



## Telecom Order CRTC 2020-223

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Ottawa, 14 July 2020

*Public record: Tariff Notices 10 and 10A*

### **Câblevision du nord de Québec inc. – Update to its third-party Internet access service**

*The Commission **approves** the update to Câblevision du nord de Québec inc.'s General Tariff regarding its third-party Internet access service. In addition, the Commission **approves on an interim basis** the monthly capacity charges per 100 megabits per second (Mbps) and the basic monthly usage charge, and **approves on a final basis** the other service charges and the terms and conditions proposed. This update to the General Tariff will help increase competition among telecommunications service providers in Abitibi-Témiscamingue by enabling them to offer differentiated services.*

#### **Application**

1. In May 2019, Câblevision du nord de Québec inc. (Câblevision) requested the Commission's approval to withdraw its third-party Internet access (TPIA) service. Quebecor Media Inc., on behalf of its subsidiary Videotron Ltd. (Videotron), requested, among other things, that the Commission deny the withdrawal request.
2. The Commission ordered Câblevision, in Telecom Order 2019-422, to maintain its TPIA service and, in Telecom Decision 2019-423, to file with the Commission a tariff notice (TN) for its TPIA service based on a recent cost study, or on cable carriers' Commission-approved rates for aggregated services.
3. Consequent to Telecom Order 2019-422 and Telecom Decision 2019-423, the Commission received an application from Câblevision (TN 10), dated 3 February 2020, in which the company submitted revised tariff pages related to its TPIA service in its General Tariff.
4. The Commission received an intervention from Videotron regarding Câblevision's application.
5. In response to Videotron's intervention, Câblevision submitted a new application (TN 10A), dated 8 April 2020, in which the company proposed an amendment to its initial application. The Commission received a new intervention from Videotron regarding Câblevision's amended application.

#### **Issues**

6. The Commission has identified the following issues to be addressed in this order:
  - Are the basic monthly usage charges per modem and the monthly capacity charges per 100 megabits per second (Mbps) proposed by Câblevision acceptable?

- Are the modem testing fees proposed by Câblevision acceptable?
- Are the rates and terms and conditions as a whole, as proposed by Câblevision in TN 10A, acceptable?

### **Are the basic monthly usage charges per modem and the monthly capacity charges per 100 Mbps proposed by Câblevision acceptable?**

#### **Positions of parties**

7. Câblevision proposed basic monthly usage charges of \$14.78 for 15 Mbps downstream, \$24.98 for 50 Mbps downstream, and \$51.25 for 125 Mbps downstream, as well as monthly capacity charges of \$323.73 per 100 Mbps.
8. Videotron submitted that the charges proposed by Câblevision for the speeds of 50 Mbps downstream and 125 Mbps downstream contradict the rule applied by the Commission in Telecom Order 2012-706<sup>1</sup> because they are not equivalent to the charges for a lower speed offered by Cogeco Communications Inc. (Cogeco). Videotron submitted that the Commission should order Câblevision to lower its charges for 125 Mbps to \$42.05 and for 50 Mbps to \$15.06.
9. Câblevision responded that Videotron's objections were unfounded because its approach to establishing costs is based on the approved rates for Cogeco, using the methodology adopted in Telecom Decision 2016-117, and because the proposed charges are lower than Videotron's charges for its TPIA services according to its own tariff.

#### **Commission's analysis and determinations**

10. The Commission considers that Câblevision's proposed rates of \$24.98 for 50 Mbps downstream and \$51.25 for 125 Mbps downstream are comparable with Cogeco's rates for 41 to 60 Mbps and for 121 to 250 Mbps, respectively. Consequently, the Commission determines that the rates proposed by Câblevision in TN 10A are acceptable, given that they are aligned with the interim rates for Cogeco's nearest lower speeds, which the Commission has already approved.
11. The Commission notes that, as of the date of this order, the basic monthly usage charges per modem and the final monthly capacity charges per 100 Mbps that the Commission approved for Cogeco in Telecom Order 2019-288 continue to be the subject of review and vary applications, a petition submitted to the Governor in Council, and an interim stay granted by the Federal Court of Appeal.
12. In light of the above, the Commission **approves on an interim basis** the basic monthly usage charges and the monthly capacity charges per 100 Mbps proposed by Câblevision. A final determination will follow the conclusion of the various

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<sup>1</sup> In Telecom Order 2012-706, the Commission determined that when a cable carrier introduces a new access speed without submitting a new cost study specific to that speed, access rates must be based on costs for the nearest lower speed that the Commission has already approved following a cost study carried out by another cable carrier.

proceedings related to Telecom Order 2019-288, which relate to the final rates for aggregated wholesale high-speed access services.

## **Are the modem testing fees proposed by Câblevision acceptable?**

### **Positions of parties**

13. Videotron submitted that the provisions under which modem testing is not subject to fees, which appear in Cogeco's existing tariffed terms and conditions and which were set out in Telecom Decision 2004-37,<sup>2</sup> are missing from Câblevision's proposed tariff and should be included. In addition, Videotron argued that the second-level modem testing fees proposed by Câblevision are higher than Cogeco's fees for one province, and that the Commission should order Câblevision to reduce them accordingly.<sup>3</sup>
14. Câblevision responded that Videotron's objections are unfounded because Câblevision is a small cable carrier that is not subject to Telecom Decision 2004-37 and does not have the human or laboratory resources necessary to conduct second-level modem testing to the same extent as large cable carriers such as Videotron. Further, its second-level modem testing fees are lower than Videotron's.<sup>4</sup>

### **Commission's analysis and determinations**

15. In light of the circumstances outlined by Câblevision, the Commission considers that the explanations Câblevision provided to support the proposed modem testing fees, particularly with respect to the size of the company and its limited resources, are acceptable.
16. In the Commission's view, the determinations in Telecom Decision 2004-37 apply only to large cable carriers and therefore do not apply to Câblevision.
17. Finally, the Commission notes that, in contrast to service access fees, second-level modem testing fees are not subject to cost studies and may therefore be aligned with those of another cable carrier. Moreover, Câblevision's proposed fees are lower than Videotron's fees. In light of the above, the Commission finds that Câblevision's proposed second-level modem testing fees are justified and acceptable.

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<sup>2</sup> In Telecom Decision 2004-37, the Commission directed large cable carriers to add several provisions to their tariffs from which modem testing fees should be excluded: i) the fee does not apply to one modem model submitted by an Internet service provider for second-level testing, per 12-month period; ii) the fee does not apply to second-level testing of a modem model where the modem model fails second-level testing, to a maximum of two failures; and iii) modem testing failures shall not be considered the one free second-level testing, unless that modem model has already failed second-level testing twice.

<sup>3</sup> Cogeco's second-level modem testing fees are \$5,443 per modem for one province (Ontario or Québec) and \$7,649 per modem for two provinces (Ontario and Québec). Câblevision proposed second-level modem testing fees (for one province) of \$7,649 per modem.

<sup>4</sup> Videotron's second-level modem testing fees are \$9,857 per modem.

## Are the rates and terms and conditions as a whole, as proposed by Câblevision in TN 10A, acceptable?

### Commission's analysis and determinations

18. The Commission determines that the rates and terms and conditions proposed by Câblevision in TN 10A comply with the determinations of Telecom Decision 2019-423 and are acceptable.
19. In light of all the above, the Commission **approves on an interim basis** the monthly capacity charges per 100 Mbps and the basic monthly usage charges, and **approves on a final basis** the other service charges and the terms and conditions proposed in Câblevision's TNs 10 and 10A, effective the date of this order. Câblevision's proposed fees for third-party Internet access service in its General Tariff can be found in the Appendix to this order.
20. When final rates are established for cable carriers subject to Telecom Order 2019-288, Câblevision will have to submit a new TN to the Commission.

### 2019 Policy Direction

21. Pursuant to the 2019 Policy Direction,<sup>5</sup> the Commission considers that approval of Câblevision's applications, which is based on a complete record, will advance the policy objectives set out in paragraphs 7(a), (b), (f), and (h) of the *Telecommunications Act*.<sup>6</sup>
22. Specifically, with respect to subparagraphs 1(a)(i) and 1(a)(vi) of the 2019 Policy Direction, the approval of these applications is intended to encourage all forms of competition and to differentiate service offerings, given that the Commission's determinations will enable telecommunications service providers to implement real competition in Abitibi-Témiscamingue and thus to provide differentiated services.

Secretary General

### Related documents

- *Videotron Ltd. – Applications regarding (i) Cablevision du Nord de Québec inc.'s (Cablevision) refusal to sign a third-party Internet access (TPIA) service agreement, and (ii) access to Cablevision's TPIA service at just and reasonable rates, and under just and reasonable terms, Telecom Decision CRTC 2019-423, 16 December 2019*

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<sup>5</sup> *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*

<sup>6</sup> The cited objectives are as follows: 7a) 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; 7b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada; 7f) 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 7h) to respond to the economic and social requirements of users of telecommunications services.

- *Cablevision du Nord de Québec inc. – Application to withdraw third-party Internet access service*, Telecom Order CRTC 2019-422, 16 December 2019
- *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
- *Review of costing inputs and the application process for wholesale high-speed access services*, Telecom Decision CRTC 2016-117, 31 March 2016
- *Rogers Communications Partnership – Introduction of four new wholesale Third Party Internet Access service speeds*, Telecom Order CRTC 2012-706, 21 December 2012
- *Cable modems for third-party Internet access*, Telecom Decision CRTC 2004-37, 4 June 2004

## Appendix to Telecom Order CRTC 2020-223

### General Tariff – Third-party Internet access service charges proposed by Câblevision du nord de Québec inc.

Basic monthly usage charges per modem	Monthly charges
Up to 15 Mbps downstream and 1.5 Mbps upstream	\$14.78
Up to 50 Mbps downstream and 5 Mbps upstream	\$24.98
Up to 125 Mbps downstream and 20 Mbps upstream	\$51.25

Monthly capacity charges per 100 Mbps	Monthly charges
100 Mbps	\$323.73

Capacity-change service charges	Service charges
Per-order rate	\$52.01
Per-interface rate	\$186.25

Other service charges	Service charges
Standard connection charge, per modem	\$63.32
Transfer to another customer charge, per modem	\$17.72
Specification change charge, per modem	\$5.00
Diagnostic service rates	
- First hour	\$81.11
- Each additional 15 minutes	\$20.28
Second-level modem testing fees, per modem	\$7,649.00

Charges associated with points of interconnection (POIs)	Service charges
Client registration fee	\$357.25
Initial Report Fee, per POI (Note 1)	\$1,206.40
Subsequent Report Fee, per POI (Note 1)	\$603.20
POI entrance charge, per POI (Note 1)	\$6,527.00
POI configuration charge, per POI (Note 1)	\$2,800.00
IP address block configuration charge, per cable modem termination system (CMTS) (Note 2)	\$86.53

Note 1: For the purpose of applying these charges, if a customer requests a second entrance that is physically separate from the first at a given POI, the second entrance will be treated as if it were a new entrance to a new POI.

Note 2: This rate applies to the number of CMTSs to be modified per order. For an initial interconnection request, if a customer does not provide their IP address block information within 20 business days of receiving the design and costing report, the POI availability date will be extended to match the period of delay that is in excess of the 20-business-day limit.