



Telecom Notice of Consultation CRTC 2011-302

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Ottawa, 6 May 2011

Notice of hearing

4 October 2011

Yellowknife, Northwest Territories

Review of price cap regulatory framework for Northwestel Inc. and related matters

File number: 8678-C12-201107714

In this notice, the Commission initiates a proceeding to review the price cap regulatory framework for Northwestel that will go into effect in 2012, as well as review other related matters. The proceeding will include a public hearing in Yellowknife, Northwest Territories, which will begin on 4 October 2011 and is expected to last approximately three days.

Introduction

1. In Telecom Decision 2007-5, the Commission, among other things, established a price cap regulatory framework¹ for Northwestel Inc. (Northwestel) that took effect beginning in 2007. The framework was established for a period of four years, with a review to commence in the final year of the regime.
2. In Telecom Decision 2010-274,² the Commission extended Northwestel's regulatory framework without modifications until the outcome of the proceeding initiated by Telecom Notice of Consultation 2010-43 (the obligation to serve proceeding) was known and the subsequent review of Northwestel's price cap regulatory framework was completed.

¹ Price cap regulation is based on service pricing rather than on overall earnings. A ceiling is placed on prices that a carrier can charge its customers, and rules are imposed that generally govern the rates charged to residential and business consumers.

² Northwestel filed an application, dated 23 December 2009, requesting that its price cap regulatory framework be extended for at least two years.

3. In Telecom Regulatory Policy 2011-291, the Commission issued its decision pertaining to the obligation to serve proceeding, which included determinations on the obligation to serve,³ the basic service objective,⁴ and the local service subsidy regime⁵ for the incumbent local exchange carriers (ILECs). Among other things, the Commission retained the obligation to serve and the basic service objective for the ILECs, including Northwestel, in regulated exchanges. Regarding the subsidy regime, the Commission made several changes to the way in which subsidies are calculated. The determinations regarding the subsidy regime do not apply to Northwestel.

Existing price cap regulatory framework

4. Northwestel's current price cap regulatory framework, as set out in Telecom Decision 2007-5, involves multiple baskets with individualized basket constraints, as well as, in some instances, specific rate element constraints.
5. The price cap regime includes six baskets: Residential Services, Business Services, Other Capped Services, Services with Frozen Rate Treatment, Competitor Services, and Uncapped Services.⁶
6. The Residential Services basket includes all residential access services. The rates for services in this basket were frozen for the price cap period, except for exogenous events⁷ or inflation adjustments required as a result of extraordinary increases to input costs. A rate element constraint of five percent would apply in these circumstances.
7. The Business Services basket includes all business access services. An overall constraint of inflation⁸ was applied to the basket, with a rate element constraint limiting increases for individual services to 10 percent per year.

³ The obligation to serve requires ILECs to provide telephone service to existing customers, new customers requesting service where the ILEC has facilities, and new customers requesting service beyond the limits of the ILEC's facilities.

⁴ The basic service objective consists of the following: individual line local Touch-Tone service; access to low-speed Internet at local rates; access to the long distance network and to operator/directory assistance services; enhanced calling features, including access to emergency services, voice message relay service, and privacy protection features; and a copy of the current local telephone directory.

⁵ A mechanism to ensure that carriers are adequately compensated for the provision of their residential services where the Commission-approved rate charged for basic residential local service does not recover the associated costs of providing that service.

⁶ The assignment of services to the specific baskets was finalized in Telecom Decision 2007-33.

⁷ Exogenous events or initiatives satisfy the following criteria: a) they are legislative, judicial, or administrative actions which are beyond the control of the company; b) they are addressed specifically to the telecommunications industry; and c) they have a material impact on the company. Adjustments to the price cap for such events are represented by the exogenous factor.

⁸ The inflation index is the annual chain-weighted gross domestic product – price index, which is a measure of the national output price change published by Statistics Canada.

8. The Other Capped Services basket includes most other retail services (e.g. optional features, digital private line services, and construction charges). The company has the flexibility to restructure rates for individual services in the basket on a revenue-neutral basis.⁹ A rate element constraint of 10 percent would apply for exogenous events or inflation adjustments resulting from extraordinary increases in costs.
9. The Services with Frozen Rate Treatment basket includes those services which address social obligation issues such as privacy, emergency, and special needs. The rates for these services were frozen for the duration of the price cap period.
10. The Competitor Services basket includes all competitor services. Proposals for rate changes for these services are considered on a case-by-case basis.
11. The remaining retail services were assigned to the Uncapped Services basket. This basket generally includes services which are competitive (e.g. toll-free service, Centrex), and special assembly services which are developed with a regard to long-term customers' commitments.

Funding from the National Contribution Fund (NCF)

12. Currently, Northwestel receives a total annual subsidy amount of \$20.8 million from the NCF associated with i) providing residential services in high-cost serving areas (HCSAs) and ii) funding the ongoing requirements of the non-access portion of Northwestel's service improvement plan (SIP).

i) Subsidy for residential services in HCSAs

13. Northwestel receives an explicit subsidy from the NCF calculated based on the number of residential network access services (NAS) in HCSAs.
14. In recognition of the company's unique operating territory, the Commission approved a two-band structure for Northwestel for the purpose of determining subsidy. Band D consists of all wire centres in Whitehorse and Yellowknife, and Band H1 consists of all other wire centres. Only residential NAS in Northwestel's Band H1 are eligible to receive subsidy from the NCF.

⁹ Specifically, the weighted-average price of all the services in the Other Capped Services basket cannot increase over the price cap period. Northwestel is permitted to increase rates for services in this basket to match the rate for the same service provided by another ILEC. For rate increases beyond this level, or for rate decreases, a cost study is required in order to justify the proposed rates.

15. The Commission established a fixed annual subsidy amount of \$8.8 million from the NCF for residential NAS in Northwestel's Band H1. In determining this amount, the Commission utilized an implicit contribution amount from other local services of \$4.00¹⁰ per NAS per month. In Telecom Decision 2007-127, the Commission approved higher Band H1 NAS costs and consequently increased this fixed annual subsidy amount to \$10.7 million.

ii) Subsidy for the non-access portion of the SIP

16. In Decision 2000-746, the Commission approved a SIP for Northwestel, which was an initiative undertaken by the company to meet the basic service objective. The SIP extended services to unserved areas, upgraded services to underserved areas, provided local dial-up Internet access, and upgraded transport and switching technology. The SIP was completed in 2005.
17. Prior to 2007, the SIP was funded through implicit and explicit subsidies. In Telecom Decision 2007-5, the Commission approved a fixed annual subsidy amount of \$10.1 million from the NCF related to the ongoing requirements associated with the non-access portion of Northwestel's SIP (dial-up Internet, transport, switching and long distance).¹¹

Local competition

18. In Telecom Decision 97-8, the Commission established the framework for implementing facilities-based local competition in the operating territories of the large ILECs. The ILECs were generally responsible for the costs of implementing local competition.
19. In Telecom Decision 2006-14, the Commission permitted local competition in the territories of the small ILECs. The local competition framework in the large ILECs' territories was generally applied in the small ILECs' territories.¹²
20. In Telecom Regulatory Policy 2011-291, the Commission modified the facilities-based local competition framework for the small ILECs. Among other things, small ILECs with 3,000 NAS or fewer are to be reimbursed for their local competition implementation costs. In addition, the small ILECs will retain 50 percent of the subsidies associated with each NAS lost to a competitor during the first three years of local competition.

¹⁰ For the other ILECs, the subsidy is calculated using an implicit contribution amount of \$5.00 per NAS per month. The \$4.00 implicit contribution amount for Northwestel accounts for the fact that optional local services are not available in many of Northwestel's remote communities.

¹¹ The ongoing costs associated with the residential access portion of the SIP were included in the calculation of the subsidy for residential services in HCSAs.

¹² The small ILEC framework for local competition differs from the framework of the large ILECs in that a small ILEC is only required to file proposed tariffs for competitor services if it receives a *bona fide* request from a competitor, and implementation plans are to be filed with the Commission only following a formal request to use competitor services within a small ILEC's territory.

21. Currently, facilities-based local competition is not permitted in Northwestel's operating territory; however, resale of local exchange services is permitted.

Call for comments

22. The Commission hereby initiates a proceeding to address issues associated with the matters set out in this notice. The proceeding will include a public hearing as set out below. Concurrent with the release of this notice, the Commission has requested information from Northwestel in the form of interrogatories, which have been addressed by way of separate letter.
23. As set out in paragraph 27 of this notice, Northwestel is to file a proposal, providing full supporting rationale and all evidence on which it relies, addressing what changes, if any, should be made to its price cap regulatory framework. In its submission, Northwestel is to specifically address the following:
 - a. the basket structure and the assignment of services to the baskets;
 - b. the constraints that apply to the service baskets (e.g. inflation, exogenous factors);
 - c. the pricing constraints for individual services or rate elements (e.g. the percentage increase per year allowable for basic residential services); and
 - d. the length of the next regime, including whether the regime should be of a fixed duration.
24. In addition, Northwestel is invited to submit comments on other relevant issues including, but not limited to
 - a. whether changes are required to the calculation of the subsidies Northwestel receives from the NCF;
 - b. whether there is a requirement for a further SIP; and
 - c. whether local competition should be permitted in Northwestel's operating territories in light of the Commission's determinations in Telecom Regulatory Policy 2011-291.
25. The Commission will review the matters in this proceeding in light of the telecommunications policy objectives set out in section 7 of the *Telecommunications Act* and the Policy Direction.¹³

¹³ *Order Issuing a Direction to the CRTC on Implementing the Canadian Telecommunications Policy Objectives*, P.C. 2006-1534, 14 December 2006 (the Policy Direction)

Procedure

26. The new *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* SOR/2010-277 (the Rules of Procedure) came into force on 1 April 2011 and apply to this proceeding.¹⁴
27. Northwestel is made a party to this proceeding. Northwestel is to file with the Commission its submission regarding the issues in this proceeding by **13 June 2011**. Northwestel is also directed to file with the Commission responses to the requests for information that were addressed to the company in conjunction with this notice by **13 June 2011**.
28. Any interested person who wishes merely to file written comments in this proceeding, but does not wish to become a party to the proceeding, may do so by using the following comments link or by writing to the Secretary General (by mail: CRTC, Ottawa, Ontario, K1A 0N2; by fax: 819-994-0218) by **2 September 2011**. Such persons will not receive copies of the various submissions, will not be permitted to ask or answer interrogatories, and will not have the right to appear at the public hearing.
29. Interested persons who wish to become parties to this proceeding must file an intervention with the Commission by **7 July 2011**. In accordance with section 26 of the Rules of Procedure, this intervention must explicitly state that the person wishes to be considered an intervener, and **must indicate whether the person wishes to appear at the public hearing**. Shortly before the public hearing, parties will be provided an opportunity to confirm whether they still wish to appear.
30. In addition, each person who files an intervention must register as a party using the Commission's online form on or before **7 July 2011**. The Commission will post on its website a complete list of parties containing the contact information provided in this registration shortly thereafter. All documents required to be served on a party or parties to the proceeding must be served using the contact information on this list.
31. The Commission and parties may request information from Northwestel in the form of interrogatories. In accordance with sections 73 and following of the Rules of Procedure, the requesting party must file its request for information with the Commission on or before **7 July 2011**, and must serve the request on Northwestel.
32. Responses to requests for information from other parties or the Commission are to be filed by Northwestel with the Commission and served on all parties by **2 August 2011**.

¹⁴ The Rules of Procedure set out, among other things, the rules for the filing, content, format and service of interventions and interrogatories, the procedure for filing confidential information and requesting its disclosure, and the conduct of the public hearing. Accordingly, the procedure set out in this notice must be read in conjunction with the Rules of Procedure and its accompanying documents, which can be found on the Commission's website under "CRTC Rules of Practice and Procedure."

33. Requests by parties for further responses to interrogatories posed in their request for information, specifying in each case why a further response is both relevant and necessary, and requests for public disclosure of information that has been designated confidential, setting out in each case the reasons for disclosure, must be filed with the Commission and served on Northwestel by **8 August 2011**.
34. Written responses to requests for further responses to interrogatories and for public disclosure must be filed by Northwestel with the Commission and served on the party or parties making the request by **15 August 2011**.
35. Determinations will be issued regarding requests for further information and public disclosure as soon as possible. Any information to be provided pursuant to such determinations must be filed with the Commission and served on all parties by **26 August 2011**.
36. Parties other than Northwestel may file written comments on Northwestel's submissions. These comments must be filed with the Commission and served on all other parties by **2 September 2011**.
37. The Commission will hold a public hearing, beginning on **4 October 2011** at 9 a.m. in the Copper Room of The Yellowknife Inn, 5010 49th Street, Yellowknife, Northwest Territories. The public hearing is expected to last approximately three days.
38. The public hearing will consist of two phases: (i) Phase I for opening presentations; and (ii) Phase II for oral rebuttal argument. The Commission expects all parties that appear at Phase I of the public hearing to also appear at Phase II. Parties who participate in Phase II of the proceeding are requested to remain available until the end of Phase II to respond to any questions which the Commission may have arising out of other parties' rebuttal submissions. There will be no cross-examination by parties.
39. Although the public hearing will be held in Yellowknife, Northwest Territories, the Commission will consider providing videoconference links in the other territories should it receive such a request from a party.
40. The Commission will issue, as soon as possible, the list of parties who have confirmed their intention to appear at the public hearing and their order of appearance.
41. Persons requiring communications support such as assistive listening devices and sign language interpretation are requested to inform the Commission at least twenty (20) days before the commencement of the public hearing so that the necessary arrangements can be made.
42. An organization and conduct letter, providing directions on procedure with respect to the public hearing, including the scope of the issues to be examined during the public hearing, will be issued prior to the commencement of the public hearing.

43. All parties may file final written arguments with the Commission on any matter within the scope of this proceeding, serving copies on all other parties, by **17 October 2011**. Final arguments, including an executive summary, are not to exceed 15 pages.
44. The Commission expects to publish a decision on the issues raised in this notice within four months of the close of record.
45. The Commission will not formally acknowledge interventions or comments. It will, however, fully consider all submissions, which will form part of the public record of the proceeding.
46. Parties are reminded that, in accordance with the Rules of Procedure, if a document is to be filed or served by a specific date, the document must be actually received, not merely sent, by that date. A document must be filed with the Commission by 5 p.m. Vancouver time (8 p.m. Ottawa time) on the date it is due.
47. Parties may file their submissions electronically or on paper. Submissions longer than five pages should include a summary.
48. Electronic submissions should be in HTML format. Alternatively, Microsoft Word may be used for text and Microsoft Excel for spreadsheets.
49. Each paragraph of all submissions should be numbered. In addition, the line *****End of document***** should follow the last paragraph. This will help the Commission verify that the document has not been damaged during electronic transmission.
50. The Commission encourages parties to monitor the record of this proceeding and/or the Commission's website for additional information that they may find useful when preparing their submissions.

Important notice

51. Note that all information that persons provide as part of this public process, except information granted confidentiality, whether sent by postal mail, facsimile, email, or through the Commission's website at www.crtc.gc.ca, becomes part of a publicly accessible file and will be posted on the Commission's website. This includes personal information, such as full names, email addresses, postal/street addresses, telephone and facsimile numbers, and any other personal information persons provide.
52. The personal information provided will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.
53. Documents received electronically or otherwise will be posted on the Commission's website in their entirety exactly as received, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be made available in PDF format.

54. Please note that the information persons provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission's website with the help of either its own search engine or a third-party search engine will not link directly to the information that was provided as part of this public process.

Location of CRTC offices

55. Submissions may be examined or will be made available promptly upon request at Commission offices during normal business hours.

Toll-free telephone: 1-877-249-2782

Toll-free TDD: 1-877-909-2782

Central Building
Les Terrasses de la Chaudière
1 Promenade du Portage, Room 206
Gatineau, Quebec J8X 4B1
Tel.: 819-997-2429
Fax: 819-994-0218

Regional Offices

Metropolitan Place
99 Wyse Road, Suite 1410
Dartmouth, Nova Scotia B3A 4S5
Tel.: 902-426-7997
Fax: 902-426-2721

205 Viger Avenue West, Suite 504
Montréal, Quebec H2Z 1G2
Tel.: 514-283-6607

55 St. Clair Avenue East, Suite 624
Toronto, Ontario M4T 1M2
Tel.: 416-952-9096

Kensington Building
275 Portage Avenue, Suite 1810
Winnipeg, Manitoba R3B 2B3
Tel.: 204-983-6306
Fax: 204-983-6317

2220 – 12th Avenue, Suite 620
Regina, Saskatchewan S4P 0M8
Tel.: 306-780-3422

10405 Jasper Avenue, Suite 520
Edmonton, Alberta T5J 3N4
Tel.: 780-495-3224

858 Beatty Street, Suite 290
Vancouver, British Columbia V6B 1C1
Tel.: 604-666-2111
Fax: 604-666-8322

Secretary General

Related documents

- *Obligation to serve and other matters*, Telecom Regulatory Policy CRTC 2011-291, 3 May 2011
- *Northwestel Inc. – Application for an extension of the current price cap regulatory framework*, Telecom Decision CRTC 2010-274, 13 May 2010
- *Proceeding to review access to basic telecommunications services and other matters*, Telecom Notice of Consultation CRTC 2010-43, 28 January 2010, as amended by *Obligation to serve and other matters*, Telecom Notices of Consultation CRTC 2010-43-1, 5 March 2010, CRTC 2010-43-2, 30 March 2010, and CRTC 2010-43-3, 23 July 2010
- *Northwestel Inc. - Residential primary exchange service costs for Band H1*, Telecom Decision CRTC 2007-127, 10 December 2007
- *Finalization of the assignment of Northwestel Inc.'s services to the service baskets*, Telecom Decision CRTC 2007-33, 17 May 2007
- *Price cap regulation for Northwestel Inc.*, Telecom Decision CRTC 2007-5, 2 February 2007
- *Revised regulatory framework for the small incumbent local exchange carriers*, Telecom Decision CRTC 2006-14, 29 March 2006
- *Long-distance competition and improved service for Northwestel customers*, Decision CRTC 2000-746, 30 November 2000
- *Local competition*, Telecom Decision CRTC 97-8, 1 May 1997