



## Telecom Decision CRTC 2023-169

PDF version

References: 2023-56 and 2023-56-1

Ottawa, 2 June 2023

*Public record: 1011-NOC2023-0056*

### Review of the wholesale high-speed access service framework – Reduction of traffic-sensitive costs

#### Summary

On 17 March 2023, incumbent carriers submitted revised tariff pages reflecting the 10% reduction to the costs of traffic-sensitive components as directed by the Commission in Telecom Notice of Consultation 2023-56.

After reviewing the tariff pages, the Commission:

- **directs** Bell Aliant Regional Communications, Limited Partnership; Bell Canada; Bell MTS Inc.; Bragg Communications Incorporated, carrying on business as Eastlink; Shaw Cablesystems G.P.; and Videotron Ltd. to forthwith refile their tariff pages to reflect the new effective date of **8 March 2023**.
- **directs** Saskatchewan Telecommunications to withdraw the rate revisions proposed for its legacy non-FTTN [fibre-to-the-node] services, specifically, Aggregated Asymmetric Digital Subscriber Line (ADSL) Service in item 650.32 of Tariff Notice 376, and refile its tariff pages to reflect the determination that legacy rates do not need to be adjusted to reflect the 10% reduction for traffic-sensitive components.
- **approves on an interim basis** the monthly rates in tables 1 and 2 in the appendix to this decision, retroactively to **8 March 2023**.
- **denies** TekSavvy Solutions Inc.'s request to direct TELUS Communications Inc. to apply the 10% reduction to its legacy non-FTTN services and confirms its original intent for the concerned carriers to file tariff applications.

#### Introduction

1. In Telecom Notice of Consultation 2023-56 (the Notice), issued 8 March 2023, the Commission rendered all existing tariffed rates for aggregated wholesale high-speed access (HSA) services interim and ordered a reduction, again on an interim basis, of these rates reflecting a 10% decrease to the cost of traffic-sensitive components used to inform the existing rates. In order to operationalize this last determination, the

Commission directed all carriers that provide these services on a mandated basis, that is, Bell Canada (including Bell Aliant Regional Communications, Limited Partnership and Bell MTS Inc.); Bragg Communications Incorporated, carrying on business as Eastlink (Eastlink); Cogeco Communications inc. (Cogeco); Rogers Communications Canada Inc. (RCCI); Saskatchewan Telecommunications (SaskTel); Shaw Cablesystems G.P. (Shaw); and TELUS Communications Inc. (TCI); and Videotron Ltd. (Videotron) [collectively, the incumbent carriers], to file updated tariffs reflecting a 10% reduction to the cost of traffic-sensitive components used to inform current wholesale aggregated HSA rates.

2. Commission staff sent a [letter](#) on the same date providing additional details on how to implement the Commission's determination. In particular, the incumbent carriers that use the capacity-based billing (CBB) model were directed to reduce their rate for CBB increments by 10%. Incumbent carriers that use the flat rate model (i.e., that charge a per-end customer fixed monthly access rate per speed band<sup>1</sup> that includes traffic-sensitive components in the monthly access rate) were directed to adjust their rates to reflect a 10% reduction to the costs of the traffic-sensitive components retained for the purposes of setting the then-existing rates.
3. On 17 March 2023, the incumbent carriers submitted revised tariff pages with modified rates which incorporated their proposed adjustments reflecting the 10% reduction to the costs of traffic-sensitive components, as directed by the Commission. TekSavvy Solutions Inc. (TekSavvy) and the Competitive Network Operators of Canada (CNO) submitted responses in which they addressed the rate-setting process.

## Issues

4. The Commission has identified the following issues to be addressed in this decision:
  - What is the appropriate method for the incumbent carriers to file their tariff revisions?
  - What is the appropriate effective date for the 10% rate reduction?
  - Should the Commission explore at this time the validity of TekSavvy's claim that cable access rates contain traffic-sensitive components?
  - Should legacy rates be adjusted to reflect the 10% reduction for traffic-sensitive components?

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<sup>1</sup> Speed bands are a range of service speeds that have similar costs and that are grouped together for regulatory rate setting purposes. All service speeds within a given band have a single rate.

- Do the proposed rates give proper effect to the Commission’s decision to reduce existing rates to account for a 10% decrease to the costs of traffic-sensitive components used to inform the then-existing rates?

### **What is the appropriate method for the incumbent carriers to file their tariff revisions?**

#### **Positions of parties**

5. On 17 March 2023, some incumbent carriers issued revised tariff pages reflecting their proposed updated rates while others submitted tariff applications.
6. TekSavvy requested that the Commission close the tariff applications filed by some incumbent carriers and order them to issue the revised tariff pages with the adjusted rates retroactive to 8 March 2023. Filing in the form of tariff applications, according to TekSavvy, introduces inefficiency and process delays and is contrary to a determination that the Commission had already made in the Notice.
7. RCCI and TCI replied that filing a tariff application rather than issuing revised tariff pages is appropriate in light of the standard procedural practice of inviting comments unless the Commission expressly uses clear language to do otherwise. These companies noted that in the Notice, the Commission specifically directed them to file updated tariffs rather than to issue revised tariff pages.
8. Ultimately, all incumbent carriers submitted tariff applications that reflected their proposed revised rates.<sup>2</sup>

#### **Commission’s analysis**

9. The Commission expects parties to file Tariff Notices (TNs) in accordance with Telecom Information Bulletin 2010-455-1, unless explicitly instructed otherwise. Moreover, the intent of the Commission is to review the record prior to approving the interim rates by inviting comments on the application of the 10% reduction to rates,<sup>3</sup> which is allowed for by a TN filing.
10. Furthermore, although the 10% reduction of CBB rates is a straightforward calculation, the determination of the traffic-sensitive component costs for flat-rate models is more complex. It requires the extraction of the costs for traffic-sensitive components from existing cost models, with the application of the 10% reduction to those costs. As a result, there is a need for some explanation by affected incumbent carriers of how they made their adjustments for their flat rate models. The tariff application process provides a mechanism for doing this and allowing for a review of

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<sup>2</sup> See Bell Aliant Tariff Notice (TN) 568A, Bell Canada TN 7663A, Bell MTS TN 850A, Cogeco TN 65, Eastlink TN 43, RCCI TN 77, SaskTel TN 376, Shaw TN 41, TCI TN 579, and Videotron TN 61.

<sup>3</sup> See paragraph 80(vi) of the Notice.

the appropriateness of the approaches taken, while the issuance of revised tariff pages does not.

11. In light of the above, the Commission **denies** TekSavvy’s request and confirms its original intent for the concerned carriers to file tariff applications.

**What is the appropriate effective date for the 10% rate reduction?**

**Positions of parties**

12. The incumbent carriers proposed different effective dates for the 10% rate reduction in their updated tariff pages. Some proposals did not reflect an immediate reduction in rates as of 8 March 2023, while in other proposals, the effective date in page footers within the tariff was different than what was in the proposed tariff page itself. The following table identifies what was displayed in tariff pages by company:

Company	Effective Date	
	In page footer	Note in tariff page
Bell Aliant – TN 568A	17 April 2023	8 March 2023
Bell Canada – TN 7663A	17 April 2023	8 March 2023
Bell MTS – TN 850A	17 April 2023	8 March 2023
Cogeco – TN 65	8 March 2023	n/a
Eastlink – TN 43	17 March 2023	n/a
RCCI – TN 77	8 March 2023	n/a
SaskTel – TN 376	8 March 2023	n/a
Shaw – TN 41	17 March 2023	n/a
TCI – TN 579	8 March 2023	n/a
Videotron – TN 61	17 March 2023	n/a

13. TekSavvy requested that the Commission direct the incumbent carriers to refile their tariff pages to conform with the Commission’s direction that the updated rates be effective immediately, as of the date of the Notice, which is 8 March 2023.

14. No party other than TekSavvy commented on this matter.

**Commission’s analysis**

15. In the Notice, the Commission directed the incumbent carriers to apply “an **immediate** interim reduction to existing rates that reflects a 10% decrease in the costs of traffic-sensitive components used to inform the current rates [emphasis added].”<sup>4</sup>

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<sup>4</sup> See paragraphs 53 and 73 of the Notice.

In the Commission's view, it is clear from this language that the footers and notes in the filed tariff pages ought to display the effective date as of the date of the issuance of the Notice, which is 8 March 2023.

16. The Commission therefore **directs** Bell Aliant, Bell Canada, Bell MTS, Eastlink, Shaw, and Videotron to forthwith refile their tariff pages to reflect the effective date of **8 March 2023**.

**Should the Commission explore at this time the validity of TekSavvy's claim that cable access rates contain traffic-sensitive components?**

**Positions of parties**

17. TekSavvy submitted that for the cable carriers, there are also traffic-sensitive cost components informing their access rates. The company stated that it expects that when the cable carriers file their cost studies by the applicable deadlines, they will identify any such usage-sensitive components included in their access rates and reflect the interim 10% reduction to these components effective on 8 March 2023.
18. CNOC submitted that it agrees with TekSavvy's assertion and that the cable carriers ought to identify and reflect the 10% cost reduction for traffic-sensitive components in their access rates.
19. RCCI replied that it reduced the CBB rate in its tariff page by the 10% directed and that any tariffing issue going beyond this ought to be filed on the record of the relevant tariff application and dealt with through that process.

**Commission's analysis**

20. As a standard practice, the Commission reviews all costing components contained in companies' rate proposal submissions, and reaches determinations as to the assignment and allocation of each cost component when setting final rates, including if the costs of various components are access-driven or traffic-sensitive. The rates being proposed and approved here are interim and the Commission is of the view that any adjustments to rates, including the assignment of components as traffic-sensitive or access-driven, are best addressed when final rates are set.
21. When final rates are set, the Commission can retroactively give effect to any determination it may make with regard to the proper allocation of the cost of various components within the carrier's rate structure.

**Should legacy rates be adjusted to reflect the 10% reduction for traffic-sensitive components?**

**Positions of parties**

22. SaskTel submitted revised tariff pages for its legacy (non-FTTN based) access rates. These rates incorporated its proposed adjustments to reflect a 10% reduction to the costs of traffic-sensitive components used to inform the existing rates.

23. TekSavvy requested that the Commission direct TCI to apply the 10% reduction to its legacy non-FTTN services, as it understood Bell Aliant, Bell Canada, Bell MTS, and SaskTel to have done so. It further stated that the Commission did not mention any technology limitations (e.g., only non-legacy FTTN services) when it directed the incumbent carriers to apply the 10% decrease on “traffic-sensitive components of aggregated wholesale HSA service.”
24. TCI submitted that it was correct in excluding the 10% reduction in rates for the legacy non-FTTN services, since they were made final and frozen in Telecom Regulatory Policy 2015-326 and were excluded when final rates were set for aggregated wholesale HSA services in Telecom Decision 2021-181. TCI submitted that the Commission’s discussion of the matter in the Notice made clear that its direction was targeted to those services whose rates were made final in the above-mentioned regulatory policy.

#### **Commission’s analysis**

25. In Telecom Regulatory Policy 2015-326, the Commission made a determination that rates for the legacy non-FTTN based access service be made final and frozen. Legacy non-FTTN rates were frozen in an effort to be more efficient, by reducing the regulatory requirements (including the filing of cost studies) for legacy, low-uptake services. To balance the interests of competitors and incumbent carriers, the proposal to freeze rates applied to both cost increases and cost decreases. In the Commission’s view, this approach to legacy non-FTTN services continues to be expedient and appropriate.
26. The Commission has since been consistent in its treatment of legacy non-FTTN HSA rates. In this regard, and by way of example, legacy non-FTTN services were specifically excluded from the application of the decisions made in the subsequent aggregated wholesale HSA proceeding.<sup>5</sup>
27. Similarly, the regulatory treatment of—and therefore the tariffed rates for—legacy non-FTTN HSA services was not affected by the determinations set out in Telecom Order 2019-288, nor by Telecom Decision 2021-181, in which the Commission reviewed and varied aspects of the Telecom Order 2019-288. In sum, the Commission has not made any changes to its treatment of legacy non-FTTN HSA rates in subsequent orders or decisions issued prior to the release of the Notice.<sup>6</sup>
28. In light of the above, the Commission considers that while the specific direction regarding the relevant rate reduction contained no language explicitly excluding its

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<sup>5</sup> See paragraph 106 of Telecom Decision 2016-117.

<sup>6</sup> Rates for aggregated wholesale HSA services were made final for non-legacy FTTN services and not for legacy non-FTTN services in Telecom Decision 2021-181.

application to legacy services, the surrounding context makes clear that the relevant direction set out in the Notice does not apply to legacy services.

29. It is therefore the Commission's view that companies were not expected to apply the 10% reduction on traffic-sensitive components to their legacy non-FTTN based services. SaskTel was the only party that did this.
30. The Commission considers that legacy rates do not need to be adjusted to reflect the 10% reduction for traffic sensitive components.
31. Therefore, the Commission **directs** SaskTel to withdraw the rate revisions made for its legacy non-FTTN services, specifically, Aggregated Asymmetric Digital Subscriber Line (ADSL) Service in item 650.32 of TN 376, and refile its tariff pages to reflect the determination that legacy rates do not need to be adjusted to reflect the 10% reduction for traffic-sensitive components.

**Do the proposed rates give proper effect to the Commission's decision to reduce existing rates to account for a 10% decrease to the costs of traffic-sensitive components used to inform the then-existing rates?**

#### **Positions of parties**

32. Incumbent carriers Bell Canada, Bell MTS, Cogeco, Eastlink, RCCI, Shaw, and Videotron, which have wholesale rates under the CBB model, submitted revised tariff pages for their adjusted CBB rates which incorporated the 10% reduction, as directed by the Commission. The rates proposed by the companies using the CBB model can be found in table 1 in the appendix to this decision.
33. Incumbent carriers Bell Aliant, Bell Canada,<sup>7</sup> SaskTel, and TCI, which have wholesale rates under the flat-rate model, submitted revised tariff pages for their adjusted non-legacy (FTTN-based) access rates which incorporated their proposed adjustments to reflect the 10% reduction to the traffic-sensitive components, as directed by the Commission. The rates proposed by the companies using the flat-rate model can be found in table 2 in the appendix to this decision.

#### **Commission's analysis**

34. For wholesale rates under the CBB model, the 10% reduction resulted in a 10% decrease to CBB rates given that these rates are informed entirely by traffic-sensitive components.
35. For wholesale rates under the flat-rate model, the largest share of the cost of components used to inform these rates is associated with the access-driven components of the service. As directed by the Commission, both SaskTel and TCI

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<sup>7</sup> Although Bell Canada utilizes the CBB for almost all of its aggregated HSA services, it does charge a flat monthly rate for one service.

calculated their revised monthly rates based on reducing only the costs for the traffic-sensitive components by 10% with no reduction to the costs of the access-driven components. Alternatively, Bell Aliant and Bell Canada chose to reduce their entire blended rate by 10%, since they were unable to isolate the traffic-sensitive portion of their rates.

36. The Commission reviewed the proposed rates filed by the incumbent carriers for both CBB and flat-rate access and is of the view that the rates reflect the Commission's direction in the Notice to apply the 10% reduction to the costs of traffic-sensitive components.

37. The Commission therefore **approves on an interim basis** the monthly rates in tables 1 and 2 in the appendix to this decision, retroactively to **8 March 2023**.

## Conclusion

38. In light of all of the above, the Commission:

- **denies** TekSavvy's request to direct TCI to apply the 10% reduction to its legacy non-FTTN services and confirms the Commission's original intent for the concerned carriers to file tariff applications.
- **directs** Bell Aliant, Bell Canada, Bell MTS, Eastlink, Shaw, and Videotron to forthwith refile their tariff pages to reflect the new effective date of **8 March 2023**.
- **directs** SaskTel to withdraw the rate revisions proposed for its legacy non-FTTN services, specifically, ADSL Service in item 650.32 of TN 376, and refile their tariff pages to reflect the determination that legacy rates do not need to be adjusted to reflect the 10% reduction for traffic-sensitive components.
- **approves on an interim basis** the monthly rates in tables 1 and 2 in the appendix to this decision, retroactively to **8 March 2023**.

Secretary General

## Related documents

- *Notice of hearing – Review of the wholesale high-speed access service framework*, Telecom Notice of Consultation CRTC 2023-56, 8 March 2023; as amended by Telecom Notice of Consultation CRTC 2023-56-1, 11 May 2023
- *Requests to review and vary Telecom Order 2019-288 regarding final rates for aggregated wholesale high-speed access services*, Telecom Decision CRTC 2021-181, 27 May 2021
- *Review of costing inputs and the application process for wholesale high-speed access services*, Telecom Decision CRTC 2016-117, 31 March 2016



- *Review of wholesale wireline services and associated policies*, Telecom Regulatory Policy CRTC 2015-326, 22 July 2015; as amended by Telecom Regulatory Policy CRTC 2015-326-1, 9 October 2015
- *Approval processes for tariff applications and intercarrier agreements*, Telecom Information Bulletin CRTC 2010-455-1, 19 February 2016

## Appendix to Telecom Decision CRTC 2023-169

**Table 1 – Monthly capacity rate per 100 megabits per second (Mbps) service – capacity-based billing model**

Company	Service Type	Current Rate	New Interim Rate
Bell Canada	n/a	\$138.43	\$124.59
Bell MTS Inc.	Very-high-bit-rate digital subscriber line (VDSL)	\$88.14	\$79.33
Bell MTS Inc.	Aggregated Asymmetric Digital Subscriber Line (ADSL)	\$550.12	\$495.11
Cogeco Communications inc.	n/a	\$323.73	\$291.36
Bragg Communications Incorporated, carrying on business as Eastlink	n/a	\$353.35	\$318.02
Rogers Communications Canada Inc.	n/a	\$319.68	\$287.71
Shaw Cablesystems G.P.	n/a	\$296.10	\$266.49
Videotron Ltd.	n/a	\$395.36	\$355.82

**Table 2 – Monthly banded access rates – Flat-rate model**

**Bell Aliant Regional Communications, Limited Partnership**

Service speed	Current Rate	New Interim Rate
ADSL 13 Mbps	\$28.11	\$25.30
ADSL 15 Mbps	\$28.11	\$25.30

**Bell Canada**

<b>Service speed</b>	<b>Current Rate</b>	<b>New Interim Rate</b>
High Speed Access Service - Fibre-to-the-node (HSA-FTTN) Access Business 16 Mbps	\$25.60	\$23.04

**Saskatchewan Telecommunications**

<b>Service speed</b>	<b>Current Rate</b>	<b>New Interim Rate</b>
xDSL 25 Mbps	\$17.72	\$17.33
xDSL 25 Mbps bonded	\$40.14	\$39.90
xDSL 50 Mbps	\$31.95	\$31.34
xDSL 50 Mbps bonded	\$41.43	\$40.95

**TELUS Communications Inc.**

<b>Speed band</b>	<b>Service speed</b>	<b>Current Rate</b>	<b>New Interim Rate</b>
15 Mbps	10-19 Mbps	\$20.21	\$20.04
25 Mbps	20-29 Mbps	\$21.90	\$21.57
50 Mbps non-bonded	30-69 Mbps	\$24.34	\$23.77
50 Mbps bonded	30-69 Mbps	\$34.40	\$33.84
75 Mbps non-bonded	70-100 Mbps	\$29.05	\$28.46
75 Mbps bonded	70-100 Mbps	\$37.38	\$36.53
150 Mbps bonded	101-150 Mbps	\$57.66	\$56.79