



Telecom Order CRTC 2020-123

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Public record: Tariff Notice 58

Videotron Ltd. – Application to withdraw the Download 501-1000 Mbps, Upload 0-100 Mbps disaggregated service and to destandardize the Download up to 940 Mbps, Upload up to 50 Mbps aggregated service

*The Commission **approves** Videotron Ltd.'s application to withdraw the disaggregated wholesale third-party Internet access service (TPIA) "Download 501-1000 Mbps, Upload 0-100 Mbps" (disaggregated Giga Service) and to destandardize the aggregated wholesale TPIA service "Download up to 940 Mbps, Upload up to 50 Mbps" (aggregated Giga Service).*

Application

1. The Commission received an application from Quebecor Media Inc., on behalf of Videotron Ltd. (Videotron), dated 23 October 2019, in which the company proposed to withdraw its disaggregated wholesale third-party Internet access (TPIA) service "Download 501-1000 Mbps, Upload 0-100 Mbps" (disaggregated Giga Service). Videotron also requested to destandardize its aggregated wholesale TPIA service "Download up to 940 Mbps, Upload up to 50 Mbps" (aggregated Giga Service).
2. The proposed effective date for these modifications was 22 December 2019. Existing customers therefore had a 60-day notice.
3. As of 11 October 2019, Videotron no longer offers any retail Internet access service in the "Download 501-1000 Mbps, Upload 0-100 Mbps" range (retail Giga Service).
4. On the date of its application, Videotron did not have any wholesale customers for its disaggregated Giga Service. Consequently, Videotron requested that this service be withdrawn from the TPIA tariff.
5. Videotron currently has customers for the retail Giga Service and the aggregated Giga Service. Videotron proposed to grandfather end-users of these services as of 22 December 2019. Consequently, these end-users may retain access to these services provided they stay with their current service provider at their current municipal address.
6. Videotron indicated that, pursuant to Telecom Decision 2006-77 and Telecom Regulatory Policy 2010-632, it has no obligation to provide TPIA service at an access speed that the company does not offer its own retail customers.

Positions of parties

7. TekSavvy Solutions Inc. (TekSavvy) opposed Videotron's application to destandardize its aggregated Giga Service. TekSavvy noted that Videotron had stated that, further to Telecom Order 2019-288, it was forced to cancel its retail Giga Service, its disaggregated Giga Service, and its aggregated Giga Service (collectively, Giga Services) because of the final rates approved in that order for aggregated wholesale high-speed access services. Videotron stated that it would no longer offer Giga Services because they required investment and that, following that order, it no longer had the means to invest.
8. TekSavvy submitted that Telecom Order 2019-288 was suspended by the Federal Court of Appeal and that the final rates are therefore not yet in effect. According to TekSavvy, Videotron's third quarter financial results¹ show that Videotron has a solid financial position. According to TekSavvy, these two factors show that Telecom Order 2019-288 has not had an impact on Videotron's financial position.
9. According to TekSavvy, Videotron must not be allowed to destandardize its aggregated Giga Service in order to construct a narrative of harm that supports its own arguments against Telecom Order 2019-288, against reasonable wholesale rates, and, ultimately, against competition itself. Consequently, TekSavvy submitted that the Commission should deny Videotron's application pending further investigation into the veracity of Videotron's reasons for withdrawing its Giga Services from the retail market and for requesting to withdraw its disaggregated Giga Service and destandardize its aggregated Giga Service.
10. Videotron noted that TekSavvy has never referred to the fact that Videotron had complied with the speed-matching requirement established in Telecom Decision 2006-77 and reaffirmed in Telecom Regulatory Policy 2010-632, which requires cable companies to offer competitors their existing high-speed access services at speeds equivalent to those of the retail Internet service that they offer to their customers. In addition, TekSavvy did not mention that Videotron had complied with its obligation pursuant to Telecom Information Bulletin 2010-455-1 to provide 60 calendar days' notice for the destandardization of a service.
11. Videotron submitted that it has been at a competitive disadvantage since 11 October 2019, since its wholesale customers can receive the retail Giga Service, whereas it no longer offers this retail service to new customers.

Commission's analysis and determinations

12. Videotron no longer offers the retail Giga Service and is therefore no longer required to offer an equivalent wholesale service. However, Videotron has undertaken to continue to provide the aggregated Giga Service to existing wholesale customers.

¹ Financial report submitted to the United States Securities and Exchange Commission for the quarter ending 30 September 2019.

13. Videotron filed its application to destandardize or withdraw a service at least 60 calendar days before the date of destandardization or withdrawal, as is required by Telecom Information Bulletin 2010-455-1 and by Telecom Decision 2016-65. The Commission therefore considers that Videotron has met all the regulatory requirements to support the withdrawal of the disaggregated Giga Service and the destandardization of the aggregated Giga Service.
14. The Commission's policies do not require that a provider offer services at the wholesale level if it does not offer those services at the retail level. Videotron does not have to demonstrate or prove that it would be affected financially if it continued to offer wholesale services in order to have the right to withdraw or destandardize them, as TekSavvy presumed.
15. In light of the above, the Commission **approves** the withdrawal of the aggregated Giga Service and the destandardization of the aggregated Giga Service, effective the date of this order.

Policy Directions

16. Pursuant to the 2019 Policy Direction,² the Commission considers that the approval of this order will not adversely affect competition because (i) with regard to the withdrawal of the disaggregated Giga Service, Videotron no longer offers this service to its own retail customers and it does not have any current wholesale customers for this service; and (ii) with regard to the destandardization of the aggregated Giga Service, Videotron no longer offers an equivalent service to new retail customers, and existing retail and wholesale customers benefit from grandfathering.
17. In compliance with subparagraph 1(b)(i) of the 2006 Policy Direction,³ the Commission considers that the regulatory measures established in this order contribute to meeting the policy objective set out in paragraph 7(f) of the *Telecommunications Act*.⁴

Secretary General

² *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

³ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, SOR/2006-355, 14 December 2006

⁴ The cited telecommunications policy objective is as follows: 7(f) to foster increased reliance on market forces for the provision of telecommunications services and to ensure that regulation, where required, is efficient and effective.

Related Documents

- *Follow-up to Telecom Orders 2016-396 and 2016-448 – Final rates for aggregated wholesale high-speed access services*, Telecom Order CRTC 2019-288, 15 August 2019
- *Tariff application and intercarrier agreement approval processes*, Telecom Decision CRTC 2016-65, 19 February 2016
- *Wholesale high-speed access services proceeding*, Telecom Regulatory Policy CRTC 2010-632, 30 August 2010
- *Approval processes for tariff applications and intercarrier agreements*, Telecom Information Bulletin CRTC 2010-455-1, 19 February 2016
- *Cogeco, Rogers, Shaw and Videotron – Third-party Internet access service rates*, Telecom Decision CRTC [2006-77](#), 21 December 2006