



Telecom Decision CRTC 2020-257

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Broadband Fund – Project funding approval for Northwestel Inc.’s Northwest Territories satellite project

*The Commission **approves** Northwestel’s funding application for \$4.1 million to improve local access infrastructure and satellite capacity for eight communities in the Northwest Territories.*

Application

1. In response to the Commission’s first call for applications for funding from the Broadband Fund set out in Telecom Notice of Consultation 2019-191 (hereafter, Call 1), Northwestel Inc. (Northwestel) filed an application,¹ dated 3 October 2019, in which it requested \$4.1 million from the Broadband Fund to build the earth stations and install the terminals that will be necessary to connect eight satellite-dependent communities in the Northwest Territories² to low-earth orbit (LEO) satellites.³ The improvements will allow an increase in broadband Internet access service from speeds of 5 megabits per second (Mbps) download and 1 Mbps upload (5/1 Mbps), with limited capacity, to speeds of 50/10 Mbps and unlimited capacity, consistent with the universal service objective defined by the Commission in Telecom Regulatory Policy 2016-496.

Commission’s analysis and determinations

2. In Telecom Regulatory Policy 2018-377, the Commission established the eligibility and assessment criteria for the Broadband Fund. In the introductory decision for Call 1, Telecom Decision 2020-255, the Commission provided background information and described the eligibility and assessment process and selection considerations used to assess and select projects to be funded. It should be read in conjunction with this decision.

¹ The content of the application was designated confidential pursuant to section 39 of the *Telecommunications Act*, but certain details are being disclosed in this decision, consistent with section 11 – *Confidentiality* of the Application Guide, set out in the Appendix to Telecom Notice of Consultation 2019-191, and as agreed to by the applicant. Other elements of the application remain confidential but were considered when the Commission evaluated the application.

² The eight satellite-dependent communities are Colville Lake, Gamèti, Łutselk’e, Paulatuk, Sachs Harbour, Samba K’e (Trout Lake), Ulukhaktok, and Wekweèti.

³ A LEO satellite transport network will use a series of satellites orbiting close to Earth in a constellation, as opposed to current geostationary satellites, which follow a geostationary orbit at further distances from Earth.

3. Northwestel's application met each of the eligibility criteria applicable to projects serving satellite-dependent communities.⁴ Specifically, Northwestel, as a Canadian carrier with more than three years' experience deploying and operating broadband infrastructure in Canada, met each of the criteria for eligible applicants. Northwestel demonstrated that the project would not be financially viable without funding from the Broadband Fund, and that the company will invest more than a nominal amount in the project. Northwestel provided evidence that it has consulted or attempted to consult with communities affected by the project, either directly or through community representatives. Finally, the project will serve eligible geographic areas, and Northwestel filed proposed rates as required.
4. On the basis of its evaluation of the project against the assessment criteria applicable to satellite-dependent community projects,⁵ the Commission finds that Northwestel's project is of high quality and will achieve the goals of the Broadband Fund.
5. Specifically, the Commission finds that the proposed project is technically sound and capable of delivering speeds and capacity that are consistent with the universal service objective. The project includes redundant satellite connections and redundant network hardware and software, as well as backup power and continuous monitoring of the network, to ensure that the network is resilient.
6. While the project relies on the eventual availability of a LEO satellite network to provide transport capacity, the Commission considers that dependency to be a low risk, given the current state of development for LEO technology, the positive testing results on this emerging technology, and the high level of support it has received from the Government of Canada.⁶
7. Northwestel has proposed a variety of fixed broadband Internet service packages, including one that would provide service consistent with the universal service objective. Although there is currently no comparator service for satellite services that provide speeds at the level of the universal service objective, the proposed rates for 15/2 Mbps services are less expensive than the closest comparable service offered by Northwestel in Iqaluit, Nunavut, at the time the application was filed.
8. The Commission considers that the project is financially sound, and that the proposed costs are reasonable. On the basis of its analysis of the business plan and financial information submitted, the Commission finds that, with the Broadband Fund contribution to the project, Northwestel has demonstrated a viable and sustainable business case for serving small, remote communities.

⁴ Specifically, the Commission used the eligibility criteria set out in sections 6.1.1(a) to 6.1.1(d) of the Application Guide applicable to all applicants; in sections 6.1.2(a) to 6.1.2(c) applicable to all project types; and in sections 6.1.3(j) to 6.1.3(l) applicable to satellite-dependent community projects. Because the applicant did not comprise a partnership, joint venture, or consortium, criterion 6.1.1(e) did not apply.

⁵ Specifically, the assessment criteria set out in sections 6.2.1(a) to (d) and sections 6.2.2(n) to (r) of the Application Guide.

⁶ Innovation, Science and Economic Development Canada, [*Minister Bains announces major investment in the future of connectivity for Canadians living in rural and remote communities*](#), 24 July 2019

9. The Commission considers that Northwestel has made a significant commitment of its own funds to the project and finds that the cost per household to the Broadband Fund is reasonable for the project.
10. Northwestel provided evidence of support for the project from the City of Yellowknife, the Government of Northwest Territories, the Northwest Territories Association of Communities, and the Yellowknives Dene First Nation. In addition, Northwestel provided a detailed plan for further engagement with the communities affected by the project.
11. The Commission notes in particular Northwestel's commitment to, within three months of project selection, informing the following representatives of affected communities of the project scope, implementation, timelines, and benefits for residents and inviting these representatives to meet: (i) chiefs and representatives from Indigenous governments, namely designated land claim and regional government organizations;⁷ (ii) the chief and council of each individual community or First Nation; and (iii) representatives from municipal governments, namely the mayor and council or chief and council, as applicable. Northwestel also committed to meeting, within six months of project selection, with Indigenous governments and chiefs and the municipal governments to provide further project details.
12. The Commission considers that meaningful engagement with affected communities is an important element in its evaluation of whether an application is of high quality. Although the Commission concludes that Northwestel's application is of high quality based on a balanced application of all the relevant assessment criteria, the Commission considers it necessary to impose, as a condition of approval, a requirement that Northwestel further report on the community engagement it has committed to undertake. This condition is set out in paragraph 14 below. The Commission has provided 120 days for fulfillment of the condition in order to align with the deadline to file the statement of work. It will review the report prior to approving the statement of work.
13. In selecting the project for funding, the Commission considers that, in allowing for an improvement in service from speeds of 5/1 Mbps to 50/10 Mbps and unlimited capacity, the project is consistent with the universal service objective, and concludes that the project will have a significant positive impact on the eight communities to be served, which encompass over 692 households.⁸ In addition, the Commission concludes that allocating \$4.1 million to the project represents an efficient use of the funds available from the satellite component of the Broadband Fund.

⁷ Northwestel committed to meeting with the following organizations the Akaitcho Territory Government, Dehcho First Nations, the Gwich'in Tribal Council, the Inuvialuit Regional Corporation, the Sahtu Secretariat Incorporated, and the Tłı̨chǫ Government.

⁸ Household counts are calculated by the Commission based on proposed coverage information and [Pseudo-Household Demographic Distribution](#) data, which uses statistical models and census data to predict where households are located within eligible areas. Some households in an eligible community may not receive improved services as a result of the project.

14. In light of all of the above, the Commission **approves**, to the extent and subject to the terms and conditions set out below, up to a maximum of \$4,062,158 from the Broadband Fund to be distributed to Northwestel for the purposes of the satellite project described above and as set out in the approved statement of work. This approval is subject to the conditions that Northwestel
- a) confirm in writing, within **10 days** of the date of this decision, its intent to submit a statement of work package to the Commission and to proceed with the project;
 - b) file for Commission approval, within **120 days** of the date of this decision, a completed statement of work package in the format provided by the Commission, which includes an accompanying workbook that sets out the project budget, key project dates and schedules, and detailed project information, such as logical network diagrams, network descriptions, service designs, project sites, equipment details, maps, specific costs, and milestones; and
 - c) file, within **120 days** of the date of this decision, a report detailing the results of community engagement, namely the meetings with the identified communities that were committed to in the application. Specifically, the report must indicate with whom Northwestel met and when, any feedback that was received regarding the project, and demonstration of meaningful consideration of feedback received and the response provided.
15. As established in Telecom Regulatory Policy 2018-377, project construction must not have begun prior to the date of the decision and should be completed within three years. As set out in the Application Guide, Northwestel may not apply for reimbursement of its costs until its statement of work has been approved by the Commission. Any eligible costs incurred prior to Commission approval of Northwestel's statement of work but following the issuance of this decision are at Northwestel's risk and will not be reimbursed if the statement of work is not approved.
16. If it receives any additional funding for the project from any source, Northwestel must notify the Commission in writing as soon as possible and no later than **10 days** after receiving the funding. The Commission may proportionately reduce the amount of funding it has approved.
17. In order to receive funding, Northwestel must obtain Commission approval for (i) any material changes to the project, as set out in the approved statement of work; and (ii) any changes to Northwestel that would materially affect the legal or financial documents it provided during the application process.
18. The Commission will hold back 10% of the claimed amounts of funding until after construction of the network is complete. Holdback funds will be released only once the Commission is satisfied that Northwestel has been operating the network for one year according to the conditions of service set out below.

Funding conditions

19. In Telecom Regulatory Policy 2018-377, the Commission determined that it would impose a series of conditions (i) that must be met before it will release funding, and (ii) that ensure that the service to be provided using the funded infrastructure meets the promised service levels. The Commission indicated that funding conditions would be set based on project timelines, reporting, auditing, and material changes. Conditions imposed under section 24 of the *Telecommunications Act* (the Act) would be used to set the requirements for the ongoing operation of the network, including the speeds and capacity of services to be provided, pricing, and any reporting or measurement requirements. In addition, all existing regulatory obligations will continue to apply to the provision of services using funded infrastructure.⁹
20. Following Commission approval of the statement of work, the Commission will direct the Canadian Telecommunications Contribution Consortium to release funds to Northwestel, provided that the company is in compliance with the following conditions:
- a) Northwestel must file a progress report, in the format provided by the Commission, outlining the progress made in the implementation of the project and any variances in the project schedule included in the statement of work. This report is to be filed every **three months** beginning on the date established in the statement of work and continuing until the project completion report is submitted.
 - b) Northwestel must file with the Commission every **three months** a Broadband Fund claim form certified by its chief financial officer, or by an equivalent authorized official of Northwestel, along with supporting documentation demonstrating to the Commission's satisfaction that all costs claimed were actually incurred and are eligible costs related to the activities described in the statement of work. Unless the claim form is only for operational costs related to satellite capacity, each claim form must be accompanied by a progress report.
 - c) With respect to eligible and ineligible costs, as described in Telecom Regulatory Policy 2018-377, Northwestel must
 - i. include eligible costs in a claim form submitted within **120 days** of the costs being incurred, unless the costs were incurred after the date of this decision but prior to the approval of the statement of work, in which case the costs must be claimed on the first claim form submitted after the approval of the statement of work.
 - ii. ensure that all goods and services are claimed for reimbursement at amounts not greater than fair market value after deducting all trade discounts and similar items. Only the fair market value of the goods and services acquired is eligible for reimbursement.
 - iii. measure and claim all goods and services received from related parties, as defined under [International Financial Reporting Standards](#), at cost, with no profits or markups from the supplier.

⁹ Examples of existing regulatory obligations are set out in section 10.1 of the Application Guide.

- d) Northwestel must not claim in excess of 25% of the approved amount for costs incurred after the date of this decision but prior to the approval of the statement of work.
- e) Northwestel must ensure that its travel costs, such as meal per diems, comply with the [National Joint Council Travel Directive](#).
- f) Where a risk of adverse impact on an Aboriginal or treaty right becomes known following the approval of the statement of work and a duty to consult exists, Northwestel must advise the Commission within **20 days** and submit a plan detailing the form and process for fulfilment of the duty. Release of any additional funding will be contingent on demonstration that any necessary consultations were held to the Crown's satisfaction.
- g) Northwestel must notify the Commission in writing as soon as possible and within no more than **five days** of becoming insolvent.
- h) Northwestel must file its annual financial statements with the Broadband Fund if requested by the Commission. The financial statements would accompany the next progress report filed after the annual financial statements are completed and approved.
- i) Northwestel must ensure compliance with the Government of Canada's national security requirements to address any potential risks related to the overall integrity of network security.
- j) Northwestel must file for Commission approval a project completion report within **90 days** of completion of the final milestone in the statement of work. In the report, Northwestel must confirm that project construction is complete and that broadband services are being offered. The date on which construction is complete and broadband services are being offered will be considered the project completion date. Northwestel must also demonstrate in the report that the project has met the requirements set out in all related decisions. The report is to be in a format to be specified by the Commission.
- k) Northwestel must file a project holdback report **one year** after the project completion date demonstrating to the Commission's satisfaction that Northwestel has been operating the network for one year in accordance with the conditions of service established in this decision and described in the approved statement of work.

Section 24 conditions

21. In Telecom Regulatory Policy 2018-377, the Commission determined that it would impose, pursuant to section 24 of the Act, certain conditions regarding the offering and provision of broadband services using facilities funded through the Broadband Fund that would apply once the infrastructure is built. These conditions relate to the speeds and capacity of broadband services provided and the level of retail pricing and reporting. The conditions imposed on the offering and provision of broadband services will apply to Northwestel and to any other Canadian carrier operating the funded infrastructure.

22. The Commission may conduct periodic audits and require measurements of the project's performance to verify compliance with the conditions of funding and the conditions imposed pursuant to section 24 of the Act on the provision of services using the funded infrastructure. To that end, as a condition of offering and providing telecommunications services using the funded infrastructure, the Commission requires, pursuant to section 24 of the Act, that Northwestel, or any Canadian carrier operating the funded infrastructure, (i) retain all books, accounts, and records of the project, including administrative, financial, and claim processes and procedures, and any other information necessary to ensure compliance with the terms and conditions of this decision, for a period of eight years from the project start date; and (ii) provide the Commission with measurements of the performance of Northwestel's implemented project within **five years** of the project's completion date using methodology that the Commission may determine. The Commission may request that external auditors or a Commission-approved auditor certify any related report, form, or documentation, or that a third-party professional engineer certify any required measurements.
23. In addition, pursuant to section 24 of the Act, as a condition of offering and providing telecommunications services using the funded infrastructure, Northwestel or any Canadian carrier operating the funded infrastructure, must offer and provide fixed broadband Internet access service packages to customers served by the funded infrastructure at a rate no higher, and at speeds and with a capacity no lower, than the ones proposed in its application and described in the approved statement of work. It must publicize, including by publishing on its website, the packages offered to subscribers as a result of the project, including the service speeds, capacity, prices, and terms and conditions.

Policy Directions

24. The 2006 Policy Direction¹⁰ and 2019 Policy Direction¹¹ (collectively, the Policy Directions) state that the Commission, in exercising its powers and performing its duties under the Act, shall implement the telecommunications policy objectives set out in section 7 of the Act, in accordance with the considerations set out therein,¹² and should specify how its decisions can, as applicable, promote competition, affordability, consumer interests, and innovation.
25. The Commission considers that its decision to approve funding from the Broadband Fund for the project described in detail in this decision is consistent with the Policy Directions.
26. This decision to approve funding to upgrade broadband Internet services in eight communities in the Northwest Territories will help to close the gap in connectivity in

¹⁰ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, SOR/2006-355, 14 December 2006

¹¹ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives to Promote Competition, Affordability, Consumer Interests and Innovation*, SOR/2019-227, 17 June 2019

¹² The relevant considerations are subparagraph 1(a)(i) of the 2006 Policy Direction, which states that the Commission should rely on market forces to the maximum extent feasible as the means of achieving the telecommunications policy objectives, and paragraph 1(a) of the 2019 Policy Direction, which states that the Commission should consider how its decisions can promote competition, affordability, consumer interests and innovation.

underserved areas. There would be no business case for the project without funding from the Broadband Fund. Funding the project will enable approximately 692 households to access significantly improved Internet services, and thus respond to the social and economic needs of consumers. In doing so, this decision will implement the telecommunications policy objectives, including those set out in paragraphs 7(a), (b), and (h) of the Act.¹³

Secretary General

Related documents

- *Broadband Fund – First call for applications – Introductory decision regarding project funding approvals*, Telecom Decision CRTC 2020-255, 12 August 2020
- *Broadband Fund – Call for applications*, Telecom Notice of Consultation CRTC 2019-191, 3 June 2019
- *Development of the Commission’s Broadband Fund*, Telecom Regulatory Policy CRTC 2018-377, 27 September 2018
- *Modern telecommunications services – The path forward for Canada’s digital economy*, Telecom Regulatory Policy CRTC 2016-496, 21 December 2016

¹³ 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; and (h) to respond to the economic and social requirements of users of telecommunications services.