



Telecom Order CRTC 2019-422

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Ottawa, 16 December 2019

Public record: Tariff Notice 9

Cablevision du Nord de Québec inc. – Application to withdraw third-party Internet access service

*The Commission **denies** the application by Cablevision du Nord de Québec inc. to withdraw its third-party Internet access service, in light of the intervention and the related applications filed by Videotron Ltd. The Commission encourages the parties to continue negotiations until a final agreement is reached.*

Application

1. The Commission received an application from Cablevision du Nord de Québec inc. (Cablevision),¹ dated 15 May 2019, in which the company requested the withdrawal of the third-party Internet access (TPIA) service set out in sections 200, 201, and 202 of its General Tariff. Cablevision stated that it is planning a merger with Télébec, Société en commandite (Télébec). The withdrawal and merger are scheduled for 1 January 2020.²
2. Cablevision states that Télébec generally offers retail Internet service on its own infrastructure. However, in Abitibi and the La Tuque region, Télébec uses Cablevision's TPIA service to offer higher speeds compared with those reached using its conventional copper infrastructure. Once Télébec and Cablevision have become a single corporate entity, Télébec will continue to provide the same services as before, but will provide them on what will be its own coaxial infrastructure.
3. Cablevision believes that withdrawing the TPIA service could simplify operational processes, such as ordering and billing for services. This simplification will also maximize the practical benefits of merging Cablevision and Télébec into a single corporate entity.
4. Cablevision further stated that, if the Commission approves the application, the entire General Tariff should be withdrawn because it would contain only the general terms and conditions applicable to tariffed services, which would be meaningless if no tariffed services existed.

¹ Cablevision is a cable company in the Abitibi-Témiscamingue region of Quebec. Acquired in 2001 by Télébec, Société en commandite (Télébec), Cablevision is a wholly owned subsidiary of Bell Canada.

² The exact process by which Cablevision and Télébec would become a single legal entity may be different from a merger, but “merger” was the term used in the application filed by Cablevision.

Intervention and related applications by Vidéotron

5. The Commission received an intervention, dated 10 July 2019, concerning Cablevision's application, from Quebecor Media Inc. on behalf of Videotron Ltd. (Videotron), which also filed attached copies of two Part 1 applications in connection with Cablevision's application. The intervention was served on Cablevision's deputy chief legal officer, who was copied.
6. Videotron submitted that Cablevision failed to inform the Commission that Videotron had contacted Cablevision on 16 October 2018 with the intention of becoming a customer of the TPIA service, and that since then, the two companies have had numerous exchanges and discussions regarding the activation of the TPIA service, the signing of a confidentiality agreement, the signing and exchange of draft master agreements, and design and cost reports. Videotron stated that Cablevision failed to inform Videotron of its intention to withdraw its TPIA service. Despite numerous efforts by Videotron to move forward with discussions to implement the TPIA service, Cablevision never responded to Videotron's calls.
7. Consequently, on 10 July 2019, Videotron filed an initial Part 1 application concerning Cablevision's refusal to sign a TPIA service agreement with Videotron and to implement certain related interconnections. Videotron also filed a second Part 1 application, in which the company requested that Cablevision's General Tariff be made consistent with the Commission's various decisions and orders regarding TPIA service to ensure the viability of Videotron's wireline service offering to consumers and small businesses in the Cablevision service area.³
8. According to Videotron, Cablevision's refusal to sign the documents and thereby allow Videotron's implementation process to begin is a flagrant abuse by an incumbent carrier attempting to block competition in its market. Videotron also stated that Cablevision's deliberate efforts to conceal its attempt to withdraw its TPIA rate from its tariff for Videotron are at best improper.

Commission's analysis and determinations

9. Pursuant to Telecom Information Bulletin 2010-455-1, interested parties may file interventions within 45 calendar days of the filing date of the application, and the applicant may file a reply within 10 calendar days of the deadline for filing interventions. The Commission notes that Videotron's intervention was filed nine days late. Videotron justified its late filing by stating that it learned of the withdrawal application only one day before the filing date of its intervention.
10. Under section 7 of the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure*, the Commission may dispense with or

³ The Commission dealt with these applications in Telecom Decision 2019-423, also published today.

vary these rules if it is of the opinion that considerations of public interest or fairness permit it to do so. In accordance with this section, the Commission accepts Videotron's late intervention as evidence in the withdrawal application, since this evidence is essential in enabling the Commission to make its findings.

11. The Commission's requirements for the withdrawal of tariffed services are set out in Telecom Information Bulletin 2010-455-1. The Commission notes that Cablevision's request contains the information required to request withdrawal of service. However, in light of Videotron's intervention, and particularly of the events and discussions between Cablevision and Videotron that were raised in the Part 1 applications, the Commission considers that there is substantial doubt as to Cablevision's intention to withdraw the TPIA service.
12. The Commission approved Cablevision's TPIA service in Telecom Order 2005-93. Considering that the initial communication between Cablevision and Videotron to discuss Videotron's desire to become a customer of Cablevision's TPIA service took place on 16 October 2018, it appears that Cablevision was aware that a competing provider had expressed a genuine interest in its TPIA service before filing its withdrawal application.
13. Moreover, the Commission believes that the discussions between the two companies since October 2018 regarding the activation of the TPIA service, the signing of a confidentiality agreement, the signing and exchange of draft master agreements, and design and cost reports reflect the progress and the commitment of both parties to implementing the agreement. However, the withdrawal application mentions only Télébec as a customer of the TPIA service, and does not mention Videotron even though the discussions with Videotron were well under way.

Conclusion

14. In light of the above, the Commission **denies** the application by Cablevision to withdraw the TPIA service from its General Tariff. The Commission encourages Cablevision and Videotron to continue negotiations until a final agreement is reached.

2019 Policy Direction

15. The Commission's denial of Cablevision's request for withdrawal is consistent with the 2019 Policy Direction.⁴ Specifically, the Commission's conclusions in the present order aim to encourage all forms of competition (subparagraph 1(a)(i)) and to differentiate service offerings (subparagraph 1(a)(vi)). Indeed, the Commission's denial of the withdrawal

⁴ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives to Promote Competition, Affordability, Consumer Interests and Innovation*, SOR/2019-227, 17 June 2019

application will enable Videotron and possibly other telecommunications service providers to offer differentiated high-speed Internet services in Abitibi-Témiscamingue and thus implement real competition.

Secretary General

Related documents

- *Applications concerning (i) the refusal by Cablevision du Nord de Québec inc. to sign a third-party Internet access service agreement, and (ii) access to Cablevision's TPIA service at just and reasonable prices and terms,* Telecom Decision CRTC 2019-423, 16 December 2019
- *Tariff application and intercarrier agreement approval processes,* Telecom Information Bulletin CRTC 2010-455, 5 July 2010; as amended by Telecom Information Bulletin CRTC 2010-455-1, 19 February 2016
- Telecom Order CRTC 2005-93, 8 March 2005