



Telecom Order CRTC 2015-73

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File number: Tariff Notice 22

Shaw Cablesystems G.P. – Introduction of five new third-party Internet access service speeds

The Commission approves, with changes and on an interim basis, the monthly rates for five new third-party Internet access service speeds proposed by Shaw, effective the date of this order.

Introduction

1. The Commission received an application from Shaw Cablesystems G.P. (Shaw), dated 6 January 2015, in which the company proposed modifications to its Third-Party Internet Access (TPIA) Service Tariff to introduce the following five new service speeds:
 - up to 5 megabits per second (Mbps) downstream / 512 kilobits per second (Kbps) upstream;
 - up to 15 Mbps downstream / 512 Kbps upstream;
 - up to 20 Mbps downstream / 1.5 Mbps upstream;
 - up to 30 Mbps downstream / 2.5 Mbps upstream; and
 - up to 60 Mbps downstream / 3 Mbps upstream.
2. Shaw filed a cost study in support of its proposed rates. The company requested interim approval of its application effective 6 February 2015.
3. Shaw submitted that, as of 6 January 2015, it has introduced these five new service speeds in its retail market, and that it filed its application pursuant to the speed-matching requirement set out in Telecom Decision 2006-77. Shaw further submitted that it had advised its TPIA service customers that it intends to file an application to destandardize its current TPIA service offerings once it has obtained interim Commission approval of its proposed new TPIA service speeds.
4. The Commission received interventions regarding Shaw's application from the Canadian Network Operators Consortium Inc. (CNOOC), IAAK Technologies Inc. (IAAK), and Juce Communications Inc. (Juce), which are summarized below.

5. The Commission also received interventions on Shaw's application from the Consumers' Association of Canada and the Public Interest Advocacy Centre, Vaxination Informatique, and VMedia Inc. The Commission will take these interventions into account as part of the complete record of the proceeding when Shaw's application is disposed of on a final basis. The public record of this proceeding is available on the Commission's website at www.crtc.gc.ca or by using the file number provided above.

Positions of parties

6. CNOC, IAAK, and Juce submitted that Shaw's proposed rates are inappropriately high compared to the existing rates for the nearest lower-speed TPIA services that Shaw currently offers. CNOC added that Shaw's proposed rates are between 36% and 128% higher than the rates of its existing nearest lower-speed services.
7. CNOC, IAAK, and Juce all submitted that the TPIA service rates proposed by Shaw would harm competition in the retail Internet service market. CNOC added that Commission approval of Shaw's proposed TPIA service rates, even on an interim basis, would cause harm to CNOC members that could not be fully compensated, even by an eventual retroactive adjustment in the rates.
8. CNOC requested that the Commission set the rates for Shaw's proposed new TPIA service speeds on an interim basis at the rates for the company's existing nearest lower-speed services. CNOC submitted that this approach, which the Commission adopted in Telecom Order 2012-706, was more appropriate in the circumstances than the Commission granting interim approval for the proposed new service speeds at Shaw's proposed rates.
9. In reply, Shaw submitted that its proposed new TPIA service rates are based on the costs of meeting dramatic growth in demand. Shaw added that in the past, the Commission has used the rate of an existing lower-speed service as the interim rate for a new service speed only when a cost study has not been filed, and that, in this case, Shaw had filed a cost study. Shaw submitted that adoption of CNOC's proposed approach would (i) introduce uncertainty into the rate approval process for new TPIA service speeds, and (ii) provide Shaw's TPIA service customers with a competitive advantage.
10. Shaw argued that use of the existing nearest lower-speed service rates as the interim rates would prejudice the company because the rates for previously approved service speeds would not be compensatory for the new service speeds.
11. Shaw further argued that its plan to apply for destandardization of its current TPIA service offerings once interim approval of the proposed new service speeds has been granted would not impact end-users since, if destandardized, these service offerings would be grandfathered.

Commission's analysis and determinations

12. In Telecom Decision 2006-77, the Commission introduced the speed-matching requirement for the TPIA services of cable carriers. The Commission decided that if a cable carrier introduces a new retail Internet service speed, the cable carrier must also offer that speed to independent service providers by filing, at the same time, a tariff for a wholesale TPIA service that matches the new speed offering, with a supporting cost study.
13. In Telecom Regulatory Policy 2010-632, the Commission affirmed the speed-matching requirement for the TPIA services of cable carriers, and introduced a similar requirement for the aggregated asymmetrical digital subscriber line access services of incumbent local exchange carriers.
14. At the time of these decisions, the Commission stressed the importance of the speed-matching requirement for competition in the retail Internet service market and, ultimately, for the protection of consumers' interests. In the Commission's view, adherence to the speed-matching requirement is paramount in the interim disposition of the present application.
15. In Telecom Order 2012-706, the Commission decided that it was appropriate in the circumstances to set interim monthly access rates for the new aggregated TPIA services proposed by Rogers Communications Partnership (RCP) using the previously approved rates of the nearest lower-speed services as a proxy.
16. In the proceeding leading to Telecom Order 2012-706, RCP did not submit cost studies in support of its proposed rates for the new aggregated TPIA services. In the present case, Shaw has filed a cost study in support of its proposed rates.
17. However, the Commission considers that Shaw's cost study, as filed, contains an insufficient level of detail to satisfy the Commission that the proposed rates are just and reasonable. In particular, given the significant increases in the proposed rates for the five new service speeds relative to the approved rates for the existing nearest lower-speed services, the Commission cannot determine whether Shaw's proposed rates are appropriate without additional information on the record of the proceeding.
18. The Commission recognizes that if it does not approve the rates for Shaw's proposed new TPIA service speeds, these services would not be available to Shaw's TPIA customers. As well, a segment of retail Internet consumers would be unable to benefit from these service speeds, which may have an adverse effect on competition and on consumers. Accordingly, the Commission considers it necessary to approve interim rates for Shaw's five proposed new TPIA service speeds to give effect to the speed-matching requirement. The Commission considers that giving effect to the speed-matching requirement in this case would not introduce uncertainty into the TPIA rate approval process.

19. The Commission has reviewed Shaw's currently approved rate structure and has determined that adoption of CNOc's request, to set the rates for Shaw's new TPIA service speeds on an interim basis based on the rates of the company's existing nearest lower-speed services, would be appropriate in the circumstances. The Commission also considers that if any prejudice to Shaw results from the adoption of this approach, it can be redressed once the Commission obtains a fuller record of the proceeding, which will allow the application to be disposed of on a final basis.

Conclusion

20. Accordingly, the Commission **approves on an interim basis** the following monthly rates for Shaw's proposed new TPIA service speeds, effective the date of this order:
- \$11.07 for the up to 5 Mbps downstream / 512 Kbps upstream service;
 - \$20.97 for the up to 15 Mbps downstream / 512 Kbps upstream service;
 - \$29.83 for the up to 20 Mbps downstream / 1.5 Mbps upstream service;
 - \$22.45 for the up to 30 Mbps downstream / 2.5 Mbps upstream service; and
 - \$54.24 for the up to 60 Mbps downstream / 3 Mbps upstream service.

Secretary General

Related documents

- *Rogers Communications Partnership – Introduction of four new wholesale Third Party Internet Access service speeds*, Telecom Order CRTC 2012-706, 21 December 2012
- *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
- *Wholesale high-speed access services proceeding*, Telecom Regulatory Policy CRTC 2010-632, 30 August 2010
- *Cogeco, Rogers, Shaw, and Videotron – Third-party Internet access service rates*, Telecom Decision CRTC 2006-77, 21 December 2006