



Telecom Regulatory Policy CRTC 2018-123

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Review of the competitor quality of service regime

The Commission determines that changes are required to the current competitor quality of service (Q of S) regime in order to reflect the evolving telecommunications market as Canadians are becoming increasingly reliant on broadband and mobile wireless services. As a result, the Commission determines that additional regulatory oversight is necessary for all providers of both aggregated and disaggregated wholesale high-speed access (HSA) services, and that these services should be included in a competitor Q of S regime. The Commission also determines that the large incumbent local exchange carriers' (ILECs) wholesale services and processes that are subject to the current competitor Q of S regime should no longer be included in such a regime.

The implementation of the new competitor Q of S regime will allow the Commission and competitors to monitor the provision of wholesale HSA services, with the goal of ensuring that competitors receive a level of service that enables them to compete effectively and to provide service to their end-users efficiently.

The Commission retains the current complaints-based approach for the small ILECs, as this approach is sufficient to address the level of service for competitors in their territories. Additionally, the Commission determines that further regulatory oversight is required for Northwestel Inc. (Northwestel) with respect to certain services and processes. In recognition of Northwestel's specific circumstances, the Commission considers that establishing a monitoring regime for the company would be appropriate at this time.

Background

1. The existing competitor quality of service (Q of S) regime enables the Commission to monitor the large incumbent local exchange carriers' (ILECs)¹ provision of certain wholesale services to their competitors, to ensure that the level of service they provide is sufficiently high to enable competitors to compete effectively in the marketplace. The regime consists of a set of indicators that apply to these wholesale services, and each indicator has a minimum level of service performance standard. The large ILECs are required to pay rebates to competitors when performance results

¹ In this context, "large ILECs" refers to Bell Canada; Bell MTS (formerly MTS Inc. or MTS); Saskatchewan Telecommunications; Télébec, Limited Partnership; and TELUS Communications Inc. (formerly TELUS Communications Company).

for certain indicators are below these established standards (referred to as the rate rebate plan, or RRP), unless the Commission determines otherwise. The current competitor Q of S regime does not apply to Northwestel Inc. (Northwestel) or to the small ILECs.

2. The competitor Q of S regime has remained largely unchanged since the Commission finalized the RRP for competitors in Telecom Decision 2005-20. In developing the RRP, the Commission considered, among other things, that the RRP should give an ILEC adequate incentive to provide an appropriate level of service to competitors and that rates for the wholesale services in question should remain just and reasonable, while avoiding a punitive effect.
3. The current competitor Q of S indicators, including those in the RRP, are associated with the ordering and provisioning processes for the following large ILEC wholesale services: unbundled local loops (ULLs), local number portability (LNP), local network interconnection (LNI) trunks, local service requests (LSRs), and competitor digital network (CDN) services. The indicators also cover clearance of trouble reports related to ULLs and LNI trunks, mean time to repair for CDN services and Type C loops, competitor installation and repair appointments met, and service failures within the first 30 days.² The large ILECs are currently required to track their results for 22 competitor Q of S indicators, 14 of which are included in the RRP. Some indicators are measured on a company-wide basis, although most are measured competitor by competitor.

Evolution of the regulatory and legislative landscape

4. When the existing competitor Q of S indicators were finalized in 2005, competition for local wireline voice services, based on leased facilities, was beginning to grow. However, local competition in the large ILECs' territories has evolved significantly since then. Competitors are now offering local exchange services in many exchanges, and the Commission has forbore from regulating residential and/or business local exchange services for the vast majority of Canadian customers.
5. While local forbearance is now widespread, the competitor Q of S regime continues to play a role in the local forbearance process because the large ILECs are required to meet certain competitor Q of S standards as one of the conditions for obtaining forbearance from the regulation of retail local exchange services (see Telecom Decision 2006-15).
6. In 2006, after the current competitor Q of S regime was established, the Governor in Council issued the Policy Direction,³ which requires the Commission (i) to rely on market forces to the maximum extent feasible to achieve the telecommunications policy objectives set out in section 7 of the *Telecommunications Act* (the Act), and

² See Appendix 1 to this decision for descriptions of the services associated with the current competitor Q of S indicators.

³ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006

(ii) when relying on regulation, to use measures that are efficient and proportionate to their purpose and that interfere with the operation of competitive market forces to the minimum extent necessary to meet those policy objectives.

7. In recent years, the market for wireline voice services has been declining as Canadians have been relying more on broadband and mobile wireless services.
8. Supply conditions for wholesale services have also changed. For example, demand has declined for many services covered by the current competitor Q of S regime, and for some of those services, such as high-speed CDN services and ULLs, mandatory provision has been or is being phased out (see Telecom Decision 2008-17 and Telecom Regulatory Policy 2015-326).
9. On the other hand, new wholesale services have been introduced in recent years. The Commission has found certain services to be necessary to support competition and has mandated their provision – notably, the high-speed access (HSA) services of the large ILECs and large cable companies⁴ (collectively, the wholesale HSA service providers) and certain wireless carriers' wholesale roaming services (see Telecom Regulatory Policies 2015-326 and 2015-177). The current competitor Q of S regime, however, does not contemplate any of these newly mandated wholesale services.
10. In December 2014, the Commission gained the power to impose administrative monetary penalties (AMPs) to promote compliance with the Act, regulations, or Commission decisions (see Compliance and Enforcement and Telecom Information Bulletin 2015-111).

The proceeding

11. In Telecom Notice of Consultation 2017-49, the Commission invited comments on whether a competitor Q of S regime continues to be required and, if so, how it should be structured, taking into account changes in the telecommunications marketplace and the regulatory landscape.
12. The Commission received interventions from Bell Canada on behalf of itself, Bell Mobility Inc. (Bell Mobility), DMTS, KMTS, NorthernTel, Ontera, and Télébec, Limited Partnership (Télébec) [collectively, Bell Canada et al.]; Bragg Communications Incorporated carrying on business as Eastlink (Eastlink), Cogeco Communications Inc. on behalf of Cogeco Connexion Inc. (Cogeco), Quebecor Media Inc. on behalf of Videotron Ltd. (Videotron),⁵ and Rogers Communications Canada Inc. (RCCI) [collectively, the Cable Carriers]; the Canadian Cable Systems

⁴ “Large cable companies” refers to Bragg Communications Incorporated carrying on business as Eastlink; Cogeco Communications Inc.; Quebecor Media Inc. on behalf of Videotron Ltd.; Rogers Communications Canada Inc.; and Shaw Cablesystems G.P.

⁵ In this proceeding, submissions were received from Quebecor Media Inc. on behalf of Videotron G.P. However, effective 29 December 2017, all of Videotron G.P.'s assets and operations were transferred to Videotron Ltd., and Videotron G.P. was subsequently dissolved. For ease of reference, “Videotron Ltd.” is used in this decision.

Alliance (CCSA); the Canadian Network Operators Consortium Inc. (CNOc); the Independent Telecommunications Providers Association (ITPA); Northwestel; OpenMedia Engagement Network (OpenMedia); the Public Interest Advocacy Centre (PIAC); Saskatchewan Telecommunications (SaskTel); Shaw Cablesystems G.P. (Shaw); Sogetel Mobilité inc.; SSi Micro Ltd. (SSi); TekSavvy Solutions Inc. (TekSavvy); TELUS Communications Inc. (TCI);⁶ and over 600 individuals.

Issues

13. The Commission has identified the following issues to be addressed in this decision:

- To what services, if any, should a competitor Q of S regime apply?
- How should a new competitor Q of S regime be structured?
- Should a competitor Q of S regime apply to the small ILECs?
- Should a competitor Q of S regime apply to Northwestel?
- Other matters

To what services, if any, should a competitor Q of S regime apply?

14. In general, Bell Canada et al.,⁷ SaskTel, and TCI, as well as the Cable Carriers and Shaw,⁸ submitted that a competitor Q of S regime should no longer apply to the wireline services that are included in the current regime, nor to any other wholesale service. They expressed the view that a formal regime is no longer required to foster competition, and that market forces can be relied upon to ensure an adequate level of service for competitors.

15. Competitors (CCSA, CNOc, ITPA, SSi, and TekSavvy) and public interest groups (OpenMedia and PIAC) submitted that a competitor Q of S regime should remain in place. They argued that market forces alone cannot ensure that large ILECs and large cable companies would provide a sufficient level of service to competitors. However, they submitted various views about which wholesale services should be covered by a competitor Q of S regime.

16. To assess which wholesale services, if any, should be included in a competitor Q of S regime, the first step is to consider under what circumstances it might be appropriate for a wholesale service to be subject to such a regime.

⁶ In this proceeding, submissions were received from TELUS Communications Company (TCC). However, effective 1 October 2017, TCC's assets were legally transferred to TCI and TCC ceased to exist. For ease of reference, "TCI" is used in this decision.

⁷ Northwestel submitted that it agreed with and adopted Bell Canada's comments. Where it submitted its own comments, it will be identified separately.

⁸ While the Cable Carriers and Shaw submitted separate initial interventions, they subsequently filed joint submissions during the proceeding. Unless otherwise indicated, references to "the Cable Carriers" include Shaw.

Under what circumstances should a wholesale service be subject to a competitor Q of S regime?

Positions of parties

17. Bell Canada et al. and the Cable Carriers submitted that the Commission should be guided by the Policy Direction when assessing the appropriateness of a competitor Q of S regime, and should rely on market forces to the maximum extent feasible. They further submitted that a competitor Q of S regime is not required for services that are not mandated or are forborne from regulation.
18. The Cable Carriers also submitted that the Commission should not maintain or expand the competitor Q of S regime for regulated wholesale services where (i) the market is sufficiently competitive, (ii) there is no evidence of repeat failures in wholesale service quality, (iii) any failures are not within the control of the wholesale service provider, (iv) wholesale service quality is not inferior to retail quality, and (v) the costs associated with a competitor Q of S regime outweigh its benefits.
19. TCI submitted that wholesale services should be included in a competitor Q of S regime only if all the following circumstances exist: (i) the wholesale service is not forborne from regulation and is provided on a monopoly basis; (ii) the service is provisioned in such a way that its quality can be measured; (iii) the service quality measured must be clearly in the control of the regulated party; and (iv) the service has significant demand.
20. CNOC submitted that when forbearance is granted for a particular service, it would be appropriate to eliminate the corresponding Q of S indicators. It also submitted that services included in a competitor Q of S regime should satisfy two criteria: (i) they are mandated wholesale services; and (ii) they are deliverable at different service performance levels. CNOC added that, as a general practice, all mandated wholesale services should be subject to a competitor Q of S regime except where it can be demonstrated that it is not necessary to include them.
21. TekSavvy submitted that a wholesale service should be included in a competitor Q of S regime if it is a mandated service and if the manner in which it is provided has a material effect on the retail service for which it is a required input.
22. OpenMedia submitted that if a particular service has been granted forbearance, this does not automatically mean that it should not be included in a competitor Q of S regime. It argued that the Commission may have decided to forbear for other reasons consistent with the Canadian telecommunications policy objectives, as provided for in subsection 34(1) of the Act.⁹

⁹ Subsection 34(1) of the Act states: “The Commission may make a determination to refrain, in whole or in part and conditionally or unconditionally, from the exercise of any power or the performance of any duty under sections 24, 25, 27, 29 and 31 in relation to a telecommunications service or class of services provided by a Canadian carrier, where the Commission finds as a question of fact that to refrain would be consistent with the Canadian telecommunications policy objectives.”

23. PIAC submitted that the competitor Q of S regime should apply to all mandated competitor services, as wholesale service providers whose services are subject to price caps have an incentive to degrade their level of service in order to reduce costs and limit the effectiveness of their retail competitors.

Commission's analysis and determinations

24. The Commission considers that it would not be appropriate to establish a set of specific criteria to determine which wholesale services, if any, should be subject to a competitor Q of S regime, as such an approach would not provide the necessary flexibility to assess each wholesale service based on its specific characteristics. Rather, the Commission should take into account certain considerations when assessing whether a wholesale service or services should be, or should continue to be, subject to a competitor Q of S regime. Based on these considerations, the Commission has assessed the wholesale services included in the current regime, as well as certain recently mandated services that were discussed on the record of this proceeding, to determine whether it would be appropriate to include them in a competitor Q of S regime.
25. The primary considerations are presented below. Not all of them must be satisfied for a wholesale service to be included in a competitor Q of S regime, nor will any single consideration necessarily be determinative. Additional considerations may apply to a given service, as appropriate.

The wholesale service's mandated status and/or role in supporting retail competition

26. Certain wholesale services¹⁰ are mandated pursuant to the Essentiality Test or other policy considerations (i.e. public good, interconnection, and innovation and investment).¹¹ The Essentiality Test takes into account the conditions of both the wholesale and associated retail markets, including demand associated with the wholesale service, trends and changes in the market, and whether the wholesale provider has upstream market power and the ability to abuse it to negatively affect the downstream retail market. Therefore, a wholesale service's mandated status represents a reasonable consideration in the assessment of whether it would be appropriate to include the service in a competitor Q of S regime due to its importance in promoting retail competition.
27. Not all tariffed wholesale services have been mandated pursuant to the Essentiality Test, such as those provided by the small ILECs and Northwestel, given when that test was established. For such services, it would therefore be appropriate to evaluate

¹⁰ A reference to a wholesale service may be taken as a reference to a facility, function, or service (or all three), as appropriate in the context.

¹¹ The Commission applies the Essentiality Test first to define the relevant markets for a given wholesale service and then to assess the service against three components: input, competition, and duplicability. See Telecom Regulatory Policy 2015-326 for further details about the Essentiality Test and the policy considerations.

whether they are critical to supporting competition in their associated downstream retail market(s).

Demand conditions and associated trends

28. Demand associated with a wholesale service can reflect demand for the related downstream retail service(s). Significant and/or increasing demand for a wholesale service would support its inclusion in a competitor Q of S regime, while low and/or decreasing demand would lessen the need to include a wholesale service in such a regime.
29. In addition, while the Essentiality Test assesses demand for a given wholesale service, non-mandated tariffed services (e.g. Northwestel's Wholesale Connect service) have not been subject to such a demand assessment.
30. Given the above, the Commission considers that it should take into account the demand conditions and associated trends when determining whether a wholesale service should be subject to a competitor Q of S regime.

Level of service

31. Evidence that a wholesale service provider has provided substandard service (e.g. degrading or neglecting a wholesale service) should also be a factor for the Commission in considering whether regulatory action is required, as such evidence provides a clear indication of a problem that could affect the ability of competitors to compete effectively in the market.
32. However, it may be challenging to assess the evidence pertaining to service levels in certain situations, such as when no service level performance standards have been established for the provision of a wholesale service and/or when the data provided by a competitor and a wholesale service provider do not allow for a meaningful comparison. As such, it is important for the Commission to consider whether a wholesale service provider would have a strong incentive to provide substandard service in order to defend or grow its retail market share.

Feasibility of including the wholesale service in a competitor Q of S regime

33. It would be difficult, if not impossible, to impose a competitor Q of S regime on a wholesale service that does not have metrics that allow for objective numerical standards and comparison. The extent to which metrics could be applied to the service should therefore also be considered.

Conclusion

34. In light of the above, the Commission will generally take into account the following factors when assessing whether a wholesale service should be subject to a competitor Q of S regime:

- Is the wholesale service mandated and/or critical to support retail competition?
- What are the demand conditions and associated trends for the wholesale service?
- Is there evidence of a substandard service level?
- Is there a strong incentive to provide low-quality service?
- Would it be practicable to include the wholesale service in a competitor Q of S regime?

Wholesale services included in the current competitor Q of S regime

35. The following wholesale services provided by the large ILECs are included in the current competitor Q of S regime: ULLs, CDN services, LNI trunks, LNP orders, and LSRs.

Positions of parties

36. Bell Canada et al., Cogeco, Eastlink, RCCI, TCI, and Videotron submitted that services covered by the current competitor Q of S regime are declining in demand and importance, and are generally not necessary for competition in the wireline voice market. Bell Canada et al. and TCI also argued that continuing to track and monitor indicators associated with such services is not justified given the cost, administrative burden, and low volume of demand.

37. CNOC and PIAC submitted that competitors face service quality issues affecting various aspects of wholesale service provisioning associated with local exchange services. They added that competitor Q of S reporting data demonstrate that ILECs are frequently missing acceptable service performance standards despite the presence of an RRP.

38. CNOC also submitted that declining demand or phase-out status for certain services does not change the fact that those services are currently mandated and warrant adequate protection for the level of service provided to competitors.

Commission's analysis and determinations

39. The Commission has assessed the wholesale services subject to the current regime, grouping services together where similar considerations apply, as follows: (i) ULLs and CDN services; (ii) LNI trunks; and (iii) LNP orders and LSRs.

ULLs and CDN services

40. In Telecom Regulatory Policy 2015-326, the Commission found that ULLs were not essential and that the withdrawal of mandated access to them would not have a

significant effect on competition for residential and business local voice services at that time or in the future.¹²

41. With respect to CDN services, in Telecom Decision 2008-17 the Commission found that high-speed CDN access and transport services, as well as low-speed CDN transport services, were not essential based on the existence of competition in the associated upstream market. As a result, the Commission has since phased out the mandated provisioning of these services.
42. While low-speed CDN access services are still mandated, the overall demand for them is relatively low and has declined in recent years. Based on the ILECs' forecasts, this decline is expected to continue.
43. Given (i) the fact that ULLs and all CDN services except low-speed CDN access services are no longer mandated, (ii) the low and declining demand for ULLs and low-speed CDN services, and (iii) the fact that there is no evidence of consistently substandard service quality related to the provisioning of these services, the Commission considers that ULLs and CDN services should no longer form part of the competitor Q of S regime.

LNI trunks

44. The services associated with the LNI trunk indicators in the existing competitor Q of S regime are mandated wholesale services. There is no evidence on the record of this proceeding, however, that ILECs have degraded or neglected the service quality associated with these services. The ILECs' monthly results associated with the provision of LNI trunks were generally satisfactory between 2014 and 2016, and most of the ILECs frequently achieved results of 100% of service intervals met during that period.
45. The record of this proceeding also indicates that overall revenues associated with LNI trunks and new LNI trunk orders are declining in the large ILECs' territories. The Commission expects this trend to continue, based on the large ILECs' forecasts, and considers that such a decline does not justify the continued application of a competitor Q of S regime for these services. As such, the Commission considers that services associated with LNI trunks should no longer form part of the competitor Q of S regime.

¹² The Commission provided a three-year phase-out period for ULLs (i.e. until 22 July 2018) in order to attenuate any effect on competitors and end-users. During the phase-out period, ULLs continue to be made available in exchanges where there was demand for them as of 22 July 2015 (i.e. the date of issuance of Telecom Regulatory Policy 2015-326).

LNP orders and LSRs

46. LNP orders and LSRs are not wholesale services per se, but they have been important processes in support of retail competition. There is no evidence on the record of this proceeding that the large ILECs have degraded or neglected the service quality associated with these processes, and the standards for them have generally been met in recent years. In many cases between 2014 and 2016, the ILECs' monthly results showed 100% of service intervals and confirmed due dates met. In addition, the incentive for the large ILECs to delay processing LNP orders and LSRs is limited, as there are Commission-approved service standards in place that set out time limits for customer transfers between local exchange carriers (LECs) [two business days for LNP orders and LSRs], and LECs' systems and processes were designed to meet these time limits.
47. Moreover, while all LECs and wireless service providers (WSPs) process number portability orders, and all LECs, WSPs, and Internet service providers process LSRs, only the large ILECs are subject to the current competitor Q of S regime with respect to these processes.
48. While it may have been reasonable to apply a competitor Q of S regime for LNP orders and LSRs only to the large ILECs at the time local competition was being established, this approach is no longer reasonable in light of the current competitive landscape in the local exchange services market. Further, the ongoing transition from wireline to mobile wireless voice services does not justify expanding the obligations of the competitor Q of S regime to other LECs, and there is no evidence on the record of this proceeding that supports the expansion of such a regime to WSPs. As such, the Commission considers that LNP orders and LSRs should no longer form part of the competitor Q of S regime.

Conclusion

49. In light of the above, and given the changes in the telecommunications market in recent years, the Commission determines that the large ILECs' wholesale services and processes currently subject to the competitor Q of S regime should no longer be included in such a regime.
50. Regarding the implementation of this determination, competitor Q of S results are currently assessed on a monthly basis. It would not be appropriate to require large ILECs to report on indicators and pay any rebates under the RRP for a month that is not completed. As such, the Commission determines that large ILECs are required to report on existing indicators and pay any rebates under the RRP for each month up to and including March 2018 (i.e. the last complete month prior to the issuance of this decision).
51. In addition, under the current competitor Q of S regime, large ILECs are required to (i) conduct internal audits to verify competitor Q of S procedures and processes, (ii) retain an external auditor to conduct annual audits of the competitor Q of S results, and (iii) file reports detailing any issues raised and findings made in the

internal or external audits (auditing requirements). In order to ensure that the current competitor Q of S regime is appropriately applied, these auditing requirements should continue to be in place as long as the current regime, including the RRP, applies to the large ILECs' wholesale wireline services.

52. As such, the Commission determines that the current auditing requirements will continue to apply until the end of March 2018 (i.e. the end of the last month for which indicators were reported on and the RRP was in place).

Other services that parties proposed to include in a competitor Q of S regime

53. During this proceeding, various parties proposed that wholesale mobile wireless roaming (wholesale roaming) services and wholesale HSA services be included in a competitor Q of S regime.
54. Wholesale roaming services are associated with arrangements between wireless carriers to allow their customers to originate or terminate communications, including voice calls, text messages (Short Message Service or SMS), and data, when they are outside their own carrier's network footprint. Wholesale HSA services provide competitors with access to end-users through a large ILEC's or a large cable company's HSA facilities. Through these services, competitors offer a variety of services, including retail Internet access, voice over Internet Protocol, and Internet Protocol television.
55. In September 2013, CNOOC requested relief regarding the provision of wholesale HSA services by the large cable companies due to concerns associated with the level of service wholesale customers were receiving. The Commission issued its determinations on that proceeding in Telecom Decision 2015-40 and, as a result, an ad hoc CRTC Interconnection Steering Committee (CISC) Wholesale High-Speed Access Working Group (the 1540 Working Group) was created to address some of the issues raised by CNOOC.

Positions of parties

Wholesale roaming services

56. CNOOC, OpenMedia, PIAC, and TekSavvy submitted that wholesale roaming services should be included in the competitor Q of S regime due to the market power of the incumbent wireless carriers that are mandated to provide them (i.e. Bell Mobility, RCCI, and TCI).
57. CNOOC submitted that the incumbent wireless carriers currently have incentives to undermine wholesale roaming service levels to maintain a competitive advantage and avoid the investments that may be necessary to deliver adequate service levels. In its view, the Commission should monitor wholesale roaming service performance levels and related complaints over a period of one to two years in order to determine whether, and how, to include wholesale roaming services in a competitor Q of S regime.

58. Bell Canada et al., the Cable Carriers, SaskTel, and TCI submitted that the competitor Q of S regime should not include wholesale roaming services. These parties argued that the provision of wholesale roaming services does not involve processes or activities that would degrade the service that end-users receive.
59. Bell Canada et al. submitted that no actions must be taken to make wholesale roaming service available to the wholesale customer's end-users, since once a roaming partnership is established, all those end-users have automatic access to the wholesale service provider's wireless network. They also submitted that system outages affect all traffic in a similar manner and that a wholesale roaming service provider does not need to take any specific actions to re-establish service for a roaming customer because both the provider's own retail customers and its wholesale customers' end-users share the same network facilities.

Wholesale HSA services

60. Competitors, consumer groups, and numerous individuals generally submitted that a competitor Q of S regime should apply to wholesale HSA services. They submitted that providers of these services deliver inferior service quality to their competitors' retail Internet access customers, who are frequently subjected to missed installation appointments and repair delays.
61. CNOC and TekSavvy submitted that wholesale HSA service providers have market power, which creates a disincentive for them to provide adequate service. They also submitted that competitors have limited bargaining power and have not been able to negotiate the inclusion of service quality intervals in off-tariff agreements for mandated wholesale services.
62. CNOC, OpenMedia, and TekSavvy submitted that it is not feasible for competitors to switch wholesale HSA service providers if they are receiving deficient service quality, as that would involve transferring all their existing customers from their current provider's network to another network, which in turn would entail costs and other burdens for providers and their retail customers.
63. Wholesale HSA service providers generally submitted that a competitor Q of S regime should not be imposed upon wholesale HSA services, arguing that there is no evidence showing that they have been providing inadequate service. They added that the evidence they provided regarding their service installation and repair intervals demonstrates that the provisioning of wholesale HSA services is comparable – and sometimes even superior – to the provisioning of services to their own retail end-users.
64. They also submitted that competition among wholesale HSA service providers prevents them from providing a substandard level of service to competitors and noted the widespread provision of promotional offers for wholesale HSA services. In addition, they argued that the rapid increase in competitors' market share and total retail end-users in recent years could not have occurred if competitors had been receiving a substandard level of service. They argued that therefore, the cost of

subjecting wholesale HSA services to a competitor Q of S regime would outweigh any potential benefits.

65. Wholesale HSA service providers further submitted that their competitors' end-users and their own retail customers use the same networks and technicians, and their technicians are required to treat these two groups equally. They generally noted that both wholesale HSA services and retail Internet services are provided on a best-effort basis, in which end-users are offered appointments on a first-come, first-served basis that does not necessarily include specific service delivery targets. These providers indicated that they have made improvements in the provisioning of wholesale HSA services in recent years, including streamlining installation processes, updating web portals for service requests or changes, and implementing network diagnostic tools.

Commission's analysis and determinations

Wholesale roaming services

66. In Telecom Regulatory Policy 2015-177, the Commission determined that wholesale roaming services are essential and classified them as mandated. Demand for these services is increasing as more Canadians subscribe to wireless services and existing subscribers increase their use. This growth in demand is expected to continue over the long term.
67. There is no evidence on the record of this proceeding, however, that the incumbent wireless carriers have been providing a substandard level of service to competitors for wholesale roaming services. The nature of these services also dictates that wholesale providers generally cannot degrade the service they provide to their wholesale customers' end-users without affecting the service they offer to their own retail end-users, which means that they would have little incentive to provide a substandard level of service to competitors.
68. Furthermore, unlike wholesale wireline services, which generally require a technician dispatch for each new installation and other technical and/or administrative activities on the part of the wholesale provider for changes to service, wholesale roaming services are automatically available to the wholesale customers' end-users when they subscribe to a service.
69. Finally, there are already regulatory safeguards in place to ensure that wholesale customers' end-users receive standardized service levels. The Commission recently issued Telecom Decision 2017-56, which set out final terms and conditions for wholesale roaming services. In that decision, the Commission directed the incumbent wireless carriers to ensure that the quality of service provisions in their tariffs include language indicating that they will provide roaming customers with the ability to access voice and data services at a level of quality comparable to that offered to their own customers.
70. Therefore, the Commission determines that wholesale roaming services should not be included in a competitor Q of S regime.

Wholesale HSA services

71. Demand for wholesale HSA services has increased alongside demand for retail Internet services in recent years and is expected to continue to increase in all geographic areas.
72. All wholesale HSA service providers – that is, Bell Canada (including Bell MTS and Télébec), Cogeco, Eastlink, RCCI, SaskTel, Shaw, TCI, and Videotron – are mandated to provide aggregated HSA service. In addition, in Telecom Regulatory Policy 2015-326, the Commission mandated these companies to provide disaggregated HSA service, through which competitors can access end-users via the wholesale HSA service providers' fibre-to-the-premises access facilities. That service is being introduced in phases based on demand conditions, beginning with Bell Canada, Cogeco, RCCI, and Videotron in their incumbent serving territories in Ontario and Quebec.
73. While the obligation to provide aggregated HSA services will be phased out over a period of three years after disaggregated HSA services are provided in a given head-end or central office, aggregated HSA services will continue to be regulated in numerous markets for the foreseeable future.
74. Wholesale HSA services are provisioned in such a way that a reduction in competitor service levels could negatively affect end-users and retail competition. Wholesale HSA service providers' technicians generally must visit a wholesale customer's end-user's premises for new installations and certain repairs. Other wholesale HSA service provider activities require their carrier services groups to process orders and coordinate installations, repairs, and disconnections – activities for which delays can occur for competitors' end-users.
75. The evidence provided by wholesale HSA service providers and competitors regarding HSA installation and repair statistics was inconsistent. In addition, wholesale HSA service providers themselves did not provide uniform metrics, which prevented meaningful comparisons regarding their performance for these activities.
76. The Commission acknowledges that some delays are inherent to the provision of wholesale HSA services to competitors' end-users. For example, wholesale HSA service providers generally do not book installation appointments for competitors' end-users during the first few business days after receiving an order, to provide sufficient time for the end-user to receive a modem from their service provider.
77. However, there are limited incentives for large ILECs and large cable companies to compete aggressively for HSA business in general, and the incentive for them to differentiate their service offerings by providing superior competitor service levels is also limited.
78. While off-tariff agreements for wholesale HSA services may be common, the general absence of competitor Q of S provisions in off-tariff negotiations suggests that market forces may not be sufficient to ensure that competitors receive adequate service

quality. In addition, competitors are limited in their ability to influence the service levels they receive by switching providers, since providers of wholesale HSA services have market power in the provision of these services. Further, it can be cost-prohibitive for an end-user to switch between retail services provided by competitors using different wholesale HSA service providers because the end-user may need to purchase a new modem and/or pay additional installation fees.

79. Wholesale HSA service providers also have financial and competitive incentives to retain or gain retail end-users versus wholesale customers. Retail end-users generate higher revenue and offer the provider opportunities to bundle other services with their Internet service. Moreover, if a wholesale HSA service provider wins a retail end-user from a competitor, the competitor loses market share. As such, there are incentives for wholesale HSA service providers to treat their competitors' end-users and their own customers differently.
80. As part of this proceeding, both large ILECs and large cable companies filed a variety of metrics directly related to wholesale HSA services, including wholesale installation intervals and average times for repairs and service changes. As such, many metrics for wholesale HSA services could be developed and incorporated into a competitor Q of S regime.
81. In light of the above, and given the increasing importance of broadband services to Canadians, the Commission determines that additional regulatory oversight is appropriate for all providers of both aggregated and disaggregated wholesale HSA services, and that these services should be included in a competitor Q of S regime.

How should a new competitor Q of S regime be structured?

How should the Commission deal with any problems, or potential problems, with wholesale HSA service quality?

Positions of parties

82. Bell Canada et al. and TCI submitted that the Commission should rely on a complaints-based approach to address service quality issues, similar to the one currently in place for the small ILECs, under which competitors would first raise any concerns with their service provider. If the service provider is not able to resolve the issue, the competitor could seek Commission intervention. Bell Canada et al. argued that such an approach would minimize the administrative burden for service providers, while ensuring that service quality issues could be meaningfully resolved.
83. The Cable Carriers submitted that options such as bilateral discussions, multilateral negotiations, Commission-supervised dispute resolution,¹³ and Part 1 applications would be less intrusive than a competitor Q of S regime and could address any service quality concerns that might arise.

¹³ The Commission's dispute resolution procedures are set out in Broadcasting and Telecom Information Bulletin 2013-637.

84. Bell Canada et al. and the Cable Carriers also submitted that the Commission could monitor complaint patterns and intervene in a targeted manner with respect to the service of a specific provider, as appropriate.
85. CNOC submitted that negotiations cannot address situations in which large ILECs and large cable companies do not adhere to agreed-upon processes or standards resulting from negotiations. It also argued that negotiation mechanisms do not create general precedents that can benefit other providers that suffer problems similar to those in dispute, and that these negotiations can be costly.
86. PIAC submitted that the competitor Q of S regime is primarily an information gathering tool. It argued that wholesale customers cannot have evidence of service quality issues without data and a standard defining a reasonable level of competitor service.

Commission's analysis and determinations

87. A complaints-based approach would minimize the administrative burden for wholesale HSA service providers while enabling the Commission to intervene following a complaint. Such an approach would rely on practices, mechanisms, and remedies currently in place. It would, however, be more burdensome and less effective for competitors than a competitor Q of S regime would be, as they would have to negotiate with wholesale HSA service providers if an issue arose and might require Commission intervention if the issue could not be resolved. Such intervention would likely require the Commission to establish various associated processes, all of which would be burdensome and time-consuming for all entities involved, particularly small wholesale customers.
88. As indicated above, competitors do not have significant bargaining power when negotiating with wholesale service providers, given that these providers have market power for the provision of wholesale HSA services. In addition, a complaints-based approach would not provide a complete picture of the level of service that wholesale HSA service providers are delivering to different competitors over time.
89. While a competitor Q of S regime would be more burdensome for wholesale HSA service providers than a complaints-based approach, it would enable competitors and the Commission to monitor the actual level of service the providers are delivering and to measure these results against defined and standardized indicators. This type of regime would permit comparisons among wholesale service providers and competitors and would allow for tracking over time, which would help to identify any negative patterns in competitor Q of S results and enable regulatory intervention, as appropriate.
90. As such, the Commission determines that a competitor Q of S regime for wholesale HSA services will require the establishment of indicators.

What wholesale HSA service indicators should be included?

Positions of parties

91. PIAC submitted that service indicators should assure timely installation, notifications, and repairs, as these activities are provided to wholesale customers' end-users with different levels of quality.
92. CNOC submitted that the measurement methods for a number of the competitor Q of S indicators should follow retail service standards adopted by the wholesale HSA service providers as the reference point for the definition of the indicators. Otherwise, CNOC argued, wholesale HSA service providers could circumvent the indicators simply by booking longer wholesale service windows than retail service windows.
93. CNOC, supported by TekSavvy, proposed four company-wide indicators and 13 competitor-specific indicators for wholesale HSA services. It argued that the first set of indicators would allow the Commission to monitor a wholesale HSA service provider's competitor service performance relative to its retail service performance, while the second set would allow it to monitor activities that have a significant impact on wholesale customers' end-users and competition.
94. Bell Canada et al. submitted that it is not appropriate for retail and wholesale service intervals to be identical due to inherent differences in the nature of these services. They noted that wholesale HSA installations have coordination issues that do not exist for retail installations.
95. The Cable Carriers submitted that a competitor Q of S regime would need to exclude factors that are not under the control of the wholesale service providers, such as an end-user not being present for an installation appointment, in order to avoid penalizing the providers. They also submitted that if the Commission proceeds with a competitor Q of S regime for wholesale HSA services, the metrics used should favour administrative simplicity and not unfairly penalize wholesale HSA service providers.

Commission's analysis and determinations

96. The primary purpose of this competitor Q of S regime for wholesale HSA services is to ensure that competitors receive a level of service that enables them to compete effectively and to provide service to their end-users efficiently. This regime should primarily account for aspects of wholesale HSA services that have the greatest effect on competitors' retail services, namely wholesale processes associated with installations and repairs.
97. The Commission considers that the indicators proposed by CNOC are unnecessarily detailed and would be overly burdensome for wholesale HSA service providers at this time, given the inconsistent evidence on the record regarding possible issues associated with wholesale HSA services. Including separate indicators for late service activity completions, as proposed, would not be necessary at this time for the same reason. In addition, the proposed indicators related to certain activities, such as disconnections, do not affect competitors' end-users or competition to the same extent as installation and repair activities.

98. Indicators for measuring installation and repair appointments met would not be affected by factors influencing service delivery timelines, even if those factors are not under the control of wholesale HSA service providers (e.g. geography, time of year, competitor activities, and end-user preferences). In addition, establishing a target for the percentage of appointments met would make it easier for the Commission and competitors to assess whether there are any issues with the level of service provided by wholesale HSA service providers and whether the Commission should intervene to address any such issues.
99. The Commission therefore **directs** wholesale HSA service providers to provide information related to the following two indicators: wholesale HSA installation appointments met and wholesale HSA repair appointments met.¹⁴ This information must be provided on both a company-wide and a competitor-specific basis, to enable the Commission and competitors to access aggregated information as well as more detailed data that will allow for comparisons across wholesale customers.
100. In addition, in order to mitigate concerns that wholesale HSA service providers might use longer service intervals to improve their percentage of appointment times met, the Commission considers that it would also be appropriate to track information about average installation and repair intervals. Data on average service delivery times for each competitor would help the Commission assess whether wholesale HSA services are provided on a discriminatory basis and would enable the Commission and competitors to identify potential issues with the delivery of these services.
101. The Commission therefore **directs** wholesale HSA service providers to provide average timelines for (i) wholesale HSA installations and (ii) wholesale HSA repairs, on both a company-wide and a competitor-specific basis.
102. The Commission considers that no wholesale HSA service provider, regardless of size, would be unduly burdened by the requirement to track and report on the new indicators set out above.
103. Certain aspects of the indicators and timelines on which wholesale HSA service providers must report, such as exclusions for reasons beyond their control, will require a follow-up process. CISC is best suited for finalizing these details.
104. The Commission therefore requests that CISC, by **15 October 2018**,
- propose business rules with respect to how installations and repairs are counted for the categories of wholesale HSA metrics set out above;

¹⁴ The indicator for wholesale HSA installation appointments met will include meeting a scheduled appointment to activate a competitor's end-user's service, even when a technician is not required at the premises. Activation includes transferring an end-user's service from one competitor to another on the same wholesale HSA service provider's network, or from a wholesale HSA service provider to a competitor on its network. Installation and repair activities for Internet services provided through disaggregated wholesale HSA will not require separate indicators, and results for aggregated and disaggregated wholesale HSA are to be combined.

- propose minimum targets for the percentage of wholesale HSA installation and repair appointments met; and
- explore the development of, and propose, interval targets for the average timelines for wholesale HSA installation and repair appointments.

105. The Commission recognizes that wholesale HSA service providers will need to implement certain process and information technology system changes in order to accommodate the new competitor Q of S regime. The Commission requests that CISC provide recommendations about implementation timelines at the same time it submits its recommendations regarding the indicators for wholesale HSA installations and repairs. The Commission intends to issue its determinations regarding the date for wholesale HSA service providers to begin tracking the indicators at the same time it issues its determinations on business rules for the installation and repair indicators.

What should be the reporting requirements?

Positions of parties

106. The Cable Carriers submitted that competitor Q of S reporting requirements should be streamlined. They argued that annual reporting should be sufficient unless and until there is evidence that more frequent reporting is warranted.

107. CNOc and TekSavvy submitted that the reporting requirements prescribed by the current competitor Q of S regime should be maintained and applied to all services included in any new regime resulting from this proceeding. TekSavvy also submitted that reports should be published each half-year, on an aggregated basis, in order to provide for third-party verification and market monitoring. It argued that this approach would provide transparency and would foster competition by allowing for market conditions to be assessed globally.

108. SSI submitted that the Commission should require ILECs to report on (i) their compliance if they have repeatedly failed an indicator; (ii) their progress on compliance if LNI is being prevented; and (iii) their competitor service levels to the degree of granularity that the Commission currently requires in order to continue to provide timely and complete reports.

Commission's analysis and determinations

109. Reporting must be frequent enough to allow the Commission and competitors to monitor any significant changes or trends in the level of service provided to competitors, which would enable them to address any potential issues on a timely basis, while not being overly burdensome for wholesale HSA service providers.

110. The Commission considers that the reporting format established in Telecom Decision 2005-20 remains appropriate for the purposes of reporting on wholesale HSA service indicators.

111. Accordingly, the Commission **directs** wholesale HSA service providers to

- report competitor-specific and company-wide competitor Q of S results for each indicator on a quarterly basis for each month in that quarter, within 30 days of the last day of the applicable quarter; and
- provide competitor-specific reports to the associated competitor, containing all supporting details associated with the determination of the Q of S results related to that competitor, at the same time as they file their reports with the Commission.

What should be the consequences for failure to meet standards?

112. Under the current RRP, rebates are provided to competitors when a large ILEC fails to meet a relevant competitor Q of S performance standard, unless the Commission determines otherwise.

113. In addition, as noted above, new provisions added to the Act as of December 2014 give the Commission the authority to impose AMPs in order to promote compliance with the Act and/or regulations and decisions made under that Act.

Positions of parties

114. Bell Canada et al. submitted that RRP rebates are not linked to compensation for any damage caused as a result of a missed installation or repair, as the amount of any RRP payments received by competitors is not passed on to their customers.

115. The Cable Carriers submitted that if the Commission were to maintain or expand the competitor Q of S regime, it does not automatically follow that an RRP would be warranted. They argued that an RRP should be considered only if there is evidence that the competitor Q of S regime on its own is not providing sufficient incentives for providers to achieve a reasonable level of service quality and that no other measure could be employed more efficiently.

116. TCI submitted that AMPs would be excessive and ineffective in addressing service quality concerns, arguing that AMPs would not compensate competitors since they are not payable to the aggrieved party. TCI also argued that the use of AMPs would not be tied to the historical purpose of the competitor Q of S regime, which arose out of the Commission's mandate to ensure just and reasonable rates.

117. The CCSA, CNOC, and PIAC submitted that the current RRP regime should be maintained or strengthened. CNOC and TekSavvy generally submitted that the current RRP strikes an appropriate balance between creating meaningful incentives for compliance with competitor Q of S standards and not being punitive to the ILECs. CNOC, supported by TekSavvy, submitted that a mechanism should be introduced to discourage repeated and prolonged non-compliance with specific competitor Q of S indicators.

118. CNOC, OpenMedia, PIAC, and TekSavvy submitted that the Commission should impose AMPs for repeated violations of competitor Q of S standards. CNOC and OpenMedia generally argued that the use of AMPs would deter large ILECs and large

cable companies from committing repeated violations and would send a clear message that anti-competitive conduct will not be tolerated.

Commission's analysis and determinations

119. As noted above, the evidence filed in this proceeding regarding service level issues related to wholesale HSA services is not consistent, given the lack of standardized metrics, and there is not enough evidence to ascertain the extent of such issues in the wholesale HSA market. As such, the Commission determines that there is insufficient evidence on the record of this proceeding to justify imposing an RRP on wholesale HSA service providers at this time.
120. With respect to AMPs, there may be circumstances in which they would be the most appropriate tool to obtain compliance and deter future non-compliance in the context of competitor service quality issues. The Commission intends to use any tools available to it, including AMPs, to promote compliance with the Act, regulations, or Commission decisions related to competitor service quality. The appropriate tool to use in a particular situation will depend on the context of each case.
121. In light of the above, the Commission determines that it would be premature at this time to establish a formal mechanism to address instances of wholesale HSA service providers not meeting competitor service quality standards. However, the monitoring regime the Commission is establishing for wholesale HSA services will provide information that will allow it to assess whether any additional regulatory measures would be appropriate, including an RRP and/or AMPs, and to intervene as required.

Should a competitor Q of S regime apply to the small ILECs?

122. In Telecom Decision 2007-109, the Commission specifically excluded small ILECs from the competitor Q of S RRP based on its view that the additional costs and resources involved could impair the small ILECs' ability to compete against new competitors in the local exchange services market. However, the Commission considered that a monitoring system should be in place for small ILECs and that the existing complaints-based approach was sufficient at that time. Since then, local exchange competition has been implemented in the territories of many small ILECs.

Positions of parties

123. Bell Canada et al., the Cable Carriers, CNOC, the ITPA, and PIAC submitted that the complaints-based approach that applies to small ILECs remains appropriate. The ITPA submitted that there is no evidence to support placing an additional burden on small ILECs by imposing the large ILEC regime on them and that the impact of implementing such a regime could be significant for small ILECs, given their limited resources. It also submitted that small ILECs have received very few formal competitor service complaints regarding their wholesale services, that there is a very low level of demand for small ILECs' wholesale services, and that no competitive local exchange carriers (CLECs) have requested ULLs from the ITPA's members.

124. No party, including those relying on wholesale services in the small ILECs' territories, supported the extension of the competitor Q of S regime to the small ILECs.

Commission's analysis and determinations

125. While small ILECs are not required to provide wholesale HSA services or CDN services to competitors, they are required to provide wholesale services in response to a competitor's request to implement local competition in their territories.¹⁵ The Commission is not aware of issues with the provision of ULLs, nor with LSRs and LNP orders, in the small ILECs' territories.

126. The current complaints-based approach has proven to be effective for the small ILECs. Notably, after a competitor made a complaint related to local competition implementation delays in 2012, the Commission intervened directly to encourage the timely implementation of local competition by certain small ILECs.¹⁶

127. Given the above, and in recognition of their limited resources, it would not be appropriate to implement a competitor Q of S regime for the small ILECs that is more complex and resource-intensive than the current approach. Therefore, the Commission determines that the current complaints-based approach is sufficient to address competitor service quality in the small ILECs' territories at this time.

Should a competitor Q of S regime apply to Northwestel?

128. In Telecom Regulatory Policy 2011-771, the Commission established a framework to implement facilities-based local competition throughout Northwestel's incumbent operating territory.¹⁷ In 2012, Northwestel introduced its Wholesale Connect service, which provides transport for telecommunications traffic across its operating territory. The Commission has not applied a competitor Q of S regime to Northwestel with respect to its wholesale services.

Positions of parties

129. Northwestel, supported by Bell Canada et al., submitted that it would not be appropriate for it to be subject to a competitor Q of S regime. These parties argued that Northwestel's unique operating environment results in greater operational challenges than those facing other ILECs, and that the conditions in which it operates should be recognized because the provision of wholesale services in the Far North

¹⁵ TBayTel is the only small ILECs providing CDN access services (DS-0 and DS-1). See Telecom Decision 2010-897 for more details.

¹⁶ The Commission initiated a proceeding, through Telecom Notice of Consultation 2012-623, to assess whether it would be appropriate to withhold the subsidy payments due to certain small ILECs. This proceeding was later closed, as implementation of local competition in those small ILECs' territories progressed satisfactorily.

¹⁷ Northwestel provides local interconnection services through its Tariff 21841 Items 100 (Local network Interconnection) and 110 (CLEC Digital Network Access).

requires more flexibility than simply applying predetermined service intervals for installations or repairs.

130. Northwestel also submitted that the additional costs and resources that would be required for it to implement a competitor Q of S regime would outweigh the benefits, given the limited demand for its wholesale services. The company further submitted that a complaints-based approach would be more appropriate to address competitor service quality issues in its operating territory.
131. CNOc, PIAC, and SSI submitted that Northwestel should be subject to the same competitor Q of S regime imposed on the large ILECs. PIAC added that Northwestel holds wholesale market power across its operating territory.
132. SSI submitted that Northwestel has an incentive to delay interconnection and to exaggerate the difficulties associated with establishing local competition. SSI indicated that it had formally requested LNI with Northwestel for a number of communities in late 2015, but Northwestel still had not completed interconnection testing with SSI's local networks by April 2017 and had not been able to provide definite dates on which it would be able to accommodate LNI.

Commission's analysis and determinations

133. Northwestel is required to provide the services necessary to enable local competition within its territory. While Northwestel offers ULLs, there was no demand for them between 2014 and 2016, and the company did not forecast any demand in the near future. Northwestel does not have a tariff for CDN service and is not required to provide it. As such, it would not be appropriate to subject ULLs and CDN services to further regulatory oversight in the case of Northwestel.
134. The Commission is not aware of any issues regarding the processing of LNP orders and LSRs in Northwestel's territory. However, Northwestel has few incentives to ensure timely processing, given its market power regarding local exchange services in its operating territory.
135. With respect to the provision of LNI trunks, the Commission recognizes that the introduction of local competition in Northwestel's territory may present more challenges than in other regions, given Northwestel's unique operating environment (e.g. community remoteness, weather, scheduling complexities, and a short construction season). However, the Commission is concerned that local competition may not have been implemented in some communities in a timely manner. With regard to SSI's requests for local competition, while there is no clear evidence on the record of this proceeding that Northwestel unduly delayed local competition implementation, there are also no incentives in place to ensure that Northwestel allocates an appropriate portion of its construction and technical personnel resources to fulfill competitor orders in a timely fashion.
136. With respect to Northwestel's Wholesale Connect service, while there is no evidence on the record of this proceeding regarding provisioning issues, Northwestel is the

primary, and often the only, provider of high-capacity terrestrial transport services in the North. Wholesale Connect service is critical to support competition in the provision of retail telecommunications services in the North, including Internet services, as competitors must rely on this service to deliver telecommunications services to their end-users. Northwestel has few incentives to ensure the timely provision of Wholesale Connect service, given its market power regarding retail Internet services in its operating territory.

137. In light of the above, the Commission considers that further regulatory oversight is required for Northwestel with respect to LNP orders, LSRs, LNI trunks, and Wholesale Connect service.
138. Competitors such as SSI do not have significant bargaining power when negotiating with Northwestel, given the latter's market power in the provision of wholesale services in the North. As competition has been slow to develop in Northwestel's territory, a complaints-based approach would be insufficient to ensure that the company provides an acceptable level of service to its competitors. In addition, such an approach would not provide a sufficient picture of the level of service that Northwestel provides to its competitors over time.
139. However, it would not be appropriate to apply the existing competitor Q of S regime related to LNP orders, LSRs, and LNI trunks directly to Northwestel without further process. The service standards and intervals associated with the competitor Q of S indicators pertaining to these services and processes would likely need to be adjusted for Northwestel, given its unique operating environment, and there is not enough evidence on the record of this proceeding to appropriately assess which service standards and intervals should apply to Northwestel.
140. In addition, it would be premature at this time to apply an RRP with respect to these processes and services. As indicated above, there is no evidence that Northwestel is unduly delaying its provisioning of Wholesale Connect service or its processing of LNP orders and LSRs.
141. In recognition of Northwestel's specific circumstances, the Commission considers that establishing a monitoring regime for the company would be appropriate at this time. Such a regime would allow the Commission to assess the competitor service levels provided by Northwestel and whether any additional regulatory measures would be appropriate for the company's wholesale services in the future. A monitoring regime would be less burdensome for Northwestel than a formal competitor Q of S regime, as it would not require the development of indicators.
142. In light of the above, the Commission **directs** Northwestel to file reports that cover LNP orders, LSRs, LNI trunks, and Wholesale Connect service. Details on the information to be included in these reports and the time frames for reporting and filing are provided in Appendix 2 to this decision. The Commission also **directs** Northwestel to provide a copy of its competitor-specific results to the relevant competitor at the same time it submits its reports to the Commission.

Other matters

Effect of any changes on the local forbearance application process

Positions of parties

143. Shaw submitted that while the competitor Q of S regime should not be retained or expanded, it will be technically necessary to retain tracking and reporting with regard to the specific subset of competitor Q of S indicators set out in Telecom Decision 2006-15, until the local forbearance criteria can be altered. The Cable Carriers generally submitted that the Commission should assess this issue when it reviews its local forbearance framework.

Commission's analysis and determinations

144. While the competitor Q of S regime is linked to the local forbearance framework because competitor service quality is one of the local forbearance criteria, no party proposed that this criterion should be removed from the framework in the context of the current proceeding.

145. The Commission considers that its upcoming review of the local forbearance regime, which is included in its *Three-Year Plan: 2017-2020*, will be the appropriate process during which to assess whether a competitor service quality criterion should be retained for the purpose of local forbearance. As such, when large ILECs file local forbearance applications, they must continue to demonstrate that they meet the competitor service quality criterion, pursuant to subparagraphs 242(b)(i) and (ii) of Telecom Decision 2006-15 (as modified by Order in Council P.C. 2007-532).

Time frame for review

Positions of parties

146. Most parties proposed that the Commission initiate another review of the competitor Q of S regime within a three- to five-year time frame. Bell Canada et al., OpenMedia, and PIAC generally submitted that a review of the regime could be conducted earlier if circumstances change sufficiently to warrant such a review.

147. CNOC submitted that a review of the regime should be conducted in conjunction with wholesale regulatory framework reviews, for regulatory efficiency.

Commission's analysis and determinations

148. With respect to CNOC's proposal, the Commission considers that it would not be appropriate to conduct the two reviews together, given the complexity and scope of a wholesale framework review.

149. The competitor Q of S regime established in this decision should operate for long enough to enable the Commission to gather sufficient information to assess whether further changes should be made to the regime. However, there may be circumstances that would warrant modifications to the competitor Q of S regime, such as the

addition of new wholesale services over which the Commission may want to have greater regulatory oversight or a change in the mandated status of a specific wholesale service. Therefore, the Commission will not set out a specific time frame to review its competitor Q of S regime at this time, but it may decide to modify the regime when circumstances warrant it.

Policy Direction

150. The determinations made in this decision are consistent with the Policy Direction for the reasons set out below.

151. The Policy Direction states that the Commission, in exercising its powers and performing its duties under the Act, shall implement the policy objectives set out in section 7 of the Act, in accordance with paragraphs 1(a), (b), and (c) of the Policy Direction.

152. The issues under consideration in this proceeding relate to the requirement for a competitor Q of S regime and associated matters, taking into account changes in the telecommunications marketplace and the regulatory landscape since the establishment of the current regime. Therefore, paragraph 1(a) and subparagraphs 1(b)(i), (iii), and (iv) of the Policy Direction apply to the Commission's determinations in this proceeding.¹⁸

153. In compliance with subparagraph 1(b)(i) of the Policy Direction, the Commission considers that the policy objectives set out in paragraphs 7(a), (b), (c), (f), and (h) of the Act are advanced by the determinations set out in this decision.¹⁹

¹⁸ Paragraph 1(a) states that "the Commission should...when relying on regulation, use measures that are efficient and proportionate to their purpose and that interfere with the operation of competitive market forces to the minimum extent necessary to meet the policy objectives."

Paragraph 1(b) states, among other things, that "the Commission, when relying on regulation, should use measures that satisfy the following criteria, namely, those that (i) specify the telecommunications policy objective that is advanced by those measures and demonstrate their compliance with [the Policy Direction],... (iii) if they are not of an economic nature, to the greatest extent possible, are implemented in a symmetrical and competitively neutral manner, and (iv) if they relate to network interconnection arrangements or regimes for access to networks, buildings, in-building wiring or support structures, ensure the technological and competitive neutrality of those arrangements or regimes, to the greatest extent possible, to enable competition from new technologies and not to artificially favour either Canadian carriers or resellers."

¹⁹ The cited policy objectives of the Act are 7(a) 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; (b) to render reliable and affordable telecommunications services of high quality accessible to Canadians in both urban and rural areas in all regions of Canada; (c) to enhance the efficiency and competitiveness, at the national and international levels, of Canadian telecommunications; (f) 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 (h) to respond to the economic and social requirements of users of telecommunications services.

154. Consistent with paragraph 1(a) of the Policy Direction, the regulatory measures established in this decision (i) rely on market forces to the maximum extent feasible as the means of achieving the telecommunications policy objectives, and (ii) are efficient and proportionate to their purpose, and minimally interfere with market forces. To that effect, the Commission notes its determinations to (i) establish competitor Q of S indicators only for monitoring purposes for wholesale HSA services, (ii) monitor only certain wholesale services for Northwestel, and (iii) exclude from the competitor Q of S regime the large ILECs' wholesale services that are currently subject to the regime, wholesale roaming services, and small ILECs' wholesale services.
155. Consistent with subparagraphs 1(b)(iii) and (iv) of the Policy Direction, the regulatory measures set out in this decision, which relate to network interconnection arrangements or regimes for access to networks, are technologically and competitively neutral, and do not artificially favour either Canadian carriers or resellers. To that effect, the Commission notes its determination that the competitor Q of S regime for wholesale HSA services should apply to all large cable companies and large ILECs mandated to provide such services.

Secretary General

Related documents

- *Wholesale mobile wireless roaming service tariffs – Final terms and conditions*, Telecom Decision CRTC 2017-56, 1 March 2017
- *Review of the competitor quality of service regime*, Telecom Notice of Consultation CRTC 2017-49, 23 February 2017, as amended by Telecom Notice of Consultation CRTC 2017-49-1, 27 June 2017
- *Review of wholesale wireline services and associated policies*, Telecom Regulatory Policy CRTC 2015-326, 22 July 2015
- *Regulatory framework for wholesale mobile wireless services*, Telecom Regulatory Policy CRTC 2015-177, 5 May 2015
- *Guidelines regarding the general administrative monetary penalties regime under the Telecommunications Act*, Compliance and Enforcement and Telecom Information Bulletin CRTC 2015-111, 27 March 2015
- *Canadian Network Operators Consortium Inc. – Application to improve the quality of wholesale high-speed access services provided by cable carriers to independent Internet service providers*, Telecom Decision CRTC 2015-40, 12 February 2015
- *Practices and procedures for staff-assisted mediation, final offer arbitration and expedited hearings*, Broadcasting and Telecom Information Bulletin CRTC 2013-637, 28 November 2013

- *Proceeding to consider whether the Commission should withhold subsidy payments to the Quebec small ILECs that have not yet implemented local competition*, Telecom Notice of Consultation CRTC 2012-623, 9 November 2012
- *Northwestel Inc. – Review of regulatory framework*, Telecom Regulatory Policy CRTC 2011-771, 14 December 2011
- *TBayTel – Application for relief regarding provision of competitor digital network services*, Telecom Decision CRTC 2010-897, 2 December 2010
- *Revised regulatory framework for wholesale services and definition of essential service*, Telecom Decision CRTC 2008-17, 3 March 2008
- *Small incumbent local exchange carriers’ show cause – Follow-up to Telecom Decision 2006-14*, Telecom Decision CRTC 2007-109, 21 November 2007
- *Forbearance from the regulation of retail local exchange services*, Telecom Decision CRTC 2006-15, 6 April 2006, as modified by Order in Council P.C. 2007-532, 4 April 2007
- *Finalization of quality of service rate rebate plan for competitors*, Telecom Decision CRTC 2005-20, 31 March 2005

Appendix 1 to Telecom Regulatory Policy CRTC 2018-123

Descriptions of the large ILEC wholesale services associated with the current competitor Q of S indicators

ULLs provide a transmission path via copper facilities between an end-user's premises and an ILEC's central office that competitors can use to provide local telephone and Internet access services to residential and business customers.

LNP enables customers to keep the same telephone number when changing service providers.

LNI trunks include all trunk-side trunks – such as bill-and-keep trunks, extended area service termination and transport trunks, local and toll transit trunks, emergency service trunks, and message relay trunks – as well as other trunk-side-type or line-side-type trunks used to start, complete, or enhance LNI.

An LSR form specifies all the customer information needed to effectively process a service transfer from one LEC to another. In addition, when WSPs are dealing with LECs for customer transfers, all parties use LSRs.

Low-speed CDN access services provide a dedicated digital access path from ILEC central offices to customer locations and enable competitors to provide local telephone and data services to business customers (generally small and medium-sized businesses). High-speed CDN services are generally used by competitors to provide voice and data services to medium and large businesses, or to connect small networks in multiple locations to a single large network. The access component of CDN services connects a customer location to an ILEC's central office, while the transport component connects the ILECs' central offices.

A Type C loop is a digital transmission path that can be used to support a DS-1 CDN service that connects an end-customer to its service provider's network. The Commission approved the large ILECs' proposals to destandardize Type C local loop service in 2006 and 2007. SaskTel also withdrew its service at that time because it had no customers for the service and did not anticipate any future demand.

Appendix 2 to Telecom Regulatory Policy CRTC 2018-123

Reporting requirements for Northwestel: LNP orders, LSRs, LNI trunks, and Wholesale Connect service

For LNP orders, Northwestel must track the following information on a monthly basis and provide it in its report to the Commission:

- the number of LNP orders it received;
- the number of LNP orders it processed; and
- the average time, in days, to process the LNP orders.

For LSRs, Northwestel must track the following information on a monthly basis and provide it in its report to the Commission:

- the number of LSRs it received;
- the number of LSRs it processed;
- the number of LSRs for which the agreed-upon and/or confirmed due date was met; and
- the average time, in days, to process LSRs for which the agreed-upon and/or confirmed due date was not met.

For each LNI trunk and Wholesale Connect service installation or repair request, Northwestel must provide

- the name of the competitor;
- the service for which the request was made;
- the date the competitor made the request;
- the date Northwestel confirmed the request;
- the agreed-upon and/or confirmed due date for the provision or repair of LNI trunks;
- the date the request was fulfilled; and
- if the agreed-upon and/or confirmed due date was not met, an explanation about why it was not possible for Northwestel to meet that date.

Northwestel's first report is to cover all service requests for LNI trunks and Wholesale Connect service, along with all LNP orders and LSRs, that were received and/or

processed by the company from 1 June 2018 to 31 December 2018. Northwestel is to submit that report to the Commission by **31 March 2019**. For subsequent years, the report is to cover the period between January and December, and is to be filed with the Commission by **31 March** of the following year.