4 of the Tariff could have said as much. Further, CNOC and Distributel argued that the Tariff contains no terms that limit, prohibit, or otherwise qualify the right to resell or share the HSA service.
17. Frontier argued that Eastlink's interpretation of section 1.4 of the Tariff contorts the plain and ordinary meaning of the section. Frontier also rejected Eastlink's interpretation of other sections of the Tariff. In the case of the definition of a customer, Frontier pointed to Distributel's intervention, where Distributel submitted that the definition of a customer does not speak to the manner in which a telecommunications service provider (TSP), once it is a customer, can resell the HSA service. That is addressed in section 1.4 of the Tariff, which states only that customers may resell or share the HSA service.

Section 1.5 of the Tariff

18. Section 1.5 of the Tariff states that customers are required to enter into a Service Agreement with Eastlink.
19. Eastlink argued that this section strengthened its overall position that customers are required to enter into an HSA Service Agreement with Eastlink. In contrast, Frontier argued that its TSP customers of resold services are not customers of Eastlink and therefore have no obligation to enter into an HSA Service Agreement with Eastlink.

Section 1.7 of the Tariff

20. Section 1.7 of the Tariff states that customers are prohibited from using the HSA service for any purposes beyond that specified in the Tariff.
21. Frontier submitted that section 1.4 of the Tariff explicitly allows it to resell and share TPIA service. As such, Frontier is using the HSA service for a purpose specified in the Tariff.

⁴ "Customer" is a service provider that subscribes to Eastlink's HSA service for the purpose of providing its end-users with retail Internet service.

22. Eastlink submitted that there is nothing in the Tariff specifying a right to offer a wholesale service to other providers.

Section 8.5 of the Tariff

23. Section 8.5 of the Tariff states that no other party than Eastlink can exact payment for Eastlink's service.

24. Eastlink argued that by receiving payment from its resale customers to provide HSA service, Frontier is violating this section of the Tariff.

25. Frontier submitted that, contrary to Eastlink's claims, it is not exacting payment from its resale customers for the use of Eastlink's service, but rather for the use of Frontier's own unique resale service that it has designed, developed, and provisioned.

Telecom Decision 99-8

26. Frontier argued that the unqualified right to resell HSA service has long been recognized and protected by the Commission, and that when the Commission mandated the provision of HSA service in Telecom Decision 99-8, the Commission considered that a condition of the provision of tariffed HSA service would be that the services would be available for resale.

27. Eastlink submitted that Frontier's position is based on a misinterpretation of Telecom Decision 99-8. Eastlink argued that numerous references throughout Telecom Decision 99-8 make it clear that the Commission was only contemplating HSA for providing retail Internet service, and does not contemplate any wholesale resale arrangements. Eastlink noted that since the issuance of Telecom Decision 99-8, there have been numerous decisions that make it clear that HSA is meant to be used for competitors to provide a retail service to their own end-users.

28. CNOC, supported by Distributel and TekSavvy, argued that the Tariff explicitly permits Eastlink's HSA customers to resell Eastlink's HSA service, and that resale of TPIA services has been permitted since the issuance of Telecom Decision 99-8. CNOC submitted that Telecom Decision 99-8 plainly states that resale should be permitted without restrictions. CNOC further submitted that when the Commission approved the terms and rates for the large cable carriers' HSA services in Order 2000-789, the Commission included a direction to the large cable carriers that their tariffs should expressly permit resale. CNOC argued that neither the determination in Telecom Decision 99-8, nor the direction in Order 2000-789, contains a limitation, restriction, or other qualification related to how the HSA service may be resold. Further, CNOC and TekSavvy submitted that if the Commission had intended to impose limitations or restrictions on the resale of HSA services, it would have done so explicitly.

29. Frontier disagreed with Eastlink's interpretation of Telecom Decision 99-8. Frontier submitted that, in that decision, the Commission did not adopt or endorse any limiting or narrow meaning to the concept of resale that may have been proposed by an

intervener in the proceeding that led to Telecom Decision 99-8. Frontier also disputed Eastlink's interpretation of the Commission's description of HSA services in previous decisions. Frontier argued that in none of those decisions did the Commission declare that HSA services must be used for retail Internet service exclusively, rather the Commission contemplated that HSA services can be used as an input for a variety of applications.

General comments made by parties to the proceeding

30. Eastlink argued that the company is not mandated to make its network available to customers whose only intention is to act as wholesale providers. Eastlink submitted that such a mandate would be inappropriate as it would mean that Eastlink would have no direct knowledge of any providers who sell services using the company's network, and would not have the ability to contractually force providers buying service through Eastlink's HSA customer to comply with any rules regarding the security and use of Eastlink's network, or those requiring fair treatment of consumers.
31. Bell Canada took no position on the interpretation of the Tariff as it currently stands, but argued that it would be inappropriate, as a matter of public policy, to mandate the resale of wholesale tariffed services. Further, such resale should not be a condition of service for any new mandated wholesale service, and, to the extent it is a current term of existing wholesale services, it should be eliminated. Bell Canada submitted that the Commission's general approach towards wholesale service regulation has been to promote facilities-based competition wherever possible and to mandate wholesale access only where it has been determined to be essential or necessary to fulfill broader public policy considerations. Bell Canada argued that mandated wholesale resale yields no public policy benefit and is not consistent with the Policy Direction's⁵ requirement that regulation rely on market forces to the maximum extent feasible, be efficient and proportionate to its purpose, and interfere with the operation of competitive market forces to the minimum extent necessary.
32. CNOC submitted that the practice that Eastlink objects to, that is the offering of a wholesale service that includes HSA service components to other TSPs, is not novel or unique. These types of wholesale services are offered by many competitive TSPs and generally combine the HSA service components provided by the large telephone companies and large cable carriers with other value-added components, such as access to billing systems, ordering systems, provisioning systems, customer support structures, and other operational infrastructure. CNOC also submitted that while the current application relates specifically to the dispute between Eastlink and Frontier, the Commission's decision on the matter will have an impact on all competitive TSPs that currently sell wholesale services that include HSA service components to other competitive TSPs.

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

33. CNOC and Distributel also noted that other HSA providers have not sought to impose the same restrictions on resale that Eastlink seeks.
34. Iristel submitted that the issue at hand is critical to the future of wholesale telecommunications services in Canada, and to competitive telecommunications services in general. Resale is a well-established means of stimulating competition in the telecommunications industry and furthering the policy objectives set out in section 7 of the *Telecommunications Act* (the Act).
35. PIAC submitted that restricting resale in the manner sought by Eastlink would have a number of negative effects, such as preventing new and specialized retail resellers from entering the market.
36. TekSavvy submitted that Eastlink's approach to interpreting its Tariff represents a departure from the common practice in the wholesale network access market, where resale is an important and well-established mechanism that allows more service providers to offer services, thus promoting competition.
37. In reply, Frontier noted that HSA is a wholesale service that does not include Internet service. The core service component of HSA is merely access connectivity from a cable carrier's head-end to the end-user premises, and other core elements are required in order to provide service to end-users. However, it is ultimately up to the wholesale customer or its subsequent resale customers to add Internet connectivity and other service aspects that collectively constitute a complete service offering to the end-user. HSA is therefore merely a single input to a unique service offering developed, managed, and sold by Frontier. As a result, the service its reseller customers obtain from Frontier is not all Eastlink's Internet service, but is Frontier's designed, branded, and provisioned service solution.

Commission's analysis and determinations

38. The Tariff should be interpreted in light of the Commission's determinations in Telecom Decision 99-8, as well the Commission's current regulatory framework for wholesale wireline services established in Telecom Regulatory Policy 2015-326.
39. Telecom Decision 99-8 addressed, among other things, the question of whether resale and sharing of HSA should be allowed. The Commission determined that resale of these services would contribute to a competitive retail Internet market. The Commission also addressed whether there should be any restrictions placed on the resale of HSA, and decided against such restrictions at that time. The Commission did, however, place some restrictions on the use of the service, including restrictions that prevent customers from using the service to provide services such as multicasting.
40. With respect to Eastlink's argument that the Tariff limits customers to only providing Internet and VoIP services on a retail basis, and that the Commission never intended HSA service to support HSA customers acting as HSA wholesalers, such a narrow interpretation is unreasonable. The Commission has historically described wholesale

HSA services as services that are used to support retail competition for services such as local phone, television, and Internet access. Contrary to Eastlink's arguments, this is not an exhaustive list of the services that competitors may use HSA to provide.

41. The possibility of resellers to act as wholesalers was also recognized by the Commission in Telecom Regulatory Policy 2017-11. In that decision, the Commission addressed issues relating to the application of section 24.1 of the Act, which grants the Commission the authority to directly regulate non-carriers (i.e. resellers). The Commission imposed obligations on both telecommunications carriers and non-carriers that explicitly recognized that both carriers and non-carriers could have both wholesale and subordinate wholesale customers.⁶
42. One of the objectives of the wholesale regulatory regime established by the Commission in Telecom Regulatory Policy 2015-326 is enhancing the effectiveness of the wholesale regime to facilitate vibrant and sustainable retail competition that provides Canadians with reasonable prices and innovative services of high quality that are responsive to their evolving social and economic requirements. In the Commission's view, a competitive provider reselling HSA on a wholesale basis is an example of an innovative service offering that facilitates increased competition in the retail market.
43. The Commission notes TekSavvy's argument that by obtaining HSA services from multiple carriers across Canada, it is able to add a layer between the carrier and the downstream provider, offering wholesale services that harmonize processes across carriers and allowing smaller providers to offer more services to end-users. In the Commission's view, Eastlink's narrow interpretation limits the ability of HSA customers to develop such innovative service offerings that facilitate retail competition.
44. The other large cable carriers, i.e., Cogeco Communications Inc. (Cogeco), Rogers Communications Canada Inc. (RCCI), Shaw Cablesystems G.P. (Shaw), and Videotron Ltd. (Videotron), have similar language in their tariffs regarding the resale and sharing of the HSA service. With respect to the large incumbent local exchange carriers (Bell Canada, Bell MTS, Saskatchewan Telecommunications, and TELUS Communications Inc.), who offer aggregated wholesale HSA services, each has a section in their respective General Tariff which permits the resale of the company's telecommunications services in accordance with the conditions in the tariff.
45. In light of its determination in Telecom Decision 99-8 to not place restrictions on resale, and its wholesale framework's objective of providing Canadians with reasonably priced and innovative services of high quality, the Commission considers that Frontier's interpretation of the Tariff is correct, and, as such, Frontier should be permitted, under the Tariff, to resell HSA service on a wholesale basis.
46. However, the Commission considers that, for greater clarity, the wording in the Tariff should state more explicitly that resale is allowed. Adjusting the language of the Tariff as such would provide clarity to existing and potential HSA service customers

⁶ See paragraphs 34 and 36 of Telecom Regulatory Policy 2017-11.

and reduce the possibility of conflicting interpretations of the Tariff, such as in the current proceeding. This could best be achieved by making the following modifications to the Tariff: (i) the inclusion of a specific term permitting HSA customers to resell HSA service on a wholesale basis, and (ii) the removal of any terms, such as those found in sections 1.1 and 1.2 of item 101 of the Tariff, and section 8.3 of item 102 of the Tariff, that limit the services that an HSA customer can offer to only retail Internet and VoIP services.

47. In light of the above, the Commission determines that Frontier's interpretation of the Tariff is correct, and makes the interim relief granted to Frontier final. Further, the Commission **directs** Eastlink to file for approval revised Tariff pages that include a specific term permitting customers to resell HSA service on a wholesale basis and remove any terms that limit the services an HSA customer can offer to only retail Internet and VoIP services. The revised Tariff pages are to be filed for Commission approval within **30 days** of the date of this decision.

What determinations should be made concerning the remaining relief requested by Frontier?

48. As noted above, Frontier requested the following relief:

- an order from the Commission prohibiting Eastlink from any future attempts to prevent or limit Frontier's resale of HSA services;
- damages from Eastlink for the financial impacts resulting from its alleged breach of Telecom Decision 99-8; and
- the imposition on Eastlink of such AMPs as the Commission determines to be appropriate for Eastlink's flagrant disregard of the current regulatory regime permitting resale of HSA.

49. CNOc, Distributel, Iristel, and TekSavvy supported Frontier's position. CNOc argued that Eastlink's actions and their impact weigh clearly in favour of Frontier's request that the Commission grant Frontier damages from, and impose AMPs on, Eastlink. CNOc submitted that the application of AMPs would send a strong signal that the types of actions taken by Eastlink will not be condoned by the Commission, and would ensure that there is no incentive for Eastlink or other providers of mandated wholesale services to use new and untested interpretations of their obligations to modify how they provide mandated wholesale services, or to take unilateral actions that subject competitive TSPs to disadvantage and harm.

50. Eastlink strongly opposed Frontier's requests for damages and AMPs. In Eastlink's view, Frontier provided no basis to support the merits of its requests, nor any meaningful explanation supporting the basis on which the Commission could or should assess damages. Since the regulated HSA service includes no right for Frontier to wholesale Eastlink's HSA service to other providers, it is Frontier that is the party in breach, not Eastlink.

51. In the case of AMPs, Eastlink submitted that, according to Compliance and Enforcement and Telecom Information Bulletin 2015-111 (Information Bulletin 2015-111), AMPs are to be imposed where they are the most appropriate tool to obtain compliance and deter future non-compliance. Eastlink argued that its suspension of service activations was based on Frontier being in breach of the Tariff and the Agreement, and that the facts illustrate that Eastlink addressed the issues in a reasonable manner, with a willingness to arrive at a resolution with Frontier and its customers.
52. In reply, Frontier submitted that its requested relief was necessary because any future breaches by Eastlink of the terms and conditions of the Tariff, the Agreement, and Commission policies that are based on Eastlink's unfounded position regarding resale and sharing of HSA services would result in unjust discrimination and undue disadvantage to Frontier, its resellers, and the end-users of Frontier's reseller customers, while also conferring an undue preference to Eastlink, all in contravention of subsection 27(2) of the Act.
53. With respect to its request for damages caused by Eastlink's alleged breach of Telecom Decision 99-8, Frontier submitted that the Commission has the authority to order Eastlink to pay damages to Frontier by virtue of paragraph 32(g) of the Act, which provides that the Commission may "determine any matter and make any order relating to the rates, tariffs or telecommunications services of Canadian carriers." Frontier also submitted that subsection 72(1) of the Act, which provides that persons may seek damages as a result of an act or omission that is contrary to the Act in a court of competent jurisdiction, does not preclude the Commission from acting on Frontier's request for damages. Frontier also argued that subsection 72(3) of the Act clarifies that nothing in subsections 72(1) or (2) of the Act applies to any action for breach of contract to provide telecommunications services or any action for damages in relation to a rate charged by a Canadian carrier. Frontier submitted that the stop-order on Frontier HSA activations was a unilateral, material, and fundamental breach of the Agreement by Eastlink, and therefore the Commission has the authority to order damages pursuant to paragraph 32(g) and subsection 72(3) of the Act.
54. Frontier calculated its damages to be \$71,760, basing this amount on (i) the number of end-users of Frontier's reseller customers who cancelled their service installation requests during the stop-order imposed by Eastlink, (ii) application of Frontier's monthly margin over the monthly cost of HSA service, and (iii) for the purpose of a conservative damage estimate, an assumption that all of the customers that cancelled as a result of Eastlink's conduct would have subscribed for a period of two years. Frontier submitted that this conservative amount of damages does not include damages associated with reputational harm, nor does it include amounts associated with damages such as those stemming from installations that were delayed by Eastlink's stop-order but ultimately completed after the Commission ordered Eastlink to process new service installations.

55. Frontier also requested the imposition on Eastlink of such AMPs as the Commission determines appropriate for Eastlink's flagrant disregard of the current regulatory regime permitting resale of HSA. Frontier submitted that AMPs were appropriate to promote compliance with resale-related obligations prescribed by regulatory policy and the terms and conditions of tariffs for mandated services, like Eastlink's HSA service. Frontier argued that AMPs would ensure specific deterrence (i.e. deter Eastlink from future breaches of its responsibilities with respect to resale and sharing) and general deterrence (i.e. deter other incumbents from similarly breaching their responsibilities relating to resale and sharing). Frontier deferred to the Commission's judgment in determining an amount for the AMPs.

Commission's analysis and determinations

56. As noted in Information Bulletin 2015-111, the Commission has multiple tools to ensure compliance and AMPs are not, generally, the first option for enforcement. Accordingly, before the imposition of any regulatory tool to ensure industry compliance, the Commission must first determine whether a violation has occurred and, if, on a balance of probabilities, the Commission makes such a determination, it must then determine the appropriate remedy to ensure compliance.

57. In seeking regulatory redress for the harm that Frontier claims it suffered as a result of Eastlink's actions, the Commission notes that Frontier failed to provide clear evidence in support of the quantum it required for redress. Indeed, the amount of damages that Frontier sought was only raised as part of its reply comments, not allowing for a proper evaluation of the quantum by the Commission or other parties to the proceeding. In addition, no clear causal link was established between any potential harm that Frontier may have suffered and the actions of Eastlink. Furthermore, while the Commission, pursuant to section 72.01 of the Act, does have the explicit authority to impose AMPs for contraventions of the Act, or a contravention of a regulation or Commission decision, the Act states that the purpose for any penalty is to promote compliance and not to punish.

58. The Commission notes that Eastlink's actions were based on its interpretation of the Tariff, and that, in Eastlink's view, Frontier's actions were contrary to the terms of the Tariff. The record demonstrates that Eastlink attempted to negotiate with Frontier and its two reseller customers over a period of two months before threatening to terminate Frontier's service. While it disagrees with Eastlink's interpretation of the Tariff with respect to resale, the Commission considers that Eastlink made efforts to bring Frontier and its reseller customers into compliance with Eastlink's interpretation of the Tariff.

59. The purpose of AMPs or any other regulatory tool is to encourage compliance and to act as a general deterrent to non-compliance. In the present case, the Commission considers that the likelihood of Eastlink continuing to refuse to permit Frontier to resell Eastlink's HSA service despite a Commission determination that resale of HSA on a wholesale basis is permitted pursuant to the Tariff is low. In the Commission's

view, imposing AMPs on Eastlink is not necessary to promote compliance with the Commission's decisions on the matters at hand.

60. Regarding CNOC's argument that the imposition of AMPs is necessary to ensure that other providers of mandated wholesale services do not use similar novel interpretations of tariffs to prevent competition, the Commission finds no evidence that this is a widespread or recurring issue that AMPs are required to remedy.
61. In light of all of the above, the Commission **denies** Frontier's requests for damages and AMPs.

Secretary General

Related documents

- *Application of regulatory obligations directly to non-carriers offering and providing telecommunications services*, Telecom Regulatory Policy CRTC 2017-11, 17 January 2017; as amended by Telecom Regulatory Policy CRTC 2017-11-1, 10 July 2017; and Telecom Regulatory Policy CRTC 2017-11-2, 17 July 2017
- *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
- *Guidelines regarding the general administrative monetary penalties regime under the Telecommunications Act*, Compliance and Enforcement and Telecom Information Bulletin CRTC 2015-111, 27 March 2015
- *Terms and rates approved for large cable carriers' higher speed access service*, Order CRTC 2000-789, 21 August 2000; as amended by Order CRTC 2000-789-1, 31 January 2001
- *Regulation under the Telecommunications Act of cable carriers' access services*, Telecom Decision CRTC 99-8, 6 July 1999
- *Regulation under the Telecommunications Act of certain telecommunications services offered by "broadcast carriers,"* Telecom Decision CRTC 98-9, 9 July 1998