



**Teresa Griffin-Muir**  
Vice President, Regulatory Affairs  
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MTS Allstream Inc.

9 December 2010

**by Access Key**

Mr. Robert A. Morin  
Secretary General  
Canadian Radio-television and  
Telecommunications Commission  
Ottawa, ON K1A 0N2

Dear Mr. Morin:

**Subject: TNC 2010-803, Usage-based billing for Gateway Access Services and third-party Internet access services – MTS Allstream reply comments**

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1. Pursuant to paragraph 9 of Telecom Notice of Consultation CRTC 2010-803, *Usage-based billing for Gateway Access Services and third-party Internet access services*, 28 October 2010 (TNC 2010-803), MTS Allstream Inc. (MTS Allstream) hereby submits its reply to comments received on 29 November 2010 from Bell Aliant Regional Communications, Limited Partnership and Bell Canada (collectively, Bell); the Canadian Association of Internet Providers (CAIP); Cogeco Cable Inc., Quebecor Media Inc., on behalf of its affiliate Videotron Ltd., Rogers Communications Inc. and Shaw Communications Inc. (collectively, the Cable Carriers); the Canadian Network Operators Consortium Inc. (CNO), Distributel Communications Limited (Distributel); and Vaxination Informatique (Vaxination).
2. Failure by MTS Allstream to address any argument or issue raised by these parties should not be construed as agreement with or acceptance of such argument or issue where to do so would be contrary to MTS Allstream's interests.
3. At issue in TNC 2010-803 is whether or not the usage-based billing (UBB) and excessive usage charge components of the incumbent local exchange carriers' (ILECs') wholesale aggregated ADSL access (WAA) services and the cable carriers' third-party Internet access (TPIA) services should be set at levels below the ILECs' and cable carriers' comparable retail rates.

4. Not surprisingly, both Bell and the Cable Carriers argue that they should be allowed to charge the same UBB and excessive usage charges on both a retail and wholesale basis. Both rely on the Commission's determination in Telecom Decision CRTC 2010-255, *Bell Aliant Regional Communications, Limited Partnership and Bell Canada – Applications to introduce usage-based billing and other changes to Gateway Access Services*, 6 May 2010 (the UBB Decision) that Bell's proposed implementation of UBB on its Residence GAS is an economic Internet traffic management practice (ITMP).
5. However, as Distributel points out in its 29 November 2010 comments, the UBB charges being imposed by Bell and the Cable Carriers do not represent an economically efficient ITMP, since they are not cost-based and do nothing to shift traffic away from the peak period. While these carriers may feel this is an adequate solution for their retail customers, they should not be able to impose it on wholesale customers. As Distributel points out, the Commission has acknowledged that the flat rate component of the service fully recovers Bell's costs. Therefore, Bell's UBB proposal for GAS is nothing but a money grab aimed at discouraging competition. Only a cost-based charge will provide the right signals.
6. At paragraph 8 of its comments, Bell tries to claim that applying different usage rates to retail and wholesale end-users would be discrimination that "would neither consist of 'equivalent treatment' of wholesale and retail traffic, nor would it be competitively neutral." This claim is patently untrue and again reflects the extent to which Bell wishes to interfere with and control the nature of the service ISPs using GAS are able to offer in an effort to avoid and stifle competition.
7. In the Essential Services Decision<sup>1</sup> the Commission classified the ILECs' WAA services and cable TPIA services as conditional mandated non-essential on the basis that "for competitors to offer retail high-speed Internet access service, in most instances they have no option other than to buy the wholesale aggregated ADSL access or TPIA

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<sup>1</sup> Telecom Decision CRTC 2008-17, *Revised regulatory framework for wholesale services and definition of essential service*, 3 March 2008 (the Essential Services Decision).

services" and that withdrawal of these services "would likely result in a substantial lessening or prevention of competition in retail high-speed Internet access services."<sup>2</sup> Nothing has changed in this regard, as the Commission confirmed in Telecom Regulatory Policy CRTC 2010-632, *Wholesale high-speed access services proceeding*, 30 August 2010 (the Broadband Access Policy).

8. When a competitive ISP uses Bell's GAS service, it is very important to realize that it is not simply reselling Bell's retail Internet service. Only the customer access is common between the two services. When a consumer buys a retail high-speed Internet service from Bell, Bell provides that customer with a connection to the Internet, online storage, email address and storage capabilities, as well as security and any other features that it makes available to its retail Internet customers. If instead the consumer elects to purchase service from a competitive ISP that uses Bell's GAS accesses, all of those additional components are provided by that ISP, using its own network infrastructure, whether owned or leased. They are not part of the service being provided by Bell through its GAS tariff. GAS is just one input to the ISP's retail offering. As Vaxination stated in its 29 November 2010 comments:

The Commission needs to be reminded once more that neither GAS nor TPIA are ISP services, retail, wholesale or otherwise. It is a bulk last mile data communications service that provides absolutely no connectivity to the Internet and which has no retail equivalent.<sup>3</sup>

9. In fact, as MTS Allstream demonstrated in the simple example it provided in response to MTS Allstream(CRTC)16Oct09-3 UBB, it is applying UBB charges on the basis of a threshold applied to a competitor's usage at the individual end-user level that is discriminatory. This discrimination is compounded if the usage-based rates are set at the same level on a wholesale basis as they are for the incumbent's retail customers.

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<sup>2</sup> Essential Services Decision, paragraph 85.

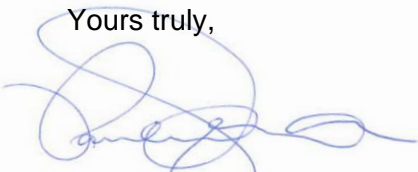
<sup>3</sup> Vaxination comments, paragraph 12.

10. Both Bell and the Cable Carriers try to argue that a mandated discount on the usage-based components of WAA and TPIA services would send the wrong signal by giving the end-users of wholesale customers less incentive to curb usage than the end-users of the ILEC or Cable Carrier providing the underlying access. However, it should not be the underlying access provider that determines how an ISP allocates the capacity it purchases from that provider between its own end-users. Yet this is what both Bell and the Cable Carriers are attempting to do.
11. Competitive ISPs have an incentive to control over usage by their end-users both to control their costs and to ensure that their service is not degraded if they exceed the aggregate capacity for which they are paying – ISPs purchase capacity on the incumbents' wholesale high-speed access services, in aggregate for all of their end users, based on their estimate of total average and peak demand. Moreover, as already noted, these wholesale services are merely one input to the end-to-end service provided by a competitive ISP. An ISP's end-users are paying for that service, not simply a white label version of the incumbent's service and the ISP incurs significant additional costs to provide it. Therefore, the price the ISP charges for its service does not necessarily bear any relation to the underlying GAS or TPIA rate, although Bell is trying to force its retail pricing structure on ISPs using its GAS service.
12. Vaxination made an interesting observance in this regard. At paragraph 26 of its 29 November 2010 comments, Vaxination noted "If Bell Canada's retail ISP business is considered forborne, then regulatory symmetry requirements must ensure that independent ISPs are also forborne and that no aspect of GAS tariffs can end up regulating retail ISP aspects." However, the way Bell and the Cable Carriers have been allowed to charge usage-based rates on their wholesale high-speed access services effectively gives them this ability.
13. The Cable Carriers propose that if usage-based rates are discounted on a wholesale basis, the flat rate component of their TPIA services should be increased, because rates based on all-carrier demand no longer make sense since;

A significant reduction in wholesale UBB charges as compared to retail UBB charges can be expected to result in a significant relative increase in wholesale bandwidth consumption per end-user. Bandwidth consumption per end-user, in turn, is a key driver of monthly access service cost.<sup>4</sup>

14. However, as Distributel has pointed out, it is peak period demand that drives the cost, not total demand and neither the Cable Carriers' nor Bell's UBB implementations do anything to discourage peak period demand on either their retail or wholesale services. As Distributel has also pointed out, competitive ISPs often use GAS or TPIA services for purposes other than Internet access. Distributel used, as an example, a video surveillance security service which "would quickly become uneconomic because of the high usage charges which would be applied – even though the vast majority of the traffic would not occur during peak periods."<sup>5</sup> Consequently, such a service if provided over TPIA would have no impact on the cost of providing TPIA service. This is true of many innovative applications for which competitive ISPs use GAS or TPIA as an input.
15. In MTS Allstream's submission, usage rates for the ILECs' WAA services and the cable carriers' TPIA services, should be cost-based rates set at levels below the comparable rates for the incumbents' retail services.

Yours truly,



for Teresa Griffin-Muir  
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Parties to TNC 2010-803

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<sup>4</sup> The Cable Carriers comments, 29 November 2010, paragraph 21.  
<sup>5</sup> Distributel comments, paragraph 21.