



Telecom Order CRTC 2017-373

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Ottawa, 20 October 2017

File numbers: Tariff Notices 956, 956A, 956B, and 956C

Northwestel Inc. – Operation of Customer-Owned Fibre Facility Service

Application

1. The Commission received an application from Northwestel Inc. (Northwestel), Tariff Notice 956 dated 21 September 2016, proposing to introduce Special Services Tariff Item 772 – Operation of Customer-Owned Fibre Facility Service (OCOFS). This service provides for the operation and maintenance of the Mackenzie Valley Fibre Link (MVFL) network from Northwestel's McGill Lake point of interconnection facility to its central office in Inuvik, Northwest Territories.
2. The Commission approved Northwestel's tariff application on an interim basis in Telecom Order 2016-387, effective 1 October 2016. Subsequent amendments to the OCOFS were either forborne from approval (Tariff Notice 956A) or approved on an interim basis in Telecom Order 2017-229 (Tariff Notice 956B).
3. In its most recent amendment, Tariff Notice 956C dated 16 August 2017, Northwestel proposed to update the monthly rate for service to Inuvik that had been offered over its existing terrestrial facilities (Initial Configuration) during the transition to the MVFL fibre facility. The company also requested that the Commission ratify the charging of the new rate for the period from 11 June 2017 to the date of approval of Tariff Notice 956C.
4. The Commission approved Tariff Notice 956C on an interim basis in Telecom Order 2017-328, effective 11 September 2017, and indicated that it would address the ratification request in a subsequent order.
5. The Commission did not receive any interventions in response to Northwestel's Tariff Notice 956C application. The public record of this proceeding, which closed on 15 September 2017, is available on the Commission's website at www.crtc.gc.ca or by using the file numbers provided above.

Issues

6. The Commission has identified the following issues to be addressed in this order:
 - Should the Commission approve Northwestel's tariff application on a final basis?
 - Should the Commission approve Northwestel's ratification request?

Should the Commission approve Northwestel's tariff application on a final basis?

7. In Tariff Notice 956, filed in September 2016, Northwestel submitted that the construction of the MVFL network had not yet been completed along the entire route from McGill Lake to Inuvik, resulting in the community of Inuvik being unserved at that time by the new facility. In order to facilitate the deployment of the facility and related services, Northwestel received interim approval, in Telecom Order 2016-387, to provide the Initial Configuration at a discounted rate of \$185,206 per month until 31 May 2017. This date was later extended to 30 June 2017 via Tariff Notice 956A. The capacity provided over the Initial Configuration was on a best-efforts basis.
8. In Telecom Order 2017-229, the Commission approved on an interim basis Northwestel's *ex parte* application (Tariff Notice 956B) to extend the availability of the Initial Configuration from 30 June 2017 to 31 December 2017, to allow for a gradual migration of end-user traffic to the completed fibre facility. The *ex parte* application was filed while the company was negotiating the revised Initial Configuration rate terms to factor in the completion of the fibre facility. Approval was conditional on Northwestel notifying the Commission of the outcome of the negotiation process as soon as possible. In Tariff Notice 956C, which was filed following the conclusion of these negotiations, Northwestel proposed to increase the Initial Configuration rate to \$222,439 per month, effective 11 June 2017.

Commission's analysis and determinations

9. Under the price cap regime for Northwestel set out in Telecom Regulatory Policy 2011-771, special services are included in the Uncapped Services basket and are therefore not subject to a price ceiling. Further, the provisions of the OCOFFS tariff are the result of negotiations between Northwestel and the customer, and no comments were received on any of the tariff applications.
10. In light of the above, the Commission **approves on a final basis** Northwestel's proposed revisions to its Special Services Tariff Item 772 – Operation of Customer-Owned Fibre Facility Service.

Should the Commission approve Northwestel's ratification request?

11. Northwestel indicated that the delay in finalizing the new Initial Configuration rate was due to the work required to inspect and certify the MVFL facility after its completion. In its ratification request, the company argued that its agreement with the customer regarding the new rate and its effective date of 11 June 2017, which is in the past but was agreed upon only once final inspections were completed and reports signed off, is a circumstance that warrants ratification.

Commission's analysis and determinations

12. Subsection 25(4) of the *Telecommunications Act* stipulates that the Commission may ratify the charging of a rate by a Canadian carrier otherwise than in accordance with a tariff approved by the Commission if the Commission is satisfied that the rate was, for example, charged because of an error or other circumstance that warrants the ratification.
13. Following the expiry of the previous service arrangement and while negotiations were under way for the new arrangement, the customer continued to receive service so as to prevent service disruption. In these circumstances, the Commission considers that ratification of the rate is appropriate. Accordingly, the Commission **approves** Northwestel's request for ratification of the rate in question, effective 11 June 2017.

Secretary General

Related documents

- Telecom Order CRTC 2017-328, 11 September 2017
- Telecom Order CRTC 2017-229, 30 June 2017
- Telecom Order CRTC 2016-387, 29 September 2016
- *Northwestel Inc. – Review of regulatory framework*, Telecom Regulatory Policy CRTC 2011-771, 14 December 2011