



Telecom Decision CRTC 2013-74

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Ottawa, 21 February 2013

MTS Inc. and Allstream Inc. – Application to review and vary certain rate elements of Telecom Regulatory Policy 2011-703 related to wholesale high-speed access services

File number: 8662-M59-201202275

*In this decision, the Commission **denies** the request from MTS Inc. and Allstream Inc. to review and vary certain rate elements of Telecom Regulatory Policy 2011-703 related to wholesale high-speed access services.*

The Commission notes that Telecom Regulatory Policy 2013-70, which frames a series of decisions in regard to wholesale HSA services, is a companion document to this decision.

The application

1. The Commission received an application from MTS Inc. and Allstream Inc. (collectively, MTS Allstream),¹ dated 2 March 2012, in which the companies requested that the Commission review and vary some of the rates for wholesale high-speed access (HSA) services² that were approved in Telecom Regulatory Policy 2011-703. MTS Allstream submitted that, in light of recent experience with new services-based retail Internet services, some of the Commission changes made to the cost inputs used to determine the rates approved in Telecom Regulatory Policy 2011-703 were not appropriate. According to MTS Allstream, this new information represented a fundamental change in facts since the issuance of Telecom Regulatory Policy 2011-703.
2. More specifically, MTS Allstream requested that the Commission increase rates for the following: VDSL Access service, the 1 gigabit-per-second (Gbps) Very High-Speed Aggregated High-Speed Service Provider Interface (V-AHSSPI) port, and the VDSL Access service charge.³ In support of this request, MTS Allstream filed revised rates and cost studies for the wholesale HSA services, which included a number of changes to the Commission's cost adjustments.

¹ MTS Allstream Inc. was the entity that participated in the proceedings that led to Telecom Regulatory Policies 2011-703 and 2011-704. However, as of early January 2012, MTS Allstream Inc. became known as two separate entities, namely, MTS Inc. and Allstream Inc.

² The new services in question, approved in Telecom Regulatory Policy 2011-703, are based on the very high-speed digital subscriber line (VDSL) technology. VDSL, and the next evolution VDSL2, are transmission technologies that provide asymmetric transmission of data. The technology makes use of a combination of optical fibre and copper facilities to provide Internet access. The new VDSL-based wholesale HSA service is termed by MTS Allstream as wholesale VDSL data access service (VDAS).

³ MTS Allstream proposed the following rate increases: (i) for the VDSL Access component, \$3.06, or 13 percent; (ii) for the V-AHSSPI component, \$14.72, or 14 percent; and (iii) for the VDSL Access service charge component, \$77.44, or 43 percent.

3. The Commission received comments regarding MTS Allstream's application from the Canadian Network Operators Consortium Inc. (CNOC). The public record of this proceeding, which closed on 16 April 2012, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.
4. In Telecom Information Bulletin 2011-214, the Commission outlined the criteria it would use to assess review and vary applications that are filed pursuant to section 62 of the *Telecommunications Act* (the Act). Specifically, the Commission stated that applicants must demonstrate that there is substantial doubt as to the correctness of the original decision, due to, for example, one or more of the following: 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.

Is there substantial doubt as to the correctness of Telecom Regulatory Decision 2011-703 due to fundamental changes in MTS Allstream's costs to provision wholesale HSA services since the issuance of the decision?

5. MTS Allstream submitted that the new wholesale HSA services under review are based on VDSL2, a relatively new technology. In contrast, MTS Allstream submitted that the costs originally submitted for these services were based on information obtained from operational experience with an older technology.
6. Accordingly, MTS Allstream submitted that changes to certain cost inputs are necessary to reflect actual experience with the use of the newer technology for retail Internet services, for example, costs related to connecting the service in the field as well as in the central office.
7. CNOC submitted that MTS Allstream's application was premature, and was not based on actual experience in provisioning the new wholesale HSA services on the newer technology. CNOC submitted that, while retail Internet services and wholesale services may be provided using the same technology, there are significant differences between the services. As an example, CNOC noted that the wholesale, but not the retail, services have a tariffed interface component.⁴
8. MTS Allstream disagreed with CNOC that their application was premature. They submitted that, while there are differences between the retail and wholesale services referenced above, the activities for which rate revisions were proposed are ones that are common to both. As such, it is therefore appropriate to extrapolate actual retail experience to the wholesale services in question.

Commission's analysis and decisions

9. The Commission notes that, under MTS Allstream's proposal, the new wholesale HSA service costs are being updated for only a subset of the services' activities,

⁴ V-AHSSPI provides a single point of interconnection to the wholesale competitor and supports up to 1,000 Mbps of network capacity.

using recent experience related to retail Internet services. The Commission considers that any cost updates filed in support of a tariff application should reflect a full review of all cost elements, instead of a selected number of cost elements.

10. In their submission, MTS Allstream proposed to update the new wholesale HSA service costs with respect to certain activities that are common to both the retail and wholesale services. The Commission considers that, while these activities may be common, the associated costs may not be the same, given the possible differences in sub-activities, time estimates, and occurrence rates between retail and wholesale services.
11. Further, in the Commission's view, any updates made to a service's cost study should be based on current data relating to that particular service. The Commission notes that there was no demand for these new wholesale HSA services at the time the cost studies were conducted in support of the proposed rate changes. Accordingly, the Commission considers that there is insufficient information to support the proposed changes.
12. In light of the above, the Commission finds that MTS Allstream has failed to demonstrate there has been a fundamental change in facts since the issuance of Telecom Regulatory Policy 2011-703 so as to raise substantial doubt as to the correctness of its decisions in that decision with respect to the new wholesale HSA service costs and rates referenced above.

Policy Direction

13. The Policy Direction states that the Commission, in exercising its powers and performing its duties under the Act, shall implement the policy objectives set out in section 7 of the Act, in accordance with paragraphs 1(a), (b), and (c) of the Policy Direction.
14. The Commission considers that its findings in this decision advance the policy objectives set out in section 7 of the Act, including paragraphs 7(a), 7(b), 7(c), 7(f), and 7(h).⁵ The Commission considers that the rates approved in Telecom Regulatory Policy 2011-703 for the wholesale HSA services referenced above were established with a view to ensuring that competitors pay rates constituting Phase II costs⁶ plus a reasonable markup, while the incumbent provider legitimately recovers the costs that

⁵ The cited policy objectives of the Act are

7(a) to facilitate the orderly development throughout Canada of a telecommunications system that serves to safeguard, enrich and strengthen the social and economic fabric of Canada and its regions;

7(b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada;

7(c) to enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications;

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; and

7(h) to respond to the economic and social requirements of users of telecommunications services.

⁶ Phase II costing is an incremental costing approach used by the Commission to assess the incumbent carrier's costs of providing wholesale service to competitors.

are incurred. The Commission therefore considers that, in accordance with subparagraphs 1(a)(ii) and 1(b)(ii) of the Policy Direction,⁷ the rates for these services (a) are efficient and proportionate to their purpose and interfere with competitive market forces to the minimum extent necessary to meet the policy objectives noted above, and (b) neither deter economically efficient competitive entry into the market nor promote economically inefficient entry. Further, the Commission considers that its decision not to review MTS Allstream's new costing information for the services at this early stage of their introduction constitutes an efficient and proportionate approach to regulation in the circumstances.

15. In light of the above, the Commission **denies** MTS Allstream's application.

Secretary General

Related documents

- *Disposition of review and vary applications with respect to wholesale high-speed access services: Introductory statement*, Telecom Regulatory Policy CRTC 2013-70, 21 February 2013
- *Billing practices for wholesale business high-speed access services*, Telecom Regulatory Policy CRTC 2011-704, 15 November 2011
- *Billing practices for wholesale residential high-speed access services*, Telecom Regulatory Policy CRTC 2011-703, 15 November 2011, as amended by Telecom Regulatory Policy CRTC 2011-703-1, 22 December 2011
- *Revised guidelines for review and vary applications*, Telecom Information Bulletin CRTC 2011-214, 25 March 2011

⁷ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C 2006-1534, 14 December 2006