



Telecom Decision CRTC 2013-344

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Ottawa, 18 July 2013

YourLink Inc. - Request that Saskatchewan Telecommunications provide larger-capacity Ethernet circuits

File number: 8622-Y9-201302653

In this decision, the Commission denies YourLink's requests that the Commission direct SaskTel to (i) upgrade YourLink's Ethernet circuits to larger-capacity increments, and (ii) refund the extra costs incurred by YourLink to add additional circuits in Yorkton and Regina.

The Commission invites YourLink to provide its views on the state of the Ethernet services market in the upcoming wholesale services review proceeding.

Introduction

1. YourLink Inc. (YourLink) is an Internet service provider that provides service in rural locations in Saskatchewan. YourLink uses Ethernet¹ access and Ethernet transport services (collectively, Ethernet services) from Saskatchewan Telecommunications (SaskTel) to carry Internet traffic to Saskatoon to be transferred to an Internet gateway.
2. The Commission received an application from YourLink, dated 31 January 2013, in which YourLink requested that the Commission direct SaskTel to upgrade all of YourLink's Ethernet circuits, which currently have a maximum capacity of 100 megabits per second (Mbps), to larger-capacity increments. In its reply, dated 12 March 2013, YourLink further requested that the Commission require SaskTel to refund the extra costs incurred by YourLink to add additional 100 Mbps Ethernet circuits in Yorkton and Regina.
3. The Commission received submissions regarding YourLink's application from SaskTel. The public record of this proceeding, which closed on 18 March 2013, is available on the Commission's website at www.crtc.gc.ca under "Public Proceedings" or by using the file number provided above.

¹ Ethernet is a communications protocol used for networking that enables the transmission of broadband data between two or more locations.

Positions of parties

4. YourLink stated that since 5 August 2011, it had made multiple requests to SaskTel to increase the capacity of its Ethernet circuits beyond their 100 Mbps capacity to alleviate network congestion, and that SaskTel had refused these requests. YourLink argued that SaskTel is required to offer its Ethernet services to YourLink in increments larger than 100 Mbps, and that SaskTel has the capacity to do so. YourLink noted in that regard that SaskTel had the capacity to offer a second 100 Mbps circuit in areas where it had refused to provide YourLink with 200 Mbps Ethernet circuits.
5. YourLink argued that SaskTel was intentionally refusing to increase the capacity of its Ethernet services to (i) force YourLink to pay more for a duplicate service, (ii) cause network congestion on YourLink's network, and (iii) move YourLink's customers to SaskTel's competing services.
6. YourLink submitted that if SaskTel does not provide larger-capacity services, it will be forced to spend approximately \$1.5 million over five years to obtain the additional capacity that it requires.
7. SaskTel submitted that it is not required to offer its Ethernet services to YourLink in increments larger than 100 Mbps. SaskTel noted that the Commission forbore from regulating Ethernet transport services in *Revised regulatory framework for wholesale services and definition of essential service*, Telecom Decision CRTC 2008-17, 3 March 2008 (Telecom Decision 2008-17). SaskTel further noted that its Ethernet access service is provided pursuant to its retail tariff, which does not provide for Ethernet services in increments larger than 100 Mbps in the areas where YourLink subscribes to Ethernet services.
8. SaskTel submitted that it should not be required to offer Ethernet services in non-standard increments, such as 200 Mbps. SaskTel noted that its equipment only provides services in 10, 100, and 1,000 Mbps increments and does not readily conform to a 200 Mbps option. SaskTel also noted that its service was very similar to the same service provided by other incumbent local exchange carriers (ILECs), none of which provided a 200 Mbps option.
9. SaskTel submitted that it was not engaging in inappropriate behaviour or attempting to harm YourLink. SaskTel further submitted that it was appropriately offering its Ethernet access service pursuant to its tariff, and that its refusal to provide YourLink with Ethernet services in larger increments was not an attempt to move YourLink's customers to SaskTel's services.
10. Finally, SaskTel noted that it was planning to file a revision to its retail tariff for Ethernet access service, which would expand the provision of its 1,000 Mbps Ethernet access service option to all areas in Saskatchewan.

Commission's analysis and determinations

11. The Commission notes that SaskTel's Ethernet transport services were partially forborne from regulation pursuant to Telecom Decision 2008-17,² and that the Commission no longer specifies what, if any, Ethernet transport services must be provided.
12. The Commission notes that SaskTel provides Ethernet access service pursuant to its retail tariff. Consistent with its retail tariff, SaskTel provides Ethernet access service in 10 Mbps and 100 Mbps increments in the areas where YourLink has purchased the service. Further, SaskTel's current retail tariff does not provide for Ethernet access service in increments larger than 100 Mbps in these areas.
13. The Commission considers, based on the above, that SaskTel is not required to offer its Ethernet services in increments larger than 100 Mbps in the areas where YourLink has purchased the service.
14. The Commission notes that there is no evidence on the record of this proceeding that suggests that SaskTel has been providing Ethernet services in increments larger than 100 Mbps to any other customer and/or carrier in the areas where YourLink purchases Ethernet services from SaskTel.
15. In light of the above, the Commission determines that SaskTel has been providing its Ethernet services to YourLink in an appropriate manner that does not contravene SaskTel's tariffs or the *Telecommunications Act*. Accordingly, the Commission determines that SaskTel is not required to provide larger-capacity Ethernet circuits to YourLink and **denies** YourLink's application.
16. The Commission notes that after YourLink filed its application, SaskTel filed a proposed revision to its Ethernet Access Service tariff that would expand the 1,000 Mbps Ethernet access service option to all areas in Saskatchewan. The Commission notes that the proposed tariff revisions are under consideration. If the application is approved, the Commission considers that the additional 1,000 Mbps option will provide YourLink with an alternative to address its capacity constraints.
17. In addition, the Commission notes that in its *CRTC Three-Year Plan 2013-2016*,³ it announced that in an upcoming proceeding it would review the wholesale services policy and the essential services definition in relation to existing services used by competitors, with the main goal of ensuring that the wholesale service regime is facilitating the development of a competitive Canadian telecommunications market (the wholesale services review).

² The Commission retained its powers under section 24 and subsections 27(2) to (4) of the *Telecommunications Act*.

³ The *CRTC Three-Year Plan 2013-2016* can be found under the "CRTC Three-Year Plan" link on the home page of the Commission's website at www.crtc.gc.ca.

18. In light of YourLink's experiences with ILEC-provided Ethernet services used to provide its services, the Commission invites YourLink to provide its views on the state of the Ethernet services market in the context of the upcoming wholesale services review.

Secretary General