



## Telecom Decision CRTC 2017-335

PDF version

Ottawa, 18 September 2017

*File numbers: 8661-A117-201314145, Bell Aliant Tariff Notice 482, and Bell Canada Tariff Notices 7429 and 7503*

### **Bell Canada – Various applications related to Bell Canada’s dedicated wholesale high-speed access services (legacy and fibre-to-the-node)**

*The Commission determines that it is acceptable for Bell Canada to use different billing models for its dedicated and non-dedicated high-speed access (HSA) services. The Commission **approves on a final basis** the existing interim rates for Bell Canada’s dedicated legacy HSA service and dedicated HSA-FTTN [fibre-to-the node] service, and **denies** Bell Canada’s request to transfer its dedicated HSA services from its General Tariff to its Special Facilities Tariff.*

#### **Introduction**

1. In past decisions, the Commission has set out policies related to rates and billing models for wholesale high-speed access (HSA) services. In Telecom Regulatory Policy 2011-703, the Commission determined that each service provider is required to use a single billing model across its residential HSA services - either the flat rate model or the capacity-based billing (CBB) model.<sup>1</sup> Subsequently, in Telecom Decision 2013-72, the Commission determined that the same billing model is to be used for both residential and business wholesale HSA services.
2. Subsequently, in Telecom Decision 2013-73, the Commission determined that the rates for residential HSA services and corresponding business HSA services are to be set at the same levels, and set access rates for the fibre-to-the-node (FTTN) business HSA services of Bell Canada and Bell Aliant Regional Communications, Limited Partnership (Bell Aliant) in Ontario and Quebec.<sup>2</sup> In Telecom Decision 2013-480, the Commission concluded that, for Bell Canada in Ontario and Quebec, the rates for its legacy business wholesale HSA services should be the same as the rates for its comparable legacy residential wholesale HSA services.

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<sup>1</sup> Under the flat rate model, a customer using a wholesale HSA service pays a fixed per end-user monthly rate to provide network access to its retail end-users. Under the CBB model, a customer using a wholesale HSA service pays a monthly capacity rate for the network capacity it expects to need to support the traffic of its retail end-users and a separate per end-user monthly access rate.

<sup>2</sup> Bell Aliant is now a division of Bell Canada. Reference will be made to Bell Canada only in the remainder of this decision.

3. Bell Canada provisions two categories of wholesale services for delivery of broadband access using digital subscriber line (DSL) technology that differ in how they are implemented in its network.
  - **Dedicated HSA services:** these services provide a dedicated data channel, via a permanent virtual circuit between each end-user served by a competitor and an interconnection point at the central office. Depending on the type of DSL technology used, the service is referred to as “dedicated legacy HSA” (older DSL technology supporting the 6 megabits per second (Mbps) download service speed) or “dedicated HSA-FTTN” (newer technology supporting the 16 Mbps download service speed).<sup>3</sup>
  - **Non-dedicated HSA services:** these services utilize shared paths for transporting end-user traffic between a competitor’s interconnection point and its end-users, with segregation of traffic on a competitor basis done within the network. Depending on the type of DSL technology used, the service is referred as “non-dedicated legacy HSA” (older DSL technology supporting up to 6 Mbps download service speed) or “non-dedicated HSA-FTTN” (newer technology supporting up to 50 Mbps download service speed).<sup>4</sup>

### **The applications**

4. In this decision, the Commission has considered various applications related to Bell Canada’s dedicated wholesale HSA services (legacy and FTTN). These applications are summarized below.

#### **Allstream Inc.’s Part 1 application**

5. On 25 October 2013, Allstream Inc., hereafter referred to as Zayo Canada Inc. (Zayo),<sup>5</sup> filed a Part 1 application requesting that the Commission apply its ruling in Telecom Decision 2013-480 to Bell Canada’s dedicated legacy HSA service and set the access rates for this service at the same level as the access rates for Bell Canada’s non-dedicated legacy HSA service.

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<sup>3</sup> Bell Canada calls these services High-Speed Access (HSA) services. The legacy service is referred to as HSA and the FTTN-based service is referred to as HSA-FTTN.

<sup>4</sup> Bell Canada calls these services Gateway Access Services (GAS). The legacy service is referred to as GAS and the FTTN-based service is referred to as GAS-FTTN.

<sup>5</sup> During the course of the proceeding, Allstream Inc. was acquired by Zayo Group Holdings, Inc. and was incorporated as Zayo Canada Inc.

6. Canadian Network Operators Consortium Inc. (CNOOC) expressed support for Zayo's application and submitted that the proposed rate changes would be consistent with the Commission's findings in Telecom Decisions 2013-73, 2013-480 and 2013-603.<sup>6</sup>
7. In response, Bell Canada submitted that it did not dispute the policy decisions referred to by Zayo, but submitted that it could not apply the CBB model on its dedicated HSA services unless it made costly network modifications. Bell Canada proposed a flat rate tariff for its dedicated legacy HSA service at a level reflecting the determinations of Telecom Decision 2013-480.
8. Bell Canada's proposal to use a flat rate option would result in a proposed rate of \$18.00 per month, per end-user for its dedicated legacy HSA service, representing the access rate of \$14.11 approved in Telecom Decision 2013-480 (non-dedicated legacy HSA service's rates using CBB), and a usage rate of \$3.89.
9. Zayo submitted that it was not opposed to Bell Canada's proposal for a revised rate that incorporates a flat rate usage charge, noting that approval was preferable to investing significant amounts to develop a CBB solution for a service nearing its product life cycle.
10. By Commission letter dated 1 April 2014, the Commission directed Bell Canada to file revised cost studies and set the interim monthly rate for the dedicated legacy HSA service at \$18.00 per end-user based on a flat rate model.

#### **Tariff Notices 482 and 7429**

11. In Tariff Notices (TNs) 482 and 7429, Bell Canada proposed revised rates for both dedicated HSA services (legacy and FTTN) using the flat rate billing model and the CBB model solutions.<sup>7</sup> Bell Canada reiterated its view that it was not feasible to introduce the CBB model for the dedicated HSA services without incurring significant costs and causing disruption to the end-users of service providers using dedicated HSA services. As a result, it promoted the continued usage of the flat rate billing model for the dedicated legacy HSA and dedicated HSA-FTTN services.
12. The Commission subsequently placed the above applications on hold pending the conclusion of the proceeding related to the review of wholesale wireline services.<sup>8</sup>

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<sup>6</sup> In Telecom Decision 2013-603, the Commission upheld its determination made in Telecom Decision 2013-73 that the rates for business wholesale HSA services are to be the same as the rates for comparable residential wholesale HSA services.

<sup>7</sup> TNs 482 (Bell Aliant) and 7429 (Bell Canada) were filed jointly by Bell Aliant and Bell Canada on 16 May 2014.

<sup>8</sup> The wholesale wireline services review proceeding concluded with the issuance of Telecom Regulatory Policy 2015-326.

### **Tariff Notice 7503**

13. By application dated 10 June 2016, Bell Canada proposed another solution which was to transfer its dedicated HSA services (legacy and FTTN) from its General Tariff (GT) to a Special Facilities Tariff (SFT), and requested that the existing interim rates for its dedicated HSA services be approved on a final basis (\$18.00 for dedicated legacy HSA service and \$25.60 for dedicated HSA-FTTN service).<sup>9</sup>

14. Bell Canada submitted that

- the dedicated HSA services are in decline;
- it has no intention to withdraw or destandardize the services;
- transferring the dedicated HSA services to an SFT is appropriate as it recognizes their limited appeal and declining customer base; and
- the proposed tariff transfer will result in no changes to any of the rates, terms, or conditions associated with these services.

15. CNOC submitted that if the Commission is satisfied that TN 7503 meets specific conditions, then it has no objection to the transfer of the services from Bell Canada's GT to an SFT. Points raised by CNOC in this regard include the following:

- the SFT should not affect how those services are provisioned;
- if approved, the move of these services to Bell Canada's SFT should not shelter those services from any revision of rates resulting from cost studies filed by the large telephone and cable companies for their aggregated wholesale HSA services with which these services are associated. Accordingly, CNOC submitted that final approval of the rates proposed by Bell Canada should be denied; and
- Bell Canada should ensure that this tariff change will not be used in a way that would block or cause interference with the rollout of upcoming disaggregated wholesale HSA services resulting from Telecom Regulatory Policy 2015-326.

16. Zayo supported Bell Canada's application based on

- the assurances provided by Bell Canada that the terms and conditions would remain the same, including the availability of the service for changes or additions; and

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<sup>9</sup> Tariff Notice 7503 was filed solely by Bell Canada.

- the condition that the changes proposed by Bell Canada do not affect customers (or potential customers) of the dedicated HSA services, either now or in the future.
17. The public record of this TN, which closed on 21 July 2016, and the other applications dealt with in this decision, can be found on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) or by using the file numbers provided above.

## Issues

18. The Commission notes that Zayo's Part 1 application and the subsequent TNs discussed above deal with proposals for rates and proper billing models for Bell Canada's dedicated HSA services.
19. The Commission has identified the following issues to be addressed in this decision:
- Should Bell Canada be required to use the same billing model for its dedicated and non-dedicated HSA services?
  - What are the appropriate rates for Bell Canada's dedicated HSA services?
  - Should Bell Canada be allowed to transfer its dedicated HSA services to an SFT?

### **Should Bell Canada be required to use the same billing model for its dedicated and non-dedicated HSA services?**

20. Bell Canada submitted that because of the limitations of its equipment it could not apply the CBB model on its dedicated HSA services without costly network modifications. The company proposed to maintain a flat rate costing structure for its dedicated HSA services.
21. Bell Canada estimated that the cost of the modifications to enable the CBB model for its dedicated HSA services would be approximately \$1 million. The transfer from flat rate billing to the CBB model would require reconfiguration with resulting service disruption for both dedicated and non-dedicated HSA service end-users.
22. Bell Canada submitted that the number of dedicated HSA service end-users was small, has been declining, and is negligible compared to the non-dedicated HSA service base. Therefore, spending considerable time and effort to develop a CBB solution for dedicated HSA traffic would not be a good use of resources.

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

23. The Commission notes that Bell Canada was not in compliance with past Commission decisions in that it was using two different billing models for its wholesale HSA services: a flat rate model to bill for its dedicated HSA services and the CBB model for its non-dedicated HSA services.

24. Given the cost of the technical modifications required to enable the CBB model for Bell Canada's dedicated HSA services along with the limited and declining number of customers, the disruption that this would cause not only for competitors but their customers, as well as the distinct nature of the services, the Commission considers that there is merit to allowing the continued use of the flat rate billing model for Bell Canada's dedicated HSA services.
25. Accordingly, the Commission finds that it is appropriate in the circumstances to allow Bell Canada's dedicated and non-dedicated HSA services to be on different billing models.

**What are the appropriate rates for Bell Canada's dedicated HSA services?**

26. For the dedicated legacy HSA service, Bell Canada submitted that there was no need to perform a cost study for the flat rate option as the Commission had reaffirmed the monthly access rate of \$14.11 for the non-dedicated legacy HSA service in Telecom Decision 2013-480 and therefore this rate was appropriate. Regarding the usage component of the flat rate option, Bell Canada submitted that it developed a rate of \$3.89 based on measured usage which, when added to the access rate, would total \$18.00 per month per end-user.
27. At the request of the Commission, Bell Canada filed TNs 482 and 7429. These TNs included proposed revised rates for both dedicated HSA services which differ from the initial proposed rates.
28. Subsequently, in TN 7503, Bell Canada requested that the Commission approve, on a final basis, the existing interim rates for the dedicated legacy HSA service (\$18.00 per month per end-user) and for the dedicated HSA-FTTN service (\$25.60 per month per end-user).
29. In response to CNOC's opposition to set the rates as proposed, Bell Canada submitted that, with respect to dedicated legacy HSA service, the requirement to file cost studies set out in Telecom Decision 2016-117 did not apply to legacy HSA services. Further, Bell Canada submitted that its request to make the interim rates for its dedicated legacy HSA service final would subject the service to the rate freeze for legacy services set out in Telecom Regulatory Policy 2015-326.
30. With respect to the dedicated HSA-FTTN service, Bell Canada argued that the service demand was low and was continuing to decline. Bell Canada further made reference to paragraph 238 of Telecom Regulatory Policy 2015-326<sup>10</sup> in which the Commission addressed Bell Canada's proposal for a small service waiver under

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<sup>10</sup> Paragraph 238 of Telecom Regulatory Policy 2015-326 reads as follows: With respect to the Bell companies' streamlining proposals, the Commission generally supports such initiatives, so long as they maintain the integrity of the costs established. In this context, the Commission is open to the adoption of a small service waiver for wholesale services. However, the Commission is unable to approve this initiative at this time, given the need for further information, such as the basis on which the Commission could ensure that rates for services subject to this waiver would be ascertained as being just and reasonable.

which the Commission would exercise its discretion to waive the requirement to file cost studies for wholesale services with limited demand and associated revenues.

31. Bell Canada argued that given the very limited demand for the dedicated HSA-FTTN service and the expectation that demand will continue to decline, it was an appropriate case for exercising that discretion. It submitted that, in light of the cost, time, and resources that would be required to develop updated costs, an updated cost study was neither required nor appropriate in this instance.
32. Bell Canada submitted that since existing rates established for the services were initially set on the basis of a cost study which was reviewed and approved by the Commission, the Commission can be satisfied that the rates in this case are just and reasonable.

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

33. The Commission notes that there is a regulatory burden associated with cost study filings, and that in Telecom Regulatory Policy 2015-326 it froze rates for certain wholesale services to reduce the requirement for such filings. Further, the Commission indicated that it was open to a small service waiver for cost studies. At the same time, the Commission noted that any such action should not impair the Commission's ability to find rates just and reasonable.
34. The demand for the dedicated HSA services is low and declining, and the proposed rates for these services are based on the rates for the corresponding non-dedicated HSA services.
35. The Commission considers that, in this instance, any potential benefits of revised cost studies would not be commensurate with the cost, time, and resources which would be required to develop and review such cost studies.
36. The Commission considers that Bell Canada's proposed rates for its dedicated HSA services are, effectively, compliant with the Commission's determination that the rates be similar to those of the non-dedicated categories.
37. In light of the level of the proposed rates and the effort to develop and review cost studies, the Commission considers that the interim rates are just and reasonable.
38. Accordingly, the Commission **approves on a final basis** the rates for both the dedicated legacy HSA service (\$18.00 per month per end-user) and the dedicated HSA-FTTN service (\$25.60 per month per end-user) as proposed by Bell Canada.

## Should Bell Canada be allowed to transfer its dedicated HSA services to an SFT?

### Commission's analysis and determinations

39. Considering the Commission's conclusion on the appropriate rates as discussed above, this section only addresses the remaining aspect of TN 7503, that being the proposed transfer of Bell Canada's dedicated HSA services from a GT to an SFT.
40. The Commission considers that the dedicated HSA services do not meet the definition of an SFT as the facilities to be provided to customers are available through the existing GT for the dedicated HSA services. Accordingly, the Commission **denies** Bell Canada's request to transfer the company's dedicated HSA services from its GT to its SFT.

### Summary of Commission determinations

41. In light of the above, the Commission **approves, in part**, Zayo's Part 1 request to set similar rates for the dedicated legacy HSA service as for the non-dedicated legacy HSA service. Specifically, the Commission
  - **approves** the proposal to set the rate for the dedicated legacy HSA service based on the approved rates of the non-dedicated legacy service with an adjustment to reflect the usage portion that is not included in the non-dedicated legacy HSA service rates; and
  - **denies** the request that both dedicated and non-dedicated legacy HSA services be on the same billing model.
42. In addition, the Commission **denies, in part**, TN 7503 by denying the request to transfer the dedicated HSA services from Bell Canada's GT to an SFT, but **approves on a final basis** the proposed rate of \$18.00 for the dedicated legacy HSA services and the proposed rate of \$25.60 for dedicated HSA-FTTN services.
43. The Commission also closes TNs 482 and 7429 as approval of the above supersedes those TNs.
44. The Commission **directs** Bell Canada, to issue, by **28 September 2017**, revised tariff pages<sup>11</sup> that reflect the determinations set out in this decision.

Secretary General

### Related documents

- *Review of costing inputs and the application process for wholesale high-speed access services*, Telecom Decision CRTC 2016-117, 31 March 2016

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<sup>11</sup> Revised tariff pages can be submitted to the Commission without a description page or a request for approval; a tariff application is not required.

- *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
- *TELUS Communications Company – Application to review and vary Telecom Decision 2013-73*, Telecom Decision CRTC 2013-603, 12 November 2013
- *Review of rate principles for legacy business wholesale high-speed access services*, Telecom Decision CRTC 2013-480, 11 September 2013
- *Canadian Network Operators Consortium Inc. – Application to review and vary Telecom Regulatory Policies 2011-703 and 2011-704*, Telecom Decision CRTC 2013-73, 21 February 2013
- *Canadian Network Operators Consortium Inc. – Application requesting relief to address implementation of the capacity model approved in Telecom Regulatory Policy 2011-703*, Telecom Decision CRTC 2013-72, 21 February 2013
- *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